

# Cablefax Daily™

Friday — May 29, 2015

What the Industry Reads First

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## **GSN-CVC: ALJ Won't Let FCC's Enforcement Bureau Pass the Buck**

After a stern rebuke from the FCC's administrative law judge, the agency's Enforcement Bureau weighed in on GSN's outstanding program carriage complaint against Cablevision and said it believed the programmer deserved a hearing. But ALJ *Richard Sippel* had to pull some teeth to get it. GSN's complaint alleging that Cablevision discriminated against it by moving it to the Sports & Entertainment tier has lingered at the Commission for more than 4 years. With court challenges that delayed the complaint now out of the way and discovery in the case finally finished, Cablevision filed for a summary decision late last month (*CFX*, 5/4). Here's where the bureaucracy gets interesting... The Enforcement Bureau asked on May 14 for additional time to file comments on Cablevision's request for summary judgment, and Sippel granted it. The resulting May 19 comments submitted by Bureau chief *Travis LeBlanc* consisted essentially of 29 words: "The Bureau believes Cablevision's and GSN's respective pleadings fully and fairly state the issues pending before the Presiding Judge. Accordingly, the Bureau sees no reason to submit additional comments." That did not sit well with Sippel. "No participant or onlooker to this proceeding has been enlightened by the Bureau's self-evident observation," he wrote the next day in an order that demanded the Bureau file comments in 7 days that at a minimum address whether summary decision is appropriate and whether there should be a hearing (a glitch on the FCC's website made the order unviewable until Thurs, May 27). "By making such a pointless submission after 5 days of careful review, the Bureau disrespects the Presiding Judge, insults his willingness to grant extensions for the benefit of receiving its carefully considered comment, and worst of all, abandons its responsibility to represent the public interest," Sippel concluded. On Thurs, the Enforcement Bureau tried again, this time declaring that GSN has demonstrated "the existence of genuine issues of material fact necessitating a hearing." It also explained its previous terse filing, saying that since it's not a primary party in cable carriage matters and usually limits involvement to cross-examining witnesses during a hearing/commenting after a hearing, it didn't think it needed to issue substantive comment on Cablevision's request. "The Bureau apologizes to the Presiding Judge for any misunderstanding this may have caused, and it was not the Bureau's intention to disrespect the Presiding Judge in any manner," the new comments filed by LeBlanc said. As for summary decision, the Bureau said it's an "extraordinary procedure" that should only be used where there is no genuine issue of fact for determination at hearing. Not only does the Bu-

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reau think GSN presented those issues, but it also believes Cablevision relied on the wrong legal standard by focusing too heavily on DC Circuit Judge *Brett Kavanaugh's* concurring opinion in the court's decision vacating the FCC's order that found **Comcast** discriminated against **Tennis Channel**. While Kavanaugh's opinion focused on national market power restraining a network from being able to compete, the Bureau said a carriage violation can occur if the MVPD has market power in a local market. As the complaint inches toward a trial this summer, Cablevision maintains optimism it will prevail. "We believe strongly in the merits of our case," a spokesperson said. GSN has argued that it has a female-skewing audience and should be treated similar to networks Cablevision used to own, **WE tv** and the now-defunct **Wedding Central**.

**Avago to Buy Broadcom:** Here comes another cable vendor merger. Singapore-based **Avago Technologies** agreed to acquire **Broadcom** for \$37bln, the companies announced Thurs. The combined company is expected to have a diverse communications platform covering both wired and wireless technologies, with combined annual revenues of approx \$15bln. The deal is expected to allow the combined company to compete head-to-head with major players like **Intel** and **Qualcomm**. And thanks to Broadcom's DOCSIS 3.1 portfolio and its relationship with major MSOs, the deal would extend Avago's communications-focused revenue stream. Following the completion of the deal, expected next year, Avago pres/CEO *Hock Tan* will continue to be pres/CEO of the new company, which will adopt the name **Broadcom Limited**. *Henry Samuelli*, co-founder/CTO/chmn of the board of Broadcom will join the board and become the CTO of the combined company. *Henry Nicholas*, co-founder and past CEO of Broadcom will serve in a strategic advisory role within the combined company, reporting to Tan. Avago plans to fund the deal with \$17bln in cash and the rest in equity assets. The deal came after **Arris'** acquisition of **Pace** for \$2.1bln and Arris and **Charter's** acquisition of **ActiveVideo** through a joint venture.

**Lifeline for Broadband:** The FCC's Lifeline program which subsidizes phone service for low-income families will get an overhaul to cover broadband services under a proposal by chmn *Tom Wheeler*. "Broadband is key to Lifeline's future," Wheeler wrote in a blog post Thurs, noting that only 48% of HHs making less than \$25K have broadband at home while more than 95% of HHs with incomes over \$150K have broadband. Wheeler's proposal is up for vote during the Commission's June 18 Open Meeting. The chmn proposed several other changes to reform the program. To ensure quality and value of the program, he proposes to create minimum service standards for broadband and voice. He also seeks comments on ways to verify eligibility, such as establishing a neutral 3rd party administrator and ensuring that the program targets those most in need. The idea is that competition among providers on price and services would benefit Lifeline subscribers, so Wheeler also wants comments on how to encourage participation in the program and how to get states involved. The program now has 12mln participants. FCC officials acknowledged that it's unclear how many of those participants use their monthly \$9.25 subsidy to pay for broadband. The move came after the FCC adopted comprehensive reforms in 2012 to crack down on waste, fraud and abuse of the program, including clarifying Lifeline subscriptions are limited to one per HH and requiring documented proof of eligibility. To strengthen the previous reforms, Wheeler proposed changes that require providers to retain documentation regarding the eligibility of their Lifeline customers. In addition, record retention requirements will be extended from 3 to 10 years. He also seeks to increase program transparency by making key performance data easily available to the public. Cable has its own subsidized broadband program for low-income communities. The national Connect2Compete program is modeled after 1 of **Cox's** broadband adoption programs that first launched in Santa Barbara, CA, in 1999.

**Title II Stay Reply:** The court should grant a stay in the FCC's Title II net neutrality order because the purpose of granting "interim injunctive relief" is to "maintain the status quo pending a final determination of the merits of the suit," **NCTA, ACA, AT&T, USTelecom, CenturyLink** and the **Wireless Internet Service Providers Association** said in a joint filing Thurs following the FCC's opposition to a stay. At a minimum, the court should grand expedition and direct the parties to propose an expedited briefing schedule within 7 days, the companies and groups said.

**Fighting Words:** **CBS** CEO *Les Moonves* has a way of riling up cable operators. Take his comments at the Code Conference this week. **The American Television Alliance**, consisting of several cable ops and DBS player **DISH** that want to overhaul retrans consent rules, said Moonves said: "We're programmers. The term 'broadcasting' doesn't mean anything anymore." (The quote was tweeted by **CNBC's Carl Quintanilla**). While the head of **NCTA** has taken issue with the word "cable," it's something different to decry broadcasting since it carries public inter-

# BUSINESS & FINANCE

est obligations as part of the free use of public airwaves. “CBS wants to have it both ways: continue to benefit from government handouts while shirking its public interest obligations,” ATVA spokesman *Trent Duffy* said. At the same conference, Moonves declared that CBS will “probably” sign up for **Apple’s** proposed TV service when (if?) it launches. What will it take? “Money.”

### Google Gets HBO Now: HBO

Now, the net’s premium stand-alone \$14.99 a month service, will be available to Android users this summer through an app from Google Play, **Google** products svp *Sundar Pichai* announced during the company’s I/O 2015 conference Thurs. The service first launched on **Apple** in April, before **Cablevision** became the 1st pay-TV provider to offer it to subs.

**People:** **Turner** promoted *Scott Miller* to svp, assoc gen counsel of legal and business affairs. -- **Cablevision Media Sales** upped *John Verre* to vp, automotive sales. He’ll lead ad sales for CMS’ auto clients across all lines of business, including local, **News12** and the NY Interconnect. -- **NBCU** named *Anand Kini* CFO. *Kini* was most recently evp, strategy and business insights and served as interim CFO since Feb, when then-CFO *Vasant Prabhu* left to join **Visa**. *Kini* remains a member of the executive committee and reports to CEO *Steve Burke*.

## Cablefax Daily Stockwatch

Company	05/28 Close	1-Day Ch	Company	05/28 Close	1-Day Ch
<b>BROADCASTERS/DBS/MMDs</b>					
DIRECTV:	91.42	(0.26)	COMMScope:	26.39	UNCH
DISH:	70.30	0.35	CONCURRENT:	6.25	(0.02)
ENTRAVISION:	6.76	(0.04)	CONVERGYS:	24.97	0.17
GRAY TELEVISION:	16.01	(0.18)	CSG SYSTEMS:	31.12	0.64
MEDIA GENERAL:	16.81	(0.01)	ECHOSTAR:	50.02	0.63
NEXSTAR:	57.95	(0.02)	GOOGLE:	539.78	(0.01)
SINCLAIR:	30.18	(0.44)	HARMONIC:	6.83	(0.03)
<b>MSOS</b>					
CABLEVISION:	25.29	(0.02)	INTEL:	34.01	0.30
CHARTER:	176.36	(1.89)	INTERACTIVE CORP:	75.29	(0.7)
COMCAST:	59.03	(0.31)	JDSU:	12.77	(0.02)
COMCAST SPCL:	58.56	(0.29)	LEVEL 3:	55.55	(0.37)
GCI:	15.95	(0.5)	MICROSOFT:	47.45	(0.16)
GRAHAM HOLDING:	1072.78	(11.72)	NETFLIX:	626.55	(2.45)
LIBERTY BROADBAND:	53.29	(0.3)	NIELSEN:	45.10	(0.38)
LIBERTY GLOBAL:	57.69	(0.79)	RENTRAK:	67.38	3.64
SHAW COMM:	22.26	0.16	SEACHANGE:	6.88	0.06
SHENTEL:	31.58	(0.73)	SONY:	31.18	(0.06)
SHENTEL:	31.58	(0.73)	SPRINT NEXTEL:	4.63	(0.09)
TIME WARNER CABLE:	182.38	(1.19)	TIVO:	10.63	(0.08)
<b>PROGRAMMING</b>					
21ST CENTURY FOX:	33.96	(0.19)	UNIVERSAL ELEC:	52.33	0.53
AMC NETWORKS:	78.68	0.04	VONAGE:	4.73	0.10
CBS:	62.03	(0.62)	YAHOO:	43.07	(0.31)
CROWN:	4.06	0.05	<b>TELCOS</b>		
DISCOVERY:	33.05	(0.05)	AT&T:	34.80	(0.15)
DISNEY:	110.53	0.16	CENTURYLINK:	34.06	0.12
GRUPO TELEVISA:	38.14	0.60	TDS:	29.70	(0.58)
HSN:	67.88	0.07	VERIZON:	49.54	(0.03)
LIONSGATE:	32.77	(0.21)	<b>MARKET INDICES</b>		
MSG:	86.57	(0.26)	DOW:	18126.12	(36.87)
SCRIPPS INT:	67.50	UNCH	NASDAQ:	5097.98	(8.62)
STARZ:	41.91	0.36	S&P 500:	2120.79	(2.69)
TIME WARNER:	84.78	(0.44)	<b>TECHNOLOGY</b>		
VIACOM:	67.89	(0.89)	ADDVANTAGE:	2.35	0.02
WWE:	14.30	0.26	AMDOCS:	54.66	0.74
<b>TECHNOLOGY</b>					
ADDVANTAGE:	2.35	0.02	AMPHENOL:	57.63	(0.02)
AMDOCS:	54.66	0.74	AOL:	50.07	0.07
AMPHENOL:	57.63	(0.02)	APPLE:	131.78	(0.26)
AOL:	50.07	0.07	ARRIS GROUP:	32.98	(0.12)
APPLE:	131.78	(0.26)	AVID TECH:	17.46	(0.03)
ARRIS GROUP:	32.98	(0.12)	BLNDER TONGUE:	0.72	0.02
AVID TECH:	17.46	(0.03)	BROADCOM:	56.25	(0.9)
BLNDER TONGUE:	0.72	0.02	CISCO:	29.35	0.04
BROADCOM:	56.25	(0.9)			
CISCO:	29.35	0.04			



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# PROGRAMMER'S PAGE

## A Fascination With Genius

Exploring the minds of tech geniuses is a prevalent theme in film and TV today. And the 2nd season of "Halt and Catch Fire" (premieres Sun, May 31 10pm), AMC's scripted drama about the genesis of personal computing and all the innovation, inspiration and failure that comes along with it, is no exception. We caught up with lead actor Lee Pace at the **Television Critics Association Winter 2015 press tour** to discuss his character Joe MacMillan ahead of the 2nd season's production. He talks the malaise geniuses often suffer when their ideas come to fruition, the idealism of the 1980s and his career across several creative mediums. **We haven't seen any of the 2nd season. Can you talk a little bit about how your character is going to evolve?** I'm very interested in playing something different than I did last season. I think that in life, when you're away from someone who you know very well for about a year or so, and you see them again and you're like, who are you? I think that's what we see next season. Last season he lied, he manipulated, he bullied, and ultimately he failed at this computer that they tried to make. And I think Joe is really looking hard at that and going to make an effort to get real with himself. **Your first TV show, "Wonderfalls" from Bryan Fuller, was in 2004. How has television changed since then?** This is a totally different group. But I guess the big condition is there is so much stuff. And I think all of this material makes the audience very discerning. Nothing benefits a nation like an educated electorate; nothing will benefit TV more than a smart audience. They don't buy the ticket. I guess they buy their subscription, but it's different than movies. You can click easily from one thing to the next. **From the research that you did on the time period to prepare, did anything fascinate you?** One thing that is going to play very heavily in this season is games—how important games were to the evolution of this technology, because video games were the first computers that people brought into their home. [For the full Q&A, see Cablefax.com] - Kaylee Hultgren

**Reviews:** "HAPPYish" Sun, 9:30pm, **Showtime**. This new dark comedy continues to be half a show—there's much to like about it—some of the writing is brilliant, the acting is good, too—but ultimately the whole falls short. A gimmick has HAPPYish's present-day middle agers mingling with historical figures; this week's 'guest' is Moses, pragmatic and foul-mouthed (*Richard Kind*). As usual, our protagonists, Thom (*Steve Coogan*) and wife Lee (*Kathryn Hahn*), are only somewhat happy. Lee is battling mid-life boredom, similar to the ennui that underscored the final eps of "Mad Men," represented musically on that series by *Peggy Lee's* "Is That All There Is?" Thom's downer is encapsulated in his office's youth movement. Ironically or not, he works, like Don Draper, in advertising. Thom's issues are deep and lack resolution, while Lee's more ephemeral troubles melt, until next week, presumably, thanks to alcohol and retail therapy. - *Seth Arenstein*

Basic Cable Rankings (5/18/15-5/24/15)			
Mon-Sun Prime			
1	TNT	1.2	2903
2	ESPN	1.1	2520
3	USA	0.7	1707
3	NBCS	0.7	1362
5	DSNY	0.6	1490
5	TBSC	0.6	1466
5	FOXN	0.6	1429
5	HGTV	0.6	1344
9	HIST	0.5	1159
9	DISC	0.5	1131
9	DSE	0.5	114
12	ADSM	0.4	976
12	FOOD	0.4	962
12	ID	0.4	822
15	APL	0.3	824
15	AMC	0.3	813
15	FAM	0.3	800
15	A&E	0.3	782
15	LIFE	0.3	771
15	FX	0.3	771
15	NAN	0.3	757
15	SYFY	0.3	751
15	TLC	0.3	726
15	EN	0.3	712
15	SPK	0.3	702
15	HALL	0.3	603
15	DSJR	0.3	559
15	HMM	0.3	371
29	TVLD	0.2	558
29	VH1	0.2	535
29	MTV	0.2	523
29	BRAV	0.2	512
29	CMDY	0.2	497
29	WETV	0.2	469
29	NGC	0.2	468
29	OWN	0.2	460
29	FXX	0.2	435
29	MSNB	0.2	429
29	CNN	0.2	427
29	LMN	0.2	425
29	BET	0.2	402
29	TRAV	0.2	397
29	GSN	0.2	354
29	NKJR	0.2	351
29	TRU	0.2	347
29	SCI	0.2	335

\*Nielsen data supplied by ABC/Disney

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