

Cablefax Daily™

WHAT THE INDUSTRY READS FIRST

Nitty Gritty: Diamond Sports, Leagues Battle Over Distribution Details

The battle between **Diamond Sports** and the leagues continued to heat up at an emergency conference in the **Southern Texas Bankruptcy Court** on Tuesday aimed at resolving discovery disputes between the **MLB, NBA, NHL** and the debtors. Judge *Christopher Lopez* ruled that Diamond Sports does not have to turn over its distribution contracts as part of discovery to MLB and other leagues, a decision that drew the ire of counsel from MLB.

The league is generally seeking documents and information related to Diamond Sports' historical and projected financial performance so that it can measure whether the company's proposed plan to emerge from bankruptcy is feasible. The requests would include projections tied not only to Diamond Sports' contracts with the individual leagues, but also with **Amazon** as well as pay TV distribution partners **Charter, Comcast, Cox** and **DirecTV**.

The demand has also raised the eyebrows of the distributors. Counsel for Cox Communications sent a letter to Judge Lopez on Monday with concerns that providing the information to the leagues in the way they have requested would pose significant competitive harm to the operator in its future business negotiations.

"That sort of contract-by-contract and market-by-market information constitutes trade secrets that Cox guards closely, and its disclosure to the Leagues—each of whom may be direct

or indirect contract counterparties in future contract negotiations—risks significant competitive harm to Cox," the letter said.

As a counteroffer, Cox reached out on Thursday and proposed that Diamond Sports give the leagues the historical and projected revenue from all relevant distributes on an aggregate basis for the past 12 months, excluding Arizona and San Diego. Cox also put forth that Diamond could give the leagues projections in aggregate showing both if most-favored nations provisions are triggered and if they are not.

Cox said it has received no substantive response to the proposal. It did note the distributors and the leagues spoke on Thursday after Cox made its proposal, and the leagues raised no substantive concerns over the offer. The leagues indicated they would speak with their financial advisor and let Cox know whether the information provided through the proposal would offer enough to effectively test Diamond Sports' projections.

There continue to be fireworks outside of the courtroom as everybody grapples with the future of the Diamond Sports RSNs and the fracturing of the sports ecosystem. Earlier this month, Senator *Tina Smith* (D-MN) sent a letter to Comcast Chair/CEO *Brian Roberts* urging the operator to return to the negotiating table alongside Diamond Sports. She said her constituents are furious after being locked out of watching Minnesota Twins and Lynx matches, and she's concerned about the prospects of Timberwolves and Wild fans should the dispute roll into the next NBA and NHL seasons.

"I am particularly concerned by media reports that indicate the



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impasse is the result of Comcast's effort to move Bally Sports North into a more expensive subscription package," she said. "Fans are not bargaining chips and hardball tactics in the pursuit of greater profit shouldn't prevent access to watching baseball."

We won't have to wait long for another update in the Diamond Sports saga. Judge Lopez set another status conference for Friday at 10am ET.

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CANTWELL SPECTRUM BILL FACES FOURTH HEARING CANCELLATION

Senate Commerce Chair *Maria Cantwell* (D-WA) continues to face an uphill climb to get any movement on the Spectrum and National Security Act. Late Monday night, the committee announced a hearing scheduled for Tuesday to consider the bill was once again canceled, marking the fourth time a session tied to the bill has been rescheduled or pulled altogether. Cantwell released a statement Monday night arguing that the committee had the chance to secure affordable broadband for millions of Americans, but Senate Commerce Ranking Member *Ted Cruz* (R-TX) said no. "Rather than fixing our internet security issues, creating more broadband competition, and fostering cooperation between defense and commercial users, Senator Cruz, instead, is stoking culture wars," she said. Cantwell also appeared on the Senate floor Tuesday to speak to her legislation and the ongoing struggle it and other bills addressing ACP face in earning bipartisan support. "There is no way that ACP, affordable connectivity for people who can't afford it, should be a partisan issue. This is about tackling the cost of expensive broadband for the working poor, and it should not be a partisan issue," she said. "I hope my colleagues will stop with obstructing and get back to negotiating on the important legislation that will deliver these national security priorities and help Americans continue to have access to something as essential as affordable broadband." **New Street Research** continues to watch the various pieces of legislation closely, and the trouble with Cantwell's legislation in the wake of the fourth hearing cancellation is that neither side offered a new path forward for the proposal. The firm continues to be more hopeful when it comes to the ACP legislation from Senator *Ben Ray Lujan* (D-NM), which has much more Republican support. But it remains unclear whether it can move forward until Cantwell gives up.

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GOODELL ON SUNDAY TICKET

As the **NFL** faces a class-action lawsuit about the pricing of Sunday Ticket, league commissioner *Roger Goodell* testified as a witness Monday, defending the league and its strategy regarding the out-of-market game offering. The lawsuit alleges the NFL broke antitrust laws by selling Sunday Ticket at an inflated price while

also claiming the league hindered competition by offering it on a satellite provider (aka, **DirecTV**). The trial, which has been ongoing for weeks at this point, previously showed **Fox** and **CBS** were worried about the impact a more widely distributed Sunday Ticket would have on ratings for local games. Goodell maintained that the price was determined by its partner DirecTV "We have been clear throughout that it is a premium product. Not just on pricing but quality," Goodell [said](#) via the *Associated Press*. The lawsuit includes over 2.4 million residential subscribers and 48,000 businesses that purchased Sunday Ticket from June 17, 2011 to Feb. 7, 2023. If the jury finds the NFL responsible, the league could pay up to \$7 billion in damages, but with antitrust cases potentially tripling damages, that number could rise to \$21 billion.

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VENU SPORTS SOLIDIFIES EXEC APPOINTMENTS

The executive and senior management employees of **Fox**, **Disney** and **Warner Bros. Discovery's** sports streaming ju **Venu Sports** have been finalized. *Brian Borkowski* will be Venu's CMO after heading up marketing for **FanDuel** and holding multiple positions at **Hulu**. Chief Business Officer will be former **Apple TV+** mainstay *Tim Connolly*, who oversaw subscriber growth for the platform as well as MLS Season Pass. *Skarpi Hedinsson* will be the CTO after holding the same role for the Los Angeles Rams. SVP and Head of Product will be former Fox figure *Amit Dudakia*, while *David Hillman* will handle Chief Legal Officer duties. *Gautam Ranji* will be CFO and *Judy Schwab* will be SVP/Head of People. All will report to CEO *Pete Distad*.

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NTIA APPROVES KENTUCKY, MAINE VOLUME IIS

Kentucky and Maine are the latest to win **NTIA** approval for their Volume II BEAD program proposals. Both states will now be able to move forward with implementation of their initial proposals and request access to their funding allocations. Kentucky can request more than \$1 billion while Maine can access more than \$271 million

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SPECTRUM REACH MAKES PROGRAMMATIC IMPROVEMENTS

Charter's ad sales arm **Spectrum Reach** is expanding its collaboration with the sell-side ad company **Magnite** to enhance programmatic ad buying across Spectrum Reach's library of premium linear and streaming inventory. Spectrum Reach will increase usage of Magnite's technology—which focuses on automated targeted

ads—and stretch its full programmatic capabilities to Spectrum's new video delivery technology. That'll enable ad buyers to bid on individual impression opportunities available on the app in real time.

ASTOUND GETS 5 GIG SERVICE

Astound Broadband and **Astound Business Solutions** unveiled a symmetrical 5 Gig internet service labeled Astound 5 Gig. It's available for both residential and small business customers in several of Astound's fiber markets. Along with the 5 Gig upload and download speeds, it features lower latency and increased capacity. The 5 Gig plan is powered by eero's mesh WiFi 7 system, eero Max 7.

FTC REFERS TIKTOK TO DOJ

The **FTC** took the unusual move of announcing that it has referred a complaint against **TikTok** and its parent company **ByteDance** to the **Department of Justice**. "Although the Commission does not typically make public the fact that it has referred a complaint, we have determined that doing so here is in the public interest," the agency said. The FTC's investigation of these companies began in connection with its order compliance review of predecessor Musical.ly following a 2019 settlement with the company for violations of the Children's Online Privacy Protection Act. The investigation uncovered reason to believe TikTok and ByteDance are violating or are about to violate the law and that a proceeding is in the public interest, the FTC said.

FIBER FRENZY

WOW! has launched all fiber services in five Central Florida areas, encompassing Longwood, Sanlando Springs, Lake Mary, Winter Springs and Sanford. The company officially turned on services in its first Central Florida greenfield market last year, which now includes nine total communities.

CARRIAGE

NEW ID, an Asian-based FAST company, is launching **BINGE Korea** on **Roku**. BINGE Korea offers Korean programming that spans all genres. It also has carriage on various TV OS platforms including Samsung, LG, Amazon Fire TV and Vizio. NEW ID also plans to add proprietary shoppable TV technology to BINGE Korea in the future. – Peacock added the Love Nature channel to its platform. It's the streamer's first dedicated natural history channel and comes with programs like "Wild Pacific Rescue," Season 2 of "Battle of the Alphas" and Season 3 of "Orangutan Jungle School." – Pluto TV inked a deal with Fremantle to add 25 FAST channels in 13 countries. Each channel will be specific to the individual market it's in.

RATINGS

Fox News made it two weeks in a row sweeping the primetime and total-day ratings among cable nets the week of June 10-16. It posted a commanding week at the top with 2.1 million viewers in

prime, with second being **MSNBC** with 962,000 and **ESPN** third at 903,000. **USA** crept into the top five on the backs of U.S. Open and NASCAR coverage, averaging 779,000 viewers during the week. **HGTV** came fifth with 751,000. Fox News' total-day average was 1.31 million, which beat MSNBC and ESPN with 696,000 and 442,000, respectively. **CNN** checked in with 396,000 and HGTV was close behind with 393,000. – This year's U.S. Open became the most-streamed golf event on record, with **Peacock** taking the honors. Final round coverage had a total audience delivery of 5.9 million viewers across Peacock and **NBC**, with viewership peaking at 11.4 million viewers from 6:15-6:30pm and 11.3 million in the 6:30-6:45pm frame. Main broadcast coverage, which includes **USA**, had a TAD of 3.1 million viewers.

PROGRAMMING

TheGrio is celebrating Juneteenth by recognizing the honorees of its second annual theGrio Heroes initiative with a TV special Wednesday at 7:30pm. That'll be followed by "Byron Allen Presents Juneteenth Celebrating centuries of Black Excellence" at 8pm. Both programs will re-air in the same time slots Saturday and June 30.

WELCOME TO NETFLIX HOUSE

Netflix doesn't want subscribers to just binge its program. It wants them to live them. The streamer is opening experiential entertainment venue Netflix House, with the first two locations set to debut next year at King of Prussia in Pennsylvania and Galleria Dallas. Both Netflix Houses will occupy former department store locations in the shopping malls with footprints of more than 100,000 square feet. Netflix has already launched more than 50 experiences in 25 cities, including a "Glass Onion" inspired dinner experience and a "Bridgerton" high tea. Netflix House gives the streamer permanent venues with replicas of shows along with retail shopping and dining.

PEOPLE

Warner Bros. Discovery tapped *Robert Gibbs* to the newly created role of Chief Communications and Public Affairs Officer. He'll oversee the company's corporate and business communications as well as public affairs. Gibbs arrives from **Bully Pulpit International**, a strategic communications, public affairs and corporate reputation advisory firm, where he was a Partner. He also spent time at **McDonald's** as its EVP, Corporate Relations and Global Chief Communications Officer in addition to serving in multiple senior communications and advisory roles for President *Barack Obama's* White House and his presidential campaigns. Gibbs will report to CEO *David Zaslav* and begin Aug. 5.

EDITOR'S NOTE

Cablefax's offices are closed Wednesday, June 19, in observance of Juneteenth. Your next issue of the Cablefax Daily will arrive Thursday, June 20.