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Cablefax Daily™

WHAT THE INDUSTRY READS FIRST

## ATSC Oh No: LG Exiting NEXTGEN TV a Sign of Larger Patent Issue

ATSC 3.0, or NEXTGEN TV, has been broadcast television's next big thing for several years now, but it is becoming harder for device manufacturers to integrate the standard's 4K tuners into their products.

**LG** told the **FCC** in a letter earlier this month that it is suspending the inclusion of ATSC 3.0 compatibility in its 2024 television lineup for the U.S. The reason isn't tied to any supply chain concern or anything else material, but because of the "challenging and uncertain patent landscape" surrounding ATSC 3.0.

"This decision was not made lightly, because LG has been a vocal ATSC 3.0 advocate, a strong supporter of local broadcasters and a leading developer of television products with the latest NEXTGEN TV technologies," LG said. "Going forward, LG will, of course, continue to monitor the patent landscape and its effect on LG's own product roadmap and overall industry dynamics."

The licensing of ATSC 3.0 technology is more complicated than one might imagine because many of the standard essential patents tied to it are held by private companies. In 2017, when the FCC adopted the Report and Order opening the door for the ATSC 3.0 transition, the agency did not adopt any requirements that patents relevant to the ATSC 3.0 standard be licensed on a reasonable and non-discriminatory basis. Now product developers and manufacturers are finding it difficult to evaluate and acquire the necessary licenses for standard essential patents.

In LG's case, it recently lost a court battle from **Constellation Designs**, one of the holders of patents tied to ATSC 3.0 technology. In July, LG was ordered by a court to pay $1.68 million to Constellation Designs for previously infringing four contested patents. The verdict represents $6.75 per unit for each LG product sold by that date that included the infringed technology.

**NCTA** said in its own comments to the Commission that by not adopting reasonable requirements for access to patents tied to ATSC 3.0 technology, it moved away from its historical practice of ensuring that the adoption of a privately-developed standard does not result in unfair windfalls to patent owners and higher costs for consumers. It believes now is the time for the FCC to rethink its previous decision and act to provide needed protection against unfair exploitation of patent rights. The association also said the agency should examine other ATSC 3.0 licensing regimes that could significantly impact consumers.

"The 3.0 equipment ecosystem is complex, particularly for manufacturers of consumer devices such as 3.0-compliant TVs and converters. SEP licensing is just one of the hurdles that consumer device manufacturers must clear to sell a product that enables consumers to view 3.0 programming," NCTA said. "The Commission's intention to ensure a smooth transition requires that licensing and technical concerns regarding 3.0 equipment not be allowed to impede consumers' access to broadcast programming."

## LAST GASP FOR DIAMOND SPORTS

The clock is ticking for **Diamond Sports Group** and the **Bally Sports** RSNs. After getting an extension through Saturday to iron out its restructuring plan with creditors, a *NY Post* report revealed Diamond offered to cut the fees to both the **NBA** and **NHL** by up to 20% ahead of their upcoming 2023-24 seasons. Diamond—which holds the rights to 15 NBA franchises—pays the NBA around $600 million/year for those rights, while the NHL's payment for the 12 teams it holds is undisclosed. The report states both leagues are "leaning toward accepting" the offer. It's known the NBA is ready to step in and take over broadcast duties in a similar fashion **MLB** has with the Arizona Diamondbacks and San Diego Padres, but it's unclear what the NHL's plan is if rights payments to teams aren't made. Another side of the Diamond equation is its carriage deals with **Comcast** and **DirecTV**. Comcast and Diamond are still in contract negotiations, but the Post's sources as well as *Cablefax's* indicate a deal has been made in principle for about a year. As for DirecTV, which has its Diamond carriage agreement set to expire next month, it reached similar terms as Comcast. "We will continue to deliver these channels under our existing agreement, and will work with Bally's and the MLB, NBA and NHL to ensure fans who want to watch will be able to do so," a DirecTV spokesperson told ***CFX***.

## COURT ASKS FCC FOR 2018 BROADCAST OWNERSHIP REVIEW

**NAB** scored a victory in the DC Court of Appeals, which ordered Thursday that if the **FCC** hasn't completed the 2018 quadrennial review within 90 days, it must show cause for why NAB's petition shouldn't be granted. NAB filed a petition of mandamus in April, asking the court to require the agency to quickly complete the 2018 review of broadcast ownership rules. It filed the petition after the FCC ignored its request that the Commission pause its 2022 review of broadcast media ownership rules and expeditiously release its 2018 quadrennial regulatory review. "NAB applauds the Court for recognizing the vital importance of the FCC completing its long overdue 2018 quadrennial review. Today, broadcasters' service to communities across the country is imperiled by the Commission's failure to modernize its decades-old media ownership rules," NAB CEO *Curtis LeGeyt* said in a statement. "This ruling is an important step to compel a review that the record makes clear is necessary to allow local broadcasters to more fairly compete and deliver our trusted, locally-focused programming in a transformed media marketplace." The Commission hasn't completed a review since 2017 and it has long struggled to finish them in a timely fashion. In the last 15 years, it has only completed one ownership review.

## FCC WORRIED ABOUT LACK OF ACP COMPLIANCE

The **FCC** Office of Inspector General Thursday announced that a major participant in the ACP program had voluntarily repaid $49.4 million that it improperly claimed between June 2021 and July 2022. It did not specify which provider had made the claims. 90%, or $44.5 million, of hte improper claims disclosed by the provider were tied to low-income households that were not using the service. The provider also repaid $2.6 million for improper enrollments associated with the National School Lunch Program's Community Eligibility Provision and $2.3 million for claims tied to other compliance issues. The start of the false claims can be traced back to the Emergency Broabdand Benefit Program, ACP's predecessor. Moving forward, the Office of Inspector General warned that program data indicates that dozens of ACP providers are likely not complying with FCC usage and de-enrollments rules. It is asking all providers participating in the program to look at their usage monitoring procedures, fully disclose any deficiencies to the FCC and promptly repay any improperly claimed funds. Any suspected offenders that do not come forward will be subject to investigation.

## AMC+ GETS AD TIER

**AMC Networks** is implementing an ad-supported tier of **AMC+** for $4.99/month. It'll initially be available on AMCN's DTC platform and apps before expanding to third-party platforms and channels in the coming weeks. The tier's ad load will come at less than five minutes per hour. No changes will be made to AMC+'s ad-free tier price of $8.99/month or $83.88/year.

## RATINGS

The second Republican presidential primary debate was the most-watched program across linear TV, digital and streaming Wednesday. The event averaged 9.5 million total viewers and 1.89 million A25-54 across **Fox News**, **Fox Business** and **Univision**. Fox Business' broadcast averaged 1.82 million viewers and 411,000 A25-54, making it the network's highest-rated telecast since 2016. Fox News' simulcast had 6.69 million viewers and

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1.21 million A25-54, while Univision accounted for 813,000 viewers and 265,000 A25-54. – The "late-late" night program of "SportsCenter" with *Scott Van Pelt* averaged 763,000 viewers on **ESPN** during the month of September, good for a 14% improvement compared to September 2022. Highlights include 2.2 million viewers after the Bills vs Jets Monday Night Football game on September 11 and 2.3 million viewers from Monday following the Rams vs Bengals. The 1am edition of the show averaged 443,000 viewers in September—up 33% YOY.

## FIBER FRENZY

**GCI** is nearing the completion of construction in Sand Point and King Cove, Alaska. The company expects on-the-ground work to be completed by the end of October. GCI will then put the finishing touches on launching 2.5 Gig service by the end of 2023. Once available to customers, Sand Point and King Cove will be the second and third communities to get urban-level speeds as part of GCI's Aleutians Fiber Project. – **Metronet**'s fiber internet is now available to residents and businesses in its initial construction areas in Havelock, N.C. Customers can access multi-gig speeds of up to 2 Gbps, with businesses getting up to 10 Gbps.

## INSP'S AI GENERAL STORE

**INSP** is turning to artificial intelligence with its new merchandise shop. The network opened the INSP General Store, a virtual storefront that uses AI to take traditional elements of a general store and turn it into a Western-themed online experience "at a fraction of the traditional start-up cost." It comes with branded merchandise, show memorabilia and clothing made by the INSP design team.

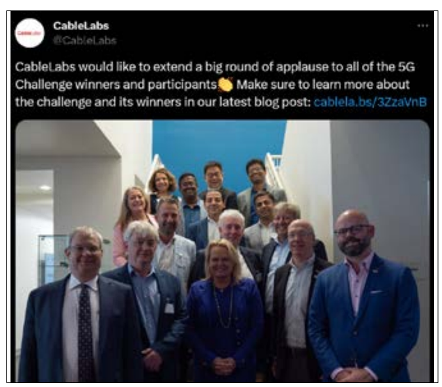
## DOING GOOD

With the calendar turning to October on Sunday, **Investigation Discovery** is rolling out its second annual "No Excuse for Abuse" campaign ahead of Domestic Violence Awareness Month. The network is working with the No More Foundation to present on-air resources, PSAs and tools to give viewers information on the different forms of domestic violence, as well as how to find support and get involved in prevention efforts.

# CABLEFAX DASHBOARD

## Social Media Hits






## Research

*(Source: TiVo Video Trends Report)*

➢ The average number of streaming services used by consumers decreased from 11.6 in 4Q22 to 10.9 in 2Q23. Consumer spending has similarly declined from an average of $189/month to $170 over the last six months.

➢ Consumer video consumption is growing, from 4.4 hours a day in 4Q22 to 4.7 hours in 2Q23.

➢ The percentage of consumers who find out about new TV shows or movies from commercials has dropped 6% YOY. Word of mouth and recommendations from friends were the most common methods of discovery in Spring 2023.

➢ 28% of people who cut the cord later resubscribers to traditional TV for sports, live events and local programming.

## Up Ahead

**OCT 16:** Cable TV Pioneers 57th Annual Banquet; Denver

**OCT 16-19:** SCTE Cable-Tec Expo; Denver

**OCT. 19:** FCC Open Meeting

**DEC 6:** Cablefax Most Powerful Women Luncheon; NYC

## Quotable

*"This lawsuit is fundamentally about protecting free and fair competition and the U.S. antitrust laws prohibit firms from using their monopoly power to punish or preclude or prevent competition and that's what our lawsuit lays out and that is what Amazon has done... And what Amazon's tactics have been about is once it self-achieved that scale, it's been focused on tactics that deprive rivals of the ability to gain that similar critical mass of customers... Sellers have to inflate their price not just on Amazon but also across the rest of the internet and in practice, what that means is that if you had a platform or a retailer that was actually more efficient or that was actually more innovation, it would not actually be able to compete on price because of Amazon's anti-discounting tactics..."*
**– FTC Chair Lina Khan on CNBC's "Squawk Box" on the agency's suit against Amazon for illegally maintaining its monopoly power**