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WHAT THE INDUSTRY READS FIRST

Hear Hear: Fubo, Venu JV Partners Make Final Pleas Over Service's Launch

The preliminary injunction hearing in **Fubo**'s suit to block the launch of jv **Venu** wrapped up earlier this week, and the sports vMVPD concluded its arguments with a statement of grave concern over its future.

"Fubo will face insolvency absent an injunction," it said in its post-hearing brief filed Tuesday. "But there is literally no harm to multibillion media giants if [Venu] is delayed for some period of time while the merits of the case can be fully resolved."

Fubo's goal is to enjoin the collective action of what it called three horizontal competitors that seek to pool their extensive live sports holdings to create a must-have monopoly that would put Fubo out of business and ultimately harm consumers as well.

Moreover, it believes courts and enforcement agencies have time and time again barred similar joint ventures that could have the same impact and it has plenty of ground to stand on when it comes to arguments surrounding the preliminary injunction factor around balance of hardships. The vMVPD also addressed allegations from the programmers that a delay in launch would also cause harm, questioning why they made no effort to show evidence that would support that argument.

"They will not suffer anything other than a temporary delay, assuming they prevail at trial," Fubo said in conclusion.

While Venu has long been teased as coming this fall, some reports indicate the product could be making its way onto the market within the next three weeks.

In their own post-hearing brief, **Fox**, **Disney** and **Warner Bros. Discovery** argued they are entitled to license their networks to anyone on any terms, or no terms at all. Because of that, they're not required or obligated to help Fubo put together any sort of skinny sports bundle and each of the programmers is allowed to independently choose to license a subset of networks with sports content to incumbent vMVPDs or new entrants.

"The launch of Defendants' joint venture, Venu, as the new entrant downstream is no different. Each Defendant gives Venu a non-exclusive license to a subset of its networks. Thus, Venu does not lessen competition in any market. Quite the opposite," the programmers said. "Venu is additive, giving sports-focused consumers an additional, attractive choice."

Fubo is putting everything it has into the battle, adding *Gigi Sohn*, Executive Director of the **American Association for Public Broadband**, to its squad. *Politico* was the first to report she registered to lobby for the streamer on topics including competition and antitrust law. Sohn is known not only for co-founding **Public Knowledge**, but also for her role on the board of **Sports Fans Coalition**, the group that operated the now-defunct streaming service **Locast**.

Exclusive – OpenVault Sees Upstream on the Upswing

Cablefax has an early peek into OpenVault's upcoming 2Q24 Broadband Insights report, with the headline being that upstream data usage shows no signs of slowing. Upstream data is used for applications such as video conferencing, multiplayer video and uploading videos to streaming services such as YouTube. Since 2019, OpenVault has provided quarterly data insights gleaned from millions of individual broadband subscribers, aggregated from OpenVault's software-as-a-service (SaaS) technology solutions, to pinpoint usage patterns that can affect network performance, operator revenue and customer satisfaction. Finding from the upcoming report:

- Upstream data usage was 41.5 GB, up 15.9% over the 35.8 GB observed in 2Q23. This continues the trend of upstream increases outpacing downstream growth. Just as in 2Q23 (8.4%), second-quarter downstream growth was in the single digits, at 9.3% in 2Q24.
- Upstream usage remained largely immune from seasonal consumption fluctuations. Upstream usage of 41.5 GB increased 2.7% in 2Q24 vs. 1Q24's 40.4 GB, while downstream traffic of 544.3 GB declined 3.7% vs. 1Q24's 565.4 GB.
- Upstream data usage among Power Users who consume 1 TB or more per month has increased 34% since 2Q23, twice the growth rate of downstream data consumed by this category of users (17%).

Upstream vs. Downstream Data Usage Trends — 2Q24

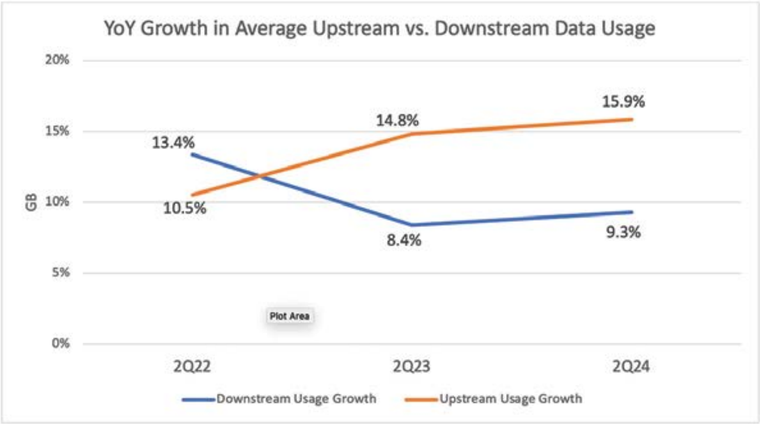

Figure 2

NCTC UNVEILS NEW OTT SERVICE

As the clock winds down until the Monday kickoff of **The Independent Show** in Nashville, **NCTC** is getting ready to unveil a new offering for its members set to arrive later this year. Dubbed NCTC Broadband TV, it'll allow the co-op's members to offer a lower-cost general entertainment OTT video service to their broadband-only subscribers. The lineup of streaming services and channels is still being finalized, and its cost will be set by each respective company. However, NCTC CEO *Lou Borrelli* told ***CFX*** that he expects members to be selling the package at $20/month or less, and the lineup should be in the range of 30-40 channels. Additionally, it won't have sports due to the high cost that would come with adding those channels. "What we're offering is an opportunity for people who have great broadband service from our members to continue to have access to content that they already know and like," Borrelli said. "It'll be a good mix of channels. We're still finalizing the last couple, [then] we're going to be in pilot, probably in the next month on this." Borrelli noted that a handful of members offered to test drive the Broadband TV package. NCTC will activate those customers in the near future across multiple platforms starting with **TiVo**.

MYBUNDLE INKS DISTRIBUTION AND MARKETING DEAL WITH ROKU

MyBundle struck a co-marketing and distribution partnership with **Roku** to allow its ISP partners to offer new and existing customers a free Roku Streaming Stick 4K while utilizing the MyBundle platform. Eligible customers can claim the Roku Streaming Stick 4K through MyBundle, and customers will be able to bundle the new Roku promo with streaming credits. MyBundle and Roku will handle all logistics and fulfillment for broadband partners.

CABLE WINS DURING 'HARD KNOCKS' STREAMING DELAY

Fans who fired up **Max** to stream the second episode of "Hard Knocks: Training Camp with the Chicago Bears" on Tuesday night had to wait a little longer, but for those watching on cable, it was business as usual. The episode was set to be released on **HBO** and Max at 9pm ET, but at 9:21pm the streamer posted on **X** that there was a delay for the episode's release. It wasn't until 10:27pm that it confirmed the episode was available on Max. Despite the delay for streaming viewers, cable subscribers had

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no issue watching from its 9pm start time, and some took to social media to wave the cable flag. "I feel bad for you people who can't watch Hard Knocks. I DVR'd on my cable. This is incredible stuff," *Jon Greenberg*, senior columnist for *The Athletic*, wrote.

INTRODUCING MAVTV GO

MAVTV is the latest to hop on the DTC bandwagon as it launched **MAVTV GO** on Wednesday. The service, which was developed alongside **Endeavor Streaming**, will have original shows, live racing, race recaps, documentaries and VOD content that includes archived racing coverage and other notable moments in motorsports. MAVTV GO is available for free with options to sign up for additional features such as personalized programming recommendations and more. It'll initially be available on **Android TV** and mobile devices, with other smart TV platforms joining soon.

RATINGS

It was a big Olympics for **Telemundo** and its Spanish-language coverage. Total audience delivery across Telemundo, **Peacock** and Telemundo's streaming platforms came in at 289,000 viewers, up 36% compared to the TAD mark set at the Tokyo Olympics in 2021. Specifically, Telemundo's Olympic viewership jumped 31% from the comparable period in the 2021 games, and **Universo**'s figure skyrocketed 126%. Total minutes consumed reached a record 3.9 billion minutes across Telemundo, Universo, Peacock and Telemundo streaming and social platforms. Telemundo also recorded the top eight highest-rated Olympic soccer matches since the 2016 games, led by the U.S. women's national team's Group Stage game against Germany getting 731,000 total viewers. The closing ceremony recorded a TAD of 566,000 viewers.

PROGRAMMING

Comedy Central announced it has licensed the rights to library episodes of "Family Guy" from **Disney**, marking the first time the series will air within the **Paramount** portfolio of brands. Comedy Central will celebrate the launch with an all-day marathon on Sept. 2, before Family Guy joins its primetime lineup the following day. – **Canela Media** is coming out with a new original lifestyle show. "Café Con Canela" will premiere Monday at 1pm on the free streamer **Canela.TV**. The hour-long weekday program will tackle topics spanning health and wellness, pop culture, fashion and more.

PEOPLE

Scott Weaver is joining **Nexstar** as its SVP, Government Relations starting Sept. 5. It's a newly created role that'll have Weaver work with Chairman/CEO *Perry Sook* on setting the company's legislative and regulatory priorities and represent Nexstar's interests to regulatory bodies. Weaver will also establish Nexstar's first-ever Office of Government Affairs in D.C. He joins Nexstar from HSA Strategies, a telecom consulting firm in which Weaver was a founding partner.

What We're Listening to

Redefining the digital divide may be the only way to close it, according to Dr. Nicol Turner Lee. In a recent appearance on the "Politico Tech" podcast, Lee discussed her new book, "Digitally Invisible: How the Internet Is Creating the New Underclass" and the growing class separation in the digital space as technology continues to rapidly progress.

While the digital divide has been a talking point in both policymaking and the tech space since the advent of the internet, Lee relayed that the key to addressing it lies in how it's defined culturally. "The conceptualization of the problem as one that is primarily focused on wires and computers obscures what it really means to be digitally invisible," she said.

Lee, director of the Center for Technology Innovation at the Brookings Institution and former executive director for NAMIC, lamented the lack of agency that older Americans have regarding innovation on the internet. With past and potential future presidential administrations outlining different infrastructure plans, Lee said that historically, Democrats have invested more into policy that advocates for development in this sector.

Host Steven Overly inquired about the potential for tech companies to contribute to closing the digital divide, to which Lee criticized the Universal Service Fund. Under current policy, each quarter the FCC sets a contribution factor for all telecommunication companies, ranging from 15.5% to 33% of each company's international and interstate revenue. Lee proposed that new channels of funding be opened from these companies.

"It is time for us to rethink what contribution looks like," she said. "I ran this exercise to suggest to my big tech company friends: a percentage of your ad revenue can help us fill some of these big gaps that we're experiencing when it comes to having a fund that allows us to really tap into it at these times of need to ensure that no kid goes offline or no worker is left behind without the necessary skills."

Lee's book, which launched last week, uses personal stories to illustrate what it's like for those on the wrong side of the digital divide. "It was really important to me because, you know, I went out to all these places, rural areas, urban areas. I met white farmers, black school teachers, and it was important for me to figure out what commonalities they had. And the commonality was they all wanted to be seen in this new digital economy, and they're not."

– Noah Odige

Think about that for a minute...

Just Say'n

Commentary by Steve Effros

Once again the headlines are proclaiming the "death" of "cable." The cable business is "crumbling." And so it is, or not, depending on what you mean by "cable!" It's regrettable that the consumer press makes little if any distinction between the infrastructure "cable" business and the programming (or should we say "software") business. They're vastly different. When you ignore those distinctions you get a very warped view of what's going on, and who's at risk of what.

The headlines in the past week were generated in large part because the Warner Bros. Discovery folks announced a write-down of $9 billion on the valuation of their business and the next day Paramount Global did likewise to the tune of around $6 billion. Both pointed to the instability and lower valuation of their programming offerings. But is that "cable?" Well, that's a far more complicated question.

Both of these companies, and indeed the entire video distribution industry is in the throes of massive change. The only honestly accurate thing that can be said about that is we don't really know where it's going and when it's going to resolve, if ever. So let's look at the two main parts of "cable" separately to at least get some sense of whether, or what to panic about.

I should note here that the "panic" relates mainly to the stock market, stock prices and valuations. All of which, in "mine 'umble opinion" have been destructive and inaccurate for a very long time. I think the worst thing that ever happened to the traditional cable industry was when the pioneers who did great things building a new video distribution infrastructure nationwide succumbed to the lure of riches and the stock market. But that's a story for another day. The infrastructure business is not crumbling. It's changing. Traditional linear television packages, which we always called "cable television" are no longer in favor. Subscribership is dropping. No question. But at the same time "broadband" subscribership has, over the past decade, skyrocketed. Folks didn't "cut the cord," they simply changed what they used the cord for. So now instead of bundled "cable" programming folks are buying pseudo "a la carte" streaming services. Which, themselves are now having to aggregate.

And that's the story of the programming, or "software" side of the business. The Paramount and Discovery programming benefitted for years by being packaged into "cable television." Streaming has changed all that. Programmers have shifted to selling their products either individually (by channel, not by program just yet) or now by, yes, "bundling" because they have found this is a harder sell directly to consumers than they thought and the competition is fierce. It's also getting much easier for consumers to "unsubscribe" when they want. "Churn" is high. Profits are elusive, thus write-downs are inevitable as a new round of consolidation is likely to take hold. And yes, of course, there are new competitors as well, like Google, Amazon and Apple, all of which don't depend on video subscription revenue. It's a challenging time.

But is "cable" dying? No. Will some programmers disappear? Probably. There's too much "product" chasing an inherently limited number of eyeballs. Is even the infrastructure business more challenging? Sure, "fixed wireless," satellite delivery of video and even government funding of competitors have changed the game. But that business will settle out just fine. The competition will focus on service.

What's unfortunate is that with all this going on, all sides of the "cable" business are being stressed and being forced to raise prices to consumers as well as cut employees. That's too bad. Especially since some of the folks who should have seen this coming have been given yearly "compensation packages" recently from $30 to $50 Million! Seems to me, that's where the "cutting" should start! Just say'n.

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.)