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Timetable Theater: L.A. Wants More Time to Weigh In on Comcast-TWC

As the industry's biggest mergers wind their way through the regulatory review process, some are keeping a close eye on the clock. Comments and petitions to deny **Comcast**'s acquisition of **Time Warner Cable** are due to the **FCC** Mon, but the City of L.A. has filed for more time, proposing a brief extension until at least Sept 8. The cable operators don't like the idea. Meanwhile, **AT&T-DirecTV** are speaking out against a request to extend the FCC deadline for initial comments and petitions in their merger review. In the case of Comcast-TWC, the city of L.A. asked Tues for an extension given the complexity of the transaction and breadth of issues involved. "The merger is daunting in scope and in potential effect, particularly in areas like the City of Los Angeles that are currently served by both TWC and Charter. As noted, critical information on the Divestiture Transactions was only made available relatively recently," L.A. mayor *Eric Garcetti* wrote. The city has had its own issues with Time Warner Cable over the years, suing the MSO earlier this year for $10mln in franchise fees, and then there's the whole saga over lack of distribution deals for the Dodgers net that TWC manages. The mayor also said Mon's deadline will be hard to meet given the summer timing of the notice—issued after July 4 and requiring a response before Labor Day. Comcast, TWC and Charter see things differently, filing their opposition to the city's notice on Wed. The MSOs question why the city would file such a request "mere days" before a deadline that was established more than a month ago. "The Office of the Mayor's eleventh-hour Request is unwarranted, dilatory, and inconsistent with Commission precedent, and should be rejected," they said, adding that they're unaware of any transaction considered by the FCC in the last decade where an initial period for filing comments or petitions to deny has been longer than 45 days (and that few have even had a 45-day initial period). The initial Comcast-TWC transaction was announced Feb 13, with execs saying they were optimistic the deal would be approved by year-end. The operators also disagree that more time is needed to examine the divestiture transactions, which were announced on Apr 28 and filed with the Commission on June 4. Earlier this week, AT&T and DirecTV filed a joint motion opposing **Public Knowledge**, the **Community Broadband Networks Initiative** and **Institute for Local Self-Reliance**'s request for a 30-day extension to the Sept 16 deadline for comments and petitions. AT&T and DirecTV said the current pleading cycle comes 97 days after the filing of their public interest statement and that the petitioners have not availed themselves of the process in place since June 11 to obtain their confidential submissions.

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August 27, 2014

Final Entry Deadline:
September 3, 2014

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Broadcast Shuffle: **Media General** and **LIN Media** have agreed to divest stations in 5 markets to comply with regulatory rules as they seek approval for their proposed merger, which they announced in March. In agreements with **Sinclair, Media General** will acquire Sinclair's **Fox** and **CW** affiliates in the Colorado Springs-Pueblo, CO, market and Sinclair's **MyNetworkTV** affil in the Tampa-St. Petersburg-Sarasota, FL market. Sinclair will acquire Media General's **NBC** affil in the Providence, RI-New Bedford, MA market and LIN Media's Fox and CW affiliates in the Green Bay-Appleton, WI market. Sinclair also will acquire certain assets of **WTGS-TV**, the Fox affil in Savannah, GA, and the rights to acquire the principal assets of WTGS-TV from **WTGS Television**. **Hearst** will acquire Media General's NBC affil in the Birmingham, AL, and LIN Media's ABC affiliate in the Savannah. **Meredith** will acquire LIN's FOX affil in the Mobile, AL-Pensacola, FL market.

Netflix Inks TWC Deal: Add **Time Warner Cable** to the list of MSOs, including **Comcast, Verizon** and **AT&T,** which have inked interconnection deals with **Netflix**. "We reached an agreement with Time Warner Cable in June and began the interconnection between our networks this month," the streaming service said in a brief statement. The service provider ranked in 6th on Netflix's July ISP Speed Index, delivering an average speed of 2.16 Mbps. Agreements aside, Netflix has complained to the **FCC** about having to pay for better video streaming delivery. "By endorsing the concept of paid prioritization, as well as ambiguous enforcement standards and processes, the commission's proposed rules arguably turn the objective of Internet openness on its head—allowing the Internet to look more like a closed platform, such as a cable television service, rather than an open and innovative platform driven by consumers and the virtuous circle," the company said in a recent filing.

Muni-Broadband: The **FCC** doesn't have the legal authority to preempt state laws regulating municipal broadband, *Matthew Berry*, commish *Ajit Pai*'s chief of staff, said at the **National Conference of State Legislatures**' legislative summit in Minneapolis Wed. The agency recently sought comment on 2 petitions asking the agency to preempt state laws regulating municipal broadband projects in TN and NC using Section 706 authority, the same legal authority that could potentially be used to back net neutrality rules. However, Section 706 "does not come close to containing the necessary clear statement that Congress intended to authorize the FCC to preempt state restrictions on municipal broadband projects," according to Berry, a former FCC general counsel. "At best, any statement is as cloudy as the sky in Cold Bay, Alaska, the most overcast city in the United States. Consequently, any FCC attempt to preempt such state laws would be unlawful and sure to meet its end in court." Berry also took the chance to fire a few shots at chmn *Tom Wheeler.* There have been more party-line votes at FCC meetings in the last 9 months than had been the case over the prior 8.5 years, he said, citing research reports. "The difficult work of finding common ground has been replaced too often by a bit of simple math. Three Democrats can always outvote two Republicans."

WiFi Relief from FCC: The **FCC**'s Office of Engineering and Technology granted waiver requests from **Comcast, Cox** and **Time Warner Cable** allowing systems previously certified in the U-NII-3 band to obtain FCC certification for operation in the U-NII-1 band. The waivers give the operators greater flexibility in providing outdoor WiFi access to customers. The exemptions apply only to outdoor access points already deployed and identified to the FCC, not future deployments. OET said the deployed systems should not pose a threat of harmful interference to incumbent services in the U-NII-1 band.

Carriage: **Disney** scored another MSO for its newly launched **SEC Network**. As part of the programmer's multiyear renewal with Mediacom, the MSO will launch new services including SEC Net, **ESPN** Goal Line and ESPN Buzzer Beater, as long as Disney's TVE and VOD services. Disney has yet to reach carriage deals with **Cablevision** and **Verizon FiOS** for the new sports net. Continuing services covered by the agreement include **ABC Family, Disney Channel, Disney Junior, Disney XD, ESPN, ESPN2, ESPNU, ESPN Deportes, ESPNEWS, ESPN Classic, ESPN3, Fusion** and retrans consent for ABC Owned stations.

GigaPower Expansion: **AT&T**'s expansion of its GigaPower service continued. Cupertino, CA, a **Comcast** territory, became the 1st CA city named as a GigaPower city. The telco will announce specific locations and pricing in the future. The service is already available in parts of TX.

Cable Standards: **SCTE** finalized 3 standards for energy management and network operations, and made the standards documents available on its Website for free. The group is prepping other energy and business continuity recommended practices documents for final approval in the next few months. SCTE will host 3 standards ses-

BUSINESS & FINANCE

sions at the SCTE Cable-Tec Expo next month in Denver.

Ratings: **WEtv** scored a combined 4.5mln viewers Thurs night, which featured 2 season premieres and 3 related originals, including season 4 premiere of "Braxton Family Values" and season 2 premiere of "SWV Reunited."

Programming: **Showtime** renewed "Ray Donovan" and "Masters of Sex" for 3rd seasons, with each getting orders for 12 eps. -- **TNA Ent** said Wed that **Impact Wrestling** will remain on **Spike** through the end of the year. "Negotiations remain ongoing beyond this time frame," TNA pres *Dixie Carter* said. -- **OWN**'s "Iyanla: Fix My Life" has headed to Ferguson, MO, for an upcoming special episode on the community following the death of *Michael Brown*. -- **Bravo** brings "Top Chef" back for a 12th season on Oct 15, 10pm. This time, former winner *Richard Blais* will be a recurring judge. -- **BBC America** will air the British Academy of Film and Television Arts Los Angeles Jaguar Britannia Awards on Nov 2.

People: **ESPN** named *Stephanie Druley* svp, production college networks, overseeing creative and editorial content that includes the recently launched **SEC Network** and **Longhorn Network.** Druley started at ESPN as a production assistant in 1990.

CableFAX Daily Stockwatch

Company	08/20 Close	1-Day Ch
BROADCASTERS/DBS/MMDS		
DIRECTV:	84.98	0.32
DISH:	64.31	(0.24)
ENTRAVISION:	4.72	(0.06)
GRAY TELEVISION:	10.43	(0.05)
MEDIA GENERAL:	18.44	1.20
NEXSTAR:	45.57	0.19
SINCLAIR:	29.44	0.29
MSOS		
CABLEVISION:	18.34	(0.13)
CHARTER:	155.77	(0.38)
COMCAST:	54.64	0.14
COMCAST SPCL:	54.43	0.14
GCI:	11.01	(0.19)
GRAHAM HOLDING:	719.95	2.86
LIBERTY GLOBAL:	43.66	(0.18)
LIBERTY INT:	28.93	0.17
SHAW COMM:	24.88	UNCH
TIME WARNER CABLE:	148.00	0.08
PROGRAMMING		
21ST CENTURY FOX:	35.67	(0.22)
AMC NETWORKS:	62.83	0.88
CBS:	60.43	(0.31)
CROWN:	3.44	(0.01)
DISCOVERY:	44.83	0.40
DISNEY:	89.84	(0.25)
GRUPO TELEVISA:	37.18	(0.11)
HSN:	60.90	(0.06)
LIONSGATE:	32.63	(0.08)
MADISON SQUARE GARDEN:	65.00	2.16
SCRIPPS INT:	81.50	1.16
STARZ:	29.65	0.14
TIME WARNER:	77.02	0.03
VALUEVISION:	4.70	(0.31)
VIACOM:	81.24	(0.01)
WWE:	14.51	0.12
TECHNOLOGY		
ADDVANTAGE:	2.35	0.01
ALCATEL LUCENT:	3.25	(0.02)
AMDOCS:	45.66	(0.34)
AMPHENOL:	102.25	0.06
AOL:	43.76	(0.01)
APPLE:	100.57	0.04
ARRIS GROUP:	31.36	(0.07)
AVID TECH:	7.69	0.19
BLNDER TONGUE:	1.59	(0.14)
BROADCOM:	38.91	0.02
CISCO:	24.71	0.07

Company	08/20 Close	1-Day Ch
CONCURRENT:	7.19	(0.04)
CONVERGYS:	18.67	0.07
CSG SYSTEMS:	27.60	(0.34)
ECHOSTAR:	49.30	0.35
GOOGLE:	584.49	(2.37)
HARMONIC:	6.11	(0.09)
INTEL:	34.50	0.16
INTERACTIVE CORP:	68.41	0.01
JDSU:	11.12	0.07
LEVEL 3:	42.33	0.44
MICROSOFT:	44.95	(0.38)
NIELSEN:	48.87	0.76
RENTRAK:	49.23	1.62
SEACHANGE:	7.41	0.01
SONY:	18.95	0.09
SPRINT NEXTEL:	5.50	0.11
TIVO:	13.55	(0.16)
UNIVERSAL ELEC:	54.47	(0.43)
VONAGE:	3.22	UNCH
YAHOO:	37.50	(0.33)
TELCOS		
AT&T:	34.53	0.05
CENTURYLINK:	40.79	0.13
TDS:	25.50	0.08
VERIZON:	48.82	0.12
MARKET INDICES		
DOW:	16979.13	59.54
NASDAQ:	4526.48	(1.03)
S&P 500:	1986.51	4.91

Think about that for a minute...

Creative Thinking

Commentary by Steve Effros

The Senate Commerce Committee bipartisan leadership started reaching out to interested parties earlier this month with a creative new idea for dealing with several policy issues at once. It's the first responsible, doable proposal I've seen responding to the conundrum of retransmission consent.

The idea is "Local Choice" for local broadcast signal reception. Instead of local broadcasters "negotiating" a fee with cable operators for the delivery of the local signal to residents, the broadcaster could set whatever price they thought was appropriate and the consumer would have the choice, on an individual, signal by signal basis, of paying the fee or simply foregoing the signal delivery. The local cable operator would have to carry the signals, could not add anything to the price, and would be the collection agent for the broadcaster, but would not have to pay anything for carriage of the signals.

At least that's the outline of the idea. It's a good one to explore. Of course the details would still have to be worked out. There are lots of them. But the logic and legality are intriguing. To say that we have had a long stand-off on the appropriateness of the retransmission consent rules as they now stand would be an understatement. The local broadcaster can demand payment even though the broadcaster is using the "public spectrum" and is obligated to operate in the public interest. Most broadcasters got that spectrum to use for free. They are now charging for delivery rather than spending more money to improve their over-the-air delivery option and obligation. It's just too good a deal to make the cable subscriber pay for delivery, which is what retransmission consent amounts to today.

This idea introduces the notion of "a la carte" programming. It does it, as some of us have long suggested, for the most expensive channels only, and in this case signals that already get (and demand) government largess. The broadcasters are not like other programmers, even though they are now going to argue that they are, complaining about this idea being applied to them and not others. But it makes a lot of sense. This is government spectrum, so Congress does have the right and power to dictate how it is used, unlike independent program channels. The broadcast signals are also some of the most expensive, and consumers have the option of getting them for free, over the air. So as a test of the appropriateness of the "retransmission consent" fee being demanded by the broadcasters it is almost a perfect test of market demand.

Not for the programming, we know there is demand for the programming, especially live sports, but for the cost of delivery. Many members of Congress and certainly the "public interest" groups have long called for "a la carte" program delivery. The cable industry and economists have long pointed to the likelihood that such an offering would be more expensive for viewers, not less, and would result in a diminution of diversity, not an increase. We now have a proposal that could help sort all this out, and not hurt the public, no matter which way it actually went. Broadcast channels are government licensed in the first place. Cable operators would still be providing a public service, and incurring costs for delivery, but would not have to pay the broadcasters. The public could choose to pay for delivery or decide to get the signals free, over the air, and broadcasters could set their own price. It's creative thinking and should be pursued.

Steve

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