

# Cablefax Daily™

Tuesday — December 15, 2015

What the Industry Reads First

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## Court Monday: Supreme Court Sides with DirecTV on Class Action Suit

AT&T unit DirecTV scored one Monday as the **Supreme Court** ruled in its favor in a class action lawsuit over early termination fee. The ruling backs the arbitration clauses in DirecTV's subscriber contract, freeing it from the class action suit in CA. It all started when consumers sued DirecTV in a CA state court a few years ago, saying the company's early termination fee violated CA law. DirecTV pointed to the arbitration clauses in its sub contract and requested the court send it to arbitration. The SCOTUS agreed to hear the case after the CA Court of Appeal rejected DirecTV's arbitration provision, saying that any claim will be "resolved only by binding arbitration." Justice Breyer delivered the Supreme Court's opinion. He's joined by *Chief Justice Roberts* and *Justices Scalia, Kennedy, Alito and Kagan*. Breyer wrote that the Federal Arbitration Act (FAA) states that a "written provision" in a contract providing for settlement by arbitration shall be "valid, irrevocable, and enforceable..." Dissenting were Justices Thomas, Ginsburg and Sotomayor. *Justice Thomas* said he believes that the FAA doesn't apply to proceedings in state courts. Thus, the FAA doesn't require state courts to order arbitration. "Accordingly, I would affirm the judgment of the California Court of Appeal," he wrote. *Justice Ginsburg* noted in her opinion that it has become routine, in a large part due to the Supreme Court's decisions, for large corporations to include no class-action arbitration clauses in service contracts to guard against potential lawsuits. "Acknowledging the precedent so far set by the Court, I would take no further step to disarm consumers, leaving them without effective access to justice," she wrote. For communications providers, including arbitration clauses in service contracts has also been a common practice. In a statement, parent AT&T, which completed the acquisition of DirecTV in July, said "the ruling affirms the strong federal policy favoring arbitration agreements that efficiently allow consumers and businesses to resolve disputes without further burdening our overloaded courts." Consumer groups like **Public Citizen** are disappointed that the Supreme Court would "second-guess a state-court decision on how to interpret an arbitration agreement," *Scott Nelson*, attorney with the nonprofit told us. "Although the interpretation of the idiosyncratic language of this particular contract doesn't itself seem likely to have broad impact, Justice Ginsburg's dissent rightly points out that the way the Court has decided what is essentially a one-off case reflects the Court's general approach to arbitration issues," he said. *Michael Droke*, a partner at law firm **Dorsey and Whitney**, believes nationwide standards are likely to apply, which will encourage more companies to require arbitration clauses in smaller contracts such as customer, vendor and employee agreements. Droke has represented companies on employment, labor and other corporate compliance issues and is not involved in the DirecTV case. The latest Supreme Court ruling joined the growing line of decisions reversing state court refusals to enforce arbitration agreements, *Ronald Mann*, a **Columbia Law School** professor wrote in a SCOTUSblog post Mon. He noted 3 years ago in a lawsuit against **AT&T Mobility**, the Supreme Court overturned CA courts' decision to refuse to enforce provisions in arbitration agreements that barred class arbitration.

**A Tale of Rags and Riches.**  
From War-Torn Iran to Becoming the Biggest Winner in Poker History  
**The Story of Antonio Esfandiari**

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CENTRAL

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**BBC/SeaChange Deal:** SeaChange scored a deal with **BBC Worldwide** to help launch the BBC Store download-to-own service last month with more than 7K hours of content, the companies said Mon. The store will add up to 70 hours weekly from new BBC programs plus older shows from the BBC Television Achieve. SeaChange provides back office functions for metadata management, and also supports content curation through its cloud-based OTT platform.

**NY AG's Broadband Probe:** NY AG *Eric Schneiderman* encouraged the public on Sun to test the speed of their Internet service and submit the results online as part of an ongoing investigation into whether ISPs serving the state deliver advertised speeds. The AG's office has created an online broadband test portal dubbed *Internethealthtest.org*, which seeks to collect data on residential Internet speeds. "New Yorkers should get the Internet speeds they pay for. Too many of us may be paying for one thing, and getting another," Schneiderman said in a statement. The AG started his probe into speed claims by **Cablevision**, **Verizon** and **Time Warner Cable** in Oct. He sent letters to top execs at each of the ISPs, asking them to provide disclosures made to subs regarding speeds, measurements of advertised speeds, as well as customer numbers broken down by levels of service. All 3 ISPs promised to cooperate with the investigation, saying they are confident in the Internet speeds delivered to their subs.

**Measuring Rio:** **TiVo Research** and **RealityMine**, which provides consumer behavior data, will partner with **NBCUniversal** to provide cross-platform measurement of the 2016 Rio Olympics (Aug 5 through Aug 21). The goal is to generate key performance indicators including the relationship between TV viewing and tablet/smartphone usage around NBC Olympics content, and how viewers engage with content outside their home. The companies also seek to discern the impact of social media on consumption of Olympics content and the effectiveness of advertising on all NBC Olympics platforms.

**FCC Revamps Intl Bureau:** The **FCC** restructured its **International Bureau** to align spectrum rulemaking work, and consolidate and elevate economic and statistical reporting. Under the realignment, the Strategic Analysis and Negotiations Division is now named the Global Strategy and Negotiation Division, which now also merges the Regional and Bilateral Affairs Branch and Multilateral Negotiations and Industry Analysis Branch into a combined branch called the Multilateral and Regional Affairs Branch. Meanwhile, international spectrum rulemaking functions are transferred from the Policy Division to the Satellite Division. The Policy Division is renamed the Telecommunications and Analysis Division as a result of consolidating the economic analysis and statistical reporting functions within the bureau.

**Gaming:** **History's Planet H**, a brand extension for 7-11 year-olds that creates experiences examining historical topics and eras, has a new game: *Porta-Pilots: Plunging Through Time*. Free on iOS, Android and Amazon Fire, the game takes kids on a time traveling adventure through history in a time machine disguised as a Porta-Potty. After the free download, 2 more eps are available for \$4.99 each or \$6.99 together in the app, with more eps to be added in the future. The game joins **A+E Networks'** others, including *Frontier Heroes*, *Empire Run* and *Age of Explorers*.

**4K Venture:** **Smithsonian Networks** and 4K production and distribution firm **Blue Ant Media** have partnered on a new joint venture, dubbed **Blue Skye Entertainment**. The jv will develop and distribute a library of Ultra



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# BUSINESS & FINANCE

HD natural history and wildlife content globally through SVOD and linear TV from Blue Ant Media's Love Nature brand and Smithsonian Networks' recently launched streaming service Smithsonian Earth. *Jo Parkinson* will be the managing director for the new company. She was most recently vp/gm of **WWE's** London office.

**Programming: Travel Channel** booked "Man Finds Food" for a 2nd season. Hosted by *Adam Richman*, the new 14-ep season will debut in the summer. -- **Participant Media's** net **Pivot** acquired rights to air 2 documentaries focusing on the Syrian refugee crisis. Both documentaries, "Salam Neighbor," and "This is Exile: Diaries of Child Refugees," will premiere during the net's "Stand Up For Justice" month starting Jan 18, Martin Luther King Jr. Day, until Feb 20, World Day of Social Justice.

**People: A&E Network** named **Discovery** vet *Amy Savitsky* svp, development & programming. Savitsky, who was with **Discovery Comm** for more than a decade, was most recently svp of development for **TLC**. *Shelly Tatro* continues to serve as svp, development & programming. Together, Savitsky and Tatro will manage the programming and development team, reporting to evp/head of programming *Elaine Frontain Bryant*.

## Cablefax Daily Stockwatch

Company	12/14 Close	1-Day Ch	Company	12/14 Close	1-Day Ch
<b>BROADCASTERS/DBS/MMDS</b>					
DISH:	57.59	(1.41)	CSG SYSTEMS:	34.72	0.55
ENTRAVISION:	7.55	(0.32)	ECHOSTAR:	36.63	(0.57)
GRAY TELEVISION:	14.96	(0.2)	GOOGLE:	747.77	8.90
MEDIA GENERAL:	14.87	(0.32)	HARMONIC:	4.20	(0.06)
NEXSTAR:	54.24	(1.59)	INTEL:	34.47	0.20
SINCLAIR:	31.29	(0.66)	INTERACTIVE CORP:	60.01	0.34
TEGNA:	25.38	(0.07)	LEVEL 3:	50.47	(1.05)
<b>MSOS</b>					
CABLE ONE:	438.21	(2.21)	MICROSOFT:	55.14	1.08
CABLEVISION:	29.75	(0.39)	NETFLIX:	120.67	1.76
CHARTER:	174.81	(3.21)	NIELSEN:	44.78	(0.68)
COMCAST:	57.37	(0.6)	RENTRAK:	44.49	(0.88)
GCI:	18.64	(0.55)	SEACHANGE:	6.78	0.02
LIBERTY BROADBAND:	48.96	(1.48)	SONY:	24.65	0.31
LIBERTY GLOBAL:	39.78	(1.62)	SPRINT NEXTEL:	3.52	(0.13)
SHAW COMM:	19.18	(0.18)	TIVO:	8.57	UNCH
SHENTEL:	43.55	(0.31)	UNIVERSAL ELEC:	49.10	(0.87)
TIME WARNER CABLE:	178.81	(1.69)	VONAGE:	5.68	0.06
<b>PROGRAMMING</b>					
21ST CENTURY FOX:	27.25	(0.2)	YAHOO:	32.59	(0.32)
AMC NETWORKS:	76.60	(0.58)	<b>TELCOS</b>		
CBS:	46.34	(0.5)	AT&T:	33.60	0.43
CROWN:	5.03	(0.13)	CENTURYLINK:	24.38	(0.53)
DISCOVERY:	26.45	(0.92)	FRONTIER:	4.50	(0.07)
DISNEY:	109.35	1.31	TDS:	26.17	(0.01)
GRUPO TELEVISA:	26.69	(0.42)	VERIZON:	45.45	0.63
HSN:	50.12	(0.19)	<b>MARKET INDICES</b>		
LIONSGATE:	33.47	(0.61)	DOW:	17368.50	103.29
MSG NETWORKS:	20.19	(0.08)	NASDAQ:	4952.23	18.76
SCRIPPS INT:	53.32	(1.3)	S&P 500:	2021.94	9.57
STARZ:	32.94	(0.39)			
TIME WARNER:	64.26	(1.21)			
VIACOM:	43.02	(1.08)			
WWE:	16.09	0.22			
<b>TECHNOLOGY</b>					
ADVANTAGE:	2.24	0.07			
AMDOCS:	55.10	0.39			
AMPHENOL:	52.83	0.22			
APPLE:	112.48	(0.7)			
ARRIS GROUP:	30.52	(0.13)			
AVID TECH:	6.38	(0.2)			
BLNDER TONGUE:	0.37	(0.01)			
BROADCOM:	57.05	(0.29)			
CISCO:	26.49	0.33			
COMMSCOPE:	25.53	(0.33)			
CONCURRENT:	4.79	(0.01)			
CONVERGYS:	25.39	1.01			



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## CFX TECH by Joyce Wang

### Penthera's New COO Talks 2016 Priorities, Predictions

Video software firm **Penthera** is expected to announce veteran cable exec *Dan Taitz* as its new COO on Tues. Taitz was once interim CEO at **Martha Stewart Living Omnimedia** and has held sr exec positions at **Univision** and **Oxygen Media**. Penthera scored deals with **Charter** and **Time Warner Cable** earlier this year to offer video download services as part of their TVE offerings. And things won't be a lot different after the merger since both companies are focused on improving the user experience, of which Penthera's solutions are part, Taitz said in an interview. Penthera expects to work with both companies on integration, he said. In addition, "we expect some significant launches next year" to join the list of around 10 companies currently under contract, and Penthera will have several announcements early next year, the exec said. Another priority for the company in 2016 is to expand internationally. Taitz noted potential partnerships with major ops and programmers in EU and Mexico. Also earlier this year, Penthera extended its deal with **Comcast** for 2 more years. Comcast is the 1st major MSO that has integrated Penthera's software with its TVE apps. Among things the 2 have been working on is dynamic ad insertion in the downloading environment, Taitz said. The technology has already been integrated with the Xfinity platform. What is Taitz's 2016 prediction? Expansion of mobile video. Cable MSO execs repeatedly talked about their interests in mobile video services that will run on WiFi networks and potentially cellular networks through partnerships with the telcos. Calling WiFi the "lifeline" of streaming services, Taitz expects continuous rollout of WiFi hotspots. As more people consume content on the go, there will be similar offerings like **T-Mobile's** "Binge On," said Taitz. The service, launched in Nov, lets subs stream video over T-Mobile's LTE network from services

such as **Starz Play**, **HBO Go** and **Netflix** without eating into their LTE data plans. "Consumers don't want to be restricted by WiFi in the home," Taitz said. And to make more streaming content available on the go, there will be continuing discussions around in and out of home streaming rights. "Those barriers need to be broken down," the exec said. Convenience and ease of use is "absolutely essential," and the ones who provide that will be winners in the streaming age, he said.

***New Alliance Formed:*** A group of broadcast and media industry suppliers, including **Grass Valley**, **Imagine Communications**, **Lawo**, **Snell Advanced Media** and **Neveon**, formed the **Alliance for IP Media Solutions**. The trade association seeks to promote IP solutions that offer interoperability, are based on open standards and integrate seamlessly into media workflow environments to foster industry innovation and efficiency. The group will also focus on promoting the adoption, standardization, development and refinement of open protocols for media over IP. According to the group, its 3 key strategies include initiatives that facilitate the education and adoption of open standards, facilitation of activities that accelerate the development of solutions that support open standards, and nurturing the creation of new standards by supporting standards bodies with participation and testing in real-world environments.

***Editor's Note:*** Cablefax's Digital Awards recognizes the best digital content, social media and mobile initiatives during the past year. The awards also honor cable executives behind the scenes who make these digital initiatives shine. Be sure to enter by the final deadline this Friday, Dec 18.

*Got tech news? Reach out to Cablefax Tech editor Joyce Wang at [jwang@accessintel.com](mailto:jwang@accessintel.com)*



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