

# Cablefax Daily™

WHAT THE INDUSTRY READS FIRST

## Quietly Dark: DirecTV, Nexstar Go to their Corners as Blackout Continues

The fireworks went off early this July 4 weekend, with **DirecTV** losing **Nexstar** stations on Sunday, July 2 at 7pm ET. While there were immediate dueling press releases from both sides, things are a lot quieter now as the two companies assess where things stand. It might get a bit noisier as we get closer to Tuesday's **MLB** All-Star Game on **Fox** with Nexstar the owner of 29 Fox affiliates, including stations in Denver, Cleveland, St. Louis and San Diego.

Fox will televise the 93rd MLB All-Star Game at 8pm ET on Fox, **Fox Deportes** and the **Fox Sports** app, so there are some alternatives to viewing the game. Sunday's blackout came during **NBC's** coverage of NASCAR's Grant Park 220 Cup Series race, with several angry racing fans taking to social media (nonetheless, NBC Sports said coverage of the first-ever Cup Series city street race from Chicago averaged 4.795 million viewers on NBC and **Peacock**, making it the most-watched NASCAR Cup Series race on NBC in six years).

All told, DirecTV has lost 200+ stations. That total includes Nexstar stations as well as stations owned by **White Knight Broadcasting** and **Mission Broadcasting**, which have been dark since October. Nexstar has shared services agreements with White Knight and Mission, which DirecTV claims really gives the broadcasters de facto control of the stations and is an antitrust violation. It has filed a lawsuit against Nexstar in federal court over the arrangements and on Thursday filed

an informal complaint at the **FCC**. Nexstar's press release put Sunday's blackout at 159 stations, with it declaring that it does not handle retransmission consent for Mission and White Knight.

This isn't the only retransmission consent blackout. White Knight and Mission have been dark on **DISH** since January of this year. It seems to be getting a bit confusing to keep up with it all. Mission-owned WPIX's website sends disgruntled viewers to a Nexstar link with information on switching providers, and it lists DISH as an alternative. Problem is DISH lost WPIX earlier this year. **Comcast** briefly lost WPIX in December, but it returned a few days later when it reached a renewal for Nexstar. However, the operator filed a complaint against Nexstar and Mission at the FCC claiming they failed to negotiate in good faith that is still pending.

MVPD-backed **American Television Alliance** is using the skirmish to once again call for reform to retrans rules. "Nexstar has exploited loopholes in the FCC's rules to exceed the 39% national cap and to own or control multiple top-4 ABC, CBS, NBC, and FOX local stations in 36 **Nielsen** DMAs, giving them increased leverage to try to raise prices above any justifiable market level," said ATVA spokesperson Cora Mandy. "DirecTV subscribers are paying the price for Nexstar's predatory behavior. The FCC must take action to end this predatory practice."

Nexstar has said it offered to extend the current distribution agreement with DirecTV to Oct. 31, adding that it's

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offering the same rates it has to other MVPDs. “Nexstar’s contract with DirecTV is four years old and out of date. They have benefitted during that time from paying below market rates to us even as they continued raising rates for their customers,” Nexstar said.

DirecTV claims the broadcaster wants it to pay more than double the previous fees for the same content and said this is the largest local TV outage ever. It has created a three-minute [video](#) about the dispute that includes a snip- per of Nexstar CEO *Perry Sook* describing retrans describing blackouts as par for the course during its 1Q23 earnings call. “Nexstar has a long track record of forcing program- ming outages in an effort to unnecessarily raise prices for everyone at the expense of the communities they are licensed and entrusted to serve,” *Rob Thun*, chief content officer of DirecTV, said in a statement.

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## RATINGS

**Fox News** is back at No. 1 in the weekly primetime ratings after **ESPN** took the top spot last week. Fox News had 1.41 million viewers P2+, but fellow news competitor **MSNBC** wasn’t far behind with 1.18 million. **ESPN** didn’t leave much space either with 1.01 million. **HGTV** and **INSP** rounded the prime top five with 785,000 and 768,000, respectively. For total day, Fox News remained at the top for another week at 1.08 million, followed by MSNBC (784,000), **CNN** (457,000) and HGTV (432,000). ESPN capped things at 427,000. – **Great American Family** finished 2Q23 strong thanks to a 190% YOY surge in total-day household ratings in June. For the whole quarter, GAF saw increases in total-day W25-54 (83%), households (214%) and total viewers (216%). Year-to-date, it’s had total-day YOY increases among households at 161% and total viewers with 158%. – The Orioles-Yankees game on **YES Network** averaged 467,000 total viewers, lifting it to be the most-viewed July 4th baseball telecast in the New York DMA in 13 years for broadcast or cable TV. The game peaked at 623,000 total viewers in the 3:45-4pm window and had seven consecutive quarter-hours with at least 500,000 total viewers. – **Warner Bros. Discovery** networks had three nights with 60% share of viewing among A18-49 across ad-supported cable nets in primetime over the course of 2Q23. That’s thanks to TNT’s coverage of the NBA Playoffs and the debuts of **Discovery’s** “Naked and Afraid: Last One Standing,” **Food Network’s** “Summer Baking Championship” and **ID’s** “The Curious Case of Natalia Grace.” Since March, WBD nets has had 16 nights with at least a 50% share among A18-49. WBD nets also

## The WHO and the WHY

CFX’s spotlight on recent new hires & promotions



JONATHAN

**Noah**

HEAD OF CONTENT PARTNERSHIPS AND DEVELOPMENT

LAW&CRIME

### 3 THINGS TO KNOW

- After spending a year leading BuzzFeed’s long-form video development and current series, Jonathan joined the team at Law&Crime. He’ll lead the charge in establishing new collaborations with the top true crime creators on YouTube and social media, while also working to expand the network’s slate of original programming.
- Jonathan arrives as part of Law&Crime’s effort to grow its production unit. Before BuzzFeed, he was at ViacomCBS Networks International for three years overseeing projects, working with multi-platform pitches and collaborating on programming strategies. Jonathan also made stops at CBS News, CNN and Game Show Network.
- He received his bachelor’s in media arts from the University of Arizona and minored in business. Jonathan also studied abroad at the University of Cape Town in South Africa, where he participated in the scuba diving club.

garnered an average of 131 million total viewers each month during the quarter.

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## PRESIDENT NOMINATES TWO REPUBLICANS FOR FTC

President *Biden* nominated *Andrew Ferguson* and *Melissa Holyoak* to serve on the **FTC**. If confirmed by the Senate, the agency would have a 3-2 Democratic majority. The FTC’s sole Republican, *Christine Wilson*, resigned earlier this year after sharply criticizing Chair *Lina Khan*. Last month, the **House Committee on Oversight and Accountability** opened an investigation into Khan’s leadership, including conduct regarding **Meta’s** merger with **Within Unlimited**. Ferguson is Solicitor General of the Commonwealth of Virginia and previously served as Chief Counsel to Senate Republican Leader *Mitch McConnell* from 2019 until 2021. Holyoak currently serves as the Utah Solicitor General with the Utah Attorney General’s Office. Before that, she was President and General Counsel of **Hamilton Lincoln Law Institute**, a D.C.-based public interest firm representing consumers challenging unfair class actions and regulatory overreach. Khan congratulated both on their nominations, saying the agency works best at “full strength.”

## AT THE COMMISSION

The **FCC** has opened the filing window for facilities-based broadband service providers to submit broadband availability and other data as of June 30, 2023. Such entities, as well as providers of fixed voice services, must also submit the subscription data as of June 30, 2023 required under Form 477 in the BDC system. The deadline to submit data is Sept. 1, although the agency is encouraging filers to submit data as early as possible to address any problems with their data identified by the BDC system in time to make any necessary corrections in advance of the deadline.

## BALLY SPORTS WATCH

**Diamond Sports** made payments over the weekend to keep the Minnesota Twins on **Bally Sports**. It also made a payment Saturday for Cleveland Guardians games, [according](#) to *Crain's Cleveland Business Report*, though reportedly it is a month-to-month deal so the drama's not over. On deck is a July 17 hearing regarding the Arizona Diamondbacks with the two currently negotiating a way to keep the games on Bally Sports Arizona.

## RACIN' RATINGS

Sunday's **NASCAR** race had a different look as the drivers took to the streets of Chicago, and the ratings proved strong even with a weather delay. The race averaged a total audience delivery of 4.8 million viewers across **NBC** and **Peacock**, according to **Nielsen**. It was the most-streamed NASCAR Cup Series race in **NBC Sports** history with 163,5000 viewers watching on Peacock and NBC Sports digital platforms. It was also the most-watched Cup Series race on any network since the Daytona 500 on February 19 (on Fox) and is projected to be the most-watched sporting event from the weekend. Through two races, NBC Sports' coverage of the Cup Series is averaging a TAD of 4.01 million viewers, its best start since 2017. – Sunday also had the **Formula 1** Austrian Grand Prix on **ESPN**. It averaged 1.09 million viewers, which was the largest audience ever in the U.S. for the race and beat last year's mark of 1.07 million viewers. The broadcast peaked at 1.2 million viewers from 9:15-9:30am. F1 races currently average 1.26 million viewers across **ESPN**, **ESPN2** and **ABC**—a 4% improvement from last year's full season (1.21 million).

## CARRIAGE

**ViX** signed a multi-year agreement with **All Elite Wrestling** to put AEW premium matches and entertainment on the Spanish-language platform. It'll be available to subscribers in Mexico as well as select countries in Latin America and the Caribbean. AEW has three headline programs: "AEW: Dynamite" on Wednesdays at 8pm, "AEW: Rampage" on Fridays at 10pm and "AEW: Collision" on Saturdays at 8pm.

– After **DirecTV** and the **NFL** signed a multi-year agreement for the MVPD to continue carrying **NFL Network**, DirecTV Stream will be adding the network to its lineup July 17. It'll be part of the platform's Sports Pack which currently runs at \$14.99/month.

## ASK JASSY

**Amazon** CEO **Andy Jassy** will give an exclusive interview during **CNBC's** "Closing Bell: Overtime" on Thursday at 4pm. While **CNBC's** *Jon Fortt* is sure to pepper him with questions about the upcoming Prime Day and labor issues, we hope he'll also ask him about Amazon's video strategy given this [report](#) from *Bloomberg*. Citing people familiar with the matter, *Bloomberg* reports Jassy has asked executives for "detailed budget analyses" of how Amazon's Hollywood studio spends on original programming. It comes as Amazon tries to streamline its budget across the entire company and plans to cut at least 27,000 jobs. While the company has released several series like "Daisy Jones & the Six," "The Power," "Dead Ringers" and others over the past nine months, none of them made it to **Nielsen's** 10 most-watched streaming programs in the U.S.—despite each costing over \$100 million to produce.

## PROGRAMMING

July 22 is the National Day of the Cowboy, and **INSP** is celebrating with a special programming event "Top of the Hat: National Day of the Cowboy Event." Additionally, the network will have daily social media giveaways from July 18-22. Some of the prizes include a 60-inch 4K Smart TV, gift cards, a *John Wayne*-inspired gift pack and cookware. – Next up on the golf circuit is the U.S. Women's Open. From Thursday-Sunday, **NBC**, **Peacock** and **USA** will combine to broadcast the event, with the broadcast net having a record 12 hours of coverage during the weekend. Thursday and Friday will see coverage begin at 4pm on Peacock before switching to USA from 6-11pm. On Saturday and Sunday, NBC and Peacock will go live from Pebble Beach from 3-9pm. On the men's side, the **PGA Tour's** John Deere Classic will take place this weekend. Coverage will begin Thursday at 4pm on Peacock and **Golf Channel** and run until 7pm. Then on Saturday and Sunday, coverage will begin at 1pm and wrap up at 3pm. – "Untitled: The Noah Lyles Project" will premiere later this summer on **Peacock**. The two-part docuseries will follow Lyles as he gets ready for the 2024 Olympic Games in Paris. – **Spectrum News** is bringing back its weekly game show "Spectrum News Challenge" for a second season. The program returns July 12 at 8:30pm as high school students and their teams test their knowledge for the chance to win \$15,000. – **Apple TV+** canceled the comedy series "High Desert" after one season. – "Sex Education" will have its fourth and final season premiere Sept. 21 on **Netflix**.



# Think about that for a minute...

## Who's In Charge?

Commentary by Steve Effros

OK, I was going to write about a whole lot of other stuff including journalism standards, or lack thereof these days and the almost absurd level we have reached in the "paradox of choice" presented by all the new "FAST" (free, advertiser supported television) channels that are overrunning us. But late yesterday a lower federal court judge in Louisiana issued a decision that is so radical I can't ignore it.

This judge, who has also ruled against the current administration with respect to vaccine requirements and overturned efforts to limit federal oil and gas drilling leases, has now essentially told the federal government that it cannot communicate with social media companies or some private researchers of misinformation online for "the purpose of urging, encouraging, pressuring, or inducing in any manner the removal, deletion, suppression, or reduction of content containing protected free speech."

This, allegedly, is designed to protect the ability of the States of Louisiana and Alabama to get unfettered access to "free speech" information online. Presumably this type of thinking, that the government can't talk to communicators about such things as sex trafficking or health risks or just about anything else that is not within the ambit of national security or is prima facie illegal guarantees "free speech." The underlying premise of the conservative proponents of this suit is that conservative thought has been hampered online (like unproved vaccine misinformation) and this is a major, almost earth-shattering violation by the government of the First Amendment.

The judge suggests that "...the present case arguably involves the most massive attack against free speech in United States' history." Pardon me, but this is just nonsense and I seriously doubt the judge's injunction against the government talking about these things, even if it does result in some social media sites deciding they don't want that information on their platforms is going to last terribly long. One wonders if this judge was aware of something called the "Fairness Doctrine" as it applied for many years in television, or the constant efforts by any government to talk with curators, not only online, but

in the printed media or television about their views of what is accurate, what is not, what should be said and what shouldn't.

It might be instructive for the judge to go through the recent record in the Dominion voting machine case against Fox News to see that there was almost constant discussion between the former administration and that major news outlet about what they would like, or not like, said. Would that not, too, be a dumpster fire regarding the First Amendment? In either case the government did not require the social media site or Fox News to actually say or do anything. The administration expressed its opinions, its views, and unlike the old "Fairness Doctrine" there is no evidence of threat by the government to do anything to the speakers or editors if they did not do what was discussed.

In any event, this is a very clear instance of what has now become the norm; forum shopping for specific judges to achieve specific policy (not really legally based, in most cases) decisions that can then be pushed "up the line" with the objective of eventually getting to a conservative Supreme Court.

I doubt it's going to work in this case, because there is little if any evidence here that the "speakers" could not speak. They did and still do. Maybe some editors, after hearing from various "sides," including the government, decided to either limit some speakers or promote others. That's what editors and curators do. It's also not, in my view, the point of the First Amendment to suggest that the government or its agencies, including those responsible for health and safety, are not allowed to speak! In those areas they are, after all, in charge.



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*(Steve Effros was President of CATA for 23 years and is now an advisor and consultant to the cable industry. His views do not necessarily reflect the views of Cablefax.)*

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