

Cablefax Daily™

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What the Industry Reads First

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Now What? Charter Deal Sailing Along, But Will Conditions Impact Others

After the DOJ gave its conditional blessing Mon to Charter's purchase of Time Warner Cable and Bright House, FCC chmn Tom Wheeler circulated an order approving the \$78bln transaction. Assuming a majority of the FCC commissioners approve the order, New Charter would have 7-year conditions preventing it from offering usage-based billing/data caps and charging for interconnection fees, including for online video providers. The big question is what, if any, precedent does it set for the entire industry. Republican commish Michael O'Rielly is already gritting his teeth. "At first blush, it appears that the Commission may have operated well outside the four corners of the merger application to pursue unrelated matters and policies," he said. "I will carefully consider the item put before me and vote in a timely manner." BTIG analyst Rich Greenfield wondered in a blog post Mon if govt regulators will seek to use the Charter consent decree to craft wider-ranging policy that covers all ISPs. "While Comcast is clearly focused on expanding both usage-based pricing and peering/interconnection fees, will they be able to charge those fees in NJ, while a few miles away in NYC, Charter will have given up the ability to charge for those well into the next decade?" he asked. In a similar vein, you have to wonder how the 7-year moratorium will impact things such as usage-based billing for broadband competitors in Charter markets. Charter doesn't seem too bothered by the stipulations, saying they will "ensure Charter's current consumer-friendly and pro-broadband businesses practices will be maintained by New Charter." The DOJ's proposed settlement would prevent Charter from entering into agreements that would make it tough for online video distributors, such as Netflix, to gain programming content. The DOJ specifically talks about not imposing rate reductions, re-tiers or termination rights on programmers who provision content to an OVD. The deal can't be finalized until the CA PUC signs off, with state regulators not expected to vote before May 12. "We are pleased to reach this critical step in the regulatory review of our merger with Charter, and remain optimistic that the transaction will be finalized soon," Time Warner Cable chmn/CEO Rob Marcus said in a statement. Charter and TWC shares each closed up more than 4% Mon. While Free Press didn't take the news well, Public Knowledge sounded pretty cool with the conditioned deal—especially with the term being extended to 7 years from 3. In a comment that should raise the eyebrows of non-Charter MVPDs worried about usage-based billing, a PK staffer said: "Some of these conditions, such as a ban on data caps and usage-based

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pricing, and an agreement to engage in settlement-free peering, demonstrate that broadband companies do not need to impose excessive charges on either consumers or video distributors to be profitable.”

FCC Independent Show: Small pay-TV providers told the **FCC** that practices like forced bundling and penetration guarantees are hurting programming diversity and consumers. The comments came during the agency’s 2nd workshop on the state of video market Mon. **NCTC** has agreements in place with the 9 largest programmers representing more than 100 different nets. Because of forced bundling, an NCTC member seeking to distribute just one network from each of those large programmers would have to carry up to 65 channels in total, and potentially more in certain circumstances, said *Judy Meyka*, evp of programming. In addition, forced bundling occupies scarce bandwidth that could be used for indie programming or other services, she said. *Heather McCallion*, vp of programming at **Atlantic Broadband**, said in negotiating direct deals for broadcast and RSNs, she experienced the “insistence by large programmers that Atlantic Broadband accept less popular bundled channels in order to maintain carriage of ‘must have’ content.” She highlighted the capacity concerns by explaining that systems with 750 MHz of capacity or less serve more than half of Atlantic Broadband’s customers. Meanwhile, penetration requirements hinder small ops like **Shentel’s** ability to provide broadband video and alternative video packages, said *Chris Kyle*, vp, industry relations and regulatory. While Shentel is eager to provide skinny bundles carrying core cable channels at a lower price, its hands are tied, he said. For example, if a provider requires their programming to be distributed to 85% of Shentel’s total customers, Shentel can only provide a skinny bundle option to around 2K subs before crossing that 85% threshold. In addition, Shentel is not free to select the programming to include in the package due to other content restrictions, and Shentel can only offer this package as a “save,” according to Kyle. There’s also the “Most Favored Nation” clauses large MVPDs use in deals with indie programmers, which permit an MVPD to pick a more favorable term from a programmer’s deal with any cable op without taking on any of the obligations the operator took on in exchange for the better term. While Atlantic Broadband is willing to offer indie programmers workable terms for distribution, flexibility and creativity for these negotiations are limited in many cases, due to MFNs, McCallion said. In terms of remedies, the execs urged the FCC to fix its program access rules to allow NCTC to file complaints and to address retrans issues. Currently, NCTC members can only file complaints individually.

Programmers’ View: Independent programmers got their turn at the **FCC** workshop to describe carriage challenges they face. “It’s impossible to even think about launching a new independent channel right now. The conditions have changed so much from when we first launched 15 years ago,” said **RFD-TV** pres/founder *Patrick Gottsch*. “We could not launch RFD-TV today just from the changes with MVPDs, changes in attitudes.” And while OTT opens up more opportunity, it’s not a panacea. “It is a serious opportunity, but there are serious barriers, particularly for minority creators going into the market,” said *Eric Easter*, CEO of OTT service **BLQBOX Digital**. “They include lack of capital to sustain growth while you develop audiences and the lack of standardization across devices.” He is a proponent of the current set-top box proposal at the FCC as is fellow panelist **GFN-TV** CEO *Clifford Franklin*. “The economics of the cable industry present scenarios inherently opposed to independent participation,” he said. **Cinemoi** founder/CEO *Daphna Ziman* said the “state of media ownership in terms of women is really a national disgrace,” and blamed some of the cord-cutting on intolerant programming and the costs associated with it. While RFD has had public carriage fights with **Comcast** and **Verizon**, “equally challenging” has been “sharply limited carriage by **Cox**, **Bright House**, **Time Warner Cable** and **Cablevision**,” Gottsch said. “Taken together these MVPDs have demonstrated a persistent unwillingness to distribute RFD-TV to more than 5% of their subscribers.” **Ride TV** pres *Craig Moore* proposed an independent programming board that would report to the FCC and **DOJ** and assist channels with launch negotiations. He also suggested indies “help themselves” by setting some criteria for what a viable indie net looks like. **Africa Channel** head of new media/creative director *Brian Newton* was the only programmer who talked about distribution agreements limiting OTT offerings. It was a provision included when the net launched in 2005. Africa Channel, which is in about 10mln homes, is currently renegotiating deals with at least a 90-day window during which it can post content online. “But currently we can’t take part in any initiatives over-the-top so we’ve [considered] the idea of launching an additional network that is completely free and clear so we can take advantage of platforms like **Pluto TV** and a few others that play in the international landscape,” Newton said.

Fullscreen Update: **Fullscreen**, the SVOD service backed by **AT&T** and **The Chernin Group’s Otter Media**, is set to launch on Tues. The service, which costs \$4.99 a month, is available on fullscreen.com and via iPhone, iPad, select

BUSINESS & FINANCE

Android Phones and Chromecast. Targeting audiences aged 13-30, the ad-free service will feature programming including a series from best-selling author *Easton Ellis*, "The Deleted," a daily sketch show, "Party in the Back," and fresh talk formats including "Explain Things to Me." As the premier launch sponsor, AT&T will collaborate with Fullscreen to market and promote the service to the telco's mobile, video and broadband subs. This summer, Fullscreen and AT&T will co-produce premium content that will air both on Fullscreen SVOD and on a Fullscreen programming block on AT&T's Audience Network, available to **DirecTV** and U-verse TV customers.

Ratings: AMC's "Better Call Saul" finale scored 4.4mln viewers, including 2.6mln 25-54 in **Nielsen** live+3 ratings. Season 2 averaged 4.3mln viewers per episode, including 2.6mln adults 25-54, making the series a top 10 cable show in adults 18-49 and 25-54.

Programming: WGN America's underground railroad thriller "Underground," was renewed for a 2nd season. Produced by **Sony Pictures Television** and **Tribune Studios**, the 10-episode 2nd season order is set to begin production this summer for a 2017 debut. -- **Hallmark Channel** kicks off its annual June Weddings programming event in June. Original movies include "Wedding Bells," "Stop the Wedding," "The Convenient Groom," and "The Wedding March."

Cablefax Daily Stockwatch

| Company | 04/25 Close | 1-Day Ch | Company | 04/25 Close | 1-Day Ch | | | |
|------------------------------|-------------|----------|-----------------------|-------------|----------|--|--|--|
| BROADCASTERS/DBS/MMDS | | | | | | | | |
| DISH: | 51.26 | 1.50 | GOOGLE: | 723.15 | 4.38 | | | |
| ENTRAVISION: | 7.31 | (0.15) | HARMONIC: | 3.43 | (0.18) | | | |
| GRAY TELEVISION: | 12.54 | (0.19) | INTEL: | 31.39 | (0.25) | | | |
| MEDIA GENERAL: | 17.28 | 0.02 | INTERACTIVE CORP: | 46.04 | (0.64) | | | |
| NEXSTAR: | 50.42 | (0.43) | LEVEL 3: | 53.59 | (0.14) | | | |
| SINCLAIR: | 32.67 | (0.23) | MICROSOFT: | 52.11 | 0.33 | | | |
| TEGNA: | 24.00 | 0.16 | NETFLIX: | 93.56 | (2.34) | | | |
| MSOS | | | | | | | | |
| CABLE ONE: | 458.88 | 0.86 | NIELSEN: | 51.63 | (0.29) | | | |
| CABLEVISION: | 33.77 | 0.14 | SEACHANGE: | 3.86 | UNCH | | | |
| CHARTER: | 207.01 | 9.10 | SONY: | 25.70 | (0.94) | | | |
| COMCAST: | 61.00 | (0.1) | SPRINT NEXTEL: | 3.80 | 0.06 | | | |
| GCI: | 17.32 | (0.02) | SYNACOR: | 1.45 | 0.07 | | | |
| LIBERTY BROADBAND: | 57.74 | 2.33 | TIVO: | 9.26 | (0.12) | | | |
| LIBERTY GLOBAL: | 37.90 | (0.1) | UNIVERSAL ELEC: | 67.23 | (1.39) | | | |
| SHAW COMM: | 18.67 | 0.06 | VONAGE: | 4.62 | (0.05) | | | |
| SHENTEL: | 27.16 | (0.4) | YAHOO: | 37.23 | (0.25) | | | |
| TIME WARNER CABLE: | 209.63 | 8.18 | TELCOS | | | | | |
| PROGRAMMING | | | | | | | | |
| 21ST CENTURY FOX: | 31.06 | 0.13 | AT&T: | 38.21 | 0.14 | | | |
| AMC NETWORKS: | 65.42 | (0.94) | CENTURYLINK: | 31.18 | (0.21) | | | |
| CBS: | 56.29 | (0.2) | FRONTIER: | 5.55 | (0.08) | | | |
| CROWN: | 5.07 | (0.01) | TDS: | 29.72 | (0.18) | | | |
| DISCOVERY: | 27.93 | (0.87) | VERIZON: | 50.76 | 0.21 | | | |
| DISNEY: | 104.57 | 0.80 | MARKET INDICES | | | | | |
| GRUPO TELEVISA: | 26.63 | (0.45) | DOW: | 17977.24 | (26.51) | | | |
| HSN: | 54.30 | 0.07 | NASDAQ: | 4895.79 | (10.44) | | | |
| LIONSGATE: | 20.03 | (0.4) | S&P 500: | 2087.79 | (3.79) | | | |
| MSG NETWORKS: | 17.12 | (0.13) | | | | | | |
| SCRIPPS INT: | 63.85 | (1.19) | | | | | | |
| STARZ: | 26.45 | 0.03 | | | | | | |
| TIME WARNER: | 76.35 | (0.3) | | | | | | |
| VIACOM: | 46.04 | (0.46) | | | | | | |
| WWE: | 16.75 | (0.1) | | | | | | |
| TECHNOLOGY | | | | | | | | |
| ADVANTAGE: | 1.86 | 0.10 | | | | | | |
| AMDOCS: | 56.68 | 0.09 | | | | | | |
| AMPHENOL: | 56.75 | (0.21) | | | | | | |
| APPLE: | 105.08 | (0.6) | | | | | | |
| ARRIS GROUP: | 22.39 | 0.06 | | | | | | |
| AVID TECH: | 5.81 | (0.15) | | | | | | |
| CISCO: | 28.23 | 0.08 | | | | | | |
| COMMSCOPE: | 26.44 | (0.32) | | | | | | |
| CONCURRENT: | 6.57 | 0.40 | | | | | | |
| CONVERGYS: | 26.62 | (0.24) | | | | | | |
| CSG SYSTEMS: | 45.21 | (0.13) | | | | | | |
| ECHOSTAR: | 41.19 | 0.11 | | | | | | |

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CFX TECH by Joyce Wang

Cable's Road to 5G

There will be plenty of talk around future wireless technology such as 5G and the convergence of cable's fixed network and mobile network at this year's INTX. One panel on May 17 will explore how 5G, the next-gen wireless technology, may impact broadband delivery and consumption. Meanwhile, **CableLabs** is working with academic research center **NYU Wireless** to explore opportunities for cable in a 5G world. As **FCC** commish *Jessica Rosenworsel* said during CableLabs' recent wireless conference in NYC, "wireless networks require wired networks" and "none of the 5G activity can happen unless there's backhaul." **Verizon** CFO *Fran Shammo* said during the company's 1Q earnings conference call last week that the telco seeks to be the 1st US company to roll out 5G services. "We are currently what I would call doing sandbox—sandboxes and creating innovation centers. We are working with the **5G Technology Forum**, which includes all the major OEMs and handset OEMs. We will evolve this 5G ecosystem rapidly, just like we did with LTE, to ensure an aggressive pace of innovation," he said. This year, Verizon is testing 5G technologies and aims to have an initial fixed wireless pilot starting in 2017. Shammo emphasized that "this is fixed wireless... It's really not about mobile. It's really around fixed wireless." Shammo noted there's strong interest from members of the 5G Forum to prepare for fixed wireless commercial pilots next year. "We're helping the industry to adopt the rules on 5G deployment, including the opening of the spectrum bands above the 24 gigahertz. And we're working with the FCC," Shammo said. Verizon is no stranger to cable, having partnered with MSOs including **Comcast**, **Time Warner Cable**, **Bright House** and **Cox** over the years on spectrum. Recently, Comcast execs suggested the MSO is working with Verizon on a potential wireless offering. For cable ops, 5G technology can complement and/or

offload MVNO or MNO services, said *Tim Burke*, vp of strategic technology at **Liberty Global** during the CableLabs conference. The key is "seamless handover and interworking" between the 5G network and an MNVO or MNO's network. In addition, 5G has the potential to become the next-generation WiFi technology as it works better with LTE and LTE-Unlicensed, according to Burke. 5G also offers consumers higher quality indoor and outdoor coverage versus WiFi, according to the exec. Apparently **DISH** has its eyes on 5G as well. It's pretty widely believed that 5G standards will be defined around 2018 and finalized around 2020, *Tom Cullen*, evp of corporate development and the wireless guru at DISH said during the company's earnings call last week. Chmn *Charlie Ergen* said in Feb that the company's spectrum could be used to launch 5G services, though the company is unlikely to build out its own nationwide wireless network. That means the satellite provider is open to potential 5G partners.

LTE-U Workshop: The **Wi-Fi Alliance**, which counts **Comcast**, **Cisco**, **Intel**, **Apple** and **Broadcom** as members, is set to hold its LTE-U Coexistence Test Workshop in San Jose Tues. At the workshop the group will release a complete draft of the LTE-U coexistence test plan. New mobile technologies, like LTE-U, are being developed to operate in unlicensed spectrum alongside WiFi. The **FCC** is currently looking into the coexistence issue as well. It started a proceeding on LTE-U and LAA last year after complaints were filed, claiming that LTE-U backers were intent on launching LTE in unlicensed spectrum, threatening to interfere with WiFi users in that spectrum. Wi-Fi Alliance is conducting simulations and coexistence testing to ensure no adverse effects to the installed base of WiFi devices.

Got tech news? Reach out to Cablefax Tech editor *Joyce Wang* at jwang@accessintel.com

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