

# Cablefax Daily™

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What the Industry Reads First

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## Aereo's Plea: Add Online Video Distributors to MVPD Category

It has been approx 4 months since Aereo paused its operations nationwide following the Supreme Court's ruling in favor of a group of broadcasters. Now the over-the-air service provider is making noise again, hoping to become an MVPD as the FCC considers whether to broaden the definition of MVPDs to Aereo and other linear online video distributors. CEO *Chat Kanojia* and several other execs met with FCC chmn *Tom Wheeler* and other FCC officials including Republican commish *Ajit Pai* last week, asking for that a narrow category of online video services be included within the agency's definition of MVPD. "Online linear channel streaming services have the ability to comply with the Commission's regulatory obligations imposed on MVPDs, such as program carriage, emergency alerts, equal opportunity employment and closed captioning," Aereo's ex parte filing said. Regarding program carriage obligations, the company noted that online video streaming systems don't face bandwidth constraints encountered by incumbent services, and that Aereo saw no impediment to carrying must-carry stations. By defining "MVPDs" to include "systems that transmit linear channels of video programming to consumers via the Internet—thereby securing to all MVPDs, in a technology-neutral way, the right to engage in timely, good faith negotiations to license channels by retransmission consent," the FCC could provide assurances to new market entrants like Aereo, the company claimed. One concern of including online programming distributors is that potential licensor insistence on taking a "bundle" of broadcast and cable channels in retrans negotiations could harm the economic viability of online streaming services. Aereo urged that the good faith negotiation obligation for retrans require the licensor to offer a license to only the broadcast channels subject to retrans consent, without a license to other content or bundles. In addition, it asked that any licenses offered to online services be in parity to licenses offered to other types of distributing systems. Back at the FCC, there's no update beyond what Wheeler said at an earlier press conference—redefining an MVPD is something the Media Bureau is exploring. "As a company, we have always worked hard to follow the law. Should the FCC move on this issue, it would be a meaningful and important step forward for competition in the video marketplace," Kanojia said in a blog post Mon. Aereo will have to wait for a while before anything happens. Currently, there's no formal proceeding at the FCC, though a proposal adopting a technology neutral definition of an

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# SONG BY SONG

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MVPD is reportedly being drafted. Even if the FCC approves the proposal, it will have to open up the item for public comment, which will take time. Before the FCC spends time and resources expanding the scope of the program access rules, it should conclude its pending program access rulemaking, **ACA** pres/CEO *Matt Polka* said in a conversation with Wheeler at the **COMPTEL** Fall Convention a week ago. The current rules “effectively denies nearly all small and medium-sized MVPDs from having the full legal protections and rights that Congress intended, and that the Commission is now considering extending to OVDs,” according to ACA’s ex parte filing.

**Walkers Break Rating Record:** The Season 5 debut of **AMC’s** “The Walking Dead” Sun night scored the highest ratings in series history. It drew 17.3mln viewers (8.2 HH rating) and 11mln 18-49 (8.7 rating), increases of 7% and 6%, respectively, over the Season 4 premiere, the previous record-holder. The series continues to be the #1 TV show among 18-49s. Live after show “Talking Dead” also saw record ratings, as its 4th season premiere the highest-rated premiere in series history with 6.9mln viewers and 4.5mln 18-49. That’s up 34% and 35% YOY, respectively. Social media wise, “Walking Dead” drew more than 1.3mln tweets, making it the #1 new season drama premiere for ’14 in terms of tweets and unique authors. On **Facebook**, 7.7mln users generated more than 32.1mln interactions related to the show. Despite tough comps against the success of “Breaking Bad” last year, AMC Nets was a bright spot among cable nets this summer, **Macquarie Securities** analysts wrote in a research report Mon. They expect SVOD delivery of the Walking Dead to contribute 28mln to affil growth. And the return of Season 5 will likely “reaccelerate ad growth to 5% in 4Q while the ’15 slate of originals is emerging.”

**Title II Debate:** By classifying broadband access services as “interstate telecommunications services,” or Title II, those services would suddenly become required to pay FCC fees, former **FCC** Republican commish *Harold Furchtgott-Roth* wrote in an op-ed for Forbes. He noted the FCC imposes fees of 16.1% on interstate telecom services that could generate more than \$8bln in federal universal service funds in 2014. Additional FCC fees on interstate telecom services raise \$1bln for federal telecommunications relay services. At the current fee structure, it would be “perhaps the largest, one-time tax increase on the Internet,” the former commish said. “The FCC would have many billions of dollars of expanded revenue base to fund new programs without, according to the FCC, any need for congressional authorization.” And if the FCC succeeds in reclassifying some or all of broadband services as interstate telecom services, it would “effectively exclude its bureaucratic rivals in both the states and federal government from competing to regulate and to tax the Internet. State and local governments do not have the authority to tax or regulate interstate telecommunications services,” said the sr fellow at the **Hudson Institute** and founder of the **Center for the Economics of the Internet**.

**Speed Index:** **Verizon FIOS** and **Netflix’s** relationship has taken an interesting turn, from turmoil to harmonious, since the two reached an interconnection agreement in April. The telco, which ranked nearly last among major ISPs in May in Netflix’s monthly speed index, topped the streaming service’s Sept index, averaging 3.17 Mbps. Other ISPs that have inked peering deals with Netflix, including **Comcast** and **AT&T U-verse**, also have seen improvements on the index. Comcast ranked #6 on the list with an average speed of 2.92 Mbps, and AT&T was #9, averaging 2.77 Mbps. That compares to the June Index, where Comcast delivered an average speed of 2.61 Mbps and AT&T delivered 1.5 Mbps. Among other major ISPs, **Cablevision** scored the #2 spot with an average speed of 3.17 Mbps, followed by Cox (3.04 Mbps), **Bright House** (2.99 Mbps), and **Charter** (2.95 Mbps). **Clearwire** placed last, with an average speed of 1.03 Mbps.

**On the Circuit:** **Cablevision** chmn *Chuck Dolan* helped kick off the **Lustgarten Foundation’s** 14th annual Long Island Pancreatic Cancer Research Walk on Sun. The event raised \$1.3mln and thanks to Cablevision’s support, 100% of every dollar raised will go to pancreatic cancer research. -- **DirectTV** is working with **Scripps** and its non-profit partner Rebuilding Together to support and benefit veterans living at **US Vets L.A.** Several Scripps talents and a group of DirecTV volunteers, including chmn/CEO Mike White, will rehabilitate 2 rooms at US Vets’ Inglewood facility used for group counseling, training sessions and job interviews.

**Freak Show Breaks Record:** **FX’s** “American Horror Story: Freak Show” broke all ratings records for the net with its premiere ep Wed night. In light of the performance, FX booked 13 more eps for the 5th and the next

# BUSINESS & FINANCE

installment of the show, which will premiere in Oct 2015. With Live+3, the premiere telecast was the most-watched program in FX's 20-year history and that includes all programs with Live+7 deliveries. The ep delivered 10mln total viewers, 6.54mln 18-49, and 4.08mln 18-34. The premiere and 2 encore telecasts combined to score 13.36mln total viewers, 8.6mln 18-49 and 5.25mln 18-34.

**Programming:** Syfy is partnering with CBS Television Studios and Matt Damon and Ben Affleck's Pearl Street Films to develop "Incorporated," "a futuristic espionage thriller set in a world where corporations have seemingly unlimited power. This will be the story of one man's efforts to beat the system."

**ID to Inspire A Difference:** ID is celebrating the 2nd year of its multiplatform public affairs campaign "Inspire A Difference" this month to shed light on crime and victim's rights issues. As part of the effort, the net will launch a 1-day programming marathon on Sun, featuring series and specials that address social injustices such as domestic violence, social and civil rights, mental health, bullying and sexual assault. Throughout the marathon, several of ID's hosts, including Charisma Carpenter ("Surviving Evil"), and Dr Michelle Ward ("Stalked"), will chat live with viewers on Twitter about ways the community can "inspire a difference."

## CableFAX Daily Stockwatch

Company	10/13 Close	1-Day Ch	Company	10/13 Close	1-Day Ch
<b>BROADCASTERS/DBS/MMDS</b>					
DIRECTV:	85.05	(1.16)	CONVERGYS:	17.73	UNCH
DISH:	59.61	(2.02)	CSG SYSTEMS:	25.86	0.17
ENTRAVISION:	4.09	(0.09)	ECHOSTAR:	43.88	(0.44)
GRAY TELEVISION:	7.37	0.11	GOOGLE:	533.21	(11.28)
MEDIA GENERAL:	12.66	(0.05)	HARMONIC:	5.72	0.06
NEXSTAR:	36.97	0.52	INTEL:	31.47	(0.44)
SINCLAIR:	24.18	0.24	INTERACTIVE CORP:	58.49	(1.74)
<b>MSOS</b>					
CABLEVISION:	17.24	(0.24)	JDSU:	11.51	(0.1)
CHARTER:	144.65	(3.47)	LEVEL 3:	38.05	(0.9)
COMCAST:	51.64	(0.98)	MICROSOFT:	43.65	(0.38)
COMCAST SPCL:	51.47	(1.02)	NIELSEN:	41.85	0.15
GCI:	10.70	0.01	RENTRAK:	69.79	(2.05)
GRAHAM HOLDING:	683.90	(7.79)	SEACHANGE:	7.07	0.26
LIBERTY GLOBAL:	41.39	(0.51)	SONY:	16.98	(0.14)
SHAW COMM:	23.99	(0.16)	SPRINT NEXTEL:	5.90	0.10
TIME WARNER CABLE:	138.21	(3)	TIVO:	11.93	UNCH
<b>PROGRAMMING</b>					
21ST CENTURY FOX:	31.82	(0.61)	UNIVERSAL ELEC:	50.10	1.10
AMC NETWORKS:	52.75	(0.99)	VONAGE:	3.11	(0.04)
CBS:	48.91	(1)	YAHOO:	38.38	(1.22)
CROWN:	3.20	0.12	<b>TELCOS</b>		
DISCOVERY:	33.91	(1.17)	AT&T:	33.82	(0.43)
DISNEY:	83.91	(2.36)	CENTURYLINK:	38.41	(0.72)
GRUPO TELEvisa:	33.10	(0.94)	TDS:	22.40	0.17
HSN:	60.58	(0.78)	VERIZON:	48.37	(0.57)
LIONSGATE:	29.23	(0.88)	<b>MARKET INDICES</b>		
MSG:	60.59	(2.58)	DOW:	16321.07	(223.03)
SCRIPPS INT:	72.79	(0.87)	NASDAQ:	4213.66	(62.58)
STARZ:	31.11	(1.12)	S&P 500:	1874.74	(31.39)
TIME WARNER:	70.64	(1.18)			
VALUEVISION:	4.93	0.15			
VIACOM:	68.42	(2.28)			
WWE:	13.61	0.05			
<b>TECHNOLOGY</b>					
ADVANTAGE:	2.30	(0.07)			
AMDOCS:	44.92	0.02			
AMPHENOL:	45.56	(0.14)			
AOL:	39.90	(1.38)			
APPLE:	99.81	(0.92)			
ARRIS GROUP:	24.27	(0.43)			
AVID TECH:	9.55	0.05			
BLNDER TONGUE:	1.10	(0.06)			
BROADCOM:	35.42	(0.63)			
CISCO:	22.93	(0.41)			
COMMSCOPE:	24.77	(0.04)			
CONCURRENT:	7.07	(0.11)			

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