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Merger Wednesday: Shot-clock Paused, Powerful Backers Scored

The **FCC** paused its review for both the **AT&T-DirecTV** and **Comcast-Time Warner Cable** mergers, halting the informal 180-day time clock for both deals because of numerous content companies' objections to allowing 3rd-parties to access confidential information including the terms of their carriage agreements. The programmers, including **CBS, Scripps, Disney, Time Warner, 21st Century Fox, Univision** and **Viacom,** recently filed a joint petition asking the FCC to keep confidential their carriage deals with the transaction parties. Alternatively, the agency should place only the relevant portions of the video programming information in the public record and redact and/or anonymize certain information contained in those materials, the programmers said. They claimed none of the individuals requesting access to the confidential information "has made a particularized, good-faith showing as to why each needs access…" That said, the FCC agrees that potential commenters' inability to review that confidential information "significantly hampers their ability to meaningfully comment and participate" in both merger proceedings. The plan is to rule on the objections and issue a Public Notice setting new pleading cycles that would provide sufficient time for comments, the Commission said. The programmers had requested that the confidential video programming information be reviewed by the **DoJ** instead of the FCC, arguing that the FCC's protective orders aren't sufficient enough to protect the information if it's placed in the public record. The Commission denied the request but revised its order to exclude "competitive decision makers" from accessing the information. "As we noted previously, it is routine for the FCC to pause the review of significant transactions as it works to create a full record. The Commission is working to hear the concerns of various parties. In the meantime, review of information and evidence already in the docket will continue. We are confident that the Commission will quickly resolve these issues while continuing its work so that review will be completed in early 2015," *Sena Fitzmaurice*, Comcast's vp of government communications, said in a statement. Lawyers contracted by the companies met with the FCC last week to urge the Commission to reach an expedited resolution to any remaining issues regarding the confidentiality of and 3rd-party access to video programming information, according to a Comcast ex part filing. During its 3Q earnings call, AT&T CFO *John Stephens* said the telco is confident of the FCC's "rigorous procedures" to protect confidential programming

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info. "Today's decision doesn't change our view that we'll be able to get the deal approved and closed by the first half of 2015," he said. "We're still optimistic about the transaction." Meanwhile, AT&T and DirecTV recently scored some influential backers in the media business including *Mark Cuban* for their merger. "For content companies the merger offers the promise of an expanded high-speed broadband footprint enabling edge providers new means of reaching consumers with OTT services over a variety of platforms, broadband as well as satellite and cable," said the chmn of **AXS TV** in a filing with the FCC. That would help close the broadband gap for OTT services for unserved and underserved broadband consumers, he said. In addition, the merger would "provide a new competitive alternative, with bundles of products from the combined company putting pressure on competitors to respond."

AT&T 3Q: Despite a slightly down wireline revenue, total **AT&T** U-Verse revenues grew 23.8% YOY in 3Q. Wireline operating income margin was 8.8%, down from 10.6% from a year ago primarily due to U-verse video content cost increases, declines in legacy services and expenses from Project VIP. U-verse now represents 64% of wireline consumer revenues, up from 54% a year ago. U-verse HSI added 601K net new subs to reach a total of 12.1mln. U-verse TV added 216K net new subs to reach nearly 6.1mln. More than 97% of AT&T's video customers subscribe to bundled services, while nearly 2/3 of U-verse TV subs take 3 or 4 services from the telco. ARPUR for U-verse triple-play customers continues to be more than $170 a month. At the end of 3Q, U-verse TV penetration was nearly 22% and U-verse broadband penetration was 21%. Overall, net income for the quarter totaled $2bln, versus $2.8bln in the year-ago period.

Eshoo Talks Net Neu: As the **FCC** works to draft new net neutrality rules and in light of ISPs' strong opposition to reclassifying broadband as telecom service under Title II regime, lawmakers continue to suggest hybrid approaches. Longtime net neutrality backer *Anna Eshoo* (D-CA) proposed a "light-touch" Title II framework that would forbear certain sections of Title II in her letter to chmn *Tom Wheeler.* Despite being a light-touch framework, such approach must prevent ISPs from blocking lawful Internet traffic, or engaging in paid prioritization and throttling, said Eshoo, ranking member of the House tech subcmte. "At a minimum, a light-touch Title II approach should but not be limited to the use of Section 202, which explicitly states that 'any unjust or unreasonable discrimination' is unlawful," Eshoo said. Some claimed Title II reclassification would hurt investment and tie down ISPs in heavy-handed regulation. "I do not support heavy-handed regulation and it is not called for," said Eshoo.

Suddenlink Gets SMC: It's not a good sign for a potential renewal deal between **Viacom** and **Suddenlink** as the MSO signed yet another carriage agreement to add **Sony Movie Channel** to its programming lineup. Since Viacom nets, including **Comedy Central**, went dark on Suddenlink on Oct 1, the MSO has been adding new channels as replacements and has inked carriage deals with nets like **Comedy.TV, Discovery Comm, RLTV and Sprout.**

DISHLatino Offers Financial Service: Through a new educational campaign, **DISHLatino**, the English and Spanish language programming package, will offer its subs financial advice and guidance from consultant *Julie Stav*, who specializes in advising the Hispanic community. The campaign aims to increase awareness among the company's Hispanic customers about personal financial management, highlighting the important role that credit plays in opening doors of opportunity.

Ooyala Buys Videoplaza: **Ooyala** agreed to acquire **Videoplaza,** which provides video ad technology and monetization services. Following the deal, each company's individual offerings will remain in the market on a standalone basis, though over time, Ooyala will launch a unified platform. Videoplaza founder/CEO *Sorosh Tavakoli* and his executive team will lead Ooyala's video ad unit.

On the Circuit: **WICT**'s Rocky Mountain chapter's 7th Annual Rocky Mountain Tech It Out Conference on Nov 13 in Colorado will feature keynotes by *Joan Gillman,* evp and COO of **Time Warner Cable Media Services**; *Myrna Soto*, chief security officer for **Comcast**; and *Susan Sher*, former chief of staff to *Michelle Obama.* Panel discussions will cover "Career Seasons," "Frenemies," "Lean In – Or Lean Out?" and more. The program will also include an expanded STEM/Student Outreach initiative, focused on educational communities in CO, NE, and UT, and that will award 35 high school and college students with Tech It Out scholarships.

Programming: **MTV** picked up 2 unscripted series set to debut in 2015, including "Broke A$$ Game Show," a half-hour

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comedy featuring contestants pushing their personal limits for cash, and "To-drick," starring **YouTube** star *Todrick Hall* who invites viewers to watch his team collaborate on his weekly videos. -- **Discovery Family Channel** premieres the 3rd season of animated series "Transformers Rescue Bots" with 2 back-to-back eps on Nov 1. -- *Steve Coogan* replaced *Philip Seymour Hoffman* in **Showtime**'s comedy pilot "Happyish." The late Hoffman originally starred in the pilot, which will be re-shot. The half-hour program will be filmed in NY this Dec. -- **Animal Planet**'s "Finding Bigfoot" returns with a 2-hour ep on Nov 9. -- **TNT** booked an untitled 10-ep series that's a spinoff of "Cold Justice." The new series is slated to air in spring 2015. -- Halloween starts Wed on **The Weather Channel** with "Wicked Weather Halloween," a spooky 3-night block featuring the net's new original series "American Super/Natural" and other original Weather series.

OTT: **Netflix** picked up half-hour, animated series "F is for Family" based on the comedy of *Bill Burr*. The 6-ep series will be available exclusively to all Netflix markets in 2015.

People: **Comcast** CA's regional svp *Hank Fore* was appointed to the board of directors of the Silicon Valley Leadership Group, which represents approx 400 Silicon Valley employers on issues affecting the economic health and quality of life in Silicon Valley.

CableFAX Daily Stockwatch

Company	10/22 Close	1-Day Ch
BROADCASTERS/DBS/MMDS		
DIRECTV:	85.14	(1.08)
DISH:	59.73	(0.93)
ENTRAVISION:	4.72	(0.06)
GRAY TELEVISION:	8.44	(0.31)
MEDIA GENERAL:	13.96	(0.93)
NEXSTAR:	40.99	(1.44)
SINCLAIR:	27.27	(1.03)
MSOS		
CABLEVISION:	18.04	(0.29)
CHARTER:	151.14	(1.47)
COMCAST:	51.49	(0.7)
COMCAST SPCL:	51.44	(0.56)
GCI:	10.97	(0.18)
GRAHAM HOLDING:	737.52	3.92
LIBERTY GLOBAL:	42.77	(0.81)
SHAW COMM:	24.64	(0.14)
TIME WARNER CABLE:	136.05	(3.38)
PROGRAMMING		
21ST CENTURY FOX:	32.75	(0.92)
AMC NETWORKS:	58.73	(0.55)
CBS:	52.91	(1.33)
CROWN:	3.25	(0.03)
DISCOVERY:	34.89	(1.35)
DISNEY:	87.10	(0.44)
GRUPO TELEVISA:	33.85	(0.35)
HSN:	64.74	(1.16)
LIONSGATE:	30.36	(0.43)
MSG:	63.37	(0.96)
SCRIPPS INT:	74.32	(0.85)
STARZ:	29.97	(0.87)
TIME WARNER:	76.57	(0.65)
VALUEVISION:	5.07	(0.07)
VIACOM:	70.45	(1.47)
WWE:	12.84	(0.98)
TECHNOLOGY		
ADDVANTAGE:	2.45	(0.03)
AMDOCS:	45.80	(0.06)
AMPHENOL:	47.12	(2.55)
AOL:	40.64	(0.09)
APPLE:	102.99	0.52
ARRIS GROUP:	26.01	(0.13)
AVID TECH:	9.89	0.09
BLNDER TONGUE:	1.11	(0.03)
BROADCOM:	39.37	2.04
CISCO:	23.26	(0.25)
COMMSCOPE:	24.97	0.05
CONCURRENT:	7.49	(0.05)
CONVERGYS:	18.56	(0.1)
CSG SYSTEMS:	25.33	(0.42)
ECHOSTAR:	45.48	(0.55)
GOOGLE:	532.71	6.17
HARMONIC:	6.08	(0.08)
INTEL:	32.27	(0.34)
INTERACTIVE CORP:	60.65	(0.56)
JDSU:	11.94	(0.38)
LEVEL 3:	41.43	(0.78)
MICROSOFT:	44.38	(0.5)
NETFLIX:	374.65	8.66
NIELSEN:	42.70	(0.47)
RENTRAK:	74.01	(1.49)
SEACHANGE:	6.65	(0.31)
SONY:	17.63	0.20
SPRINT NEXTEL:	6.06	(0.18)
TIVO:	12.56	(0.42)
UNIVERSAL ELEC:	52.70	0.12
VONAGE:	3.27	(0.05)
YAHOO:	41.99	1.81
TELCOS		
AT&T:	34.50	(0.12)
CENTURYLINK:	40.09	0.39
TDS:	24.43	(0.09)
VERIZON:	48.31	(0.38)
MARKET INDICES		
DOW:	16461.32	(153.49)
NASDAQ:	4382.85	(36.63)
S&P 500:	1927.11	(14.17)

Think about that for a minute...

Inevitable Consequences

Commentary by Steve Effros

We've all heard for years about "unintended consequences" of regulations. Now we may be in a totally new situation where the consequences of where folks are pushing the industry lead to entirely anticipated consequences, and many of them may be very consumer unfriendly. Remember the Consumer Union push for retransmission consent?

It's almost ironic that the recent announcements by HBO and CBS have resulted in a rash of blog posts and articles that suddenly recognize that consumers may wind up paying more, not less for their video. I've been waving the flag for years saying folks need to "do the math" on what happens if everything goes "a la carte." The short answer: viewers will pay more for less. Virtually every recognized economist who has looked at the issue has come to the same conclusion. Now, finally, with a few of the "biggies" actually saying they are going to sell their programming "online" for an anticipated price, its easier to do the math, and it looks pretty ugly.

HBO, whatever the service is they are going to offer OTT, is likely to charge more than their up-start competitor, Netflix. That company just announced a price increase for "Ultra HD" delivery of their products to $12 per month. So let's assume, as has been reported, that HBO will cost $15 or more. So if folks want to watch both Game of Thrones and House of Cards they have to buy both. We're already up at $27, not including delivery cost. CBS has now set the price for its streaming and library product, excluding sports, at $6 a month, times four for all the broadcast networks, and you've got another $24. We still haven't bought any sports, and we're above $50 for essentially 6 exclusive program bundles of linear and SVOD product. The average cable bill, with delivery, of over 180 channels, including sports, is just over $60. It's not looking good for viewers.

What's worse, if the "big" guys all start migrating toward adding an OTT component, the totally predictable result will be that the "smaller" or more focused networks will find it increasingly difficult to survive, assuming that the "cable bundle" is eroded, as it would seem the consumer groups want. After all, the bundle is an unabashed mechanism to cross subsidize programming to provide the broadest diversity possible. To be sure, any individual doesn't watch all the programming offered, but that's true of the books in libraries, the various sections of the newspaper or any magazine's articles. So the consumer advocates are pushing for a new model that looks very much like the oldest video model of television; a race to the lowest possible denominator for the "mass" programming channels and an impossible marketing and financial situation for the multiplicity of diverse channels. We may be about to cut off the "long tail." Don't say you weren't warned!

Is this all going to result in the death of cable? Of course not. We deliver, either way. Also, as CBS has noted, its OTT offering does not include sports. It's likely that it can't, based on contractual terms already written in hardening seven- or 10-year cement. So whatever happens is going to happen slowly, and we will still be the primary delivery infrastructure.

I guess the good news is that there is finally an awakening as to what all this might ultimately mean for consumers. It's about time. Do we really want less diverse quality programming and more dominant program suppliers? Those are the inevitable consequences.

Steve

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