

# Cablefax Daily™

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What the Industry Reads First

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## Here We Go: FCC Releases Retrans Review

The **FCC** is officially beginning its re-examination of retrans rules, including a review of the “totality of the circumstances test” for evaluating whether broadcasters, cable and satellite ops are negotiating for retrans in good faith. The agency has adopted a 2-part framework for evaluating good faith negotiations. First, it created a list of objective good faith negotiation standards, the violation of which is considered a per se breach of the good faith negotiation obligation. Second, even if the specific per se standards are met, the Commission may consider whether, based on the totality of the circumstances, a party has failed to negotiate retransmission consent in good faith. On a broader level, the FCC wants to know how the retrans market currently functions and whether there’s a market failure along with whether it needs to update the totality of circumstances test. Distributors have previously urged the FCC to address the practice used by broadcasters of preventing consumers’ online access to programming as a tactic to gain leverage in a retrans dispute. The agency is seeking comment on whether such a practice should be considered evidence of bad faith. That said, it acknowledged that many consumers can access TV signal for free over the air. There was also concern about broadcasters’ relinquishing their rights to grant retrans consent and similar practices to 3rd parties. “What are the appropriate parameters of network involvement in retransmission consent negotiations?” the NPRM asks. It also invites comment on how a broadcaster’s insistence on bundling broadcast signals with other broadcast stations or cable networks into the retrans agreement should be treated under the totality of the circumstances test. It noted that while commenting parties attributed most of the alleged bad faith practices to broadcasters, it proposes that any bad faith practice guidelines apply to both broadcasters and MVPDs. The retrans NPRM is part of the implementation of the requirements in the Satellite Television Extension and Localism Act Reauthorization passed by Congress last year.

**Charter Review Countdown:** At last, the **FCC’s** merger review of the proposed **Charter-Time Warner Cable** merger can finally start. The agency approved protective orders and procedures related to treatment of confidential information Wed, clearing the way for the Commission to start its 180-day shot clock on the deal. Republican commish *Ajit Pai* partially dissented and partially approved the protective orders, while fellow commish



The advertisement features a background of circuit board traces. On the left, the CTHRA logo is displayed in white on an orange rectangle, with the text 'Cable and Telecommunications Human Resources Association' below it. Below the logo, the words 'FUTURE FORWARD' are written in large, blue, stylized letters. At the bottom left, a blue bar contains the text 'HR SYMPOSIUM' in white, and a teal bar below it contains 'NOVEMBER 3, 2015' and 'PHILADELPHIA' in white. On the right side, a grey vertical bar contains the text 'Compelling Speakers', 'Mission-Critical Topics', and 'High Impact Networking' in white. At the bottom right, a white bar contains the text 'REGISTER AT' and 'www.cthra.com' in black.

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**Michael O’Rielly** dissented. The process is related to the Charter-TWC merger, but is also responsive to a court remand of an FCC decision in the **Comcast-TWC** and **AT&T-DirecTV** mergers that allows some access to programming contract terms. While the Republicans believed the procedure should be separated from the Charter proceeding, chmn **Tom Wheeler** had indicated that the shot clock on the merger wouldn’t start until the protective orders are approved. The Republicans said the FCC could have issued a Public Notice seeking comment on the proposed procedures for the treatment of confidential information moving forward. “That would have been a fair and transparent course of action,” O’Rielly said. “Unfortunately for everyone that will have to live with these new procedures, the majority could not resist the opportunity to use this merger application as a vehicle to enact sweeping policy changes, safely out of the spotlight of public scrutiny. This item is just another example of what I have referred to as this Commission’s ends-justify-the-means approach.” And the FCC could have started the shot clock (earlier) as it already has access to most, if not all, of the documents needed to start its review, he added.

**Hulu Goes Ad-free:** SVOD providers have been stepping up their game. Following **Amazon’s** move to offer a download option this week, **Hulu** launched an offering to allow subs to stream content for \$11.99 a month without commercials. Existing subs can upgrade to the ad-free plan for \$4 extra a month.

**Press Clippings:** **Verizon Wireless** reportedly will launch its mobile OTT video dubbed “Go90” soon, according to **Bloomberg**. It said the name stems from the act of rotating a smartphone’s screen 90-degrees sideways for video viewing. Verizon has scored content from several providers including **AOL**, **AwesomenessTV**, **Vice Media**, **HBO** and **Viacom**. **Bloomberg** said the telco plans to launch other channels including sports programming in the coming year.

**Weather Launches TVE:** **The Weather Channel** jumped on the TVE bandwagon Wed, launching an authenticated service across TV providers. It’s now available to subs of **AT&T**, **Bright House**, **Cable One**, **Cablevision**, **CenturyLink**, **Cox**, **DirecTV**, **Dish**, **Grande**, **Mediacom**, **SuddenLink**, **Time Warner Cable** and **Wide Open West (WOW) Networks**. Additional TVE partners will continue to be signed and announced. The net will add additional TVE partners in the future.

**Cable’s Contribution:** Cable has generated 2.7mln jobs in 2014, which represent economic impact of more than \$386bln, according to a new study by **Bortz Media and Sports Group** that was released Wed by **NCTA**. It found that cable industry employees’ personal income earnings total \$116bln. Since 2002, the number of jobs attributable to cable has increased by 1.25mln. In addition, the study found there are at least 300 cable industry employees in each congressional district and some districts have more than 2K cable employees. In terms of infrastructure investment, cable has invested in more than \$230bln since 1996 by making Internet available to more than 100mln homes with average peak connection speeds exceeding 30 Mbps in all 50 states. When it comes to local economic impact, franchise fees paid to municipalities totaled more than \$2.4bln in 2014. Sub taxes and fees added \$3.4bln in revenue to state and local governments. Meanwhile, the industry’s total cash and in-kind donations for various social causes were more than \$1bln in 2014.

**Verizon Expands NFL Mobile:** Ahead of the new **NFL** season, **Verizon Wireless** expanded its NFL Mobile service to include live streaming of Sun local NFL games, Thurs Night Football, Sun Night Football and Mon Night Football matchups, for no extra charge. The expansion also includes streaming access to **NFL Network**. However, pre-season national games are subject to NFL blackout rules.

**Comcast Business Lands Hilton Deal:** **Hilton** San Francisco Union Square has upgraded its **Comcast Business** Ethernet service spanning its 1919 guest rooms and 130K square feet of meeting space. The upgrade moves the hotel from 2 Internet circuits of 500 Mbps to 2 dedicated 1 Gbps circuits, upgradable to 10 Gbps.

**Tech Emmy Award:** **Turner**, **Netflix**, **Nielsen**, **HBO**, **DirecTV** and **Harmonic** are among the recipients of the 67th Annual Technology & Engineering Emmy Awards by the **National Academy of Television Arts & Sciences**, which will be presented during **CES** on Jan 8. **DirecTV**, **Echostar**, **Ericsson** and **Harmonic** will be honored for “Closed-loop Statistical Multiplexing of Geographically Distributed Encoders.” **Turner** is recognized for “Pioneering Development of Data Driven Traffic Systems for Multichannel Environments.” **Nielsen**

# BUSINESS & FINANCE

will be honored for "Steganographic Technologies for Audio/Video." Netflix and HBO are among the companies to be recognized for "Standardization and Pioneering Development of Non-Live Broadband Captioning."

## WICT Announces Speaker Lineup:

The 2015 **WICT** Leadership Conference, to be held Sept 28-29 as part of cable's Diversity Week, will feature many top execs as speakers, including **Comcast** evp/chief diversity officer *David Cohen*, Comcast svp, video deployment engineering *Sherita Ceasar*, **Mediacom** evp *Italia Commisso Weinand*, **Cablevision** COO *Kristin Dolan*, **Cox** pres *Pat Esser* and **Time Warner Cable** evp/COO *Joan Gillman*. On the programmer side, speakers include **Viacom** svp *Jocelyn Cooley*, **Scripps** evp *Tamara Franklin* and **A+E Nets** svp *Stacey Green*.

**People:** The Weather Company tapped *Amol Jadhav* as vp of global expansion, reporting to *Cameron Clayton*, pres of the product and tech division at the company. The exec was previously the global head for guest checkout at **PayPal**. Prior to that, he was a tech exec at **Microsoft**.

**Editor's Note:** The early bird pricing (saves \$150) for the **Cablefax TV Innovation** ends on Fri, Sept 4. Join us Oct 1 for a day of networking and learning in NYC. Details at Cablefax.com.

## Cablefax Daily Stockwatch

Company	09/02 Close	1-Day Ch	Company	09/02 Close	1-Day Ch
<b>BROADCASTERS/DBS/MMDS</b>					
DISH:	59.20	(0.04)	CONVERGYS:	22.55	0.30
ENTRAVISION:	7.60	0.05	CSG SYSTEMS:	30.47	0.29
GRAY TELEVISION:	11.09	0.21	ECHOSTAR:	44.06	0.64
MEDIA GENERAL:	11.31	(0.13)	GOOGLE:	614.34	16.55
NEXSTAR:	44.09	(0.11)	HARMONIC:	5.70	0.06
SINCLAIR:	25.97	0.11	INTEL:	28.60	0.78
TEGNA:	23.11	0.03	INTERACTIVE CORP:	70.13	0.95
			LEVEL 3:	45.12	1.87
<b>MSOS</b>			MICROSOFT:	43.36	1.54
CABLE ONE:	405.93	(4.8)	NETFLIX:	105.44	(0.35)
CABLEVISION:	26.36	0.70	NIELSEN:	45.37	1.80
CHARTER:	179.68	1.92	RENTRAK:	44.76	0.76
COMCAST:	55.88	0.86	SEACHANGE:	5.84	0.02
COMCAST SPCL:	57.08	0.83	SEACHANGE:	5.84	0.02
GCI:	16.86	0.37	SONY:	25.47	0.59
LIBERTY BROADBAND:	54.58	0.60	SPRINT NEXTEL:	5.00	(0.02)
LIBERTY GLOBAL:	46.82	0.28	TIVO:	8.94	0.11
SHAW COMM:	19.52	(0.13)	UNIVERSAL ELEC:	44.92	0.27
SHENTEL:	40.20	1.70	VONAGE:	5.56	0.12
TIME WARNER CABLE:	185.26	1.89	YAHOO:	31.77	0.17
			<b>TELCOS</b>		
<b>PROGRAMMING</b>			AT&T:	32.82	0.50
21ST CENTURY FOX:	26.95	0.35	CENTURYLINK:	27.00	1.10
AMC NETWORKS:	69.75	0.10	FRONTIER COMMUNICATIONS :	5.20	0.16
CBS:	44.29	0.50	TDS:	27.28	0.09
CROWN:	4.91	(0.06)	VERIZON:	45.35	0.45
DISCOVERY:	26.75	0.47			
DISNEY:	101.89	2.38	<b>MARKET INDICES</b>		
GRUPO TELEVISIA:	29.59	0.04	DOW:	16351.38	293.03
HSN:	59.98	0.47	NASDAQ:	4749.98	113.87
LIONSGATE:	37.05	0.85	S&P 500:	1948.86	35.01
MSG:	70.87	0.49			
SCRIPPS INT:	52.83	1.05			
STARZ:	37.04	0.10			
TIME WARNER:	70.49	1.05			
VIACOM:	43.46	1.00			
WWE:	18.85	0.63			
<b>TECHNOLOGY</b>					
ADVANTAGE:	2.38	(0.01)			
AMDOCS:	56.61	0.38			
AMPHENOL:	51.93	1.55			
APPLE:	112.34	4.62			
ARRIS GROUP:	25.97	0.37			
AVID TECH:	8.29	0.06			
BLNDER TONGUE:	0.61	0.03			
BROADCOM:	50.87	0.99			
CISCO:	25.65	0.53			
COMMSCOPE:	25.87	0.01			
CONCURRENT:	5.37	(0.07)			

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## Think about that for a minute...

### DSTAction

Commentary by Steve Effros

Yes, I know there are some letters missing from the title. The most notable one is the “r” which also signifies (as in “the three “r’s”) reading. That’s one thing a lot of folks aren’t doing when it comes to the newly completed DSTAC report submitted to the FCC.



DSTAC stands for “Downloadable Security Technical Advisory Committee.” (Full Disclosure; I’m a partner in Beyond Broadband Technology, LLC, which has one of the few full patents on a downloadable security system.) The report, made public on Friday of last week, is 344 pages long. It’s a very complex, technical document which reaches no conclusions, suggests no consensus among the “technical experts” who were assembled to “advise” the Commission, and from my point of view totally avoided the actual written mandate Congress set out for the Committee to “...identify, report, and recommend performance objectives, technical capabilities, and technical standards of a not unduly burdensome, uniform, and technology and platform neutral software-based downloadable security system.”

Of course by Monday we had editorials in the New York Times and articles on the Time Money blog, now being echoed elsewhere, about the critical importance of the FCC quickly adopting new industrial policy for standardized competitive set top boxes like TiVo’s for the cable and satellite industry. The presumption is these competitive boxes would be both cheaper and operate better than the leased boxes provided by cable and satellite providers. The “public interest” community has repeatedly said DSTAC’s job was to establish the standards for a successor to the CableCARD. It wasn’t. Apparently no one is really reading.

Any bets on whether anyone on the editorial board of the NYT actually read the report before editorializing? (They later acknowledged there’s a monthly fee for TiVo). Any bets

on how few of the folks who actually have read the report (including at the FCC) truly understand the complexities of developing a “standard” for something that is actually “secure?” All you have to do is read the headlines to know that currently broadband, the Internet and all the data flowing around us is anything but secure! But never mind all that, it’s not really what these folks were battling about in the “technical” advisory committee and it’s not really what the report recommends. Downloadable security is an afterthought to the main debate; are MVPDs simply “dumb pipes” delivering programming, and should government require all technology to be designed to allow anyone else (think TiVo or Google) to take that programming and reconfigure it pursuant to their own business plan before it’s viewable by the intended recipient?

The shorthand for that is “AllVid,” and there’s every indication that there are some folks at the Commission who want to move forward in that direction and use the DSTAC report as the vehicle, even though that report is replete with hundreds and hundreds of questions raised by the “experts,” with no consensus answers, on how that could be technically accomplished.

In reality, this is a complex policy, intellectual property and Constitutional issue going to the heart of what the “service” or “product” is that MVPDs sell. That’s why the technical guys in essence said that has to be resolved first before you can even effectively begin to talk about standardized technology and whether that’s doable. But the Commission has already asked for “comments” on the report (will they ask any commenter whether they have actually read the report first?) and then what? If they head down the path of AllVid, the report will prove to just be a DSTAction.

*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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