

Cablefax Daily™

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What the Industry Reads First

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User Rules: CFX Live Panelists Put Consumers in the Driver's Seat

They came, they saw, and in the words of **YouTube/CFX Live** presenter *Ryan Hunter*, they explored "New Media: Old Media for a New Generation (of Future Old People)." Funny, but pretty true when you think about it. Nuggets of wisdom from the day-long conference included the complete transformation social media and a younger generation have had on marketing. "All marketing is some form of content marketing [now]," **Revolt TV's** audience insights & strategies vp *Jake Katz* said, encouraging the audience to consider "what can we learn from an audience that are better content marketers than the content marketers themselves." What's the toughest part of convergence? "The great shared experience is no longer synchronous," **Ovation** CEO *Charles Segars* said. "The idea you're going to create one single moment that you will monetize has flattened out." But that also opens the door for opportunities. Enter *John Hendricks'* **CuriosityStream**, an SVOD platform for factual program lovers. *CuriosityStream* pres *Elizabeth Hendricks North* described the service in detail Wed, and suggested that movies are leading the market transformation. Take cable... It was **HBO's** entrance in the '70s with commercial-free movies that led to the rise of pay TV subscriptions, *North* said. She likened it to today, with **Netflix** and its wealth of movies paving the way for new kinds of OTT players. Wait, with all this content coming at us online, do we need to be worried about bandwidth? There was a resounding "no" from **Junsei 2.0** partner and former **Time Warner Cable** CTO *Mike LaJoie*. He said he's constantly asked if it's worrisome, but always responds the same... "It's not a demand-side equation; it's a supply side equation." In other words, you create it; the technologists will be there to support it. One of the more visual parables of the day came from **TruthCo** principal *Linda Ong*. Recall that green bean casserole made from frozen beans, Campbell's soup, and fried onions? It's a much maligned dish these days, but it was once state of art because processed food was a way to get quality food to people faster in the '60s and '70s, she said. The state of food has since gone through a massive paradigm shift, as has television. Artisanal is the buzzword of today. "Quality TV has democratized taste. Access has really allowed people to consume so much more than ever has before," she said.

FCC Hearing: FCC chmn *Tom Wheeler* has gotten plenty of practice defending his Title II net neutrality order before Congress in the past week. The latest hearing, provocatively titled "Wrecking the Internet to Save It?" was held by the full **House Judiciary Committee** on Wed. Wheeler was accompanied by Republican commish *Ajit Pai* and 2 **FTC**

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commish *Terrell McSweeney* and *Joshua Wright*. Just 2 days ago, 2 lawsuits against the agency over the order were filed. "I recognize the propensity to dance on the head of legal pins on this issue. In reality, however, this issue is simply about whether those who operate networks will be the rulemakers, or whether consumers and innovators will have the security of knowing that the network operators will not be able to misuse their positions," Wheeler told the lawmakers. As usual, Republican legislators were concerned about the order's potential implications on tax, rates, investments and broadband speeds. Wheeler assured the GOPers that his order isn't even close to utility regulation. There are 48 sections in Title II and 27 of those are forborn, he said. The Title II approach is even lighter touch than the Title II framework that was used for wireless, he said. The committee's top Democrat *John Conyers* (D-MI) worried that the existing antitrust law isn't sufficient to ensure an open Internet. "Under current antitrust law, there is relatively little that regulators can do outside the merger review context to address the conduct of a regulated industry such as broadband Internet service with respect to enforcing net neutrality principles," he said. FTC's McSweeney seemed to agree. Antitrust enforcement would require detection, investigation, and a potentially lengthy "rule of reason" analysis, she said, adding it's conducted on a case-by-case basis. As a result, it can be very difficult to mediate consumer harms through antitrust enforcement, she said. Moving forward, FTC and FCC will go hand-in-hand when it comes to protecting an open Internet. "There is not an either-or choice that must be made between FCC regulation and FTC enforcement as it relates to an open Internet. Both are different tools with different features and both have a role to play when it comes to protecting consumers and ensuring an Internet that continues to foster competition and innovation," she said.

Merger Watch: The **Comcast-Time Warner Cable** show hit the road this week, with Comcast evp *David Cohen* speaking to a group of students and faculty at **UNC's Center for Media Law and Policy**. While the talk was on the democratization of media and changes in the landscape, it also gave Cohen a chance to talk in a state that will be new territory for Comcast if the govt approves its merger with TWC. Comcast is also now publicly acknowledging that this merger is not going to close in the early part of 2015. "Given the FCC's recent decision to pause the shot clock, we have recently reassessed the time frame when we expect the government's regulatory review to be completed and now expect that the review should be concluded in the middle of the year," Cohen wrote in a blog post Wed. "During this period, we are continuing to describe the public interest benefits that will come to North Carolina and other TWC areas." Cohen's presentation at UNC focused on public interest benefits, which he said included its low-income broadband adoption program, faster Internet speeds and more competition in the business marketplace.

Ergen Talks Sling: As cool as **DISH's** new Sling TV service is, there's "no question" that it will "cannibalize our business," CEO *Charlie Ergen* said in an interview on **CNBC** Wed. "It's the innovator's dilemma," he said. While the service might hurt DISH's traditional business, "we have to do that. We have to transform our own company." He noted the early take-rate of the 6-week-old service, which costs \$20 a month with 16 live channels, is "encouraging." And the vast majority of those early customers aren't part of the traditional pay-TV market, Ergen said. As more people look for alternative TV bundles and video options, there will be "tons of new competitors" to the market such as **Sony's** Vue streaming video service, **Apple TV**, and direct-to-consumer video services like **HBO Now**, Ergen said. That said, traditional bundles will still be "the best deal" for families. For others, such as college students and young professionals, they will go after skinny TV packages, he said. Meanwhile, Ergen still has his eyes on wireless and is looking for a carrier partner, potentially a foreign wireless player. There are companies outside the US that might be interested in a pay-TV/wireless partnership, Ergen said. "There are going to be a lot of moving parts... we hope to be part of the equation," he said.

Dodgers Drama: Additional carriage for the **Dodgers RSN** doesn't look hopeful before Opening Day. "We want all Dodger fans to have access to **SportsNet LA**. Despite our repeated attempts, other providers are unwilling to engage in any discussions," **Time Warner Cable** said Wed. "If Dodger fans want to enjoy SportsNet LA this season, we encourage them to switch to a provider that carries the network." Late Tues, TWC batted down a *NY Post* story that claimed it would take a \$1bn writedown on its investment RSN. "Time Warner Cable has no plans to take a write down in connection with its Dodgers contract. In fact, TWC does not carry an asset on its balance sheet related to the Dodgers and, therefore, there is no asset for it to write down now or in the future," the MSO said.

Wurl Scores WOW! Contract: Startup **Wurl's** 1Guide streaming video platform has been rolled out in **WOW!**

BUSINESS & FINANCE

cable systems in IN, OH, FL, IL and MI as part of the MSO's new "Streamland" service. WOW! subs can access Streamland on their TVs. The platform includes apps like Netflix and Toon Goggles, as well as ad-supported streaming video programming. Wurl teamed with Arris in July to develop Arris Market, the set-top software offering that includes HTML5 interface and content discovery features, combining OTT and traditional TV services.

ShortsHD Gets NCTC Deal: Short-sHD scored a carriage deal with NCTC. The programmer already has deals with distributors including AT&T U-Verse, Verizon FiOS, DirecTV, CenturyLink and Google Fiber.

Starz/Encore Preview: Starz and Encore are offering up a free preview beginning Thurs through Apr 12 (dates and availability of channels vary by distributors). The idea is to give folks a chance to catch up on the first 8 eps of Season 1 of "Outlander."

Programming: Al Jazeera America is upping the amount of live news programming beginning Mon. Each weekday, the net will present a live morning news block from 6am to noon ET—giving viewers an additional 2 hours of content. Al Jazeera America also will extend its midday news coverage an additional hour.

Cablefax Daily Stockwatch

Company	03/25 Close	1-Day Ch	Company	03/25 Close	1-Day Ch
BROADCASTERS/DBS/MMDS					
DIRECTV:	85.44	(0.5)	CONCURRENT:	6.60	(0.12)
DISH:	70.76	(1.44)	CONVERGYS:	22.24	(0.41)
ENTRAVISION:	6.61	(0.22)	CSG SYSTEMS:	29.79	(0.5)
GRAY TELEVISION:	13.30	(0.53)	ECHOSTAR:	50.97	(0.64)
MEDIA GENERAL:	16.15	(0.63)	GOOGLE:	558.78	(11.4)
NEXSTAR:	56.26	(0.5)	HARMONIC:	7.30	(0.31)
SINCLAIR:	31.02	(0.2)	INTEL:	29.89	(0.9)
MSOS					
CABLEVISION:	18.08	(0.42)	INTERACTIVE CORP:	66.85	(0.85)
CHARTER:	183.00	(4.68)	JDSU:	13.04	(0.44)
COMCAST:	56.52	(1.04)	LEVEL 3:	53.51	(1.48)
COMCAST SPCL:	56.33	(1.03)	MICROSOFT:	41.46	(1.44)
GCI:	15.52	(0.57)	NETFLIX:	421.75	(16.53)
GRAHAM HOLDING:	1074.39	(11.96)	NIELSEN:	43.07	(0.2)
LIBERTY BROADBAND:	53.80	(0.95)	RENTRAK:	55.13	0.06
LIBERTY GLOBAL:	51.80	(0.73)	SEACHANGE:	8.19	(0.15)
SHAW COMM:	22.78	(0.35)	SONY:	26.69	(0.88)
SHENTEL:	31.37	(0.9)	SPRINT NEXTEL:	4.76	(0.21)
SHENTEL:	31.37	(0.9)	TIVO:	10.49	(0.25)
TIME WARNER CABLE:	149.05	(1.95)	UNIVERSAL ELEC:	55.61	(1.27)
PROGRAMMING					
21ST CENTURY FOX:	34.26	(0.81)	VONAGE:	4.82	(0.28)
AMC NETWORKS:	73.58	(1.42)	YAHOO:	44.20	(0.22)
CBS:	61.51	(0.87)	TELCOS		
CROWN:	4.15	(0.11)	AT&T:	32.62	(0.45)
DISCOVERY:	31.55	(0.96)	CENTURYLINK:	34.64	(0.55)
DISNEY:	105.00	(2.11)	TDS:	25.38	(0.48)
GRUPO TELEVISA:	33.46	(1.02)	VERIZON:	48.73	(0.68)
HSN:	67.52	(0.99)	MARKET INDICES		
LIONSGATE:	32.85	(0.49)	DOW:	17718.54	(292.6)
MSG:	80.23	(0.56)	NASDAQ:	4876.52	(118.21)
SCRIPPS INT:	70.25	(0.98)	S&P 500:	2061.05	(30.45)
STARZ:	33.93	(0.54)			
TIME WARNER:	85.17	(1.17)			
VIACOM:	68.02	(1.27)			
WWE:	16.09	(0.46)			
TECHNOLOGY					
AMDOCS:	53.41	(0.49)			
AMPHENOL:	57.61	(1.48)			
AOL:	39.17	(0.55)			
APPLE:	123.38	(3.31)			
ARRIS GROUP:	28.64	(1.46)			
AVID TECH:	14.82	(0.19)			
BLNDER TONGUE:	1.74	(0.1)			
BROADCOM:	42.30	(2.27)			
CISCO:	27.46	(0.54)			
COMMSCOPE:	26.54	(0.07)			



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Fifty/Fifty

Commentary by Steve Effros

In the coming months, we're going to be treated to repeated rounds of commentary, analysis, soapboxing, politicking and noise regarding the legal challenges being mounted against the FCC's decision to treat broadband as a "Title II" telecommunications service.



Make no mistake, the issue is about "Title II," not "net neutrality," but that will be hard to tell because those who have fought for so long on the political battlefield still think there is value in painting "big" industry as "bad." For them, this has been a crusade for the righteous consumer, and the innovative "edge" provider; those small, garage-incubated, poor start-ups; Google, Netflix, Amazon and the like. Naturally the argument alleges that it's "the next" one of those being protected by this prophylactic regulation, not the current big guys, but they're the ones providing the muscle and political clout that got the FCC to change direction.

Regardless, there are many very good legal arguments that will be aired out. Was there really a massive change in the nature of the market that required the Commission to totally reverse course, using very stretched legislative authority? Did anyone get a real chance to argue the legal issues around Title II sufficiently, based on the Administrative Procedure Act's intention of letting folks know what a proposed rule is—and publicly vetting it—before adopting it? Can the FCC "adopt" a set of rules and then essentially announce that it is not going to actually use those rules but some new, streamlined form of them that no one has ever seen? Can there be any reasonable notice to companies about what they can and can't do when the only way to find out is via advisory opinions on unprinted rules, decisions issued by the staff, not the Commissioners?

These are all great questions and the real legal beagles

are already having a field day debating them. Unfortunately, the blogs, the Netizens, and the consumer press miss the sophisticated nature of those arguments. It's too complicated. They would prefer to continue to opine about the "big" companies outrageously trying to squash the FCC's noble effort to "save" the Internet. An Internet that gave no indication that it needed saving and was doing just fine. "Net neutrality" has never been the real issue. That was just a bumper sticker, and a very effective one. The underlying issue has always been the appropriate extent of federal oversight of a vast, new communications medium.

But on the other side, we have companies and advocates screaming about the "unprecedented" actions of President Obama and his "intrusion" into the process. Excuse me, that's nonsense. It's just as much sophistry as the "net neutrality" stuff. There's nothing unprecedented about an administration putting its thumb on the regulatory scale. Like it or not, it happens all the time. When cable was first federally regulated in 1972, it only happened after the White House jumped in and brokered a "consensus agreement" between the warring parties; the broadcasters, cable, and Hollywood. The deals were struck in White House meetings, and the negotiated "agreement" was even printed alongside the newly adopted FCC rules! So let's not get holier than thou; let's stick to the real arguments.

When all is said and done, I give it 50/50 on which way it will go, depending to an unusually high degree on which judges get the case; those who prefer to "defer" to the "expert agency" or those who read some meaning into the limited nature of the statutory language. We'll have to wait and see.

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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