

CableFAX Daily™

Thursday — September 4, 2014

What the Industry Reads First

Volume 24 / No. 171

Cable Regulation: What to Expect This Fall?

Congress' 5-week summer recess is almost over and the lawmakers will have their hands full as soon as they return, starting with the reauthorization of the Satellite Television Extension and Localism Act. Following the House passage of the bill in July, a **Senate Commerce** markup is expected in mid-late Sept. A heated debate is likely given the introduction of Local Choice by committee leaders. The proposal, which seeks to end retrans disputes by allowing viewers to choose whether and what broadcast channels they want to have, is backed by distributors but worries broadcasters. Meanwhile, since **FCC** chmn *Tom Wheeler's* proposal to restore Open Internet rules, the battling between ISPs and public interest/consumer groups has been non-stop. The fight will be even more intense, especially around the issue of Title II, as the Sept 15 reply comment deadline nears. Campaigns by advocates wanting stricter Open Internet rules have been "waged with lots of incendiary rhetoric suggesting that future of the Internet is at stake as well as the bare assertion that a public utility prescription is a simple cure" that will somehow make the Internet better, **NCTA** communications vp *Brian Dietz* wrote in a blog post Wed. "We too want a neutral Internet, but we also know Title II isn't the best path there. In fact, Title II reclassification would allow for the very things Title II advocates are most afraid of." The group's website main page even features this message: "Unable to connect. You can find anything on the Internet, except a good reason to regulate it like a public utility." On the other hand, consumers groups are staging an Internet Slowdown event on Sept 10, with several websites featuring icons that symbolize a slower Internet, though the sites won't actually load slower. It's unclear whether Wheeler will eventually go the Title II route, but one thing for certain is the proceeding is looking to be the most commented on in agency history. The agency is conducting several Open Internet Roundtables this month, tackling things including policy approaches, enforcement and technological aspects. And there is the **AT&T-DirecTV** merger comments, which are due mid-month. Don't forget the sports blackout rules, which the **NFL** and the **AFL-CIO**, the parent of **NFL Players Association**, are strongly against. The issue is one of the few bipartisan ones at the FCC with Republican *Ajit Pai* urging a repeal of the rules. A decision is expected as early as this month. Also on cable's radar is the Internet Tax Freedom Act (ITFA) set to expire Nov. NCTA is part of a large coalition (**ITFA Coalition**) that's pushing hard for a permanent extension of ITFA. One more to watch: comments on mod-

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ernizing E-Rate are due this month at the FCC, covering issues including funding needs, multi-year contracts and encouraging consortium participation. The agency proposed expanding funding for WiFi as part of the E-Rate overhaul, which cable generally supports. With key regulatory development on broadband, video delivery and programming, this fall is shaping up to be an important period that could have profound impact for cable/telecom for years to come.

Saints Flag on Ground in Raycom Dispute: As **Raycom** stations near their 4th day dark on **DirecTV** because of a retrans impasse, here's an interesting situation... New Orleans Saints owner *Tom Benson* controls **Louisiana Media Company**, the owner of the city's **Fox** affil **WVUE**. Last Nov, WVUE entered into a shared services agreement with Raycom that, among other things, has Raycom negotiating retrans. Do you see where this is going? If DirecTV and Raycom don't reach a deal by Sun, will DirecTV subs in N'awlins miss the Saints-Falcons game on the Benson-owned Fox station? Could an exception be made? Calls to WVUE and Raycom weren't returned. Lots of questions, but it may all be moot if a deal is reached quickly. To give you a sense of Raycom's history: the broadcaster's stations went dark on **DISH** for 10 days last year, while **Cox** lost Raycom stations for about 2 days at the beginning of 2013. Meanwhile, **Dispatch Video** stations **WBNS** (Columbus) and **WTHR** (Indianapolis) are also still dark on DirecTV.

SpinCo Becomes GreatLand: You don't have to call it **SpinCo** anymore. The new cable company that will be spun off from **Comcast** upon completion of the Comcast-**Time Warner Cable** merger and Comcast-**Charter** transactions will be known as **GreatLand Connections**. GreatLand, which is poised to be the 5th largest US cable operator, will own and operate former Comcast systems serving approx 2.5mln customers across the Midwest and Southeast. "The name GreatLand Connections pays homage to the rich history and striking geographies of the diverse communities in which the company will operate," said GreatLand pres/CEO *Michael Willner*. "It brings to mind our commitment to connecting people and businesses with terrific products and excellent service in the almost 1000 historic communities—large and small—across the 11 states we will serve."

Comcast Does NASCAR: **Comcast** has bought the longest single agreement around title sponsorship for any **NASCAR** national series. Starting Jan 1, the NASCAR Nationwide Series will become the NASCAR XFINITY Series under the 10-year deal. It's a pretty big deal with Xfinity only the 3rd title sponsor in series history following **Anheuser-Busch** and **Nationwide Insurance**. "Technology lives at the heart of NASCAR, just as it does for XFINITY," *Dave Watson*, Comcast Cable evp, COO, said in a statement. "NASCAR provides an exciting environment in which to showcase our video and Internet products and we look forward to further enhancing the fan experience at home, at the track and on the go for years to come."

Smart Home: **Suddenlink** introduced "Connected Home," which amps up its existing home security service with additional features, such as the ability to remotely arm and disarm security systems; control lights, thermostats, door locks; get texts about events at home; and receive streaming video and pictures from inside the home.

Verizon Fined by FCC: The **FCC** reached a \$7.4mln settlement with **Verizon** to resolve an investigation into the company's use of personal consumer info for marketing purposes. The Enforcement Bureau found Verizon failed to notify some 2mln new customers on their 1st invoices and welcome letters of their privacy rights and how to opt-out of having their personal info used in marketing campaigns. Verizon also agreed to a 3-year compliance plan to ensure customers are properly notified.

More Broadcast Dealings: **Sinclair** will acquire **KSNV** (**NBC** affil) in Las Vegas from Intermountain West for \$120mln, a 4.9x multiple of the avg '12-'13 cash flow, according to Sinclair. Sinclair owns 2 other stations in Vegas, a **CW** and **MyNet** affil. To comply with **FCC** requirements, it will sell 1 of the 3 stations.

Ratings: Sun's ep of "Ray Donovan" on **Showtime** delivered the highest ratings to-date for Season 2, with 1.5mln viewers tuning in at 9pm (up 10% over the previous week). For the night, the series delivered 1.9mln viewers.

Programming: **FYI** picked up a 2nd season of "Tiny House Nation" and greenlit new series "Tiny House Hunting." -- It's been 75 years since *Clark Gable* told *Scarlett* that frankly he didn't give a damn. Thankfully, **TCM** does and is going all out to celebrate the 75th anniversary of "Gone With the Wind" this month. In addition to a special screening on the net Sept 29, there will be screenings at movie theaters nationwide, a new Blu-ray collection of the movie, and a book on the making of the film. TCM also will make the movie available on VOD from Sept 30-Oct 6. -- **CNN** will launch "This is Life" with

BUSINESS & FINANCE

Lisa Ling on Sept 28, 10pm. The original, 8-part series introduces viewers to unusual subcultures and communities, including a look at so-called sugar daddies and sugar babies. -- **Ovation** will provide the US debut of UK series "Pineapple Dance Studios," which follows the exploits of the employees and dancers at the renowned London studio.

SU2C: For the 4th time, the 1-hour live telecast "Stand Up to Cancer" will appear across several nets. The 4 major broadcasters will air the special Fri at 8pm, as will **ABC Family, AXStv, Bravo, American Forces Net, Cooking, Discovery Fit & Health, Starz, Encore, E!, Epix, ESPN News, HBO, Fox Sports 2, FXM, Showtime, TNT, Pivot, Oxygen, LMN** and several others. This year's live broadcast builds on telecasts in 2008, 2010 and 2012 and will feature performances from top recording artists and celebrities from film and TV.

People: Hearty congrats to our own *Michael Grebb*, who was promoted to assoc publisher of **Cablefax**. Grebb joined CFX in 2006 as exec editor, guiding the editorial team for Cablefax Daily, **Cablefax The Magazine**, conferences and the newly relaunched Cablefax.com. -- **Bravo** promoted *Matt Reichman* to vp, current production.

Business/Finance: TDS Telecom's \$261mln acquisition of **BendBroadband** closed on Mon. The OR operator's nearly 300 employees are now part of TDS.

CableFAX Daily Stockwatch

Company	09/03 Close	1-Day Ch	Company	09/03 Close	1-Day Ch
BROADCASTERS/DBS/MMDS					
DIRECTV:	86.51	(0.2)	CONVERGYS:	19.12	(0.32)
DISH:	65.88	(0.12)	CSG SYSTEMS:	27.40	(0.27)
ENTRAVISION:	4.60	0.05	ECHOSTAR:	51.06	0.27
GRAY TELEVISION:	10.10	0.05	GOOGLE:	577.94	0.61
MEDIA GENERAL:	15.88	0.30	HARMONIC:	6.64	0.10
NEXSTAR:	45.97	(0.27)	INTEL:	34.57	UNCH
SINCLAIR:	28.96	(0.16)	INTERACTIVE CORP:	70.45	(0.23)
MSOS					
CABLEVISION:	18.66	0.14	JDSU:	11.17	(0.08)
CHARTER:	159.60	1.20	LEVEL 3:	44.89	(0.01)
COMCAST:	54.87	0.09	MICROSOFT:	44.96	(0.13)
COMCAST SPCL:	54.65	0.09	NIELSEN:	46.43	(0.31)
GCI:	11.47	0.14	RENTRAK:	50.15	(1.5)
GRAHAM HOLDING:	728.53	(6.87)	SEACHANGE:	7.50	(0.05)
LIBERTY GLOBAL:	42.36	(0.63)	SONY:	19.71	0.31
LIBERTY INT:	29.57	(0.08)	SPRINT NEXTEL:	5.64	0.10
SHAW COMM:	25.59	0.36	TIVO:	13.61	(0.11)
TIME WARNER CABLE:	147.51	0.18	UNIVERSAL ELEC:	54.21	(0.54)
PROGRAMMING					
21ST CENTURY FOX:	36.30	0.37	VONAGE:	3.50	(0.05)
AMC NETWORKS:	65.08	0.97	YAHOO:	38.87	(0.4)
CBS:	58.53	(0.3)	TELCOS		
CROWN:	3.35	(0.07)	AT&T:	34.97	0.13
DISCOVERY:	43.45	(0.56)	CENTURYLINK:	41.02	0.16
DISNEY:	90.94	0.14	TDS:	26.51	0.06
GRUPO TELEVISIA:	37.17	(0.04)	VERIZON:	49.88	0.11
HSN:	60.75	(0.3)	MARKET INDICES		
LIONSGATE:	32.61	(0.38)	DOW:	17078.28	10.72
MSG:	65.64	(1.24)	NASDAQ:	4572.56	(25.62)
SCRIPPS INT:	79.36	(0.66)	S&P 500:	2000.72	(1.56)
STARZ:	31.71	UNCH			
TIME WARNER:	77.33	0.01			
VALUEVISION:	5.01	0.04			
VIACOM:	80.96	(0.49)			
WWE:	14.46	(0.15)			
TECHNOLOGY					
ADVANTAGE:	2.36	(0.03)			
AMDOCS:	48.03	0.47			
AMPHENOL:	104.15	(0.15)			
AOL:	43.01	(1.04)			
APPLE:	98.94	(4.36)			
ARRIS GROUP:	30.84	(0.65)			
AVID TECH:	8.28	(0.12)			
BLNDER TONGUE:	1.74	0.01			
BROADCOM:	39.94	0.59			
CISCO:	25.04	0.16			
CONCURRENT:	7.66	0.11			

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Think about that for a minute...

The FCC: Going to Pot

Commentary by Steve Effros

Yes, that Pot. I recently mentioned the legal issues the FCC and Chairman Tom Wheeler are lighting up when talking about circumventing State laws and allegedly providing authority for cities and towns to do things that the State has decided they can't do. I suggested that legal notion was likely to go up in smoke. (And yes, all the puns are intended....)



Well, it looks like Federal preemption of State laws and direct federal authorization of economic actions taken by municipalities, which are, after all, simply creatures of the State, is going to be tested in court. The test will come a lot sooner than any related to municipal construction of broadband systems barred under a State's laws.

It seems that the Town of Fife, Washington, has passed an ordinance that prohibits the selling of marijuana in the town. Now, regardless of your views on the swiftly moving trend around the country toward finally legalizing the use of a substance that is provably less injurious than both tobacco and alcohol, the good citizens of the State of Washington convincingly voted to allow the legal selling of pot. Fife still wanted to ban that sale, regardless of the subsequently adopted State laws. Apparently one complaint was that the taxes collected went to the State, not the city.

A businessman in Fife, wanting to engage in a now perfectly legal business in the State, has been rebuffed by the Town on the basis that regardless of State law, Fife has an ordinance prohibiting that business. He has announced he is going to sue, and Fife has articulated its defense.

Ready for this? Fife says that the Federal laws prohibiting marijuana sale preempt the ability of the State to tell it's own subdivisions, the municipalities, what they can

and can't do. Now I'm not going to get into a whole legal analysis here about preemption and the fact that on these particular laws the Feds have already announced that they will not enforce the prohibitions against States that take a different course. The point here is that a significant part of this case, should it actually go forward, could be whether any Federal laws or rules can be used by a political subdivision of a State to counter the State's own laws.

There's little question that the Feds could challenge a State law, and claim preemption on a federal basis. That would be a case between the State and the Feds. But can the FCC simply authorize a political subdivision of the State to engage in a business the State has said it does not want its subdivision to risk?

Tom Wheeler has never been accused of fuzzy thinking, and there are clearly transparent political reasons why this public push favoring municipal ownership is taking place. I've written about both the selective use of "transparency" and the use of totally intoxicating but misleading numbers ascribed to that ownership recently. The States choosing to disallow their municipalities from engaging in the economic fog of entering the telecommunications business have lots of painful evidence to support their point of view. The Feds have an aspirational dream they are trying to realize.

Whatever your view of muni ownership, however, the question to be presented to the Court in this potential high-level case could be whether municipalities have become independent economic entities under direct jurisdiction of the federal government. That's no small question, and the folks in Fife may be about to chase that issue out of the weeds.

Steve

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(Steve Effros was President of CATA for 23 years and is now an advisor and consultant to the cable industry)

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