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WHAT THE INDUSTRY READS FIRST

Tick Tock: All Eyes on Senate for Floor Vote on FCC Nominees

With the August recess looming, Wednesday was a big day on the Hill for tackling communications issues before the break. **Senate Commerce** quickly voted to approve **Biden's FCC** nominations, but it's less certain that the full Senate will move as fast.

One thought is that the chamber may try to pair the FCC nominations with the two Republican **FTC** nominees. That would likely push a confirmation vote past August since the FTC noms aren't as far along. Biden only nominated Virginia Solicitor General **Andrew Ferguson** and Utah Solicitor General **Melissa Holyoak** to the agency on July 3, with their nominations only referred to Senate Commerce on July 11. Even without such a pairing, finding floor time during these jam-packed weeks before the recess could be tough. And while Wednesday's Commerce vote was quick, it certainly wasn't unanimous.

Ranking Member **Ted Cruz** (R-TX) said he isn't confident Gomez possesses the "independence and the regulatory humility" necessary for confirmation. "She has refused to disavow heavy handed net neutrality rules, despite privately confessing that Democrats had engaged in hyperbole in opposing the repeal of the Title II classification," he said. "But most of all, I am troubled by her previous online posts concerning the use of government power to police so called disinformation. At this point, it's well known that the Biden administration has repeatedly trampled on first the First Amendment to try to

silence opposing views... Unfortunately, based on her vague answers, to my questions for the record, I am not confident that Ms. Gomez would actively oppose censorship by the FCC."

Cruz voted to re-confirm Republican Commissioner **Brendan Carr** for another term, but opposed doing the same for Democratic Commissioner **Geoffrey Starks**, citing the failed **Standard General-TEGNA** transaction and his views regarding subsidies. "During his four-and-a-half years at the FCC, he's developed a record that leaves much to be desired. He stayed silent when the FCC Chairwoman abused the agency's process to kill a major multibillion dollar broadcast transaction. He claims to be tough on waste, fraud and abuse, but he is opposed to key recommendations to reduce fraud in the Affordable Connectivity Program—apparently because he doesn't want to bar illegal aliens from receiving taxpayer funded subsidies."

Several of Cruz's Republican colleagues joined him in voting against the two Dems in a voice vote, however a few, including Sen. **Dan Sullivan** (R-AK), voted only against Gomez. Two Democrats, Sens **Ed Markey** (D-MA) and **Tammy Duckworth** (D-IL), voted against confirming Carr. FCC Inspector General nominee **Fara Damelin** was also approved by the Committee, with Cruz voicing his support.

Assuming Gomez is approved by the full Senate, the FCC would have five commissioners for the first time since Biden was elected president. Senate Commerce Chair **Maria Cantwell** (D-WA) kicked off the hearing by declaring that the FCC impacts

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nearly every part of Americans lives as well as the domestic economy.

“Whether the agency is focused on improving wireless communications, ensuring robust broadband deployment, reviewing the media marketplace or protecting the nation from foreign threats, the FCC’s oversight ensures that today’s hyper-connected environment works for consumers,” she said. “The impact of the FCC is obvious in my state. The FCC’s broadband maps will direct where Bipartisan Infrastructure investments in broadband will be spent. And, in my opinion, more needs to be done on our broadband mapping.”

Group anxious to see the FCC readdress its rules on net neutrality wasted no time asking the Senate to vote on the nominees. “Consumers deserve a fully functioning FCC that can ensure people that they have access to the essential communications technology of our time: broadband. That broadband access must be open and free of gatekeepers, secure, reliable, affordable, and available to everyone,” **Public Knowledge** President/CEO *Chris Lewis* said in a statement. “The only way to achieve that is to empower the FCC with the authority to protect consumers over broadband providers and to fully staff it with five commissioners. This is an important step by policymakers to show an urgency to match the demands of the public to meet these expectations.”

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FCC CHAIR PROPOSES INDY PROGRAMMING NPRM

Independent programmers rejoice! The **FCC** chair has circulated a Notice of Proposed Rulemaking that would initiate a proceeding to understand the “challenges related to distribution and supply in this market, especially as it relates to independent programming.” The item, if adopted by the full Commission, would seek comment on the obstacles faced by independent programmers seeking MVPD and carriage on streaming platforms, how this impacts consumers, and the action the Commission may take to alleviate such obstacles. The [issue](#) was front and center during FCC nominee *Anna Gomez’s* **Senate Commerce** confirmation hearing last month, with committee Chair *Maria Cantwell* (D-WA) urging the agency to refresh its proceeding on vMVPDs and their growing presence in the marketplace while linear video declines.

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MAX LEADS EMMY NOMS AGAIN

It was **Max’s** time to shine as the nominations for the 2023 Emmy Awards were unveiled Wednesday. It led the way with 127, beating out the likes of **Netflix** with 103 and **Hulu** with 42 (64 if you include **FX** shows). The overall top three nominated shows belong to Max, with “Succession” getting 27 and “The Last of

The WHO and the WHY

CFX’s spotlight on recent new hires & promotions



DAN Sormaz
SVP, DESIGN
FUBO

3 THINGS TO KNOW

- Dan joins Fubo as the vMVPD continues its pursuit of making its experience for consumers more intuitive and personalized, and he’s bringing two decades’ worth of background in that area. Dan will be based in Fubo’s HQ in NYC and report to Chief Product Officer Mike Berkley.
- His new role will have him oversee the design organization that’s responsible for how Fubo customers interact with its live TV streaming products. Dan was VP, Design for Sorare—a digital collectibles/fantasy sports Web3 startup—before joining Fubo, where he helped usher in partnerships with major leagues like the NBA, MLB and Premier League.
- Dan was at Spotify for 10 years, culminating in him becoming VP, Design in 2016. He led design for the music service’s recommendations organization, which created features like Spotify’s home feed, AI DJ and personalized playlists. Other stops Dan has made include AOL, News Corporation (which launched the first daily publication on the iPad) and Boxee.

Us” receiving 24 and “The White Lotus” nabbing 23. Succession also led Max’s nominations last year with 25. The bulk of Netflix’s nominations came from “Beef” (13), “Dahmer – Monster: The Jeffrey Dahmer Story” (13) and “Wednesday” (12). Other shows scoring multiple noms include **Apple TV’s** “Ted Lasso” (21), **Amazon’s** “The Marvelous Mrs. Maisel” (14), **FX’s** “The Bear” (13), **AMC Network’s** “Better Call Saul” (7), **MTV’s** “RuPaul’s Drag Race” (7). Overall, Apple TV+ had 54 nominations. Also continuing to make its mark is **Roku Channel**, which after breaking into the Emmy world last year grabbed 12 nominations this time around. It’s an interesting time as these honors begin to roll out, though. After the **Writers Guild of America** went on strike in May, the **Screen Actors Guild-American Federation of Television and Radio Artists** could be joining them once the clock strikes midnight tonight. SAG-AFTRA agreed to a request for federal mediation, but if the two sides can’t agree by tonight’s deadline, it could spell even more trouble for TV shows.

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TWO MORE YEARS FOR IGER

Bob Iger will continue to serve as CEO of **The Walt Disney Company** through Dec. 31, 2026. The board voted unanimously to extend his contract by two years. Iger returned to the company

in November of 2022 after serving as CEO and Chairman from 2005 to 2020, and then as Executive Chairman and Chairman of the board through 2021.

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ON THE HILL

House Commerce's Communications Subcommittee marked up several bipartisan bills Wednesday that will reauthorize **NTIA** and ensure it oversees areas around spectrum management and AI, not to mention the \$65 billion in broadband investments that are part of the Infrastructure Law. Among the legislation approved is a bill that elevates NTIA's leadership by making its Administrator position an Under Secretary of the agency. "Taking these important steps will better reflect NTIA's importance in being the agency that serves as the President's primary advisor on telecommunications and technology policy," said Ranking Member *Frank Pallone* (D-NJ). Subcommittee Chair *Bob Latta* (R-OH) also celebrated the committee's measures that would have NTIA draft a National Strategy to close the digital divide, conduct a cybersecurity literacy campaign, provide technical assistance for OpenRAN networks and improve the coordination of federal spectrum efforts.

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RATINGS

Despite the ongoing bankruptcy situation with **Bally Sports'** parent company **Diamond Sports Group**, some RSNs are still having healthy ratings. **Bally Sports South** and **Bally Sports Southeast** had YOY increases for household TV ratings and the Bally Sports streaming app for coverage of the Atlanta Braves during the first half of this year's **MLB** season. Braves telecasts' household ratings have improved 18% YOY, with 55 of 79 telecasts being ranked No. 1 in their timeslot in the Atlanta market. Through the 79 games, the two networks have reached more than 6.6 million linear impressions. The Bally Sports app has had nearly 275,000 unique users for the season, a 109% spike from last season.

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FORMER FOX EXEC'S VOICE FOX NEWS 'DISAPPOINTMENT'

Former **Fox** Beltway lobbyist *Preston Padden* isn't stopping his drumbeat against **Fox News**. He's penned a [blog](#) on his website that says he and former Fox execs *Ken Solomon* and *Bill Reyner* "wish to express their deep disappointment for helping to give birth to Fox Broadcasting Company and Fox Television that came to include **Fox News Channel**." Ouch. Padden's been increasingly outspoken on Fox News 2020 election coverage (his email exchange with *Rupert Murdoch* is part of documents in the **Dominion Voting Systems** case). He's a supporter of **Media and Democracy's** [petition](#) to deny Fox's broadcast license for Philadelphia station WTXF, alleging that senior management of Fox Corp. manipulated its audience by knowingly broadcasting false news about the 2020 election. "We never envisioned, and would not knowingly have enabled, the disinformation machine that, in our opinion, Fox has

become," the blog said. "Many other veterans of the historic effort in the 1990s to break the strangle hold of the Big 3 Networks and to build a fourth competitive force in American television share our resentment that the reputation of the Fox brand we helped to build has been ruined by false news." None of the three ever worked for Fox News Channel, but they helped Fox create a fourth broadcast network to compete with **ABC**, **CBS** and **NBC**, with Fox News launching in 1996. Reyner was lead outside Counsel for NewsCorp/Fox/*Rupert Murdoch*, while Solomon was EVP, Network Distribution for Fox Broadcasting Company. Fox Television Stations has called the MAD petition frivolous and completely without merit. Fox News reached a \$787.5 million settlement with Dominion in April, issuing a statement that said it acknowledged the Court's rulings finding certain claims about Dominion to be false and that the settlement reflects Fox's continued commitment to the highest journalistic standards.

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ROKU, FREEWHEEL TEAM UP

Roku and **Comcast's FreeWheel** entered a partnership to introduce a suite of solutions for TV advertisers and publishers. The two will create new technological offerings that seek to simplify and enhance TV streaming. Roku has integrated its demand application programming interface with FreeWheel's platform, giving publishers direct, automatic and real-time access to advertiser demand. Publishers can also use Roku platform signals to let advertisers target audiences and measure campaign performance without the need for cookies. Additionally, FreeWheel will use Roku's watermark solution to prevent sophisticated invalid traffic/fraud in TV streaming.

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REDBOX ADDING TIKTOK TO KIOSKS

Redbox and its advertising platform **Crackle Connex** are making enhancements to Redbox screens across the U.S. following a deal with **TikTok**. The social media platform will provide top content that'll be featured on more than 3,000 video screens on the Redbox kiosks. Brands will be able to advertise alongside those videos.

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FIBER FRENZY

Breezeline has finished the cutover of a network that was previously part of **WOW!**'s infrastructure in Columbus and Cleveland. The move will help Breezeline improve network capacity in Ohio, which has jumped from 500 Gigs to 1,200 Gigs. Breezeline originally purchased WOW!'s systems in the two cities in September 2021, helping the company eclipse 700,000 homes and businesses in the Buckeye State. – **Lumos** launched service in Burlington, North Carolina after a significant investment from the company as well as grant funding from the state's GREAT program. Internet plans start at \$50/month for up to 500 Mbps, or customers could get up to 1 Gig for \$70/month or up to 2 Gigs for \$100/month.

Think about that for a minute...

Tiny Slices

Commentary by Steve Effros

A long, long time ago, when I was the head of one of the national trade associations of cable operators at the time cable was very much in its ascendancy, I would get lots of calls from folks who had a “great new channel idea.” The questions would then start about how to “get to the operators,” who the “right” people were to talk to, and, oh, how much do you think it will cost to start such a channel.

In most cases, they had little or no idea of what was really going on. I had been in constant touch with most of the major programmers as well as my cable operator members. I knew the challenges, so I thought it only fair to share some of that reality with my callers.

I distinctly remember the call I had with a woman who was extremely excited about her idea for the “Horse Channel.” The excitement was tempered somewhat when I informed her that most of the successful programmers in my association estimated that it cost anywhere from \$40 to \$50 million to get a new channel off the ground. And that was over 30 years ago.

Of course, there’s the cost of the programming itself. That she knew about. But she had no idea about the promotional costs of both getting the channel launched and carried on cable systems and, of course, that couldn’t happen until she could show there was a serious audience sufficient to support ongoing advertising income. Which, in turn, meant costs for developing the advertiser base as well as costs to try to promote the channel to the public so that there was positive feedback the operators could get to induce them to carry the channel.

Needless to say, that particular wishful entrepreneur rode off into the sunset and was never heard from again. But the underlying story is important because I think we are seeing, once again, a surge of program ideas and channels with very little actuarial support suggesting that they can be financially self-sustaining.

Now granted, we are in a very different situation. When the horse lady called me, cable operators had limited channel capacity. There was significant competition to get channels

carried on the “basic tier” of cable, the only one advertisers were really interested in (we’ll leave the sports anomaly out of this at the moment.) Today, with streaming services, the pie is much larger. With the norm of virtually unlimited capacity to offer “on demand” programming, whether via subscription, advertising or both, the challenge of getting your channel “carried” is very different.

Given all the new “FAST” (free, advertiser supported television) channels being announced as add-ons to the subscription services offered by the likes of Amazon, Netflix and Peacock, it’s not a matter of channel scarcity, it’s a matter of channel glut.

But that leads to its own, obvious problem; how are all these channels going to sustain sufficient audiences to attract advertising that will at least cover the costs, let alone make a reasonable profit? I don’t think a lot of them will. One subscription group is saying they are adding 60 to 80 channels. Another suggests an extra 100! And while the programming may already be “in the can,” meaning it is part of an already-owned library, that doesn’t deal with the promotional costs of being noticed and ultimately watched enough to attract advertisers! Despite the change in circumstances, the challenges are still there, and I don’t think the math is.

I’ll go on a rant in another column about the impossibility of an average person figuring out what, where and how to watch with this plethora of choices. But one thing is already clear; while the distribution pie may be larger, for most, the slices are getting very thin.



Steve

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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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