

# CableFAX Daily™

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What the Industry Reads First

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## No Dice: FCC Denies DirecTV RSN's Request for Review in Armstrong Case

Could this long-running dispute finally be over? In 2011, the FCC Media Bureau denied DirecTV Sports Net Pittsburgh's petition to review and reverse an arbitrator's decision that went in Armstrong Cable's favor in the spat over the fair market value of the RSN. This week, the full Commission released an opinion and order denying DirecTV's request for further review. It wasn't unanimous, with Republican commissioner *Ajit Pai* dissenting and GOP colleague *Mike O'Rielly* concurring in part and dissenting in part. The FCC found that Armstrong's offer for the rate and rate renewal increase for the net, now **Root Sports Pittsburgh**, most closely approximated fair market value. In challenging the decision, DirecTV said no one ever defined fair market value. The dispute dates back to the transfer of DirecTV to **Liberty Media** from **News Corp** in '08. One of the conditions adopted in approval of the deal was Liberty's offer to abide by the same arbitration conditions with respect to RSNs that the FCC adopted in approving News Corp's acquisition of controlling interest in DirecTV in 2004. DirecTV was still held to those conditions when it was spun out from Liberty. Under those conditions, when negotiations fail to produce mutually acceptable terms for a Liberty RSN, the MVPD may choose to submit the dispute to commercial arbitration, with the arbitrator reviewing final offers from each party. Armstrong filed for arbitration in 2010, with the arbitrator finding for the operator in March 2011. The following month DirecTV filed a petition for review, arguing that the arbitrator failed to answer what is fair market value. The Media Bureau upheld the decision in Aug '11. Now, the full Commission comes in and affirms the Media Bureau decision, saying that DirecTV's final offer requires Armstrong to "pay similar, and in most cases higher rates than MVPDS that are substantially smaller than Armstrong in terms of subscribers or revenue or both." In his dissent, Pai compared this whole saga to an episode of the game show "The Price is Right." The problem, according to the commish, is that no one can play the game because the winner is supposed to be whoever guesses closest to the actual retail price without going over. The arbitrator, Media Bureau and FCC "never attempt to estimate the fair market value," he complained. Pai believes it unlikely that Armstrong's offer was closer to fair market value than DirecTV's, but his main beef is the "flawed methodology used to resolve this case." His preference: remand it back to the Bureau, have it estimate the fair market value of Armstrong's carriage and calculate which party's offer was closest. *Drew Carey* not necessary... O'Rielly said he is willing to let the Media Bureau decision stand because DirecTV

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only challenged portions of the arbitrator's decision and did not explain why the 2 provisions it did challenge (rate and renewal rate) would tip the scales in its favor (this same point was made repeatedly in the FCC order). O'Reilly also said while he doesn't like the arbitration condition as a whole, preferring the private market to set fair value, he is willing to let it stand because Liberty agreed to this process (and DirecTV knew of the condition when it was spun off from Liberty). All of this is more than just history, with arbitration a hot topic in the pending **Comcast-Time Warner Cable** merger. **ACA** has complained that the arbitration condition to resolve program access disputes in the 2011 Comcast-**NBCU** transaction is inadequate because it's too expensive for his members and the manner of the conditions was poorly articulated.

**Broadcasters in Launch Mode:** As programmers look for more ways to air live sporting events, **Sinclair** is getting ready to launch its **American Sports Network** before the fall football season. The broadcaster already scored rights deals with conferences including the **Colonial Athletic Association, Big South Conference, Southern Conference** and **Patriot League**. **Doron Gorshein**, COO of **Sinclair Nets** (joined the company in Jan), will oversee the collegiate sports initiative. Sinclair will air the games on its primary channels like **CW** and **MyNetworkTV** affils, or on sub-channels. The planned programming lineup includes local sports as well as college football games. Initial launch will include more than 50 universities and colleges. Wall Street seemed to like the move. Adding "highly desirable" sports content could increase the value of non-Big 4 stations, particularly MY and CW affils, **Wells Fargo Securities** analysts said in a research note. And perhaps more importantly, the new content is expected to help drive retrans discussions with MVPDs. Sinclair plans to syndicate its new sports programming into markets where it doesn't have a station present, which the analysts said would generate a high-margin revenue stream. Meanwhile, female-focused net **Escape** and male-focused counterpart **Grit** scored carriage deals with **Univision** as multicast channels in DC, San Francisco and Phoenix, following previously announced carriage in NY, LA, Chicago, Dallas, Houston and Miami. The stations are owned by **Katz Broadcasting**, a new company established by **Bounce TV** founder/COO and former **Turner Broadcasting** executive **Jonathan Katz**. **Cox Media Group** also will carry Grit on its Orlando station, Escape in Charlotte and both in Tulsa. **Citadel Comm** will launch both nets on its stations in Providence and Lincoln, NE. **KJWP-TV**, an indie station, will carry Escape and Grit in Philly. The new distribution brings both nets to more than 50% of the country. Now who's ready for more broadcast nets?

**Microsoft X-ing Xbox Studios:** Microsoft's **Xbox Entertainment Studios** is a casualty in its just-announced round of massive layoffs. The unit works on original video content for the Xbox platform, with former **AMC** exec **Ari Mark** tapped as head of unscripted programming. Microsoft on Thurs said it will cut up to 18K jobs over the next year. Some of the Xbox Ent Studio team will reportedly remain to work on in-production series, including **Steven Spielberg's** "Halo" project.

**Net Neutrality Advocates Suit Up for Battle:** Pro-net neutrality forces launched new site BattlefortheNet.com, with a war rallying cry. "Cable companies are spending millions to gut net neutrality and slow your Internet to a crawl. We can't let them," it proclaims. Hey, wasn't it a telco's legal challenge that got the old rules thrown out? Doesn't matter. Cable is bearing the brunt of the attacks, with the site framing it as a battle between "Team Cable" (the ISPs) and "Team Internet" (nearly everyone else). Early backers of the site include the groups **Demand Progress, Fight for the Future, Free Press** and **CREDO**, as well as web platforms **BoingBoing, reddit, Namecheap, Etsy, Kickstarter, Tumblr** and **Cheezburger**.

**House Pushes WiFi:** Support for WiFi expansion is growing in the **House** with 4 lawmakers from both sides of the aisle launching a companion bill to the WiFi Innovation Act, first introduced by Sens **Cory Booker** (D-NJ) and **Marco Rubio** (R-FL). The legislation requires the **FCC** to test the feasibility of opening the upper 5 GHz band to unlicensed use. The House sponsors are **Bob Latta** (R-OH), **Darrell Issa** (R-CA), **Anna Eshoo** (D-CA) and **Doris Matsui** (D-CA). **NCTA** was pleased: "We look forward to working with these members and the rest of the House on passage of this legislation."

**Aereo Aftermath:** **Aereo** isn't a cable company. That's pretty much what the **US Copyright Office** told the company in a letter. "Internet retransmissions of broadcast television fall outside the scope of the Section 11 license," the compulsory licensing system under which cable may make secondary transmissions of copyrighted works, it said. "We do not see anything in the Supreme Court's recent decision... that would alter this conclusion." After losing a Supreme Court challenge by broadcasters, Aereo had filed a request for compulsory license. After SCOTUS, Aereo paused its operations.

**Synacor Drama:** The battle between authentication service provider **Synacor's** board and shareholders continues. **JEC Capital Partners** and **Ratio Capital Partners**, which together own 9.8% of the company's shares, again demanded the

# BUSINESS & FINANCE

resignation of chmn *Jordon Levy* and the addition of 2 new directors to the board. In an open letter to the board Thurs, the pair said Levy led the board "into making decisions that are a mockery of proper corporate governance." They reiterated their belief that Synacor could benefit from a "third-party strategic transaction." Levy questioned the motivations and actions of JEC Capital Partners, when the board adopted a shareholders rights plan this week, saying it is affiliated with *Peter Heiland*. He said is both a managing dir of JEC and the interim CEO of a company with similar customers to Synacor and the capability to become a potential acquirer. The rights plan, according to the board, would "protect Synacor and its shareholders from efforts to obtain control that are inconsistent with the best interests of the Company and its shareholders."

**GigaPower in NC:** Add the town of Carrboro to the list of NC cities getting AT&T's GigaPower service. Like the previously announced 5 cities, the deal stemmed from the NC Next Generation Network initiative.

**Ratings: YES'** NY Yankees telecasts saw a 24% YOY increase in total viewers season-to-date in the NY DMA as the net finished the 1st half of the broadcast year as the most-watched RSN in the country in primetime and total day. In key demos, males 18-49 are up 29%, with males 25-54 up 31%. In addition, persons 18-49 are up 16% and 25-54 are up 23%.

## CableFAX Daily Stockwatch

Company	07/17 Close	1-Day Ch	Company	07/17 Close	1-Day Ch
<b>BROADCASTERS/DBS/MMDS</b>			<b>CONCURRENT:</b> ..... 7.39 ..... 0.07		
DIRECTV:	86.20	(0.66)	CONVERGYS:	20.36	(0.27)
DISH:	64.82	(0.69)	CSG SYSTEMS:	26.57	(0.21)
ENTRAVISION:	5.89	(0.11)	ECHOSTAR:	51.20	(0.68)
GRAY TELEVISION:	12.63	(0.06)	GOOGLE:	573.73	(8.93)
MEDIA GENERAL:	22.09	(0.39)	HARMONIC:	6.00	(0.01)
NEXSTAR:	48.65	0.18	INTEL:	33.70	(0.95)
SINCLAIR:	33.39	0.44	INTERACTIVE CORP:	65.23	(0.57)
<b>MSOS</b>			JDSU:	12.09	0.07
CABLEVISION:	18.38	(0.16)	LEVEL 3:	46.07	(0.54)
CHARTER:	163.00	(0.98)	MICROSOFT:	44.53	0.45
COMCAST:	54.20	(0.85)	NIELSEN:	47.77	(0.73)
COMCAST SPCL:	53.99	(0.69)	RENTRAK:	53.73	(1.43)
GCI:	10.87	(0.14)	SEACHANGE:	7.67	(0.25)
GRAHAM HOLDING:	693.07	(2.55)	SONY:	16.70	(0.06)
LIBERTY GLOBAL:	44.25	(0.22)	SPRINT NEXTEL:	8.00	(0.14)
LIBERTY INT:	28.45	(0.27)	TIVO:	13.24	(0.25)
SHAW COMM:	25.61	(0.15)	UNIVERSAL ELEC:	49.12	(0.71)
TIME WARNER CABLE:	146.75	(2.53)	VONAGE:	3.50	0.02
<b>PROGRAMMING</b>			YAHOO:	33.21	(0.58)
21ST CENTURY FOX:	32.78	(0.22)	<b>TELCOS</b>		
AMC NETWORKS:	64.83	1.22	AT&T:	36.03	(0.42)
CBS:	61.63	0.78	CENTURYLINK:	36.72	(0.4)
CROWN:	3.47	(0.06)	TDS:	25.16	(0.53)
DISCOVERY:	85.04	1.54	VERIZON:	50.32	(0.64)
DISNEY:	85.03	(0.32)	<b>MARKET INDICES</b>		
GRUPO TELEVISA:	34.98	(0.05)	DOW:	16976.81	(161.39)
HSN:	55.49	(0.52)	NASDAQ:	4363.45	(62.52)
LIONSGATE:	31.22	0.11	S&P 500:	1958.12	(23.45)
MADISON SQUARE GARDEN:	61.73	(0.23)			
SCRIPPS INT:	85.55	0.77			
STARZ:	29.65	0.70			
TIME WARNER:	86.12	2.99			
VALUEVISION:	4.60	(0.01)			
VIACOM:	87.68	0.11			
WWE:	12.60	0.72			
<b>TECHNOLOGY</b>					
ADDVANTAGE:	2.55	(0.01)			
ALCATEL LUCENT:	3.52	(0.01)			
AMDOCS:	47.62	0.16			
AMPHENOL:	94.66	(1.84)			
AOL:	38.33	(0.24)			
APPLE:	93.09	(1.69)			
ARRIS GROUP:	32.20	(0.3)			
AVID TECH:	7.50	(0.08)			
BLNDER TONGUE:	0.94	(0.04)			
BROADCOM:	37.84	(0.54)			
CISCO:	25.63	(0.35)			



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# PROGRAMMER'S PAGE

## Training for 'Matador'

Given the World Cup's record-breaking viewership, there are likely a few of you out there who'd enjoy kicking a ball around. And if you were paid to do it? Certainly. Such is the case with *Tanc Sade*, principal actor in **El Rey Network's** new soccer spy thriller "Matador" (premiered July 15). The story follows *Tony Bravo (Gabriel Luna)*, a pro soccer player for the fictional LA Riot—a name that invites comparison to MLS' LA Galaxy. But fútbol is just Bravo's cover for covert missions he does for the **CIA**. Meanwhile, Sade plays an English striker on the team who's a good player but past his prime. Sound like *David Beckham*? That's the idea. Sade swears he's never touched a soccer ball in his life, but that wasn't a deterrent—particularly since he's a professional athlete himself: a free diver, with a couple of Australian national records. "I come from a background of training hard and being athletic," he said. "But free diving is very different; it's water based, so I just worked really hard. I trained twice a day, 6 days a week." More prep for the role included speaking with Beckham himself. "My character is very flamboyant. So a lot of it was about embodying the personality on a field... There was a parallel since he was an international player who came and played in the MLS. That's an interesting dynamic that doesn't happen very often," Sade explained. He also met with other Galaxy players, who spoke about what it's like having a star player in the locker room. "It's the same way when you're on set and you're an up-and-coming actor, and you have *Robert De Niro* there," Sade said. "I definitely felt a bit of that with Fred," he added, referring to co-star *Alfred Molina*. "For me, Molina's an icon." So do Sade's skills measure up? **El Rey** greenlit the series for Season 2 before it premiered last week, so you decide. — *Kaylee Hultgren*

**Reviews:** "The Divide," Wed, 9pm, **WE tv**. An original scripted drama on **WE tv**? Yup. And judging by the pilot, it's a beauty. The divide is ethical and racial. Philadelphia seeks justice for the murder of a black family, allegedly by white men. Things get more complicated when a law student (gritty *Marin Ireland*) alleges the D.A. and police chief, son and father, respectively, and black, might have cut corners. -- "The Lottery," premiere, Sun, 10pm, **Lifetime**. Another terrific pilot; it's about a futuristic fertility crisis and the scientist (*Marley Shelton*) who solves it. -- "Slaying the Badger," Tue, 8pm ET, **ESPN**. '30 for 30' does it again, taking a lesser-known sport and through brilliant storytelling and compelling footage keeping us glued to the screen. Here it's a fine re-telling of cyclist *Greg LeMond's* dealings with teammate *Bernard Hinault* during the Tour de France. -- "Gunslingers," premiere, Sun 10pm, **American Heroes Channel**. The net's entertaining 3-parter looks at Old West characters who were perceived as good guys and villains, beginning with *Wyatt Earp*. Although some of the re-creations seem stiff, "Gunslingers" offers good storytelling and interesting insights. -- "Young Marvels," Wed, 10pm ET, **Ovation**. This engaging docu-series about exceptionally talented kids in the arts also looks at their parents, some of whom, we'll guess, are pushing their children hard. Still, talent is evident. — *Seth Arenstein*

Basic Cable Rankings (7/07/14-7/13/14)			
Mon-Sun Prime			
1	TNT	1.6	1539
1	FOXN	1.6	1500
3	DSNY	1.5	1409
4	USA	1.4	1381
5	HIST	1.2	1203
5	TBSC	1.2	1146
5	HGTV	1.2	1127
8	FX	1	995
8	A&E	1	976
8	DSE	1	68
11	FAM	0.9	882
11	NAN	0.9	858
11	ADSM	0.9	845
11	HALL	0.9	733
15	DISC	0.8	786
15	FOOD	0.8	776
15	TLC	0.8	730
15	ID	0.8	635
19	SYFY	0.7	715
19	LIFE	0.7	668
19	ESPN	0.7	664
19	SPK	0.7	651
23	BRAV	0.6	594
23	MTV	0.6	590
23	AMC	0.6	584
23	CMDY	0.6	543
23	DSJR	0.6	421
28	MSNB	0.5	501
28	VH1	0.5	497
28	TVLD	0.5	489
28	BET	0.5	473
28	EN	0.5	471
28	APL	0.5	434
28	OWN	0.5	433
28	TRU	0.5	418
28	NGC	0.5	403
28	HMM	0.5	284
38	CNN	0.4	390
38	WETV	0.4	362
38	LMN	0.4	358
38	NKJR	0.4	315
38	DXD	0.4	295
43	HLN	0.3	336
43	TRAV	0.3	301
43	GSN	0.3	264
43	OXYG	0.3	255

\*Nielsen data supplied by ABC/Disney

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