

Cablefax Daily™

Monday — October 27, 2014

What the Industry Reads First

Volume 24 / No. 208

OVD Definition: FilmOn, NCTA, Verizon Give FCC an Earful

With the news out that the **FCC** is looking at whether online video distributors should be defined as MVPDs, **FilmOn** rushed over to 12th St to make its case for why the Commission should act quickly (and in its favor). The Internet streaming service has faced litigation just like Aereo. In fact, over the summer it was found by a US District Judge to be in violation of a 2012 injunction for offering broadcast streams of stations in the NY area. FilmOn continues to litigate the issue, arguing the compulsory copyright license should apply. This month, FilmOn counsel met with FCC staffers, including Media Bureau chief *Bill Lake*, and said the company intends to commence retransmission of local broadcast stations to authenticated subs in markets consistent with FCC rules applicable to MVPDs (and subject to legal rulings, natch). "FilmOn intends to offer TV stations the right to elect must carry or retransmission consent. FilmOn will also provide program exclusivity, emergency alerts and information, closed captioning, equal employment opportunity and to otherwise comply in good faith with all of the rules and regulations that govern MVPD service," the company said in its meeting, according to an ex parte. FilmOn also stressed that it's not subject to the same capacity restraints as cable, and thus could open the door for more independent and niche programmers. It even tried to argue that broadcasters might be more inclined to participate in the spectrum auction if they had online distribution. Others, including **NCTA**, have visited the FCC this month to argue against expanding the definition. The cable trade group said doing so would misconstrue the relevant statutory provision of the Communications Act, but that if the FCC wants to explore it, it should seek comment on a full range of issues and potential consequences—such as whether programming would have to be available 24/7 and what does it mean to offer programming for purchase (would purchase of a device used to access OVD's programming count). What's more, NCTA said that the FCC simply defining an OVD as an MVPD isn't enough as the **Copyright Office** has not expanded the cable statutory license to cover Internet retrants of broadcast stations by OVDs. The FCC can't fill that gap, NCTA said. **Verizon** has weighed in, arguing that legacy regulation, particularly franchising and must carry obligations, should not apply to OTT video providers and could be "fatal" to such services. It's also concerned that technology mandates could harm OTT services given their nascent stage of development. Comcast briefly touched on the OVD issue in an ex parte, stressing that there are "a number of complex issues for the Commission to consider, and ... defining OVDs as MVPDs

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Join us for Cablefax's Most Powerful Women in Cable Breakfast on Thursday, November 20, 2014, from 8:30 – 10:30 a.m. at the Grand Hyatt in NYC, as we salute the women who have made their mark on the industry with leadership, innovation and community.

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would confer obligations as well as benefits on these entities.”

Incentive Auction Delay: The **FCC** expects the broadcast spectrum incentive auction to start in early 2016, instead of mid-2015. The agency cited the scheduling of **NAB’s** legal challenge to elements of the plan as the reason for the delay. **NAB** rejected that notion, saying given the complexity, there’s good reason Congress gave the **FCC** 10 years to complete the proceeding.

Broadband Research: In 10 years, broadband has really grown. **Leichtman Research** reports that 79% of US households get broadband at home, compared to just 20% in 2004. Broadband now accounts for 95% of all households with Internet service at home – an increase from 94% last year, 89% in 2009, and 33% in 2004. Other findings from **Leichtman**: the mean reported time spent online at home per day is 2.8 hours among all individuals online at home (up from 2.2 in 2009) and the 18-34 age group reports spending more time per day online at home than time spent watching TV (a first in this 12-year-old report).

FCC Data Security Case: Ah, here’s the promised **FCC** enforcement item (**CFX, 10/21**). The **FCC** plans to fine carriers **TerraCom** and **YourTel** \$10mln, alleging they violated laws protecting the privacy of phone customers’ personal info. “According to an investigation by the Enforcement Bureau, TerraCom and YourTel apparently stored Social Security numbers, names, addresses, driver’s licenses, and other sensitive information belonging to their customers on unprotected Internet servers that anyone in the world could access,” the **FCC** said. The info was to prove eligibility for the **USF Lifeline** program. It is the **FCC’s** 1st data security case and the largest privacy action in the agency’s history. Republican commissioners **Ajit Pai** and **Michael O’Rielly** dissented. “The Commission asserts that these companies violated novel legal interpretations and never-adopted rules,” **Pai** said.

Leahy Wants No Fast Lanes: Sen **Judiciary** chmn **Patrick Leahy** (D-VT) is telling ISPs not to create fast lanes and slow lanes. In separate letters to major ISPs this week, including **AT&T, Verizon, Time Warner Cable, Comcast** and **Charter**, the lawmaker urged the companies not to allow the Internet to become a 2-tiered system of “haves” and “have-nots,” controlled by a small number of corporate gatekeepers. “A network that discriminates cannot be checked by market forces when customers and content providers have few—if any—viable alternatives to choose from,” he wrote in his letter to **AT&T**. As regulators continue to evaluate the proposed **AT&T-DirectTV** deal, and regardless of whether it’s approved, “I ask **AT&T** pledge not to engage in any activity that prioritizes affiliated content or services over unaffiliated content or services, helping to ensure that vertical integration does not threaten competition online.”

NYTVF: The **NYTVF** launched **NYTVF Productions**, a new arm formed to be a production partner for indie TV artists. It launches with 4 deals in place with **A&E, Fox, History** and **The Orchard** for 3 pilot presentations and 1 series order, co-produced by **NYTVF** in conjunction with the indie artists.

People: **Comcast** hired **Mitch Rose** as svp, government affairs for **NBCU**. **Rose** currently provides consulting to several clients, including **Comcast, NCTA** and **RIAA**, as principal of **Mitch Rose Consulting**. He previously was vp, govt relations for **Disney**.

Oops: The ratings chart in the 10/24 issue of **Cablefax** showed rankings for the 2-11 demo. Our apologies. In this issue, we’re running the chart with the correct rankings for households in prime for the week of Oct. 13.

Basic Cable Rankings (10/13/14-10/19/14)			
Mon-Sun Prime			
1	ESPN	2.1	1984
2	TBSC	1.5	1476
2	FOXN	1.5	1419
4	USA	1.4	1370
4	FS1	1.4	1187
6	DSNY	1.3	1294
7	DISC	1.1	1043
7	AMC	1.1	1026
7	DSE	1.1	75
10	HGTV	1	970
10	FX	1	917
10	FAM	1	901
13	HIST	0.9	860
14	ADSM	0.8	787
14	LIFE	0.8	749
14	BET	0.8	694
17	TLC	0.7	717
17	TNT	0.7	716
17	A&E	0.7	696
17	FOOD	0.7	690
17	SYFY	0.7	658
17	NAN	0.7	629
17	HALL	0.7	586
24	BRAV	0.6	560
24	ID	0.6	560
24	CMDY	0.6	540
24	SPK	0.6	532
24	DSJR	0.6	430
29	TVLD	0.5	483
29	CNN	0.5	454
29	MSNB	0.5	433
29	NFLN	0.5	381
29	HMM	0.5	291
34	VH1	0.4	387
34	APL	0.4	363
34	MTV	0.4	355
34	WETV	0.4	350
34	NGC	0.4	344
34	DXD	0.4	338
34	OWN	0.4	332
34	LMN	0.4	290
34	FXX	0.4	288
34	H2	0.4	281
44	TRAV	0.3	311
44	TRU	0.3	296
44	CNBC	0.3	284
44	EN	0.3	277
44	GSN	0.3	276
44	ESP2	0.3	272
44	HLN	0.3	257
44	NKJR	0.3	239
44	OXYG	0.3	211
44	NKTN	0.3	189
44	WGNA	0.3	188

*Nielsen data supplied by ABC/Disney

CableFAX Week in Review

Company	Ticker	10/24 Close	1-Week % Chg	YTD %Chg
BROADCASTERS/DBS/MMDS				
DIRECTV:	DTV	84.15	(1.02%)	21.85%
DISH:	DISH	62.20	6.27%	7.39%
ENTRAVISION:	EVC	4.80	4.58%	(21.18%)
GRAY TELEVISION:	GTN	8.63	0.70%	(16.78%)
MEDIA GENERAL:	MEG	14.24	(0.7%)	(36.99%)
NEXSTAR:	NXST	41.90	3.87%	(24.82%)
SINCLAIR:	SBGI	27.98	4.09%	(21.69%)

Company	Ticker	10/24 Close	1-Week % Chg	YTD %Chg
MSOS				
CABLEVISION:	CVC	18.59	6.66%	3.68%
CHARTER:	CHTR	157.81	9.74%	15.39%
COMCAST:	CMCSA	54.26	7.06%	4.41%
COMCAST SPCL:	CMCSK	54.16	6.93%	8.58%
GCI:	GNCMA	11.04	1.85%	(0.99%)
GRAHAM HOLDING:	GHC	738.15	4.74%	11.28%
LIBERTY GLOBAL:	LBTYA	44.92	6.57%	(28.65%)
SHAW COMM:	SJR	24.89	2.89%	2.26%
TIME WARNER CABLE:	TWC	142.98	1.25%	5.52%

Company	Ticker	10/24 Close	1-Week % Chg	YTD %Chg
PROGRAMMING				
21ST CENTURY FOX:	FOXA	33.35	1.99%	(5.17%)
AMC NETWORKS:	AMCX	59.12	5.06%	(13.21%)
CBS:	CBS	53.52	2.23%	(16.03%)
CROWN:	CRWN	3.34	5.36%	(5.38%)
DISCOVERY:	DISCA	36.61	5.66%	(59.51%)
DISNEY:	DIS	88.61	5.70%	15.98%
GRUPO TELEVISIA:	TV	32.84	(0.55%)	8.53%
HSN:	HSNI	65.39	6.57%	4.96%
LIONSGATE:	LGF	33.00	9.38%	4.23%
MSG:	MSG	64.76	2.79%	12.47%
SCRIPPS INT:	SNI	76.18	4.82%	(11.84%)
STARZ:	STRZA	30.48	0.13%	4.24%
TIME WARNER:	TWX	78.77	3.85%	12.98%
VALUEVISION:	VVTV	5.20	2.77%	(25.61%)
VIACOM:	VIA	71.99	3.72%	(17.98%)
WWE:	WWE	13.27	(2.93%)	(19.96%)

Company	Ticker	10/24 Close	1-Week % Chg	YTD %Chg
TECHNOLOGY				
ADVANTAGE:	AEY	2.44	0.42%	(9.29%)
AMDOCS:	DOX	46.23	2.80%	12.10%
AMPHENOL:	APH	48.83	1.67%	(45.25%)
AOL:	AOL	41.77	6.23%	(10.4%)
APPLE:	AAPL	105.22	4.46%	12.29%
ARRIS GROUP:	ARRS	27.45	9.13%	12.76%
AVID TECH:	AVID	10.05	4.69%	23.31%
BLNDER TONGUE:	BDR	1.13	(25.66%)	13.00%
BROADCOM:	BRCM	39.70	10.99%	33.90%
CISCO:	CSCO	23.78	2.28%	6.02%
COMMSCOPE:	CTV	25.02	0.97%	(5.69%)
CONCURRENT:	CCUR	7.35	3.09%	(10.04%)
CONVERGYS:	CVG	18.97	4.86%	(9.88%)
CSG SYSTEMS:	CSGS	25.42	(0.31%)	(13.54%)
ECHOSTAR:	SATS	46.32	3.69%	(6.84%)
GOOGLE:	GOOG	539.78	5.60%	(51.84%)
HARMONIC:	HLIT	6.23	10.07%	(15.58%)
INTEL:	INTC	33.18	5.74%	27.81%
INTERACTIVE CORP:	IACI	62.26	5.58%	(9.31%)

Company	Ticker	10/24 Close	1-Week % Chg	YTD %Chg
JDSU:	JDSU	12.10	(6.78%)	(6.85%)
LEVEL 3:	LVL	42.22	2.40%	27.28%
MICROSOFT:	MSFT	46.13	5.73%	23.31%
NETFLIX:	NFLX	385.02	7.82%	4.58%
NIELSEN:	NLSN	42.30	0.64%	(7.82%)
RENTRAK:	RENT	77.60	4.91%	104.80%
SEACHANGE:	SEAC	6.50	(7.67%)	(46.55%)
SONY:	SNE	17.72	2.78%	2.49%
SPRINT NEXTEL:	S	6.08	0.83%	(43.44%)
TIVO:	TIVO	12.79	7.21%	(2.52%)
UNIVERSAL ELEC:	UEIC	53.72	4.68%	40.96%
VONAGE:	VG	3.37	(8.42%)	42.19%
YAHOO:	YHOO	43.50	13.13%	7.57%

Company	Ticker	10/24 Close	1-Week % Chg	YTD %Chg
TELCOS				
AT&T:	T	33.87	(0.62%)	(3.67%)
CENTURYLINK:	CTL	39.93	2.75%	25.37%
TDS:	TDS	24.80	5.98%	(3.8%)
VERIZON:	VZ	48.77	1.46%	(0.75%)

Index	Value	1-Week % Chg	YTD %Chg	
MARKET INDICES				
DOW:	DJI	16805.41	2.59%	1.38%
NASDAQ:	IXIC	4483.72	5.29%	7.35%
S&P 500:	GSPC	1964.58	4.12%	6.29%

WINNERS & LOSERS

THIS WEEK'S STOCK PRICE WINNERS		
COMPANY	CLOSE	1-WK CH
1. YAHOO:	43.50	13.13%
2. BROADCOM:	39.70	10.99%
3. HARMONIC:	6.23	10.07%
4. CHARTER:	157.81	9.74%
5. LIONSGATE:	33.00	9.38%

THIS WEEK'S STOCK PRICE LOSERS		
COMPANY	CLOSE	1-WK CH
1. BLNDER TONGUE:	1.13	(25.66%)
2. VONAGE:	3.37	(8.42%)
3. SEACHANGE:	6.50	(7.67%)
4. JDSU:	12.10	(6.78%)
5. WWE:	13.27	(2.93%)

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