

# Independent Cable

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August-September 2010

# NEWS

## Remedies Tailored To Harms

# ACA Seeks Transaction-Specific Comcast-NBCU Merger Conditions

The American Cable Association has called on the FCC to impose a range of conditions on the Comcast-NBC Universal transaction to prevent the unprecedented media combination from using programming and distribution dominance to undermine competition by greatly escalating the price of cable and broadcast channels that market rivals, including ACA members, must purchase to remain in business.

In previous FCC filings, ACA identified and inventoried the harms stemming from the Comcast-NBCU deal in order to craft and propose narrowly tailored and transaction-specific remedies that would serve the interests of millions of consumers and advance competition in one of the most dynamic sectors of the national economy.

For a period of nine years, ACA is recommending the following conditions, should the FCC decide to approve the license transfers associated with the Comcast-NBCU transaction. In the main, ACA's conditions would simplify contracts, lower arbitration costs, and contain special conditions for smaller operators that cannot afford baseball-style arbitration available to all pay-TV providers.

### General Conditions Applicable To All Pay-TV Providers

- Comcast-NBCU is required to sell NBC stations and regional sports networks (RSNs) on a stand-alone basis, meaning each NBC station and RSN cannot be bundled with carriage for any other video programming network.
- FCC program access rules shall apply

to all Comcast-NBCU TV stations as well as all satellite- and terrestrially delivered RSNs and national cable networks for distribution on any delivery platform, including online and mobile.

- Dispute resolution through baseball-style commercial arbitration shall include a right to program carriage until the matter is resolved.

### Special Conditions For Smaller Pay-TV Providers

- Comcast-NBCU is prohibited from requiring any pay-TV provider with 125,000 video subscribers or less locally to pay a fee for an NBC station or RSN that is 5% greater than the lowest fee paid by any other local pay-TV distributor — including Comcast itself -- for the market's NBC signal or the area's RSN.
- Comcast-NBCU officials are required to certify to the FCC on an annual basis that all eligible retransmission consent

and RSN contracts comply with the 5% rule.

- Dispute resolution for smaller pay-TV providers through a newly designed,

*Inside:  
Special Coverage of the  
2010 Independent Cable Show*

lower-priced commercial arbitration system, different from baseball-style, shall include a right to program carriage until the matter is resolved.

- Comcast-NBCU shall negotiate in good faith with bargaining agents, including the National Cable Television Cooperative, and dispute resolution through baseball-style commercial arbitration shall be available to bargaining agents. Comcast-NBCU could not refuse to negotiate with a bargaining agent on behalf of all its principals or members. □

### NCTC Inks Long-Term Deal With NFL

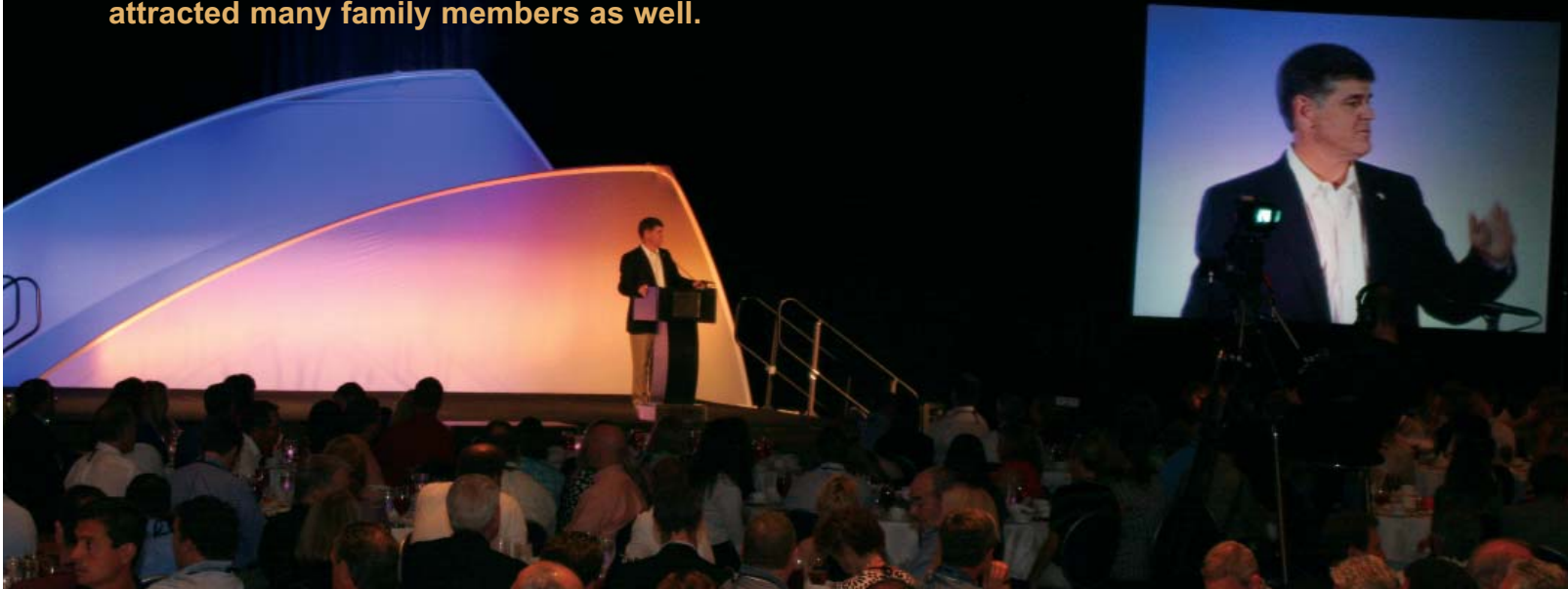
The National Cable Television Cooperative and NFL Network have announced a new, long-term agreement for carriage of NFL Network and NFL RedZone.

Co-op CEO Jeff Abbas commented: "There is no shortage of sports networks seeking distribution, but NFL Network has proven to be both the premiere sports television franchise and one often requested by cable subscribers. NCTC is happy to help members kick-off the football season with a new master agreement for NFL Network and NFL RedZone. NCTC appreciates NFL Network's recognition and accommodation of the unique needs of our diverse membership."

17 of the top 20 cable operators in the United States are NCTC members. These operators and other NCTC members will be able to carry NFL Network and NFL RedZone. NCTC serves more than 26.7 million cable subscribers. □

# The 2010 Independent Cable Show

This year's NCTC – ACA combined convention attracted operators from numerous operating companies, industry vendors and cable networks. And the Baltimore, Maryland venue attracted many family members as well.



Top photo: Fox News Channel brought political commentator and Fox News host Sean Hannity to The Independent Show as the Tuesday keynote speaker.

Above, left: Chris Cinnamon led a panel discussion on the National Broadband plan.

Above, right: Barth Ghetto, BizUnite, spoke to members in the Exhibit

Hall about the new savings program available to members for services such as FedEx, ADP, and OfficeMax.

Below, left: A visit to Baltimore wouldn't be complete without a crab boil, and there were plenty of crab fans feasting away Monday night.

Below, right: Matt Polka at the ACA Members Meeting (with Rob Shema and Steve Friedman)



## Show Overview

### 'Mastering Constant Change'

NCTC and ACA members headed for Baltimore in late July to attend the 2010 Independent Show, which focused this year on "Controlling Constant Change." Eight educational sessions addressed the issue of change, with a specific focus on TV Everywhere and what role members will play in authentication.

While the term "TV Everywhere" is in wide use in the trade magazines, not all members have mastered what the term means to the industry and what specifically the concept may mean to their business. Alan Tschirner, NCTC's VP, Technology, took some of the mystery out of the term and helped members at The Independent Show understand how TV Everywhere and "Over the Top" applications are not the same thing.

Tschirner opened his "TV Everywhere-How It Works" panel with a definition for "Over the Top" (or OTT) video: It is unaffiliated video and web content delivered to screens in the home over a cable operator's broadband network via connected devices. "So in this case, you are really just the pipe for over the top content," Tschirner said.

TV Everywhere expands customers viewing options, as did multiplex premium services, VOD and DVRs. Networks that offer TV Everywhere content include Turner, HBO, G4, Starz, ESPN, AETN, Epix and at current count, about two dozen more. An important point about TV Everywhere is that its access to content is reserved for subscribers of the underlying video services using authentication and authorization.

Why provide the service? A key reason is that the competition is providing TV Everywhere type content and may actually be using a cable operator's network to do it. While OTT and TV Everywhere are the same in some aspects, they are very different in others. The two are similar in that both deliver video content to cable customers over a broadband connection and that video can be viewed on devices other than the TV in the home. The primary difference between the two is that TV Everywhere provides exclusive content that can only be accessed by subscribers of the core network, and the content, at least currently, is only from the cable networks.

In a later session, Stewart Schley, Senior Director of Industry Intelligence for One Touch Intelligence addressed members on "Changes on the Horizon." This panel's focus: the changing world of online content.

"Online video is this classic 'Frenemy' thing...It certainly poses some competitive challenges to what the cable industry has traditionally been all about from a video standpoint. But it also poses some interesting possibilities to expand your market and to offer new services," Schley noted. Schley also asked that the industry consider dropping the "Over the Top" term, as it implies the online video is the enemy getting a free ride on your network. To get rid of the negative connotation, Schley recommends the more neutral "Internet video" term.

The rapid migration of online content to instant access on the TV—through game consoles, Blu-ray players, the TV sets themselves—is shaping up to be a major game-changer. "I think," Schley stated, "this [easy access to online content on TVs] is more of a concern to those of us in the cable industry who have long made a living being the sole provider of multi-channel video to the TV set."

Going forward, cable may be increasingly vulnerable to



Top photo: David Rocco, host of Cooking Channel's *David Rocco's Dolce Vita* was the luncheon speaker on Monday, July 26; appearance sponsored by Scripps Networks.

Above: HBO's Deb Shaw and Laura McDonald serve up "True Blood" to guests at The Independent Show welcome party

Below: Jonathan Sarrow, Fox; Barbara Esbin, Chris Cinnamon—Cinnamon Mueller

Bottom: Chad Winters, Cass Cable TV and Randy Ovitt, Tribune Media discuss business at The Independent Show exhibits.





Top Left: NBC/Universal sponsored "An Evening with Syfy" on Tuesday night

Top right: Tommy Johnagin brought his comedy routine to the meeting courtesy of MTV Networks.

2nd left: Jeff Abbas addresses the members at the NCTC Members Meeting

2nd Right: Ansley Erdel and Rhod Shaw of Alpine Group; Barbara Esbin, Cinnamon Mueller provided members with an ACA Update.

3rd left: Matt Polka and Jeff Abbas join the NewWave team as they celebrate being named the Independent Operator of the Year by CableFAX magazine. Seth Arenstein, center, presented the award to NewWave.

Above: Beth Eland, NCTC, with Carol Schultz, Leslie Toepfer, Starz

At left: The traveling Magic School Bus, sponsored by Qubo, came to entertain kids at the 2010 Independent Show





*Top photo: On Monday evening, members walked out of the hotel and right across the street for an evening at Camden Yards*

*2nd above: Joseph Molko, MTV Networks; Rebecca Glashow, Discovery Communications; Tamara Scripps Franklin, Scripps Networks and NCTC's Frank Hughes spoke to members about how programmers view and are planning for TV Everywhere*

*Tim Lee, Scripps Networks; Sarah Connole, NCTC and Jonathan Palmer, Scripps.*

And special thanks to Dan Mulvenon, NCTC's Vice President-Corporate Communications. — Ed.

All photos by official Independent Show photographer EZ Event Photography. You can contact EZ at 562-277-6292 or visit [www.ezeventphotography.com](http://www.ezeventphotography.com)

defections. Recent research, Schley noted, suggests individuals who have made the leap from PC-based viewing of online video to TV-based viewing of online video may be more likely to consider disconnecting their cable service. New devices, such as Apple's iPad, which has shown strong appeal as a video player, may also factor into a potential cord cutters decision to drop cable. 400,000 iPad users downloaded ABC's video player the first month it was available and watched 1.5 million TV shows.

Another key part of The Independent Show each year is an update from the ACA on issues of concern to members on the political and regulatory fronts. ACA President & CEO Matt Polka and his team updated ACA and NCTC members on the telecommunications issues swirling at the FCC and around the Hill.

Polka opened by noting that this year is one of the most active in ACA history. "The decisions that we are working toward are at such a level of importance that if those decisions run counter to our members' interest, they will exact a serious penalty," said Polka. "That's why our board and staff and team are pulling together to make sure we capitalize on those concerns and that we seek every opportunity to win on the issues."

The major issues on ACA's playlist include the Comcast/NBCU merger, broadband reclassification, set-top boxes, and the old standby, retransmission consent reform. Until recently, retransmission consent reform had been a lonely battle for ACA. Now, a diverse coalition—including independent programmers, distributors, small operators, and public interest groups—has joined the fray.

"The American Television Alliance brings more resources and more voices to say that retransmission consent is broken and must be changed," Polka said.

The Alliance filed a petition earlier this year to encourage the FCC to adopt rules that would prevent TV stations from pulling signals in retransmission disputes and to protect consumers for onerous retransmission consent fee increases.

At the NCTC and ACA member meetings, each organization announced the results of their respective 2010 board elections. Elected to the NCTC board: William C. Beaty, Jr., Comporium; Mac Budill, Cablevision; Larry Eby, NewWave; Patty McCaskill, Suddenlink; Kay Monigold, Avenue Broadband; and Bill Severn, NPG Cable.

Members also ratified the selection of BKD LLP as NCTC's independent auditors for the fiscal year 2010. Service awards were presented to Bob Gessner, Massillon Cable and Steve Wilrett, Utilities Service Alliance as outgoing board members. In a separate board meeting following the members meeting, the board elected Edward T. Holleran, Jr., Atlantic Broadband as NCTC Chairman and Peter Smith, WOW as Vice-Chairman.

Elected to the ACA board: Steve Friedman, Wave Broadband; Jim Bruder, Harron Communications; Colleen Abdoulah, WOW; Patty Jo Boyers, Boycom; Martin Brophy, Shen-Heights TV; and Bob Gessner, Massillon Cable TV.

The ACA presented the following awards at The Independent Show:

Second Quarter Participation Campaign: Clarence Matlock, CableOne

ACA PAC Award: Buckeye Cable Systems

ACA PAC Leader: Colleen Abdoulah, Wide Open West

ACA Eagle Award: Martin Brophy, Shen-Heights TV

Lynn Simpson Award: Jim Beattie, Bevcomm

# Traditional Business Models Are Fading Away As Digital Becomes New Normal

By Pat Thompson, Managing Director, RBC Daniels

The digital pace of change is accelerating across every entertainment and media (E&M) segment, driven by a growing number of consumers who are embracing new media, from Internet and speedier downloads to over-the-top video. Welcome to the new reality, or even more appropriate, the new normal.

It's no surprise that mobility, social networking, faster download speeds and anywhere, anytime TV are changing the face, and business models, of E&M. But the speed at which it's occurring is at times mind-numbing.

A recent report by PriceWaterhouseCoopers (PWC) clearly shows the dramatic impact digital technology is having on our business. But even more astounding is how consumer behavior is driving the new digital reality.

The report's findings were telling. Global E&M spending is expected to rise from \$1.3 trillion to \$1.7 trillion by 2014 (that's trillion, with a T), with a Compound Annual Growth Rate (CAGR) of five percent. The U.S. market should grow at 3.8 percent CAGR to \$517 billion.

The advertising sector is growing as well, albeit slowed by the current recession. U.S. ad expenditures for Internet, television, radio,

out-of-home and video games are expected to increase by 2014.

An interesting sidebar is Internet advertising will surpass newspaper advertising spends this year, driven by the 96 million mobile Internet subscribers predicted by 2014. And, digital spending in the U.S. is expected to account for 26 percent of all E&M spending in 2014, up 19 percent from last year.

Why the growth spikes? According to the PWC report, it's all about the changing consumer behavior, with many consumers embracing new media. The report cited three reasons why:

- Rising power of mobility and devices
- Growing dominance of Internet experiences over all content consumption
- Increasing engagement and readiness to pay for content, driven by improved consumption experiences and convenience.

The one-size-fits-all axiom is long gone in the digital era, the report emphasizes. Finding a place in the new digital value chain now requires collaboration, risk and some things the smaller operator community is well versed in; strategic flexibility and speed of decision-making and execution.

"The industry must radically rethink its approach to monetizing content in capturing new revenue sources from transactions or from participation with others operating in the evolving digital value chain. And will need to embrace digital not as a competitor but as a complement," said Ken Sharkey of PWC.

Translation: Consumer behavior and digital migration are rapidly changing your traditional business models, and how your consumers behave in the bold, new world of digital, mobile, anytime/anywhere content will likely dictate just how dramatically that business model will change.

And change it must. According to the report, the continued fragmentation of the E&M sector will fuel greater experimentation by both established industry giants and niche players in adopting new business models that include hybrid combinations of advertising and subscription approaches.

At the end of the day, the new business models must account for consumer demands for ubiquity and interaction with content anywhere, anytime, the report concluded.

That is not only the new reality, but quickly becoming the new normal. □

*Pat Thompson is Vice President of Small Systems Brokerage for RBC Daniels. She has been a leading broker of small systems for over 22 years, and a long-time supporter and an Associate Director of ACA.*

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