

# Cablefax Daily™

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What the Industry Reads First

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## Set-top Proposal: Cable Groups Ready to Sue If Plan Gets Approved

It's safe to say that if the **FCC** moves forward with its set-top proposal, which seeks to open up the set-top market for third party vendors, cable will sue. In separate media briefings Thurs, both **NCTA** and **ACA** execs made it clear that they won't hesitate to take the Commission to court. Comments on the proposal are due Fri to the FCC. NCTA attacked the legal base of the plan. The set-top market is already innovative and competitive, pres/CEO *Michael Powell* said, citing streaming devices like **Roku** and **Apple TV**. "How many more boxes does it take to declare that the market is trying to solve the problem?" In addition, "every problem does not empower an FCC-directed solution. The agency is not an agency with unbridled plenary power to roam around markets and decide to go fix inconveniences everywhere they find them irrespective of the bounds of their authority," Powell said. On Wed, NCTA and **Comcast** used Comcast's Xfinity partnership announcement with Roku and **Samsung** as evidence that the set-top market is competitive and needs no government intervention. FCC fired back. "While we do not know all of the details of this announcement, it appears to offer only a proprietary, Comcast-controlled user interface and seems to allow only Comcast content on different devices, rather than allowing those devices to integrate or search across Comcast content as well as other content consumers subscribe to," an FCC official told us. While the agency has authority to promote third party equipment for accessing pay-TV services, the statute doesn't permit the FCC to order unbundling of that service to support the creation of new third party services, Powell said. Also part of the NCTA media briefing were outside counsel *Ted Olson* and *Helgi Walker*, partners at law firm **Gibson, Dunn & Crutcher**. The proposal wouldn't survive judicial review, predicted Olson, former solicitor general. He claimed the proposed rules would override intellectual property rights. The "heavy-handed" proposal would allow 3rd parties to "do whatever they want... without honoring copyright, licensing and other terms governing the content," he said. Pay-TV providers would have no control of the quality, customer experience and value of their services, he said. As a result, the proposed rules will deter content creators and distributors from making the substantial investments needed to create quality content and innovative ways of distributing it, he said. In addition, the proposed rules would defy constitutional limits on the FCC's authority because they would

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violate the free speech rights of TV programmers and distributors by trampling on their editorial judgment, according to the attorneys. They would also violate the non-delegation doctrine by giving regulatory authority to private standard groups and a self-certification system, they said. FCC chmn *Tom Wheeler* has repeatedly said his proposal won't change the pay-TV business model and would continue to protect copyright and other licensing rights. ACA pres/CEO *Matt Polka* said its members are already providing various options to access pay-TV services and regulatory intervention is unnecessary and will be costly. And if the FCC decided to move forward with its proposal, ACA hopes it would only apply to large MVPDs (600K or more video subs).

**FCC's Response:** FCC spokeswoman *Kim Hart* defended the agency's set-top move. "The Chairman's proposal implements Congress' clear mandate to ensure a competitive marketplace. Nothing in the proposal requires a mandated technical design or requires pay-TV providers to re-engineer their networks. In fact, many MVPDs have already started the process of making information and content streams available through their own apps. The Chairman's proposal simply opens that information to competitive devices and apps," she told us. Regarding privacy concerns, she said the proposal seeks comment on a tentative conclusion that third-party software and hardware solutions should certify they are in compliance with identical privacy obligations in order to receive the data from MVPDs, and seeks comment on appropriate enforcement mechanisms. As for copyright protections and remedies, they are expected to remain fully intact, she said, adding content creators retain all of their right to use those remedies. "The Chairman's proposal would require third parties to abide by licensing terms agreed to by the MVPDs in order to receive the information from the MVPDs, just as it does with CableCARDS today," she said.

**Verizon 1Q:** Verizon had a busy 1Q. It completed its sale of local landline assets in CA, FL and TX on April 1 to **Frontier Communications** and announced plans to expand its video platform by adding content from **Hearst** and **AwesomenessTV** and through a jv with Hearst to acquire young male-focused **Complex Media**. The video initiatives are part of the telco's mobile-first strategy, which is different TV Everywhere initiatives for subs, CFO *Fran Shammo* said during the company's earnings conference call Thurs. The company's other initiative, Custom TV bundles, represented 38% of FiOS video sales during the quarter, according to Shammo. While Custom TV subs generate less revenue, they have led to higher margins, the exec said. During the quarter, Verizon added 98K net new FiOS internet connections and 36K net new FiOS video connections. Total FiOS revenues grew 5% YOY to \$3.5bln.

**BCAP Notebook:** As the **FCC** gears up for Mon's all-day workshop on the state of the video marketplace, particularly carriage of independent networks, MVPDs will tell you it is hard to launch the networks. "The biggest challenge I think we have is that the cost of content is so high. Everybody wants to be on basic. The cost of basic now is north of \$55 per customer per month. The large content providers have been very successful at locking in that bundle of bundles," **MCTV** pres *Bob Gessner* told the crowd at **Broadband Cable Association** of PA's annual Cable Academy Wed. "It's very, very hard to justify adding more to it when the most common customer complaint is 'I want to pay less, and I want fewer networks.'" Independent programming can be very specific and niche. "You have to find that right niche," said **Service Electric Cablevision** svp *Mark Walter*. "We launched **World Fishing Network**. It's fishing all day long, and in our markets, people love to fish. It's a great channel, and it does what it says it's going to do." Are there particular genres of interest to these MVPDs? That can be tough because content is available in so many places these days, Walter said. For **Atlantic Broadband** pres/CEO *Rich Shea*, it's international channels. And he's not just talking about Hispanic-focused nets, with the needs and populations varying greatly by market. Walter said Service Electric isn't hearing from customers that it's missing something in particular, though with it an election year, there's interest in new channels beyond the big 3. He called out conservative news nets, specifically mentioning **Herring's One America News**. "People want something live, and there are new junkies who want to watch it on their TVs, not their phones or tablets necessarily," he said. -- This could be the last cycle of **DirectTV/AT&T** exclusivity for **NFL** Sunday Ticket. That's the prediction from sports consultant *Lee Berke*, pres/CEO of **LHB Sports**. "The NFL had substantial leverage because the AT&T-DirectTV wasn't finalized," he said of the most recent contract, which is believed to expire around 2021. Going forward "there will be more diverse and a wider range of screens [for] viewing games." That mirrors with Berke's overall prediction for sports. In the near future, he expects a new normal of growing profit-

# BUSINESS & FINANCE

ability through a wide range of platforms. That could include blends of traditional and new platforms. For example, a 1-camera feed inside an Olympics center might not be exciting for **NBCU** or **Apple TV**, but it could be something telcos play with as an offering on smart phones, he said.

**Viacom/DISH:** There's no black-out after all. Following **DISH CEO Charlie Ergen's** comments Wed that his company is ready to move on if it can't reach a renewal with **Viacom**, the pair agreed to a multi-year contract renewal which will allow certain Viacom live and VOD content to join the Sling TV services. Viacom nets **Comedy Central, BET, Spike, MTV, Nick Jr.** and many others will be available on Sling TV's single-stream and multi-stream services in coming months. Specific packaging details weren't announced. "We appreciate Viacom's willingness to continue with us on our journey as we work to deliver the best, most innovative television services available," said Ergen said in a statement Thurs.

**Programming:** History renewed its survival series "Alone" for a 3rd season. Season 2 of the series premieres Thurs at 9pm EST. -- **MTV** renewed "The Shannara Chronicles," its adaptation of the fantasy novels by **Terry Brooks**, for a 2nd season. Developed at **Sonar Entertainment**, the series is co-produced by **MTV, Sonar** and **Farah Films**.

## Cablefax Daily Stockwatch

Company	04/21 Close	1-Day Ch	Company	04/21 Close	1-Day Ch
<b>BROADCASTERS/DBS/MMDS</b>					
DISH:	48.10	0.68	ECHOSTAR:	41.10	0.25
ENTRAVISION:	7.16	0.04	GOOGLE:	759.14	6.47
GRAY TELEVISION:	12.52	0.12	HARMONIC:	3.46	0.12
MEDIA GENERAL:	17.10	(0.04)	INTEL:	31.97	(0.03)
NEXSTAR:	50.01	(0.05)	INTERACTIVE CORP:	47.35	(0.23)
SINCLAIR:	32.63	(0.42)	LEVEL 3:	53.32	(0.7)
TEGNA:	23.72	(0.48)	MICROSOFT:	55.78	0.19
<b>MSOS</b>					
CABLE ONE:	448.78	(3.72)	NETFLIX:	94.98	(1.79)
CABLEVISION:	33.51	(0.05)	NIELSEN:	51.86	(1)
CHARTER:	199.60	1.37	SEACHANGE:	3.83	0.08
COMCAST:	60.94	(0.52)	SONY:	26.42	(1.5)
GCI:	17.06	(0.52)	SPRINT NEXTEL:	3.68	(0.12)
LIBERTY BROADBAND:	55.45	(0.35)	SYNACOR:	1.44	0.01
LIBERTY GLOBAL:	37.76	(0.43)	TIVO:	9.15	(0.1)
SHAW COMM:	18.46	(0.09)	UNIVERSAL ELEC:	68.53	1.72
SHENTEL:	26.40	(0.69)	VONAGE:	4.65	(0.03)
TIME WARNER CABLE:	202.30	0.18	YAHOO:	37.67	(0.17)
<b>PROGRAMMING</b>					
21ST CENTURY FOX:	30.33	0.24	<b>TELCOS</b>		
AMC NETWORKS:	64.59	(0.5)	AT&T:	37.86	(0.86)
CBS:	55.82	0.77	CENTURYLINK:	31.39	(1.41)
CROWN:	5.08	UNCH	FRONTIER:	5.55	(0.08)
DISCOVERY:	28.37	0.21	TDS:	29.70	(0.26)
DISNEY:	102.91	(0.36)	VERIZON:	50.03	(1.72)
GRUPO TELEVISA:	26.46	0.04	<b>MARKET INDICES</b>		
HSN:	54.50	0.36	DOW:	17982.52	(113.75)
LIONSGATE:	20.16	0.17	NASDAQ:	4945.89	(2.24)
MSG NETWORKS:	16.60	(0.1)	S&P 500:	2091.48	(10.92)
SCRIPPS INT:	63.79	0.37			
STARZ:	26.11	0.41			
TIME WARNER:	75.44	0.66			
VIACOM:	45.07	4.77			
WWE:	16.55	(0.24)			
<b>TECHNOLOGY</b>					
ADVANTAGE:	1.80	(0.09)			
AMDOCS:	56.99	(1.92)			
AMPHENOL:	56.84	(0.99)			
APPLE:	105.97	(1.16)			
ARRIS GROUP:	21.88	(0.24)			
AVID TECH:	5.93	(0.07)			
BLNDER TONGUE:	0.42	0.01			
CISCO:	28.24	(0.2)			
COMMSCOPE:	26.40	(0.35)			
CONCURRENT:	6.08	(0.16)			
CONVERGYS:	27.12	(0.32)			
CSG SYSTEMS:	45.14	(0.31)			

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# PROGRAMMER'S PAGE

## On the Case

**Smithsonian Channel's** docu-series "Sports Detectives" (premieres Sun, April 24, 9pm) examines several iconic moments in sports history that share a unique commonality: coveted objects from those events have been stolen, lost or their whereabouts are unknown. Like *Dale Earnhardt's* supposed first "pink" race car. Or *Muhammad Ali's* gold medal from the 1960 Rome Olympics, which he tossed into the Ohio River. But production svp *Charles Poe* hopes it's also a bit of a history lesson for viewers. "It's an opportunity to relive some amazing moments from not just sports but American history. And at the same time get caught up in a great investigation story. It's really satisfying to see how everyday people, not just athletes, are connecting to these significant moments in sports." Tackling the investigations on camera are a pair of sleuths: former FBI agent and private investigator *Kevin Barrows* and **CBS Sports Network's** *Lauren Gardner*. The crew wanted to combine someone with solid investigation experience and someone in sports journalism. Barrows led one of the biggest securities fraud cases in U.S. history involving Wall Street and has served as a security and investigative consultant for professional sports leagues. "He comes at it with a detective hat on," Poe said. How'd they choose which cases? "We intentionally chose a range of sports," from hockey to baseball to boxing. And of course, the cases should be entertaining to unravel. "They're great yarns," Poe said, and the trails the investigators and witnesses of the historical events take are really exciting. What is it about sports memorabilia that turns people to thieves? "Sometimes it's about money, obviously," Poe said. "But even bigger than that is the power of an object that transports you back to a moment." Sports has so many passionate followers, and these objects carry the weight of history with them—wherever they may be. — *Kaylee Hultgren*

**Reviews:** "Veep," season V premiere, Sunday, 10:30pm, **HBO**. What? There's more than one series revolving around a political potentate whose new season is premiering on HBO Sunday? Perhaps, but "Veep" is the only one HBO allowed the august group of TV critics to see in advance. (Debate the merits of that move amongst yourselves). Fortunately, the *Julia Louis-Dreyfus* vehicle *Veep* shows no signs of going stale as its 5th season bows. Its wit remains as sharp as President Selena Meyer's tongue and its side gags provide the best moments, which are many. And in 2 weeks Roger, er, *John Slattery* cameos, displaying some very Sterling-like moves. -- "Little Giant," Sunday, 9pm, **Nat Geo Wild**. This outstanding bit of storytelling ranks with the best we've seen from Wild. Loaded with interesting insights about elephants and fantastic camerawork and playful yet edifying narration, the doc focuses on the first year of a baby elephant. As with humans, raising a baby elephant takes a village, or at least several family members. -- "Orphan Black," Thursday, 10pm, **BBC America**. Here we are in season 4 of this cloning fantasy series, and we take for granted that *Tatiana Maslany* can play as many characters as an army of actors. In reality it's a tremendous achievement she pulls off weekly. We hope it doesn't end soon. — *Seth Arenstein*

Basic Cable Rankings (4/11/16-4/17/16)			
Mon-Sun Prime			
1	FOXN	0.8	1813
2	TBSC	0.6	1529
2	HGTV	0.6	1501
2	ESPN	0.6	1428
2	TNT	0.6	1421
2	USA	0.6	1370
2	CNN	0.6	1347
8	HIST	0.5	1250
8	DSNY	0.5	1206
8	DISC	0.5	1152
8	AMC	0.5	1086
8	DSE	0.5	118
13	ADSM	0.4	1017
13	FOOD	0.4	949
13	ID	0.4	895
16	A&E	0.3	800
16	TLC	0.3	799
16	LIFE	0.3	784
16	FX	0.3	782
16	FRFM	0.3	772
16	NAN	0.3	771
16	HALL	0.3	759
16	MSNB	0.3	736
16	BRAV	0.3	708
16	DSJR	0.3	666
16	NGC	0.3	659
16	SPK	0.3	645
16	LMN	0.3	606
16	VH1	0.3	589
16	NKJR	0.3	495
16	DFAM	0.3	50
32	SYFY	0.2	560
32	APL	0.2	550
32	TVLD	0.2	541
32	MTV	0.2	492
32	CMDY	0.2	481
32	TRAV	0.2	459
32	OWN	0.2	456
32	WETV	0.2	441
32	NBCS	0.2	434
32	GSN	0.2	433
32	BET	0.2	414
32	HMM	0.2	406
32	INSP	0.2	394

\*Nielsen data, supplied by ABC/Disney, is based on coverage area of individual networks



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