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WHAT THE INDUSTRY READS FIRST

Sidecar Sideshow: Nexstar, DirecTV Prepare for a Showdown

While **Nexstar** began warning late Thursday that **DirecTV** customers could soon lose its more than 200 stations, the writing has been on the wall since October that negotiations between the two were likely going to be bumpy.

October was when DirecTV [lost stations](#) from **White Knight Broadcasting** and **Mission Broadcasting**, broadcasters that have arrangements for Nexstar to handle much of the management of their stations. The stations remain dark on DirecTV today. Signs of trouble ratcheted up in March when DirecTV filed a [lawsuit](#) claiming that Nexstar is violating federal antitrust law by engaging in an illegal conspiracy with Mission and White Knight to manipulate, raise and fix prices of retransmission consent fees. Nexstar has dismissed the claims, saying its shared services agreements are fully in line with the law. It filed this week to dismiss the case, arguing that the lawsuit was a negotiating tactic by DirecTV in the current retrans consent talks.

Now, we wait. At our deadline, Nexstar's messaging was only on station websites. Crawls on stations tend to signal a more imminent threat. It's not clear exactly when the current contract expires, but if history is a guide, it's likely tonight or this weekend. In 2019, Nexstar stations went dark for two months on DirecTV beginning July 3. As per usual, each side is blaming the other for the impasse.

"Nexstar, the nation's largest broadcaster, is demanding to more than double the amount it charges our customers to

access approximately 200 local stations it owns or controls in more than 100 metro areas that serve 68% of U.S. TV households. Unfortunately, Nexstar has a long track record of demanding significantly higher fees from all pay TV operators and often forces providers to stop carrying their channels during negotiations," said a DirecTV statement that pledged to protect customers from unwarranted price increases.

Nexstar claims DirecTV has continuously proposed rates that are "well below" market rates offered to MVPDs who completed deals. "Nexstar has been negotiating tirelessly and in good faith to reach a mutually agreeable multi-year contract with DirecTV since May, offering them the same fair market rates we offered to other large distribution partners with whom we successfully completed negotiations over the last three years," Nexstar said.

Last year, the broadcaster completed agreements with more than 50 distribution partners, including **Comcast**. That deal wasn't without drama though—and once again, those shared services agreements were at the heart of it. Even before its retrans deals with Mission and Nexstar were expiring, Comcast filed a still-pending informal complaint in 2021 at the FCC arguing that Mission-owned WPIX should be attributed to Nexstar, which would put the broadcaster over the 39% national ownership cap. When Mission's retrans deal came up for expiration last December, Comcast lost WPIX. The operator blamed the blackout on Mission not granting it rights to continue carrying the station, though it reached a renewal to continue carrying the 17 other Mission stations. Instead,

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917.626.5574 or
ekamhi@accessintel.com

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Comcast said Nexstar wanted WPIX covered by its retransmission consent with Comcast.

The dispute resulted in Comcast filing a complaint at the FCC claiming that Nexstar and Mission failed to negotiate retrans consent in good faith. Shortly after filing the complaint, Comcast and Nexstar renewed their retrans deal and WPIX returned to Comcast's lineup. What was unusual though is that Comcast declined to withdraw either the good faith complaint or the informal complaint, which are still pending at the Commission.

Now, there's another informal complaint against Nexstar awaiting FCC action. DirecTV filed it Thursday evening after Nexstar began warning on its websites of potential station losses. DirecTV's complaint notes that **Charter** has also filed an informal complaint at the FCC arguing that WPIX should be attributed to Nexstar. "By assuming control of stations not its own, Nexstar can raise retransmission consent prices, evade the Commission's local ownership rules, and exceed Congress's national ownership cap. Everybody in the industry knows this. Every MVPD that negotiates with these sidecars believes that Nexstar controls them," DirecTV wrote in the complaint, which makes many of the same allegations as its federal lawsuit.

While it's not clear whether we'll see Nexstar stations go dark this weekend, it does seem obvious that MVPDs are on a mission to get federal regulators to examine its shared service agreements. Just last week, the MVPD group **American TV Alliance** opposed the sale of Detroit broadcast station WADL from **Adell Broadcasting** to Mission Broadcasting at the FCC, saying it highlights Nexstar's continued use of "sidecars" to evade television ownership rules and raise prices for consumers.

SCOTUS REFUSES TO TAKE ON DISH/DE CASE AGAINST FCC

The Supreme Court has declined a cert petition from **DISH** and its designated entities to review a decision that denied the provider access to spectrum auctioned by the **FCC** in 2014. In the AWS-3 auction, the FCC offered bidding credits to designated entities to offer more opportunities to small companies and new entrants. They had to demonstrate they are independent enterprises, but the Commission determined that DISH actually had de facto control of two designated entities that won bidding credits. The designated entities defaulted on 197 licenses equal to the bidding credit amount and the FCC fined DISH \$515 million. DISH and the designated entities sued, and the court remanded the issue back to the FCC. The agency stood by its decision, and this second round through the court system was DISH and the designated entities' last attempt to reverse the decision. As for what this means for DISH, the short answer is not a whole lot. "It has already paid

\$515 million, and it remains on the hook for any shortfall in a reauction of the licenses in question," **New Street Research** said in a note to clients. "For other carriers, this raises the prospects of a reauction of spectrum in the not-too-distant future. While the FCC currently does not have auction authority, it will likely have the authority restored in 2H23, and can reauction the spectrum any time after it regains auction authority."

LAYOFFS AGAIN AT ESPN

Another round of layoffs came down on **ESPN** on Friday morning, and it included a number of on-air talent as the programmer continues to cut costs. "Given the current environment, ESPN has determined it necessary to identify some additional cost savings in the area of public-facing commentator salaries, and that process has begun," the network said in a statement. "This exercise will include a small group of job cuts in the short-term and an ongoing focus on managing costs when we negotiate individual contract renewals in the months ahead." The statement went on to say the decisions were based "more on overall efficiency than merit." ESPN didn't specify who was being laid off, but according to the *NY Post*, the departures include **NBA** analyst and commentator *Jeff Van Gundy* and his studio co-host *Jalen Rose*, as well as *Max Kellerman*, who hosts the show "This Just In" and co-hosted ESPN's morning radio show with *Jay Williams* and *Keyshawn Johnson*—who's also reportedly exiting the company. ESPN announced it was axing the three's show last week. NFL Draft analyst *Todd McShay* and college basketball expert *LaPhonso Ellis* are also among those leaving. Some took to Twitter to confirm their departures, including NFL analyst *Suzy Kolber*, "SportsCenter" anchor *Ashley Brewer* and college basketball analyst and radio host *Jordan Cornette*.

TCA AWARDS

The **Television Critics Association** unveiled the nominees for the 39th TCA Awards, and **HBO/Max** led the way with a total of 20 nominations. A big reason for that is "Succession" and "The Last of Us" earning five nominations each, with "Barry," "The Other Two" and "The White Lotus" each also getting multiple nominations. **FX** was second among platforms in nominations as "The Bear" garnered five. Making their way into the awards again were a pair of free services: **Amazon Freevee** and **The Roku Channel**. The former had three nominations from "Jury Duty"—Outstanding Achievement in Reality, Outstanding New Program and *James Marsden* for Individual Achievement in Comedy—and the latter had "Weird: The Al Yankovic Story" be nominated for Outstanding Achievement in Movies, Miniseries or Specials.

AT THE COMMISSION

The **FCC's** rule requiring all IP-based voice service provider networks to implement STIR/SHAKEN goes into effect at the end of the day. Facilities-based small voice service providers and gateway providers that have not received an extension are under the gun to have the rules implemented. Intermediate providers that receive unauthenticated IP calls directly from domestic originating providers must implement STIR/SHAKEN by Dec. 31, and the FCC has opened a proceeding to consider ways to implement caller ID authentication on non-IP networks.

DIRECTV IN FOR SOCCER TOUR

DirecTV will be the presenting sponsor for the Soccer Champions Tour. The series will take place in the summer across the U.S. and feature six of the biggest soccer teams from Europe. It'll kick off July 22 and wrap up August 2. DirecTV will have integration into the primary and secondary logos and marks for the Tour, category exclusivity, inclusion in each of the broadcasts, in-stadium logo exposure and more. Next year's tour is expected to include high-profile women's clubs as well.

PROGRAMMING

MGM+ renewed the sci-fi horror series "From" for a 10-episode third season. The show is slated to return in 2024. - Season 4 of **Apple TV's** "Office Hours" will begin Friday. The season will feature leaders, entrepreneurs, celebrities and others as they share their insights on dealing with success and failure. Guests include **Alphabet** chairman *John Hennessy*, comedian *Dane Cook* and **ESPN** analyst *Adam Schefter*. - The 110th Tour de France will begin Saturday, and **NBC Sports** will have coverage of the race until its July 23 conclusion across **NBC, Peacock** and **USA**. Peacock will have start-to-finish coverage of every stage. Encore presentations can be viewed on USA Network at 2am. The race's final weekend will wrap July 23, with NBC broadcasting an encore of the final stage at 5pm.

EDITOR'S NOTE

Cablefax Daily will not publish July 3 and July 4 in observance of Independence Day. We'll cover any breaking news, including the latest on DirecTV-Nexstar, at **Cablefax.com**.

CABLEFAX DASHBOARD

Twitter Hits

Mike Soltys @esprnikes
45 years ago this week, the first story on the makings of ESPN (though much changed in coming weeks). The writer, Matt Buckler, continued to write for that paper thru our history.

By MATT BUCKLER
Staff Writer
PLAINVILLE — Cable television may be the place for over 150 hours of local sports programming starting this fall. The Entertainment and Sports Programming Network, an independent cable television production company, announced here Monday plans to televise up to 20 hours a week of both professional and amateur local sports programming.
Among the programs scheduled to begin in September are 12 state college football games and 24 state college basketball games. Also in the planning stage is the televising of the New England Whaler road games.
"We've had two exploratory meetings with the Whalers and we have a full-blown proposal in the works," said Ed Eagan, president of Cable Promotions. "We could be

Bob Thompson @britsports
Radio was going to kill print, tv was going to kill radio, cable/satellite was going to kill tv, and streaming is going to kill cable/satellite. See a pattern here? When it comes to media things are a lot harder to kill than people think. Regroup, retrench, and reimagine.

Jim Maiella @jimmaietta
This is pretty great and smart. @CTAM partners with @CommonSense to launch a "summer camp" area on its StreamSafety website to help parents and kids not only find non-pirated content sources, but the right movies and shows for a wide range of age groups.

Research

(Source: [FreeWheel State of TV Advertising Viewership Report](#))

- > 2/3 of advertisers say viewer experience is either "important" or "very important" when planning TV and video ad campaigns.
- > 34% of midroll ad breaks last longer than three minutes, and 24% of all streaming ad breaks last four minutes or longer. Live streams also tend to carry longer breaks than on-demand content.
- > 25% of ad avails are not filled on FAST resulting in an ad "timeout" or slate.
- > Only 54% of ad campaigns have frequency caps.

Up Ahead

- JULY 30-AUGUST 2:** [The Independent Show 2023](#); Minneapolis, MN
- AUGUST 7-8:** [C2HRCon](#), Brooklyn
- AUGUST 20-23:** [Fiber Connect 2023](#); Orlando
- SEPT 18-19:** [The WICT Network Leadership Conference](#); NYC
- SEPT 19-20:** [NAMIC 37th Annual Conference](#); NYC

Quotable

"The recent decision by the Supreme Court to end affirmative action in higher education marks a profound setback for the progress we have made toward creating a more equitable and inclusive society... Higher education institutions may become less reflective of the rich diversity that exists within our nation... This decision risks perpetuating cycles of inequality and limiting the social mobility of marginalized communities. However, in the face of this setback, NAMIC remains resolute in our commitment to our mission. We will continue to educate and advocate for multi-ethnic diversity in the media, entertainment and technology industries."

- **NAMIC President/CEO Shuanise Washington on the Supreme Court's ruling to end affirmative action**