

# Cablefax Daily™

Wednesday — November 19, 2014

What the Industry Reads First

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## Fine Print: TWC's Witmer Discusses Programming Clauses with FCC, DOJ

The clock may be paused on the FCC's review of the proposed Comcast and Time Warner Cable merger, but the work continues. Case in point: Time Warner Cable chief video officer and TWC Networks COO Melinda Witmer visited the FCC Fri, and met with Commission staff and DOJ Antitrust Division employees. The gist of this meeting seems to have centered on the inclusion of most favored nation clauses in programming contracts, according to an ex parte. The often-controversial MFNs ensure an MVPD's rival doesn't end up with a better carriage deal as they guarantee a distributor the best prices and terms. Some companies, including Glenn Beck's TheBlaze, have suggested the FCC limit Comcast's ability to use MFNs. TWC defended their use in the meeting. "MFNs are procompetitive provisions that can provide assurances to TWC that it is being treated fairly vis-à-vis other video distributors, and in turn that its customers are receiving good value for the programming they purchase from TWC," the MSO said in its filing. Witmer also used the meeting to expound on another type of clause, the alternative distribution method. ADM clauses typically establish windows that provide TWC with some limited exclusivity on content in exchange for "substantial payments and other support that TWC provides." You can see as the video world shifts to a more digital format why the Commission might be interested in ADMs. "Because programmers in today's marketplace have the leverage to demand increasingly high fees from TWC, the value proposition for TWC's subscribers would be undermined by a programmer's simultaneous distribution of its content on terms that were not made available to TWC (e.g., free distribution, or over-the-top distribution without commercials or screen clutter)," the MSO said in its ex parte. TheBlaze's Lynne Costantini (Witmer's former colleague at TWC) was at the FCC late last month to discuss a private arbitration path for indie programmers as a potential merger condition. TheBlaze is unusual in that the channel is offered through MVPDs and directly to consumers for \$10/month through TheBlazeTV.com. In its ex parte, the network complained that TWC and Charter have suggested it discontinue the online offering in order to be considered for carriage. TheBlaze also said MFNs restrict the ability of indie nets to "offer unique distribution arrangements and to compete in a free market, by allowing large MVPDs, including the Applicants, to pick and choose better terms and conditions from competing MVPDs' contacts that are most favorable to them, without regard to the concessions that were made to secure those terms and without having to deliver commensurate value to the programmer."

THE OVER-UNDER LIST

PRESENTED BY Cablefax

December 4  
Breakfast | 48 Lounge

Join Cablefax at the 48 Lounge the day after Lustgarten Foundation's Holiday Rock & Roll Bash, Dec. 4, for a fun morning full of networking and celebratory toasts as we honor The Over-Under List, cable's young superstars.

Register at [www.cablefax.com/events](http://www.cablefax.com/events)

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Sponsorship Opportunities: Diane Schwartz at [dschwartz@accessintel.com](mailto:dschwartz@accessintel.com) | Questions: Diana Rojas at [drojas@accessintel.com](mailto:drojas@accessintel.com)

# Cablefax's TRAILER AWARDS

TV PROMOS + REELS THAT SIZZLE

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Final Deadline: **December 17**

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Cablefax's Trailer Awards recognize the most effective and buzz-worthy trailers promoting shows and series running around the world on cable, broadcast, mobile, the web and beyond.

This is your chance to gain recognition for promos and sizzle reels that entice viewers to watch and engage with their favorite shows (or soon-to-be-favorites). This program is open to all cable networks and MSOs. Additionally, PR, marketing and publicity firms and other show partners are eligible to compete on behalf of a cable client.

## Winners and honorable mentions will be awarded in the following categories:

- Top Trailer
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- Best Editing
- Best Directing
- Best Sound/Music Mixing
- Best Graphics
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- Most Creative/Surprising
- Most Viral/Shareable Online

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- Returning Show/Series
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- Integrated/Cross-Platform
- Comedy
- Drama
- Suspense
- Reality/Docu-Series
- Sports
- News/Public Affairs

Submit by  
Dec. 10

**Questions:** Contact Mary-Lou French at [mfrench@accessintel.com](mailto:mfrench@accessintel.com) or 301-354-1851.

For more information, visit [www.cablefaxtrailerawards.com](http://www.cablefaxtrailerawards.com).

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**DISH-Turner-CBS Showdown:** Turner is warning viewers that DISH's contract for TBS and TNT expires on Dec 5. "DISH customers currently have access to TBS & TNT for the next few weeks, though DISH has said they are 'prepared for those networks to come down also,'" Turner said on its website, SaveMyShows.com. DISH customers lost 8 other Turner nets, including CNN and Cartoon, on Oct 20. Meanwhile, CBS continues to operate in attack mode, complaining Tues that the DBS provider has been "deliberately dragging its feet for months" on negotiations. DISH's contract for the CBS' 14 O&O stations is set to expire Thurs, according to CBS CEO Les Moonves. CBS poked DISH some more, saying that the MVPD has dropped more than 120 stations since 2013, whereas CBS has only had 2 service disruptions since becoming a standalone company in 2006. Of course, everyone remembers that one disruption: Time Warner Cable lost the CBS O&Os, Showtime and CBS Sports, as well as online access to CBS programming for all subs, for approx a month during last year's dispute. "We've proven we'd rather not fight, but I'd rather be a lover than a fighter," CBS CEO Moonves said earlier this month in a CNBC interview on the prospects of a deal.

**Comprise STELA Bill Introduced:** House Commerce leaders dropped a bi-partisan compromise version of the Satellite Television Extension Localism Act Tues, combining provisions from an earlier version of a House STELA bill and Senate Commerce's version of the bill (see full story at Cablefax.com). NCTA said it was pleased that the new bill retained provisions that would sunset the FCC's integration ban rule, and "we welcome congressional attention to address potential anticompetitive harm negotiations, by barring coordination in retransmission consent negotiations among local broadcast stations that are not commonly owned. We urge the Congress to act on this must pass legislation."

**Free Broadcast Antennas:** Broadcaster group TVFreedom.org has teamed with Antennas Direct and LG Electronics to give away 1K antennas in DC Sun. It's part of a bus tour antenna giveaway planned for multiple cities, including Toledo and Indianapolis (#LoveMyAntenna). Attendees can also enter to win a 42-inch LED flat panel HD set.

**AT&T Gains Mexico Approval:** AT&T received approval from Mexico regulators for its proposed acquisition of DirecTV, which operates in various markets in Latin America. The deal was already approved by regulators in Brazil, Trinidad and Tobago. Of course, the big question is whether federal regulators in the US will give it the OK.

**Consumer Reports Not a Comcast-TWC Fan:** Consumers Union is urging subs of its Consumer Reports mag to speak out against the proposed Comcast-Time Warner Cable merger. "If Comcast is allowed to merge, it will control almost 60 percent of the nation's cable TV customers, and nearly half of the high-speed Internet market. Who among us thinks that will end up in our favor?" the email warns, linking subs to a form letter than can be personalized and sent to the FCC.

**Broadband Sub Performance Recap:** Cable's broadband performance in 3Q was a much prettier picture than video, according to the Leichtman Research Group. The top cable companies accounted for 83% of the net broadband additions for the quarter (vs telcos), adding 580K subs (up 33% YOY). Overall, broadband additions from the 17 largest cable and phone companies in the quarter grew 35% YOY. These top broadband providers now account for 86.6mln subs, with cable having more than 51.2mln and telcos having nearly 35.4mln subs.

**RCN Launches New Tier:** RCN joined several major cable MSOs that have launched faster speed tiers as video streaming is on the rise. The company will roll out its 330 Mbps speed tier across the entire NY metro footprint in Dec. Starting at \$64.99 a month for new subs, the service doesn't require long-term contract and includes a 3-year price assurance. Pricing for new subs also includes an Arris Touchstone Data Gateway modem and router.

**Starz on Xbox One:** All 3 Starz Play services are on Microsoft's Xbox 360 and the new Xbox One platforms now with the launch of Encore Play and MOVIEPLEX Play on Xbox One Tues. With the latest addition, the authenticated Starz Play service can be accessed from platforms including Xbox One, Xbox 360, and Chromecast for TV viewing, PCs/Macs, and personal devices including iPhone, iPad & iPod touch and several Android handsets, tablets and other platforms including Kindle Fire, Kindle Fire HD, NOOK HD, NOOK HD+ and select Google Nexus devices.

**Ratings:** Showtime's "Homeland" scored its highest rated ep of the season Sun with 1.66mln viewers at 9pm and a season high 2.1mln for the night. Season 4 is averaging 5.6mln total weekly viewers across platforms, with only a minority of the audience tuning in live. On the same night, "The Affair" also bagged its highest rated ep of the season with 778K viewers at 10pm and 985K for the night. Similarly, time-shifted viewing accounted for 86% of the total number.

# BUSINESS & FINANCE

**Programming:** Hulu gave a straight-to-series order for "Difficult People," executive produced by Amy Poehler and starring Julie Klausner and Billy Eichner. The comedy is the 1st collaboration between Hulu and **Universal Cable Productions**. It will start production next year. -- **AXS TV** will be home to 5 of the world's top music festivals next year, including Coachella (Apr 17-19) and the New Orleans Jazz & Heritage Festival (May 1-3). -- **LMN** debuts doc "My Uncle is the Green River Killer" on Dec 3, telling the story of serial killer Gary Ridgway from the perspective of his own family members. -- **FX** booked drama series "Taboo," which is slated to debut in mid-2016. -- **DIY** greenlit new series "Breakneck Builds," which features home construction for families needing a home in a hurry. The net also renewed 8 series, including "Rehab Addict," "Kitchen Crashers," "Building Alaska," "Family Under Construction Hawaii," "Sledgehammer," "Bath Crashers," "Garage Gold," and "Salvage Dawgs."

**Scripps Issues Notes:** Scripps **Nets Interactive** is offering 1bln senior notes, which consists of \$500mln of notes due 2019, and the rest due 2024. The sale is expected to close on Nov 24, subject to customary closing conditions.

**People:** **NBCU** upped *Mike Mayer* to evp, sales solution. He reports to NBCU ad sales pres *Linda Yaccarino*.

## CableFAX Daily Stockwatch

Company	11/18 Close	1-Day Ch	Company	11/18 Close	1-Day Ch
<b>BROADCASTERS/DBS/MMDS</b>					
DIRECTV:	87.16	0.25	CONCURRENT:	6.89	(0.08)
DISH:	67.85	2.57	CONVERGYS:	21.01	0.05
ENTRAVISION:	5.55	0.05	CSG SYSTEMS:	25.44	0.16
GRAY TELEVISION:	9.98	(0.11)	ECHOSTAR:	50.09	(0.11)
MEDIA GENERAL:	14.89	0.20	GOOGLE:	535.03	(1.48)
NEXSTAR:	47.40	(0.05)	HARMONIC:	6.75	0.06
SINCLAIR:	27.33	(0.21)	INTEL:	34.71	0.47
<b>MSOS</b>					
CABLEVISION:	19.13	0.44	INTERACTIVE CORP:	64.56	(0.31)
CHARTER:	155.12	(0.19)	JDSU:	13.21	0.10
COMCAST:	54.42	0.28	LEVEL 3:	49.46	1.14
COMCAST SPCL:	54.21	0.22	MICROSOFT:	48.74	(0.72)
GCI:	12.22	0.08	NETFLIX:	381.03	(0.11)
GRAHAM HOLDING:	865.00	(0.01)	NIELSEN:	41.81	0.26
LIBERTY BROADBAND:	48.90	0.22	RENTRAK:	81.94	(0.45)
LIBERTY GLOBAL:	46.72	(0.11)	SEACHANGE:	6.56	(0.05)
SHAW COMM:	27.06	0.28	SONY:	21.26	1.00
TIME WARNER CABLE:	142.59	0.82	SPRINT NEXTEL:	4.76	(0.15)
<b>PROGRAMMING</b>					
21ST CENTURY FOX:	35.30	(0.04)	TIVO:	13.02	(0.05)
AMC NETWORKS:	62.48	0.07	UNIVERSAL ELEC:	60.65	1.60
CBS:	52.54	(0.34)	VONAGE:	3.54	(0.01)
CROWN:	3.36	(0.04)	YAHOO:	51.75	(0.62)
DISCOVERY:	33.36	0.83	<b>TELCOS</b>		
DISNEY:	90.28	(0.13)	AT&T:	35.72	(0.13)
GRUPO TELEVISIA:	36.11	0.21	CENTURYLINK:	41.09	0.14
HSN:	70.29	(0.23)	TDS:	25.64	(0.02)
LIONSGATE:	34.59	0.14	VERIZON:	51.22	(0.18)
MSG:	73.21	(0.09)	<b>MARKET INDICES</b>		
SCRIPPS INT:	74.88	(0.13)	DOW:	17687.82	40.07
STARZ:	31.77	0.22	NASDAQ:	4702.44	31.44
TIME WARNER:	80.50	0.10	S&P 500:	2051.80	10.48
VALUEVISION:	5.92	0.34			
VIACOM:	73.99	(0.46)			
WWE:	11.92	0.27			
<b>TECHNOLOGY</b>					
ADDVANTAGE:	2.64	0.01			
AMDOCS:	47.41	(0.11)			
AMPHENOL:	51.55	0.72			
AOL:	45.70	(1.01)			
APPLE:	115.47	1.48			
ARRIS GROUP:	28.70	0.53			
AVID TECH:	10.66	0.20			
BLNDER TONGUE:	2.20	0.54			
BROADCOM:	42.55	0.36			
CISCO:	26.59	0.13			
COMMSCOPE:	25.56	0.10			

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