

# Cablefax Daily™

WHAT THE INDUSTRY READS FIRST

## Cap Clap: FCC Finds Apparent Ownership Violations by Nexstar, Mission

The FCC issued a Notice of Apparent Liability on Thursday finding that **Nexstar** and **Mission Broadcasting** apparently willfully and repeatedly violated several Commission rules, including its 39% national audience cap, through their **WPIX** transactions.

The FCC has proposed a forfeiture of \$1,224,790 against Nexstar and a \$612,395 forfeiture for Mission and ordered the companies to come into compliance with the ownership cap. Because this is an NAL, the decision is not final. The broadcasters have 30 days from today to either pay the proposed fines or file a written statement seeking reduction or cancellation of the proposed forfeitures.

“The Federal Communications Commission is prohibited from allowing a company to own or control broadcast stations that in total reach more than 39% of the national television audience. The record here reflects a situation where a company exceeds this threshold. Unless and until Congress changes this law, it is the responsibility of this agency to enforce it,” FCC Chairwoman *Jessica Rosenworcel* said in a statement.

**Comcast** filed an FCC complaint back in July 2021, arguing that Nexstar should actually be attributed ownership of NYC station WPIX, which would make it in violation of the 39% cap on national audience reach. Similar complaints were later lobbed by **Charter**, **DirecTV** and [most recently Cox Communications](#).

Nexstar said it intends to dispute the FCC’s action vigorously. “We believe the FCC has been misled by the often distracting

noise in the media ecosphere and that it has completely misjudged the facts. The facts are that Nexstar has always complied with FCC regulations and that its relationship with WPIX-TV under a Local Marketing Agreement (LMA) was approved by the FCC in 2020, when WPIX-TV was purchased by Mission Broadcasting, Inc,” said the statement from Chairman and CEO *Perry Sook*. “Nexstar believes that joint operating, shared service, and local marketing agreements like those in which it is engaged are vitally important to maintain a competitive media marketplace and to enable broadcasters to continue investing in local news, investigative journalism, and other services that they uniquely provide to the communities in which they are located.”

In 2019, Nexstar agreed to divest WPIX as well as WSFL in Miami and KASW in Phoenix in order to stay under the 39% ownership cap following its \$4.1 billion acquisition of **Tribune**. Nexstar sold WPIX to **Scripps**, but it retained the option to repurchase the station—presumably in case the national ownership cap was increased or it divested more stations. It later assigned its purchase option to Mission Broadcasting, which exercised it and closed on the acquisition in December 2020. Nexstar then executed a local marketing agreement with Mission that gives it the rights to program the station, sell ad time and receive 100% of the station’s revenues.

The NAL said while the FCC was aware of certain elements of the Nexstar/Mission relationship, including Nexstar’s option to purchase WPIX, additional facts have come to light. “The most notable being Mission’s complete delegation of its re-

# THE FAXIES

RECOGNIZING EXCELLENCE IN PR & MARKETING

## EXTENDED DEADLINE: MARCH 22

The FAXIES awards recognize excellence across all areas of marketing, communications, and PR within the industry, seeking groundbreaking, engaging, interactive and creative campaigns. Help us celebrate the people who keep our industry flourishing.

NOMINATE NOW

transmission consent authority for WPIX—which we confirmed only during the course of our investigation,” the NAL said. “This factor, in combination with the application of the [local marketing agreement] and the operation of the relationship in practice, leads us to conclude that Nexstar has overstepped the bounds and assumed de facto control of WPIX.”

The FCC NAL found Nexstar and Mission apparently violated Section 310(d) of the Communications Act through an unauthorized transfer of control. “In addition, Nexstar apparently violated the ownership restrictions in Section 73.3555(e) of the Rules by obtaining undisclosed cognizable attributable interests in WPIX without Commission authorization,” the order continued.

Commissioner *Brendan Carr* concurred with the NAL, issuing a statement expressing concern that the FCC approved in 2019 and 2020 Nexstar and Mission transactions that involved WPIX and included disclosures that Nexstar would provide all programming for WPIX and collect all revenue for the station. “It is concerning to me that the FCC cites as evidence of control those features of the relationship that the FCC previously signed off on. We need to be careful that we do not undermine reasonable reliance on prior FCC decisions,” he said, while adding that the NAL cites additional features of the relationship, as well as facts that apparently emerged after the relevant FCC approvals. “NALs are not final decisions on the merits. And I will keep an open mind as the FCC reviews the record in response to this document. Part of that will require the FCC to ensure that any remedies the agency finds necessary are ones that are appropriate given the procedural posture of this enforcement action.”

For effectively taking de facto control of WPIX without Commission consent, the FCC’s NAL proposes a forfeiture on each company of \$612,395, the statutory maximum penalty for each party. It proposes a further maximum forfeiture of \$612,395 for Nexstar for apparently violating the National Ownership Cap by virtue of its attributable Equity/Debt Plus interest in WPIX.

It also said Nexstar would have to take steps to come into compliance with the cap. Within the 12 months of any forfeiture order, Mission must divest WPIX to an unrelated third party or formally sell the station to Nexstar, which would have to divest a sufficient number of other stations to reduce its national coverage footprint consistent with the 39% cap. If the broadcasters go with Mission selling to a third party, the FCC said neither company may enter into any LMA, JSA, or other sharing arrangement with the third-party assignee or transferee for the Station for a period of eight years and there can not be any provision that would give the option to reacquire the station.

If Nexstar buys WPIX and divests stations, it cannot engage in an LMA, JSA, or other sharing arrangement with any of the divested stations for a period of eight years. It also can’t divest those stations to Mission, or any other entity in which Nexstar

or Mission has a cognizable interest under our attribution rules, also for a period of eight years.

## MORE NEXSTAR

The **FCC** NAL comes one day after the U.S. District Court for the Southern District of New York granted **Nexstar’s** motion to dismiss **DirecTV’s** antitrust case against it. DirecTV filed the lawsuit in March 2023, claiming Nexstar is violating federal antitrust law by engaging in an illegal conspiracy with **Mission** and **White Knight** through managed services agreements to manipulate, raise and fix prices of retransmission consent fees. The court found that since DirecTV didn’t enter into retrans renewals with Mission and White Knight, any profit losses were from its own “choice to exit the market,” thus it doesn’t have antitrust standing. DirecTV hasn’t carried Mission and White Knight stations since October 2022. DirecTV did not say whether it will appeal a ruling dismissing its antitrust claims against Nexstar, but it expressed disappointment. “This ruling sets a dangerous precedent that a victim of price-fixing needs to pay the inflated price before it can make a claim in court,” a spokesperson said. Asked about Thursday’s NAL, DirecTV said: “We applaud the FCC’s efforts to enforce the media ownership rules on relationships Nexstar has with sidecars like Mission Broadcasting.”

## SENATE COMMERCE LOOKS AT SPECTRUM AUCTION CONCERNS

Refilling America’s spectrum pipeline is a major concern among lawmakers, and **Senate Commerce** held a hearing Thursday focused not only on spectrum availability, but how inaction impacts national security. Witnesses certainly agreed that Congress needs to restore the FCC’s spectrum auction authority if it wants to get anywhere. “The lapse in this authority damages U.S. security every day it lasts. We need to restore auction authority so that spectrum studies become a pipeline for concrete advances in capacity and this will benefit all parties,” *Clete Johnson*, a Senior Fellow at the Center for Strategic and International Studies’ Strategic Technologies Program, said. One of the major concerns among federal agencies and lawmakers is that taking spectrum from the government and repurposing it for commercial use are those surrounding national security. When it comes to looking at the trade-offs, **Wi-Fi Forward** Executive Director *Mary Brown* put forth her perspective on how those could be measured. “I think we have to now start evaluating federal spectrum from three perspectives—one, could it be compressed? Could federal spectrum be decompressed or could those systems be cleared? Two, could they be shared with commercial users as we’ve done in CBRS? And three, should we consider putting unlicensed

technologies in as an underlay and could that be a successful model?" Brown said. "Unless we have the information for all three, we can't make an informed decision." The hearing came as 25 public interest and consumer advocacy groups sent a letter to Committee Chair *Maria Cantwell* (D-WA) and Ranking Member *Ted Cruz* (R-TX) urging them to work quickly to renew the FCC's spectrum auction authority and use \$7 billion of projected auction revenue to fund the Affordable Connectivity Program. That larger conversation about affordable connectivity was a meaningful subject during the hearing with University of Notre Dame Professor of Engineering *Monisha Ghosh* saying all stakeholders need to start thinking creatively about how to get rural and isolated communities connected. For that, she's a major proponent of greater investment in CBRS. "The real benefits that you get with CBRS as compared to either WiFi or cellular, is it's a frequency band that propagates very far, much farther than WiFi does. And in terms of cellular, you don't have to pay to access that spectrum," Ghosh said. "We have a deployment with CBRS that was deployed by the City of South Bend to serve its lower-income students. It's not an underserved area. There are other options. But talking about the ACP and looking for ways to get it more affordable, CBRS is offering that option for communities to take control of their connectivity needs."

\*\*\*\*\*

## STINCHCOMB CALLS IT A TOUGH TIME FOR SUBSCALE STREAMERS

**Curiosity** President/CEO *Clint Stinchcomb* believes his streaming service has a long-term path to success and a model that sets it apart from the competition, but that doesn't mean running a smaller SVOD is easy. During the company's 4Q23 earnings call late Wednesday, he said it has become harder for subscale streaming services to stay afloat and they're not being snapped up via M&A. "There have been a lot of services over the last four or five years that are either subscale or part of a company that have just gone completely away—**DramaFever**, **FilmStruck**, **Seeso**, **Rooster Teeth**, etc. These were real services for a while," Stinchcomb said. "I think that one of the things that is unique about us and that we're really excited about is that we have real cash and we have increasing cash. We've taken the hard steps over the last 12 months really to turn the ship and put us into positive territory." He's had conversations with a lot of small streamers and some larger ones, and the biggest message is that for many of them, growth is really tough. "I do think that it will certainly be challenging over the next year, over the next 18 months, and that's why we like the fact that we have a unique and really sustainable cost base," Stinchcomb said.

\*\*\*\*\*

## NAD BRINGS IN FTC TO REVIEW CHARTER'S T-MOBILE CLAIMS

The **National Advertising Division** and the **National Advertising Review Board** usually work in tandem, but the **FTC** is getting involved after NAD referred claims made by **Charter** regarding its



## This Week in History

On March 19, 1979, the U.S. House of Representatives went live on C-SPAN, with Speaker of the House *Tip O'Neill* (D-MA) gaveling in the first-ever televised session of the chamber. Then Rep. *Al Gore* (D-TN) stood to thank O'Neill and other lawmakers for allowing it to happen. "Television will change this institution, Mr. Speaker, just as it has changed the executive branch. But the good will far outweigh the bad," said Gore.



C-SPAN, a nonprofit, public service created by the cable industry, has continued to allow Americans to directly see their elected officials at work for the last 45 years. And based on the outpouring of well wishes this week for the milestone, it seems the good has indeed prevailed.

As America's unofficial government archivist, C-SPAN has pulled together an [extensive list](#) of notable moments of coverage over the past 45 years, including a hearing on allowing television coverage of the Senate, Clarence Thomas' confirmation hearing, Al Gore presiding over the House counting electoral votes following the Florida recount and more recently, the House taking 15 votes to elect a Speaker. One amusing [clip](#) shared has President Reagan calling in to C-SPAN's call-in program in 1983 to address questions by high schoolers. You be the judge, but founder and host Brian Lamb appears to be genuinely surprised and somewhat tickled by the guest call.

C-SPAN prides itself on understatement and presenting events as they unfold without commentary. So it's fitting that its 45<sup>th</sup> birthday didn't involve a lot of balloons and parties. The network did, however, launch its first-ever [Founder's Day Campaign](#), with a goal of raising \$45,000 from supporters. At last look, it was getting closer, with the pot above \$32,000. In a [video interview](#), C-SPAN Co-CEO Susan Swain talked about how the campaign is meant to help shore up the network's financials given the loss of subscriber revenue from cord cutting. She described the founders not only as the entrepreneurs who started C-SPAN, but also the Congress that said yes to coverage, the reporters who covered it when it was an unknown quantity, and, importantly, the viewers who watched. "The fact we're still around at age 45 means that people have understood the role it plays and the niche that it has in American media," said Swain.



Spectrum home internet service to the Commission and other regulatory authorities. “Considering Charter’s decision not to participate in the NAD self-regulatory process with respect to these claims, NAD has referred the matter to the FTC and other regulatory authorities for review and possible enforcement action. NAD will also ask social media platforms to review the challenged advertising to determine if it is consistent with platform advertising standards or policies,” NAD said. At the center of the issue are two separate Fast-Track SWIFT challenges by **T-Mobile**, alleging that Charter’s advertising for Spectrum home internet falsely disparaged T-Mobile’s 5G home internet. One issue targets Charter’s claim that T-Mobile 5G home internet is “cell phone internet.” T-Mobile states the 5G home internet isn’t the same as internet service on current cell phones, and that it’s a dedicated home internet service. While Charter argued the challenge shouldn’t proceed and instead should be combined with another pending challenge, NAD determined it would move forward. The second challenge looks at Charter’s commercial that aired during this year’s Super Bowl. T-Mobile alleged the commercial included an unsupported implied claim that 5G home internet is too slow to use because it’s blocked by a home’s walls. “We stand by the claims made in our Super Bowl ‘Holes’ ad and website about the service limitations of cell phone internet, and we welcome the opportunity to fully defend our claims,” Charter said in a statement.

## YOUTUBE TV MULTIVIEW COMING TO IPAD AND IPHONE

**YouTube TV**’s popular multiview feature was previously only available on TVs. Now, *9to5Google* [reports](#) the vMVPD is expanding that feature to iPhones and iPads. It began rolling out to the devices earlier this week. Multiview on handheld devices only works for select games—which is how YouTube TV initially introduced the feature to users watching on TV—but it still offers four channels streaming simultaneously. Unfortunately for **Android** users, they’ll have to sit tight. YouTube TV said it’ll roll out multiview on Android in the coming months.

## MAX COMING TO EUROPE IN MAY

**Max** is set to begin its European rollout this Spring, targeting May 21 as the date it’ll launch across the Nordics, Iberia and central and eastern Europe. Poland, Netherlands, France and Belgium will follow closely, with France and Belgium being the first new countries **Warner Bros. Discovery** has launched its streaming service in more than two years. Upon launch, Max will more than double the content currently available on **HBO Max**. Max will have “House of the Dragon,” which will premiere in Europe on June 17, as well as the Summer Olympics in Paris for all 25 European countries Max will be available. As for the plans available, it’ll offer an ad-supported basic plan, standard plan, premium plan and a sports add-on that’ll provide coverage of events like Grand Slam tennis and cycling, live linear networks Eurosport 1 and Eurosport 2 and more.

## SLING TV SUBS UNABLE TO SIGN-IN

**Sling TV** experienced technical difficulties Wednesday with some customers reporting difficulties signing in to the vMVPD. Service was restored by 5:17pm ET according to a [post](#) from the Sling Answers account on **X**. “We thank you for your patience while our teams worked to resolve this afternoon’s error,” the post said. Sling also responded to an X user who asked for a refund for the downtime, saying the service does not provide credits or refunds for technical issues.

## FIBER FRENZY

**Comcast** is growing its Xfinity network across southeast Texas this year, unveiling plans to expand to the cities of Conroe, Montgomery, Hempstead, Porter, Navasota and Cleveland. Comcast is investing over \$265 million for the expansion, which will reach more than 100,000 homes and businesses by the end of the year. The network will be built for future DOCSIS 4.0 deployment and bring symmetrical multi-gig speeds to the new customers. – **Lumos** is continuing to expand across upstate South Carolina after breaking ground in Spartanburg. The project will use both public and private funds, which includes a \$1.2 million grant from South Carolina’s American Rescue Plan Act Capital Project Fund Grant Program for development in Spartanburg County. Lumos will also donate \$5,000 to Southeastern Children’s Home for a technology tutor.

## PROGRAMMING

ESPN Films’ next documentary “26.2 to Life” will debut April 8 at 9pm on **ESPN**. The doc chronicles incarcerated men who are members of a long-distance running club and train all year for the prison’s full marathon. – Season 2 of the drama series “House of the Dragon” will premiere June 16 at 9pm on **HBO**, available to stream on **Max**. The second season will include eight episodes. Additionally, HBO’s four-part docuseries “The Synanon Fix” will debut April 1 at 9pm and stream on Max. New episodes will release on subsequent Mondays at the same time.

## PEOPLE

**Comcast** promoted four folks to its Midwest Region leadership. *Karly Baraga* Werner will become VP, External Affairs after serving as the region’s Senior Director, Government and Regulatory Affairs. *Rob Patterson* will step into VP, Comcast Business, where he’ll manage and develop the region’s Business team in sales, revenue and P&L objectives while also overseeing employee and customer experience. *Robin Perman*—who was most recently Senior Director, HR in Comcast’s West Division—will be the region’s new VP, Customer Experience and HR. *Megan Mason* will become VP, Finance and Business Operations. Mason will assist with financial planning and analysis, capital management, project management, supply chain operations and risk assurance.

# PROGRAMMER'S PAGE

## Will Secrets Spill in Freeform Grand Cayman Series?

In the first episode of **Freeform's** "Grand Cayman: Secrets in Paradise," viewers are repeatedly told that the island is a very small place, and as such, there's no hiding from gossip. But three episodes in to the docusoap, we're not so sure. *Elizabeth Chambers* stands front and center on the key art for the series, and the premiere ep immediately dives into her background. Chambers is the ex-wife of *Armie Hammer*, the embattled actor who went from the top of the box office to Hollywood pariah after he was accused in 2021 of sexual abuse by multiple women (Hammer has maintained his interactions with the women were consensual and authorities opted not to file sexual charges against him last year). Chambers, who has continued to reside in Cayman with her children following the divorce, seems like interesting fodder for a reality show. But most of her storyline revolves around the fact she doesn't show up to events or interact much with the rest of the cast. And so far, she's definitely not dishing on Hammer, including when he breaks a two-year silence during filming with an interview in *Air Mail*. Maybe there are plenty of ways to hide in Grand Cayman after all. The series also features Cayman native and Victoria's Secret model *Selita Ebanks*, who is also the ex-fiance of *Nick Cannon*. She's joined by slew of Caymanians and ex-pats. Viewers may tune in to Grand Cayman: Secrets in Paradise looking for Chambers and Ebanks to spill the tea, but they may stick around because of the interesting backstories of these lesser known castmates. Will Chelsea and Tyson survive him cheating on her with multiple women while she was pregnant? Is Craig really a reformed playboy? It seems clear there will be cheating, pregnancy drama and plenty of lies ahead. If that's not your thing, mute the TV and enjoy the unbelievable beauty of island paradise. Grand Cayman: Secrets in Paradise premieres on Freeform on April 9 at 10pm, arriving on **Hulu** the next day. – *Amy Maclean*

### REVIEWS

"Manhunt," streaming on **Apple TV+**. While there are more books written about Lincoln than anyone else in American history, the editing of his assassination seems solid. As school children we learn he was murdered just days after the Civil War's end. We know Ford's Theater, perhaps remember the play ("Our American Cousin") or that he was carried across the street to Petersen's, a boarding house, since dying in a theater was considered undignified for a president. Maybe we recall trivia; a Johnson succeeded both Lincoln and Kennedy or that JFK's personal secretary was Evelyn Lincoln. More than that seems hazy or perhaps rarely taught. Fortunately, a new series from Apple TV+, "Manhunt," provides additional details, though plenty are omitted. Still, it adds context and helps make history entertaining and relevant, despite pacing issues. Shot in 2022, the parallels with today's divided America are uncanny and sad. Edwin Stanton (*Tobias Menzes*), Lincoln's war secretary, connects the plotlines. In this retelling he almost singlehandedly tracks and captures John Wilkes Booth. Based on *James Swanson's* best-seller, the series concentrates on the 12 days between the assassination and Booth's death, in Port Royal, VA, 77 miles from DC. Anthony Boyle of "Masters of the Air" is appropriately evil as Booth. Hamish Linklater, who at 6'4" is the same height as Lincoln, seems small in the part. – *Seth Arenstein*

BASIC CABLE P2+ PRIME RANKINGS* (03/11/24-03/17/24)		
MON-SUN	MC US AA%	MC US AA (000)
<b>FNC</b>	<b>0.640</b>	<b>2017</b>
<b>ESPN</b>	<b>0.435</b>	<b>1370</b>
<b>MSNBC</b>	<b>0.384</b>	<b>1209</b>
<b>HGTV</b>	<b>0.244</b>	<b>770</b>
<b>HIST</b>	<b>0.222</b>	<b>700</b>
<b>HALL</b>	<b>0.190</b>	<b>598</b>
<b>INSP</b>	<b>0.186</b>	<b>588</b>
<b>FOOD</b>	<b>0.180</b>	<b>569</b>
<b>TBSC</b>	<b>0.179</b>	<b>565</b>
<b>CNN</b>	<b>0.176</b>	<b>556</b>
<b>TLC</b>	<b>0.163</b>	<b>512</b>
<b>USA</b>	<b>0.157</b>	<b>494</b>
<b>TNT</b>	<b>0.154</b>	<b>486</b>
<b>DISC</b>	<b>0.144</b>	<b>453</b>
<b>ESPN2</b>	<b>0.128</b>	<b>405</b>
<b>ID</b>	<b>0.123</b>	<b>388</b>
<b>GSN</b>	<b>0.119</b>	<b>376</b>
<b>TVLAND</b>	<b>0.112</b>	<b>352</b>
<b>FX</b>	<b>0.111</b>	<b>350</b>
<b>REELZ</b>	<b>0.111</b>	<b>350</b>
<b>HMM</b>	<b>0.109</b>	<b>344</b>
<b>BRAVO</b>	<b>0.108</b>	<b>340</b>
<b>OXY</b>	<b>0.101</b>	<b>319</b>
<b>WETV</b>	<b>0.101</b>	<b>318</b>
<b>A&amp;E</b>	<b>0.100</b>	<b>315</b>
<b>BET</b>	<b>0.096</b>	<b>302</b>
<b>NWSMX</b>	<b>0.086</b>	<b>270</b>
<b>AMC</b>	<b>0.085</b>	<b>267</b>
<b>FS1</b>	<b>0.083</b>	<b>262</b>
<b>SYFY</b>	<b>0.082</b>	<b>259</b>
<b>NATGEO</b>	<b>0.080</b>	<b>251</b>
<b>LIFE</b>	<b>0.080</b>	<b>251</b>
<b>ADSM</b>	<b>0.076</b>	<b>239</b>
<b>NAN</b>	<b>0.071</b>	<b>224</b>
<b>APL</b>	<b>0.067</b>	<b>212</b>

\*P2+ L+SD rankers are based on national Nielsen numbers, not coverage.



**BEAD & BEYOND IN 2024**

**JUNE 13, 2024 · WASHINGTON, D.C**

PRESENTED BY **Cablefax**

## YOU'RE INVITED

Join innovators at the Cablefax American Broadband Congress, tackling issues in U.S. broadband. Key themes include: partnerships, BEAD compliance, profitability and low-cost access. Join us June 13, 2024 in Washington, D.C.

Use code **BOG02024** with a colleague to get **50% off your second pass**

**REGISTER NOW**