www.cablefaxdaily.com, Published by Access Intelligence, LLC, Tel: 301-354-2101

4 Pages Today

Cablefax Daily™

Thursday — June 18, 2015 | What the Industry Reads First | Volume 26 / No. 116

Changing Landscape: Video's Place in the Land of OTT

With a $55bln merger in the balance, **Charter** CEO *Tom Rutledge* is pretty measured with his words these days. That was why it was fun to have outspoken **IAC** chmn *Barry Diller* follow his presentation Wed at the **Guggenheim TMT Symposium**. While Rutledge was more diplomatic about the challenges of programming costs, Diller had his own way of putting it. "I don't know what Rutledge had to say. I do know most people in cable do not really like any more the program business; they like, of course, the data business. The programming business has been a pain in the ass to them for decades. Dealing with these horrible people who every year it comes up say, 'give us more and more and more,'" said Diller, himself the former chmn, CEO of **Fox**. He's also on the board of **Graham Holdings**, which is spinning off **Cable One**. Diller recounted Cable One's decision to drop **Viacom** channels, saying not only did it reject the price increase but told the programmer "[not to] ever knock on our door again." Diller—who left the world of Fox for **QVC** and interactive companies after, in his own words, he saw that a screen could be used for something other than storytelling—believes direct OTT distribution is the huge alternative to people "who don't want 170 channels and all that stuff" and will break up the closed system for media. "That ecosystem pull is just beginning, and that's the big deal," Diller said. Earlier, Rutledge spoke about how Charter has been a big proponent of upping broadband speeds so that content companies can effectively sell direct-to-consumer products. "We also think content companies that sell their product to over-the-top providers change the value relationship of our product that we sell as cable TV. You can't have the content in both spaces and expect to have a no change in the value proposition between the 2 spaces," he said. "Our biggest challenge selling the cable TV 'fat, basic product' over the last few years as a whole industry has been that the prices have been going up because of content costs and not so much because people wanted different content." The traditional, fat bundle is pricing some customers out of the video market, while on the other hand content companies taking programming OTT devalues the product and takes price pressure off the MVPD, Rutledge said. At the conference the day before, **Cablevision** CEO *Jim Dolan* estimated that the number of customers paying for the traditional bundle of TV channels would fall by 20-25% over the next 5 years *(**CFX**, 6/17)*. Rutledge said he doesn't see the same trend at Charter. "When I look out 5 years, I think we're going to have more video customers than today. But we're a lot lower penetrated than Cablevision is," he said. As for the industry as a whole, the 2nd

CABLEFAX DAILY (ISSN 1069-6644) is published daily by Access Intelligence, LLC ● www.cablefax.com ● 301.354.2101 ● Editorial Director: Amy Maclean, 301.354.1760, amaclean@accessintel.com ● Associate Publisher: Michael Grebb, 323.380.6263, mgrebb@accessintel.com ● Editor: Joyce Wang, 301.354.1828, jwang@accessintel.com ● Sr Community Editor: Kaylee Hultgren, 212.621.4200, khultgren@accessintel.com ● Advisor: Seth Arenstein ● Dir. of Business Dev.: Rich Hauptner, 203.899.8460, rhauptner@accessintel.com ● Jr. Acct. Exec: Olivia Murray, 301.354.2010, omurray@accessintel.com ● Dir of Market Dev: Laurie Hofmann, 301.354.1796, lhofmann@accessintel.com ● Production: Joann Fato, jfato@accessintel.com ● Diane Schwartz, SVP Media Comms Group, dschwartz@accessintel.com ● Group Subs: Laurie Hofmann, 301.354.1796, lhofmann@accessintel.com ● Sub Questions, Client Services: 301.354.2101, clientservices@accessintel.com ● Annual subscription price: $1,649/year ● Access Intelligence, LLC, 4 Choke Cherry Road, 2nd Floor, Rockville, MD 20850

big ecosystem change Diller predicted is the collapse of non-targeted, television spots based on "primitive demographics." "It used to be even 5 years ago... I tolerated commercials. Today, you make me sit in front of a half hour, much less an hour television show or sports program, and those commercials now are actually irritating to you," he said. "It's no longer neutral."

AT&T Fined: The **FCC** plans to fine **AT&T Mobility** $100mln over misleading information on the telco's unlimited mobile data plans. At issue are the disclosures AT&T made regarding its "maximum bit rate" (MBR) program, which the agency claimed violated its Open Internet order's transparency rule. The FCC claimed the telco falsely labeled its plans as "unlimited" and failed to sufficiently inform subs of the maximum speed they would receive under the MBR policy. The agency said it has received thousands of complaints from AT&T's unlimited data plan subs stating they felt misled by the telco's policy. AT&T is ready to fight the fine. "We will vigorously dispute the FCC's assertions," it said in a statement, claiming the agency has identified this practice as a "legitimate and reasonable way to manage network resources for the benefit of all customers, and has known for years that all of the major carriers use it." The company has been fully transparent with its subs, providing notice in multiple ways and going well beyond the disclosure requirements, AT&T said. The Transparency Rule requires fixed and mobile broadband providers to publicly disclose sufficient and accurate information about the providers' network management practices, performance, and commercial terms of their services, so that consumers can make informed choices when selecting and using Internet access services. The rule went into effect in 2011 and was upheld by the DC Circuit in the **Verizon** vs. FCC case. The Commission's Republican pair are on AT&T's side. "In the end, this case is really just a regulatory bait and switch. The flexibility the agency promised is being replaced by previously unknown and arbitrarily selected obligations," *Ajit Pai* said, adding the move is probably a precursor and will create more uncertainty in the market. The fine print isn't consistent with the word or spirit of the 2010 Open Internet Order, *Michael O'Rielly* said. He also warned that the action Wed might serve as a "deterrent to future wrongdoing."

House Funding Bill: **The House Appropriations Committee** approved a funding bill Wed that includes a provision to temporarily block the **FCC's** Title II net neutrality rules. Another provision will require the FCC to publish any new proposals for 21 days before a scheduled vote. It will also bar the FCC from regulating rates, something the agency chmn *Tom Wheeler* has repeatedly said he doesn't intended to do. In addition, the legislation will reduce funding for the FCC by $25mln. The committee's leading Democrats slammed the move. "This is yet another attempt by House Republicans to wrangle a political win at the expense of good policy for the American people," said *Frank Pallone*, JR (NJ) and *Anna Eshoo* (CA) said in a joint statement. The Republican-backed bill didn't sit well with **Public Knowledge** either: "This partisan effort to legislate FCC action through appropriations riders is a sledgehammer to the important work to ensure open access to broadband and communications networks… Cutting the FCC's funding could hurt its ability to address other important, consensus communications concerns…" The bill also includes an amendment that will grandfather existing sharing arrangements between local TV stations in place before March 31, 2014. **NAB** is pleased with the move.

NHL Settlement: Fans are closer to getting to buy an out-of-market package for one particular **NHL** team instead of a package for the whole League. A federal judge has preliminarily approved a settlement between the NHL and TV subs who filed a class action case 3 years ago over the blackout of out-of-market games. Under the proposed deal, the NHL will offer an unbundled "Game Center Live" Internet package for the next 5 years, allowing fans to purchase single-team packages for "at least 20% below" the price of bundled packages *(**CFX**, 6/12)*. Other elements include Comcast and DirecTV (which were named as defendants in the suit) providing 3 weeks of free access to the VOD NHL Center Ice package for subs for the next 2 seasons, thus reducing the package price by 12.5%. **MLB**, which fans also sued, is not part of the deal.

Grande Buys Centrovision: TX-based ISP **Grande Communications** agreed to purchase **Centrovision**, a central-TX cable and Internet provider. The deal would increase Grande's footprint in the Central-Texas region.

Confidential Objection: Remember **Cablevision's** wholesale bundling lawsuit against **Viacom**? The MSO sued Viacom in Feb 2013, claiming it illegally forces it to carry and pay for lesser-watched nets in order to have access to "must-have" channels. As the case moves into discovery, several programmers and streaming services are objecting to their contracts with the companies being aired. While the confidential docs are only for outside counsel, the companies are concerned the info could result in unfair leverage in future contact negotiations. "Some have also asserted that absent a Court order, disclosure of the requested documents is prohibited," Cablevision and Viacom told a federal court this week. Viacom has said that **Netflix, Hulu, Google** and **Apple** have objected to Viacom's production of certain confidential info.

BUSINESS & FINANCE

The list of programmers expressing similar concerns with Cablevision includes almost everyone from **ABC Cable/ESPN** to **Discovery** and **Madison Square Garden**. This came out in a letter to the judge this week suggesting modifications to the protective order and requesting an extension for document production. Confidential documents were at the center of programmers' challenge of the **FCC's** review process for the $48.5bln **AT&T-DirecTV** merger. Last month, a DC Circuit said 3rd parties cannot review the docs, ruling that the FCC failed to show the confidential info was necessary to the agency's review process.

DOTCOM Act: **House Commerce** approved the Domain Openness Through Continued Oversight Matters (DOTCOM) Act Wed. Authored by *John Shimkus* (R-IL), the legislation seeks to ensure Congress continues its oversight role over the administration's work to transition its Domain Name System authority from the US to the global Internet community.

People: **ESPN** tapped *Vikram Somaya* to the newly created role of svp, global data officer. He was most recently gm of AdFX and analytics at the **Weather Company**. -- **Discovery Nets Latin America/US Hispanic** promoted *Ivan Bargueiras* to evp, ad sales in Latin America and the US Hispanic market. He will continue to report directly to *Enrique Martinez*, pres and managing dir of DLA/USH and Canada.

Cablefax Daily Stockwatch

Company	06/17 Close	1-Day Ch
BROADCASTERS/DBS/MMDS		
DIRECTV:	92.48	0.18
DISH:	71.97	(0.59)
ENTRAVISION:	7.60	(0.02)
GRAY TELEVISION:	15.81	0.31
MEDIA GENERAL:	16.74	(0.16)
NEXSTAR:	56.82	0.12
SINCLAIR:	29.31	(0.09)
MSOS		
CABLEVISION:	24.29	0.44
CHARTER:	170.01	0.04
COMCAST:	59.62	0.74
COMCAST SPCL:	59.14	0.74
GCI:	16.53	(0.3)
GRAHAM HOLDING:	1063.11	10.20
LIBERTY BROADBAND:	51.94	0.03
LIBERTY GLOBAL:	56.55	0.59
SHAW COMM:	22.18	(0.05)
SHENTEL:	31.41	(0.2)
SHENTEL:	31.41	(0.2)
TIME WARNER CABLE:	177.90	0.64
PROGRAMMING		
21ST CENTURY FOX:	32.69	0.43
AMC NETWORKS:	80.31	0.57
CBS:	58.00	0.31
CROWN:	4.38	0.03
DISCOVERY:	33.34	0.45
DISNEY:	111.49	0.43
GRUPO TELEVISA:	38.81	(0.05)
HSN:	68.77	0.21
LIONSGATE:	37.33	(0.13)
MSG:	84.88	(0.22)
SCRIPPS INT:	67.52	0.43
STARZ:	42.36	0.30
TIME WARNER:	87.22	0.18
VIACOM:	67.30	(0.09)
WWE:	16.45	0.64
TECHNOLOGY		
ADDVANTAGE:	2.35	(0.01)
AMDOCS:	55.71	(0.03)
AMPHENOL:	57.03	(0.12)
AOL:	49.97	(0.01)
APPLE:	127.30	(0.3)
ARRIS GROUP:	31.81	0.14
AVID TECH:	15.35	(0.18)
BLNDER TONGUE:	0.82	0.02
BROADCOM:	53.75	0.01
CISCO:	28.93	0.22

Company	06/17 Close	1-Day Ch
COMMSCOPE:	26.19	0.10
CONCURRENT:	6.23	(0.05)
CONVERGYS:	25.22	(0.07)
CSG SYSTEMS:	31.38	(0.39)
ECHOSTAR:	49.81	(0.08)
GOOGLE:	529.26	1.11
HARMONIC:	7.24	(0.01)
INTEL:	31.95	0.32
INTERACTIVE CORP:	76.02	(0.46)
JDSU:	12.61	(0.03)
LEVEL 3:	54.75	(0.02)
MICROSOFT:	45.97	0.14
NETFLIX:	659.90	(7.01)
NIELSEN:	45.02	0.20
RENTRAK:	69.52	(0.48)
SEACHANGE:	7.75	(0.03)
SONY:	29.95	(0.49)
SPRINT NEXTEL:	4.69	0.05
TIVO:	10.70	0.04
UNIVERSAL ELEC:	52.65	(0.76)
VONAGE:	4.73	(0.12)
YAHOO:	40.96	0.33
TELCOS		
AT&T:	34.80	0.13
CENTURYLINK:	32.21	(0.01)
TDS:	29.42	(0.07)
VERIZON:	47.27	(0.15)
MARKET INDICES		
DOW:	17935.74	31.26
NASDAQ:	5064.88	9.33
S&P 500:	2100.44	4.15

Think about that for a minute...

Chicken Little

Commentary by Steve Effros

I'm not sure if folks are angry or relieved. You certainly can't tell from all the silly headlines and articles that have been generated because the "Title II" and "Net Neutrality" rules went into effect last Friday. To be sure, various advocates on all sides are running around in circles yelling a lot, but, as happened to Chicken Little, most folks are no longer listening. Good.

First, remember, "net neutrality" (no blocking, no throttling, no paid priority) is a separate issue from "Title II" regulation. Very few people on any side are really exercised over "net neutrality." It's how the government intends to regulate broadband that is the real issue. That's, for shorthand, "Title II."

The blogs, consumer press and the like seem to have been so enamored with their own rhetoric during the political battle that they are now somewhat befuddled that something major didn't happen last Friday when the "...rules went into effect." Broadband speeds didn't suddenly become faster. Broadband prices didn't suddenly plunge. Gee, who would have guessed? "Neutrality" has been the operating rule for just about every ISP for years. Just because a "magic date" passed didn't change anything. Only those who had been grossly overstating the "problem" of "freedom of the Internet" for so long were seemingly disappointed when nothing really happened that was different from what has been happening for years without any potential new regulations.

And on the business side there were also folks running around in circles. They were convinced that come Friday a massive new set of rules, regulations, paperwork, etc., would magically appear and crush them. Didn't happen. Won't happen. They are right to be concerned that the adoption of an old regulatory scheme could be oppressive, but no matter what the scheme, in this man's government it doesn't happen over night. It's a long, arduous process that we are just starting, and we really have no way of knowing where it will end up, or whether the courts will stop the process in its tracks. I'm pretty sure there will be court rulings on all this stuff long before there is any adoption of stifling rules, rate regulation or the like. But we'll see. It certainly wasn't going to happen last Friday... or next.

What will likely happen is a "complaint" will be filed, particularly regarding "peering." Now that's going to be a very interesting one to watch. I seriously doubt the FCC will rule that there must be "free peering" before the courts rule on the appropriateness of the regulatory course they have taken. To do so, especially if the Commission ruled that ISPs had to "peer" for free, would undoubtedly go directly into every legal brief and make it that much harder for the Commission to defend its jurisdiction.

So everyone has to just settle down and let all this play out in a somewhat organized fashion. As with most things governmental, there aren't going to be any major sea changes that happen over night. It will take years to determine the real impact of what the FCC is claiming it can do, and it will take years to see what they actually do. In the meantime, maybe we can get all this nonsense off the front pages and move on to some really interesting headlines, like the one that suggests, routinely, that cable is dead, that everyone is going to be watching their movies and sports "over the top" on their telephone, and oh, not to worry, the government has got you covered on cybersecurity.

Steve

T:202-630-2099
steve@effros.com

(Steve Effros was President of CATA for 23 years and is now an advisor and consultant to the cable industry)