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WHAT THE INDUSTRY READS FIRST

Square One: Gigi Sohn Withdraws FCC Nomination

Gigi Sohn announced Tuesday she will no longer pursue her nomination to serve as an **FCC** commissioner. It marks the end of a 16-month saga for the public advocate that has included three hearings before **Senate Commerce**, one voluntary recusal over certain retransmission consent issues and a debate over whether critical tweets can make someone unfit to serve as a member of a nonpartisan regulatory body.

In a statement announcing her decision to ask President *Biden* to withdraw her nomination, Sohn said she couldn't have imagined the legions of cable and media industry lobbyists and dark money political groups that would come forth to so negatively paint her more than 30 years in public service and as a consumer advocate.

"It is a sad day for our country and our democracy when dominant industries, with assistance from unlimited dark money, get to choose their regulators. And with the help of their friends in the Senate, the powerful cable and media companies have done just that," she said.

Sohn's prospects of making it out of the Commerce Committee became murky in the past two weeks. A billboard declaring that she is "too extreme" for the FCC appeared on the Vegas strip in recent weeks, with Sen. *Jacky Rosen* (D-NV) reportedly undecided on her nomination. Shortly before she announced her withdrawal Tuesday, Sen *Joe Manchin* (D-WV) said he would not vote for her. "The FCC must focus on issues of critical im-

portance to West Virginian and Americans, such as updating broadband coverage maps, addressing compromised Chinese equipment and products that threaten the security of our communications infrastructure, and ensuring every American has access to affordable Internet services. Especially now, the FCC must remain above the toxic partisanship that Americans are sick and tired of, and Ms. Sohn has clearly shown she is not the person to do that," Manchin said in a statement. "For those reasons, I cannot support her nomination to the FCC, and I urge the Biden Administration to put forth a nominee who can bring us together, not drive us apart."

During a press conference Tuesday, White House Press Secretary *Karine Jean-Pierre* said there was no news to share yet on any future candidates, only thanking Sohn for her years of public service as well as lawmakers like Sen. *Maria Cantwell* (D-WA) for their support of the nomination.

With Sohn out, the White House is back to square one, forced to re-examine its list of candidates for those that not only tout the experience needed to serve at the agency, but a background that's likely to garner bipartisan support. **Quadra Partners** Co-Founder *Paul de Sa* is among those that have been discussed as potential nominees in the past. Formerly the Chief of the FCC's Office of Strategic Planning, his focus was largely on merger reviews, broadband and spectrum policy. He also participated in the drafting of the National Broadband Plan.

There's also **DLA Piper** Managing Partner *Edward "Smitty"*

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Cablefax 2023 Award Submission Deadlines

The FAXIES Awards

Deadline: March 24
Final Deadline: March 31

Top Ops Nominations

Deadline: April 21

The Diversity List Nominations

Deadline: May 12
Final Deadline: May 19

Most Powerful Women Nominations

Deadline: August 11
Final Deadline: August 18

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Smith to consider. He served on President Biden's transition team for tech and telecom issues and also was key to the development of the **National Urban League's** plan for digital equity and inclusion. Of course, there are those that speculated that former FCC Acting Chair *Mignon Clyburn* would be open to returning for another term, but our crystal ball has that future looking a little less than likely.

The White House needs to be careful it doesn't fall into a situation where it can't see the forest for the trees. The FCC has been split 2-2 for the entire Biden presidency and the seat that Sohn was nominated to fill isn't the only one that will need filling.

During the **ACA Connects** Summit last week, CEO *Grant Spellmeyer* noted that President Biden and Senate Democrats will face a time crunch at the agency if they don't start working on renominating *Geoffrey Starks*. Starks was nominated in June 2018 by President Trump to fill a seat left vacant by Clyburn and was confirmed to a five-year term in January 2019.

"He has to be renominated and confirmed by the end of the year," he said during a fireside chat. "We're certainly hopeful to just see that line up, but there's a lot of moving parts inside of the Senate to deal with that are in the scope of the world much larger."

SOHN REACTIONS

We didn't hear anything from the cable and media industry lobbyists that *Gigi Sohn* blamed for her bowing out of the **FCC** nomination process, but plenty of others had something to say. **Senate Commerce** Ranking Member *Ted Cruz* (R-TX) called her withdrawal a "major victory." "The FCC is not a place for partisan activists; free speech is too important," he said. Senate Commerce Chair *Maria Cantwell* (D-WA) said she was disappointed, but respects Sohn's decision. "Throughout the past 16 months, Ms. Sohn has demonstrated her expertise in telecommunications law, deep experience and commitment to ensuring that every American has access to affordable broadband regardless of where they live. More importantly, I commend her for the integrity and fortitude she displayed in the face of a coordinated, hate-fueled campaign to malign and distort her character and record," she said. **Public Knowledge**, the communications and IP policy nonprofit public interest group Sohn co-founded in 2001, said the whole saga sets a dangerous precedent. "The incessant and appalling personal attacks against Ms. Sohn, the outright lies about her character, and the deceptive tactics used to bully her will have ripple effects for both the public and any other nominees the Biden administration may want to serve in their government," said PK President/CEO *Chris Lewis*. **INCOMPAS** praised Sohn for her integrity and commitment to competition-based policies. "While we are disappointed in this result, we are extremely proud of her

and look forward to finding ways to work with her to advocate on behalf of consumers and competition," CEO Chip Pickering said.

NEXSTAR TALKS MORE ON SPORTS OPPORTUNITIES

Nexstar is continuing to see interest from sports leagues, team owners and conferences as RSNs struggle to keep their balance sheets out of the red, and President/COO *Tom Carter* believes it all comes down to a refocusing on reach. During an investor conference appearance Tuesday, Carter highlighted that for the first time in 10 years, the **L.A. Clippers** were back on KTLA in Los Angeles. *Steve Ballmer*, the team's owner, took 15 games back from **Bally Sports** to be redistributed on broadcast. The premise behind Ballmer's thought process was that cable could only reach a certain percentage of households, and RSNs an even smaller fraction of that percentage. "He felt like he was only reaching a quarter of the entire market with their telecasts, and with KTLA, which is a top three station in Southern California, we can reach all of the consumers in a market," Carter said. "It's really back to basics, which is to serve the fan, to keep the fan interested, and that as a catalyst combined again with the financial struggles of the RSNs has really refocused people's efforts on the value of reach."

PARAMOUNT MULLS BET SALE

Paramount is looking to sell its majority share of **BET Media Group**, and multiple suitors have expressed interest in the network dedicated to African-American audiences. The *Wall Street Journal* [reported](#) actor and producer *Tyler Perry* has already engaged in early discussions with Paramount, with the two sides having a [content partnership deal](#) from 2017 that's set to expire soon. The deal would include the cable nets **BET** and **VH1**, as well as the SVOD **BET+**, which Perry's production company **Tyler Perry Studios** [launched as a jv](#) with **BET** in 2019. Also in the mix for **BET** is **Allen Media Group** founder/CEO *Byron Allen*, who [acquired Black News Channel](#) in July for \$11 million. "Byron Allen is interested in buying **BET**, and he will be pursuing the acquisition of the network," a spokesperson for Allen said. If a deal is completed in the future, Paramount intends to keep its commercial relationship with **BET**, according to *WSJ's* report. The news comes as former **BET** chairman/CEO *Debra Lee* releases her [book](#) "I Am Debra Lee: A Memoir" on Tuesday, which talks about her ascent to the top of the industry.

RESTRICT ACT WOULD CREATE PATH TO POTENTIALLY BAN TIKTOK

A bipartisan group of senators led by *Mark Warner* (D-VA) and *John Thune* (R-SD) introduced the Restricting the Emergence of Security Threats that Risk Information and Communications Technology (RESTRICT) Act, aimed at empowering the U.S. to prevent foreign governments from exploiting technology services in a way that poses risks to Americans' data and national security. It comes at a time of rising privacy concerns over Chinese based **TikTok**, though Warner noted that before TikTok there was **Huawei**, **ZTE** and Russia's **Kaspersky Lab**. The legislation would give the **Secretary of Commerce** the authority and the responsibility to identify and counter threats from foreign technology products and services in the U.S. "There's a series of mitigation tools given to the Secretary up to and including the opportunity to ban. It's generally risk based, and it is a rule-bound process, rather than the current ad hoc process," Warner said, adding that decisions will be based on intel. "We've got to have our intelligence community be forward leaning at being willing to declassify the information about why some of these foreign based technologies pose national security risks, so we're not just asking the public to trust us." Case in point, he recalled how he and some colleagues spent years trying to warn American telecom companies about the challenges associated with Huawei. "We didn't disclose and declassify enough of the intel and consequently we've had... to spend taxpayer dollars to rip and replace that equipment because it was a national security threat and we weren't forthcoming enough early on."

VERIZON READY TO COMPETE WITH CONVERGENCE

The buzz word among cable operators has been convergence as those that offer mobile service look for creative ways to bundle those plans together with their broadband packages. The hope is to attract customers away from the traditional wireless players, but **Verizon** isn't sure the cable industry's recent mobile boom will hold up over the long run. "We know that customers don't particularly like these deals where, you know, here's an initial headline price and after 12-24 months, you move back to rack rates... there's friction," Verizon CFO *Matthew Ellis* said during an investor conference appearance Tuesday. "I would imagine that the same thing will come through here, but we've been competing against that competitive pricing from them at different spaces for a while, and I'm sure we'll continue to do so successfully." When asked about the MVNO relationships it has with **Comcast** and **Charter** and the downsides of losing customers to those cable partners, Ellis acknowledged that it's true that Verizon receives less postpaid revenue from those subscribers than it loses. But on the flip side, it doesn't have some of the maintenance costs for those customers. "We're not doing the billing and collections, we don't have the upfront promotion costs, aren't running customer care, etc.," he said. "We certainly would love to have all our customers be post-paid customers, but if people want to offer a wholesale service,

we're more than happy to do that on our network and increase the monetization of the investment we've made in the network. I think for us and the cable companies, it's a win-win."

RATINGS

Another week, another sweep of the cable net ratings for **Fox News**. It topped the primetime charts with 2.09 million viewers P2+, with **ESPN** and **MSNBC** the only other two networks above 1 million at 1.28 million and 1.13 million, respectively. **HGTV** was No. 4 at 841,000, and **History Channel** rounded the top five at 776,000. For total day, FNC had 1.38 million, followed by MSNBC (693,000), ESPN (562,000), **CNN** (446,000) and HGTV (439,000). – Sunday night's battle between the Knicks and Celtics on **ESPN** had an average of 2.15 million viewers, making it the most-watched **NBA** game on the network so far this season.

CARRIAGE

FuboTV reached a multi-year deal with **EarthxTV** to bring its programming to the vMVPD's U.S. audience. Customers can get EarthxTV via Fubo's Pro package, which comes with over 115 channels. EarthxTV already has distribution with **Charter** and **NCTC**, as well as **Sky** and **Freeview** in the U.K and **Claro** in Mexico.

FIBER FRENZY

Bluepeak signed a franchise agreement with the community of Midwest City, Oklahoma, that will see the provider bring its fiber network to nearly 30,000 residences and businesses. The roughly \$30 million project will give customers access to symmetrical upload/download speeds with a minimum tier of 1 Gbps for \$50/month. Homes can get up to 5 Gbps, and businesses can receive speeds of 10 Gbps or more.

MOVE ACTIVITY SLUGGISH

Move activity isn't showing any signs of picking up. According to research from **Evercore ISI**, February move activity was down -8% YOY with total permanent USPS change of address requests falling by 152,000. Sequentially, change of address requests were down by 270,000 from the January total. "We believe that a material driver of slower cable broadband subscriber growth has been lower move activity, which creates fewer 'jump ball' acquisition opportunities for share-takers like cable," Evercore said.

PROGRAMMING

Ovation TV struck a deal with **DCD Rights** to acquire the U.S. rights for 12 titles. It'll bring more than 134 hours of scripted and unscripted content to Ovation's digital properties **Arthouse**, **Mystery Alley** and **JOURNY**, and select titles will air on the linear network. Of the acquired shows include "The Ascent of Women: a 10,000 Year Story," "Off Camera," "Concrete Canvas" and "Taggart."