

Cablefax Daily™

Thursday — October 10, 2019

What the Industry Reads First

Volume 30 / No. 195

Anthem's Asper: Linear Still Important Part of Content Mix

In today's world of competing OTT launches, it's a bit unusual to see someone snatching up linear TV networks. A few of the indie channels have just faded away in recent years, including **Participant's Pivot TV** and **Al Jazeera America**. Bucking the trend are **AXS TV** and **HDNet Movies**, with *Mark Cuban* selling a majority stake in the channels last month to **Anthem Sports & Entertainment**. "Not all linear channels are created equal. We liked the scale and reach of linear channels today, but I don't think one has to make a choice," between linear and streaming, Anthem CEO *Leonard Asper* told **Cablefax**. "Our strategy at Anthem has always been that it's not the platform, it's the content. If there's a paying audience for content, we'll put it on that platform. There's no reason to abandon what's still a very healthy ecosystem of linear channels on MVPDs." CFX asked Cuban about the decision to sell the 18-year-old properties and he said he's adjusting his holdings and freeing up more time for his kids. He retained an equity stake in the new company as did ad and sponsorship unit **AEG**, while entertainer *Steve Harvey* joined the venture as an investor. Cuban said he's excited for what's ahead. "They are doing a great job with programming already. My job will be here to help and support Len where he needs it," he said. One of Anthem's first orders of business was to launch its **IMPACT Wrestling** on AXS TV this month, with preview specials leading up to the flagship weekly show debuting on Oct 29. In fact, Asper said AXS had first approached Anthem about bringing IMPACT to the network, opening the door for a broader conversation. Asper recognizes that MVPDs are "culling the herd" when it comes to the programming bundle, but believes AXS has a unique stake with its combination of live sports and original music content. This may not be in the end of Anthem's M&A either. "It does help to be larger," Asper said. "We have very, very strict criteria though. It's not just about size though." And it's not just about linear either, with Anthem firmly planted in the digital space as well with IMPACT content streaming on **Twitch** and **Pluto TV**. Plus there's SVOD IMPACT Plus which features live monthly IMPACT specials, original series and a 3K+ hour library. "It's no different than Starbucks having its own stores, but also sitting in a Publix or someone else's store. Or selling its tea and coffee on the retail outlets," Asper said. The AXS and HDNet purchase does help Anthem get in front of distributors it doesn't have a relationship with for properties such **Fight Network** and outdoor-focused **Pursuit Channel**.

Cablefax
MOST POWERFUL WOMEN

Awards Luncheon

Thursday, December 5
11am - 2pm | 583 PARK Avenue

Join us as we salute the women who have made their mark on the industry with their leadership and innovation.

Register Your Team at www.CablefaxWomen.com

35187

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 ● Publisher: Michael Grebb, 323.380.6263, mgrebb@accessintel.com ● Senior Editor: Sara Winegardner, 301.354.1701, swinegardner@accessintel.com ● Associate Editor: Mollie Cahillane, 212.621.4951, mcahillane@accessintel.com ● Acct. Exec: Olivia Murray, 301.354.2010, omurray@accessintel.com ● Director of Marketing: Kate Schaeffer, kschaeffer@accessintel.com ● Prod. Mgr: Joann Fato, jfato@accessintel.com ● Kerry Smith, Divisional President, Marketing & Media Group, ksmith@accessintel.com ● Group Subs or Subscription Questions, Client Services: 301.354.2101, clientservices@accessintel.com ● Annual subscription price: \$1,749.00/year ● Access Intelligence, LLC, 9211 Corporate Blvd., 4th Floor, Rockville, MD 20850

“There are places our existing channels haven’t been able to penetrate. It creates an opportunity for us to present something additional that works for distributors,” Asper said. “The more assets you have, the more content creation abilities one has, the easier that conversation gets.”

Liberty Latin America Goes Shopping at AT&T: Liberty Latin America will acquire all of AT&T’s wireless and wireline assets in Puerto Rico and the US Virgin Islands in an all-cash transaction valued at \$1.95bln. “This strategic and complementary acquisition is an exciting and unique opportunity to expand our business in one of our best markets. This acquisition is at an attractive valuation, in the mid-6s in terms of EV to OCF1 excluding synergies, and consistent with our disciplined approach towards M&A,” LLA pres/CEO *Balan Nair* said. The move comes as AT&T has faced criticism from shareholder **Elliott Management**, which has called for divestitures and management changes. For LLA, the deal lets it beef up its existing wireline offering with a wireless play. LLA “is acquiring a high-quality network that has fiber in 90% of its sites with 70% of it underground. The addition of a wireless product to Liberty’s portfolio of wireline offerings in Puerto Rico should help in increased bundling and reduction in churn,” **Evercore ISI** analysts said. **Moody’s** dubbed the sale is credit positive for AT&T. The deal is expected to close within the next 6-9 months.

FCC Submits Report on Video Description: The **FCC** Media Bureau submitted its second report to Congress on the status of video description Tuesday, determining that while there has been significant progress in the variety and amount of video-described programming available, there could always be more. After Oct 8, 2020, the FCC has the power to phase in current video description regulations for up to an additional 10 DMAs each year. There is evidence that consumers want the expansion of the video description requirements to DMAs outside the top 60 markets, but there’s still not enough info on what that sort of expansion would cost. The report also dove into the need for video description over IP-delivered video. While there’s interest in the concept, **NAB** told the Commission that extending the video description requirements that currently exist could be difficult due to the lack of standards for including multiple audio tracks and additional hurdles that come with the operating systems used to deliver IP-based video.

Chalk One Up For Comcast in TiVo Patent Battle: The decision is in on the latest patent battle between **TiVo** and **Comcast** with this round is going to the latter. The US Federal Circuit Court of Appeals upheld a decision from the Patent Trial and Appeal Board that invalidated a Rovi/TiVo patent related to an interactive program guide displayed on a TV screen through a set-top box. The judgment comes less than a week after Judges *Alan Lourie, Haldane*



NOV. 4-5
ARLINGTON, VA



Build Your 5G ACTION PLAN

Take 30% off with
VIP Code: **CFX30!**

Register at www.DC5G.com

Robert Mayer and *Timothy Dyk* heard Rovi's argument to overturn the PTAB decision and notably did not include a written opinion. That's because of a rule in the federal circuit court that allows for the entry of a judgment without an opinion if findings from the trial court and existing evidence supporting the verdict is clear and needs no further explanation. "We're pleased with this ruling that invalidates yet another Rovi patent," Comcast said in a statement. "Our position has always been that this patent was invalid, and now the Appeals Court has agreed by summarily dismissing Rovi's appeal of the Patent Office's ruling." This hasn't discouraged either side in the ongoing patent war between them, with TiVo saying in a statement that it "will not be deterred by this decision and will continue to protect our innovations and patent portfolio." Tomorrow really is another day, with still more patent litigation pending between the two at both the federal court level and at the International Trade Commission.

Cox Boosts Speeds for Connect2Compete Customers: Cox increased speeds across the footprint of its low-cost internet offering Connect2Compete. Download speeds have been raised to 25Mbps while upload speeds have been boosted from 1 to 3Mbps. No action is required by the customer to benefit from the faster speeds. Connect2Compete has connected more than 500K customers since its introduction in 2013.

CNN Gets Partial DISH Victory: Turner Network Sales, now part of WarnerMedia, received a partial victory in federal court in its breach of contract case against DISH. DISH withheld licensing fees, claiming it overpaid \$20mln for CNN from April 2015 until February 2017. "DISH cannot now claim, after years of voluntary payments, that it is entitled to recoup fees that it was solely responsible for calculating based on its own understanding of its obligations under the agreement," the court said in an opinion dated Sept 27. The court granted Turner's motion for summary judgment on its claim to recover the fees DISH recouped. However, the court denied Turner's motion for summary judgment with respect to its claim that DISH breached the agreement when it began calculating CNN's fee based on CNN subscribers vs total DISH subscribers in April 2017. The court said the language around the fees isn't clearly defined in the agreement. The two parties are supposed to submit a joint letter to the Court by Oct 11 outlining next steps.

Outside the States: Rocco Commisso's ACF Fiorentina have had three straight wins and soon a new state-of-the-art training center. **Mediacom** founder/CEO Commisso revealed Wednesday that he has purchased approximately 62 acres for what will be one of the largest training facilities in Italy. -- News and info website rating service **NewsGuard**, which counts *Steve Brill* and *Leo Hindery* as backers, announced a partnership with **Public Libraries 2030** to bring its program to libraries in the UK, Germany, Italy, France and Belgium. NewsGuard uses journalists to create "nutrition labels" for thousands of websites. It's been pitching cable and mobile ops on licensing deals. Public Libraries 2030 is a non-profit aimed at raising awareness of the importance of libraries in the EU.

Programming: Fox Sports Southeast will televise all 82 regular season Memphis Grizzlies games during the 2019-2020 NBA season. All games televised on the regional net will also be available on the Fox Sports Go app. The coverage will kick off with the Grizzlies season opener against the Miami Heat on Oct 23 at 6pm CT. -- **HBO Max** expanded its children's content slate by ordering 8 episodes each of unscripted kids competition series "Karma" and "Craftopia."

Hallmark Grows Christmas Even More: Crown Media Family Networks is launching a new Christmas initiative "Hallmark Channel's Hometown Christmas." The annual event will honor towns across the country that heavily invest in the Christmas spirit. The nets are sponsoring the first-ever "Christmas Con," a three-day event held at the Expo Center in Edison, NJ, Nov 8-10. Stars set to appear include *Chad Michael Murray*, *Lacey Chabert*, *Jonathan Bennett* and more. "Christmas Comes Early to David City, Nebraska," will be a town square and tree-lighting event honoring the birthplace of *Joyce Hall*, founder of Hallmark Cards on Oct 30. **Hallmark Drama** heads to Beauregard, AL, as part of a team building 15 new homes in the city ruined by tornadoes in March as part of the special "Project Christmas Joy" (premiering Dec 10 at 9pm).

Honors: Kudos to longtime PR pro *Bob Gold* who will be feted as the 2019 Communications Professional of the Year at the PRSA-LA's LA PRism Awards on Tuesday. The annual event recognizes the best and brightest in the LA area.

People: *Korman Tam* was elevated to vp, pricing & strategy for **NBCU** content distribution. He continues to report to NBCU content distribution CFO *Bryce Gama*. -- TV measurement firm **605** named *Brian Katz* vp, sales. Katz brings more than 20 years of experience in audience insights to the table, previously holding leadership roles at **Eyeview**, **TiVo Research**, **Magid** and **NBCU**.

Think about that for a minute...

Article VI, Paragraph 2

Commentary by Steve Effros

My apologies. I try to stay out of the legal weeds in this column. I'm going to veer off that course today so that you appreciate the reality of what happened recently in the case just decided by the US Court of Appeals regarding the FCC's "net neutrality" gyrations.



First, as we all know, the FCC originally decided that "broadband" should be regulated under the "Title I" (less regulatory) rules relating to information services. That lasted for many years until the Tom Wheeler Commission, in its closing days, reversed course and labeled broadband a "Title II" (more regulation) common carrier.

The political and public relations furor around net neutrality centered on "fast lanes and slow lanes," blocking, throttling, and the like. The broadband providers were out-lobbied by the broadband users, the "edge" providers, like Google and Netflix, who wanted to make sure that they weren't charged for their dominant use of the infrastructure. "Blocking," and "slow lanes" were never really the issue. ISPs were willing to accept prohibition of those things long ago. The real issue has always been rates, and rate regulation. Title II gives the FCC free rein to rate regulate. Title I does not.

Enter the Pai FCC. It reversed course again and said the Commission was wrong to have abandoned its original "light touch" approach to regulation of broadband. It reverts back to that Title I position, which the Supreme Court had already ruled was reasonable. As could be expected, a new law suit ensued and that's the case that was just decided. The Court said the FCC was well within bounds to decide that Title I was, and is the right way to go. It also noted, by the way, that this has all the makings of a ping pong match with the decision potentially going back and forth with different administrations

until Congress finally steps in and writes a new law. But that's not happening now.

What the Court said the FCC could not do, because it did not have specific authority to do so, was issue a blanket prohibition on State laws that purportedly imposed rules for "net neutrality." That specific authority is simply not in the statute as written. The pro-net neutrality folks have pointed to that part of the decision and claim that will allow States to simply reimpose the rules that were dropped by the FCC.

Here come the weeds. Article VI Paragraph 2 of the Constitution of the United States is known as the "Supremacy Clause." Federal law supersedes state law when it can be shown that the state law would interfere with an appropriate federal purpose, particularly if it would affect interstate issues. There is no argument that the Internet and broadband are interstate by their very nature.

So the Court also noted that while the FCC may not be able to simply write one "preemption" provision, if any state law can be shown to be in significant conflict with the FCC's properly adopted approach, it can be struck down by the doctrine of "conflict preemption." In other words, you can't just apply a general preemption of state laws, but you can by finding those laws in conflict one at a time.

This all goes back to rates. No one really cares about all the "blocking, throttling" stuff. State rules against those would be fine. But if those rules include rate regulation, or the threat of same, then "conflict preemption" will become a legal weed well known in the telecommunication community.

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. His views do not necessarily reflect the views of Cablefax.)



NETWORKING ACCESS MENTORING INVOLVEMENT COMMUNITY

JOIN OR
RENEW
NOW

Embrace Diversity.
Embrace Success.

namic.com