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WHAT THE INDUSTRY READS FIRST

Watch and Wait: Nexstar Nervous About M&A, Sports Going to Streaming

As the dust of the **Standard General-TEGNA** merger failure settles, **Nexstar** leadership is concerned about how the events at the **FCC** could impact broadcasters long term.

During a discussion at the JP Morgan Global TMT Conference, Nexstar President/COO *Tom Carter* said it was surprising when the FCC sent the deal to the ALJ after the **DOJ** approved the merger and disappointing because the expectation is that this will affect broadcast M&A.

"We are a participant in broadcast M&A, but not to the same degree we were three and five years ago in terms of our ability to do transactions. Our transactions now have to be much more targeted and to thread a pretty fine needle," he said, adding Nexstar is still interested in deals that create value. "It just has to be a much tighter window that we can participate in."

If there's any good to come out of this situation, CEO *Perry Sook* said there is a growing recognition on Capitol Hill from both sides of the aisle that the regulatory approval process may be broken. "That may lead to oversight that may lead to real reform, so we're hopeful there," he said.

There's been a lot of conversation about the future of sports rights as RSNs continue to decline, and Sook continues to believe that major opportunities in the space are going to come back to broadcasters in the near future. But Nexstar is also keeping an eye on programmers choosing to move valuable content away from pay TV schedules and towards streaming offerings.

NBCU has announced plans to stream one **NFL** wildcard playoff game exclusively on **Peacock** on Jan. 13, and Sook said any content that becomes less exclusive to Nexstar becomes less valuable over time.

"A playoff game on Peacock is certainly not helpful to the ecosystem and doesn't do any favors for us. So we've registered that point of view with *Mike Cavanagh* and *Mark Lazarus*, but they didn't need our permission and didn't call for advice," Sook said. "But we have made the point that less and less inclusivity is going to lead to less and less dollars from your franchisees, which are the affiliates."

He also has a meeting with **Disney** CEO *Bob Iger* scheduled for next week and he expects the two will talk about the rumors going around about when **ESPN** will go fully direct-to-consumer. "I think he has gone from traditional TV being at the precipice to saying wait a minute, traditional TV generates a lot of money and free cash that is funding my streaming ambitions right now," Sook said.

Nexstar would love to see a change that would allow local TV station group owners to negotiate carriage directly with vMVPDs for their affiliates. For now, it is standing its ground in negotiations when it comes to the financials and clearance for all of its **CW**, independent and **MyNetwork** stations.

"We, as the owner of the CW, are constructing a new affiliation agreement template that would allow affiliates to opt out of the CW deal with the virtual MVPDs and cut their own deal, or they could opt into the deal that we have already established for them," Sook said. "Negotiations are all about scale and leverage."

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RSNS STILL VALUABLE TO FUBO

The chatter surrounding RSNs recently has been mostly negative, but **Fubo** Co-founder/CEO *David Gandler* still views them as a valuable cog in the vMVPD's path to profitability. Gandler touted Fubo's offerings of RSNs as a differentiator from competing streamers while speaking at **J.P. Morgan's** Annual Global Technology, Media and Communications Conference Wednesday. Despite the talk about the downfall of RSNs, he thinks people are underestimating the value those networks bring. "When you look at DMA by DMA, the ranking of—I'll just use **ESPN** as the proxy for sports on national cable—you will find that in many of the designated market areas, ESPN actually performs worse than the local RSN," Gandler said. "We thought it was a very smart move to drive engagement, reduce some seasonality and [have] the largest baseball package in the United States." Fubo raised prices for all plans and increased its RSN fee after adding **Bally Sports** channels to its lineup in January, but the churn following that was "very modest." While some question a multichannel bundling model as more consumers migrate to DTC, Gandler believes the economics tell a different story when he looks at Fubo's carriage fees. "At the end of the day, we pay out. I think last year was just south of a billion dollars in fees. Despite everyone talking about the demise of bundling and all of that, we pay a tremendous amount of money," he said. "I don't think it's so easy to walk away from hundreds of millions of dollars a year when you're hemorrhaging money on the streaming side ... I don't think it's in anybody's interest to just have one YouTube TV."

CHARTER HAS SKINNY VIDEO, TOO

While **Comcast** made headlines for the launch of its [Now TV skinny streaming package](#) this week, **Charter** has already been in the market with some lighter video offerings. "People ask us this question a lot as to why we've had lower churn out of video than other video providers. And some of that has been that we're migrating customers into bundles that are consistent with what they actually want, which includes lighter packages. And those lighter packages have been really successful," CFO *Jessica Fischer* said at an investor conference Wednesday. Charter's slimmed-down offerings include Spectrum Choice, where Spectrum internet customers can select 15 cable channels of their choice for \$29.99/month. While Comcast's plan has 40 channels, Spectrum Choice customers can opt for channels not included in Now TV, such as **ESPN**, **CNN** and **Fox News**. Fischer echoed comments from CEO *Chris Winfrey* last week cautioning that some of that creative packaging is dependent on programmers providing flexibility and that the

The WHO and the WHY

CFX's spotlight on recent new hires & promotions



TAPAN

Dandnaik

SVP, OPERATIONS, PRODUCT STRATEGY AND CONSUMER EXPERIENCE

MEDIACOM

3 THINGS TO KNOW

- Tapan is no stranger at Mediacom, and his time at the company entered a new chapter with his promotion from SVP, Customer Service and Financial Operations to his new role. He'll be responsible for guiding Mediacom's field operating teams and overseeing the company's strategic direction for growth, product offerings and end-to-end user experiences.
- He's been with Mediacom since 2005 after entering the cable space in 2000 as a financial analyst for RCN Corp., which is now owned by Astound Broadband. At RCN he rose to Director, Corporate Initiatives and was responsible for the corporate sales team and residential sales strategy.
- Tapan's college journey spans three different countries. He received a Bachelor of Mechanical Engineering degree from L.D. College of Engineering in India in 1995. He then moved to the Land Down Under to attend the Australian Graduate School of Management from 1998-99 and received an MBA. While there, he participated in an exchange program with Indiana University.

greatest factor in video losses is the passing through of rate increases. "As the linear business shrinks, they try to pass through additional price increases and it's sort of a vicious cycle," she said. Perhaps most interesting were her hints to what Charter will offer with Comcast in their jv national streaming offering under the name **Xumo**. She noted how Comcast packaged Peacock Premium with the \$20/month Now TV product. "When you think about what we'll be able to do with something like Xumo, which is an integrated platform that will enable our customers to have sort of seamless access to our product as well as DTC products, I think there are opportunities to do those sorts of things in a more interesting way than maybe what we've done before," Fischer said.

SINCLAIR REORG APPROVED BY SHAREHOLDERS

Sinclair is officially reorganizing after stockholders approved the move in a special hearing held Wednesday. Sinclair, Inc. will become the publicly-traded parent of Sinclair Broadcast Group, including Sinclair Television Group and **Diamond Sports**, and

Sinclair Ventures, to hold real estate and private equity assets as well as **Compulse** and **Tennis Channel**. The reorganization is expected to close in 2023.

TIVO DRIVING UP IN BMWs

BMW is bringing more video options to its customers, partnering with **TiVo** to offer them access to linear and on-demand streaming offers. The Powered by TiVo platform in BMWs will include country-specific content across news and movies as well as access to media libraries. The video platform is expected to roll out over-the-air in a selected group of launch countries by the end of 2023 for customers of the BMW 5 series and further models.

AVID TELECOM SUED BY 48 STATES FOR ROBOCALLS

The nation is taking a stand against robocalls with 48 state AGs filing a lawsuit against one of the country's biggest offenders, **Avid Telecom**. The suit alleges that Avid Telecom, its owner *Michael Lansky* and Vice President *Stacey Reeves* violated the Telephone Consumer Protection Act, the Telemarketing Sales Rule and numerous other federal and state telemarketing and consumer laws. Avid Telecom used spoofed or invalid caller ID numbers in more than 7.5 billion calls to telephone numbers on the National Do Not Call Registry. More than 8.4 million of those calls appeared to be coming from government and law enforcement agencies or private companies. More than 90% of those calls lasted less than 15 seconds, a strong indicator they were robocalls.

GOOGLE CLOUD, QUICKPLAY EYE MIDDLE EAST BROADCASTERS

Google Cloud and **Quickplay** are collaborating to bring new digital opportunities for content providers, streaming services and broadcasters in the Middle East. The two will leverage Google Cloud's regional data center in Qatar to usher in solutions that help with the design, deployment and scaling of new cloud-native platforms—all with personalization features that enable cost-effective time to market and subscriber engagement and monetization.

'BRADY BUNCH' HOUSE FOR SALE

If you're on the market for a house and a fan of "The Brady Bunch," **HGTV** may have the perfect place for you for a listing price of \$5.5 million. The network has put the famous Brady Bunch house in L.A. on the market for immediate sale. HGTV renovated the home in 2019 as part of the "A Very Brady Renovation" series. HGTV put in \$1.9 million toward renovation, adding 2,000 square ft. and a second story to the property. The network plans to donate a portion of the sale's proceeds to provide up to 250,000 meals for the initiative Turn Up! Fight Hunger.

FIBER FRENZY

Mid-Atlantic provider **Lumos** is pledging more than \$50 million to bring its fiber optic internet service to Johnston and Harnett County, N.C. It's the company's fourth and fifth expansion in 2023, with engineering work set to begin this year. Lumos offers plans for up to 500 Mbps at \$50/month, up to 1 Gbps for \$70/month and up to 2 Gbps in select areas for \$100/month.

BOARD MOVES

Three new people were appointed to **ACA Connects'** board: *Paul Cronin*, CEO of **i3 Broadband**; *Robert DiNardo*, SVP, Market Expansion for **WOW!** and *Marty Carollo*, Strategic Partnership and Government Affairs Representative for **All West**. ACA Connects also tapped **NCTI** President/CEO *Stacey Slaughter* as an associate board member. All appointments are effective immediately. – The **Media Financial Management Association** named **Warner Bros. Discovery** EVP/CAO *Lori Locke* as the association's chair of the board for 2023-24. MFM also elected **Beasley Broadcast Group** CFO *Marie Tedesco* as vice chair, **Gearbox Entertainment** CFO *Jenna Hardy* as secretary and **Audacy** CAO/Controller *Beth Bramowski* as treasurer. Additionally, the association elected **NBCUniversal** VP, Technical Accounting *Stacy Alban*; **SymphonyAI Media** EVP/GM, Revenue Solutions *Karin Bleiler* and **Trilith Studios** CFO *Virginia Hernandez* to the board for three-year terms. – **BCAP** added two new members to its board. **Armstrong** VP, Regulatory Policy & Interconnection *Keith Hall* joins for a three-year term, and **Comcast** VP, State Government Affairs *Rob Omberg* will serve a one-year term. BCAP also re-elected four members of its board for three-year terms: *Michael Hain* of **Jackson Broadband**, *Jason Kershner* of **Charter**, *Elizabeth Murray* of Comcast and *Michael Starner* of **Service Electric Cable TV and Communications**.

PEOPLE

NCTA added two to its Government Relations team—*Mansoor Abdul Khadir*, Associate VP, External Affairs, and *Michael Pauls Jr.*, VP, Government Relations. Khadir previously was at the **Democratic National Committee** in several leadership roles, while Pauls joins from **USTelecom** where he served as Senior Director, Government Affairs.

AWARDS

The Alliance for Women in Media Foundation's 48th Annual Gracie Awards were Tuesday, and *Marlo Thomas* was recognized with the Lifetime Achievement Award for her work in the sitcom "That Girl." Thomas' character was the first time on TV that a show focused on an independent single woman. Other honorees of the night were *Ava DuVernay*, who won the Director – Drama award for her work on **OWN's** "Queen Sugar;" **ESPN's** "37 Words" in the Non-Fiction Entertainment category and **Showtime's** "We Need to Talk About Cosby," which won the Documentary – Investigative award.

Think about that for a minute...

case sensitive

Commentary by Steve Effros

I'm not talking about capital and lowercase passwords, I'm referring to the spate of cases that have been decided by the courts in the past week which will directly affect the communications business. The most important one being a decision by the Supreme Court not to get involved, at least not yet, in the difficult question of whether edge providers, like YouTube, Twitter and Facebook should be liable for the things folks put on their sites.

The communications law community was sort of holding its collective breath waiting for the Supremes to decide a pair of cases that could have given them the opportunity to jump right into the middle of the battles over "Section 230." That's the legal security blanket that currently protects platforms from liability for the speech of users, and also gives them latitude to restrict some speech on their platforms.

The cases had to do with claims that the platforms were, or should be held liable for allowing "terrorist" training, recruitment, radicalization, etc., which resulted in major terror attacks and killings. The arguments ranged from saying that Section 230 did not protect the companies from liability because they had the power to, and said they intended to, restrict such speech on their platforms, to suggesting that by allowing such speech to continue they were complicit in the terror attacks.

Several of the Supreme Court Justices have already said they have serious qualms about Section 230, and one of those was Justice Clarence Thomas, who was assigned to write the opinion. Fears or hopes abounded about the fate of Section 230, and the possible impact on the current business plan and structure of the internet. But the decision didn't deal with those issues at all. The Court ruled on a different issue, saying that there was insufficient linkage between the terror acts and the companies to consider them liable. The Court did not need to deal with Section 230 in this case.

But for how long? This was just the wrong set of cases, the Justices decided, to take on the significant issues surrounding recommendation algorithms, derivative liability, censorship and

the like. Congress should do that, which is not likely, so the "right" case will eventually come along and the Supremes could wind up deciding the fate of the current internet! That make you feel warm and fuzzy? Have you listened to them discuss the internet, broadband and all the other technical things they really have no clue about? We're going to do a lot of breath-holding I suspect.

Another case had to do with copyright infringement alleged over "derivative" works. There's a lot of complicated case law on this issue I can't go into here. Suffice it to say that courts are often asked to find a copyright violation when one author, singer, artist or whatever uses the work of another as the basis for their work. Of course that happens all the time. It's called "fair use." One artist learns, and uses the methodologies of another (think of AI!) But when does it become simply a "copy" of that earlier work? The Court went off in a seemingly new direction on this issue by focusing not on the work itself, but the purpose for which it was put.

In other words, Andy Warhol's painting of a magazine cover photograph of Prince normally would have been judged on whether it was "transformative" ..fair use. Was there significant artistic change? But in this case the Warhol painting then was used as a magazine cover itself. The original photographer, who was paid for the first cover, got nothing for the second. The Court looked at the commercial use rather than whether it was "transformative." The photographer won. How will this affect artists? At the very

least it makes it clear that these issues have now become case sensitive.



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