

Cablefax Daily™

WHAT THE INDUSTRY READS FIRST

Venu Pause: ACA Connects, DirecTV Look for Seismic Shifts in Video

It was **Fubo** that filed a lawsuit and won an [injunction](#) that temporarily puts a halt to the launch of Venu, but **ACA Connects** is also taking a victory lap. The association came out right away against the **Disney, Fox** and **Warner Bros. Discovery** JV, raising antitrust concerns and asking for an investigation into why the programmers could offer a skinny sports package that its members can't.

"We got out front early and really pushed back hard about the fact that regulators in Washington would never allow those three companies to engage in a merger because of anti-competitive concerns, and what they were proposing to be up to with a streaming service was certainly problematic from our perspective," ACA Connects President/CEO *Grant Spellmeyer* said during Wednesday's opening panel at **NCTC** and ACA Connects' Independent Show. "So we took a number of steps in Washington, both on the Congressional side and Department of Justice, to encourage them to take a closer look at the deal."

Yesterday, the programmers filed an appeal in the Second Circuit seeking review of the temporary injunction pausing Venu. "I think the odds are against them," **Kelley Drye & Warren** Partner *Tom Cohen* told TIS24 attendees. "Their deal sort of begins to unravel a bit. And you know, what can they do? They can try to recreate it. They can go to Fubo and cut a deal. I'm not sure about that happening, but there are all

these possibilities about that. And remember, these three, not only do they control, I think, like 60% of the professional sports programming rights, but it's the key rights—NFL, NBA, and so the leagues probably are trying to figure out, as always, how to maximize their take in all this."

DirecTV has also been a vocal opponent of Venu, with Friday's injunction order agreeing at times with its Chief Content Officer *Robert Thun*, finding that the trio's denials of "the existence of their bundling practices to be entirely incredible and completely belied by the ample evidence before the Court." On Wednesday, DirecTV took a victory lap of its own, issuing a bit of a manifesto calling for collaboration between distributors and programmers. While the Venu injunction appears to be a catalyst, it's also worth noting it has an upcoming contract to renew with Disney.

"We agree with Venu's shrouded market-sizing estimates that were unearthed during the trial that recognize an 'ocean of opportunity' to offer consumers skinnier packages. However, we disagree with Venu's anti-competitive strategy and believe that TV distributors should have the same flexibility to thrive alongside DTC services by offering genre-based packages that extend beyond sports to include locals, entertainment, news, family, movies, and others," DirecTV said in its 620-word statement, titled "Looking Toward a Brighter TV Future."

DirecTV proposes that programmers collaborate with pay TV distributors to offer flexible packages, including genre-based programming bundles, as well as lower-priced alternatives

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that are closer to DTC options and an aggregated experience that lets consumers access content, including linear and on-demand, in a single experience vs “disjointed entry points while managing multiple individual subscriptions to those products.”

BUNDLING TALK CONTINUES

Talk of bundling strategies stretched into the second day of The Independent Show as folks discussed ways to enhance customer success while finding more avenues to monetize different services. One of the companies trying to meet changing video habits is **Scripps** with its Tablo product it launched last year, which combines streaming and OTA as an alternative video solution to keep viewers within the video ecosystem. Tablo comes with more than 70 FAST channels and has been seeing growth in engagement within that category. Scripps/Tablo VP, Enterprise Strategy **Tom Sly** said Tablo is a low-cost opportunity for operators to deploy to their customers in an effort to maintain that relationship within the video ecosystem, adding that Tablo is working on a broadband bundle that features general entertainment in addition to subscriptions that can be added to it. “If all of a sudden you lose video out of the bundle, you don’t have the bundle,” Sly said during a panel Tuesday, adding that Tablo brings value by eliminating retransmission fees. “With an antenna and Tablo, you can actually eliminate the retransmission fees, and that’s how you can provide an affordable product.” **Bill Routt**, SVP, Head of Sales & Customer Success for **Xperi**, focused on how products can simplify friction felt by consumers with an abundance of choice. “Those customers that aren’t signing up for full linear pay TV, they’re still watching four and a half hours of video today,” Routt said. “There’s a friction for those customers and what they want to watch. We also know that when they sit down, they don’t really know what they’re going to watch or where they’re going to watch it.” That’s where personalization and discovery come into play, with “super-aggregation” displaying what viewers have already watched or shown interest in instead of having several different services and shows to choose from. For **NCTC** CEO **Lou Borrelli**, he hopes that the “reimagining of the bundle” entails smaller options that still include different forms of content. “What I would hope we’re on a path to do, and I think we’re starting that, is to create what I call ‘snackable bites’ where you could have different types of content—like-minded birds of a feather—put them together in smaller bundles. You make the decision-making for the consumer based upon their interests, as well as price,” Borrelli said.

REGULATORY ROUNDUP

The Independent Show is an opportunity for **ACA Connects** to provide updates on Washington doings, with the news delivered this year being pretty good. The **FCC’s** Title II order was stayed, the Chevron doctrine was overturned and just last night, a judge struck down the **FTC’s** rule seeking to ban non-compete clauses in employment agreements in most industries, including telecom. **ACAC** President/CEO **Grant Spellmeyer** called the latter yet another decision that makes the case against

Cablefax Executive Round Up

With Cablefax on the hunt for the 2024 Class of Most Powerful Women, we snagged some of last year’s honorees from The Independent Show’s exhibit floor to ask them what keeps them up at night.

*(Know a Powerful Woman? **Nominate** her today for this year’s Most Powerful Women list.)*



Becky Jones
Chief Marketing & People Officer
Viamedia

“Truly navigating where everything is going. I haven’t been bored in 23 years, which is the most exciting part about my job. Just as we went through the transition of broadcast to cable, and cable to streaming, and now it’s just video everywhere. It’s how everyone’s going to navigate it. Where do the puzzle pieces fall? That’s what I think we’re all trying to figure out. But it’s so exciting right now. I haven’t been more excited about this industry in a long time, so I’m awake thinking about the ways that Viamedia specifically can participate.”



Judy Meyka
EVP, Programming
NCTC

“I really think it’s trying to navigate all of the changes in what’s happening and really trying to think ahead. I wish I had a crystal ball. We don’t know where things are going to go or end up, but it’s really trying to anticipate kind of what is going to help our members the most. We’re just trying to at least listen to what they need, trying to help them to really reach their consumers, and just trying to anticipate what we can do better for them in the world of video amongst all of these incredible number of changes that keep happening at such a rapid pace all the time. It’s just hoping that we can be smart enough to figure out some answers that actually really help them.”



Stacey Slaughter
CEO
NCTI

“The industry is in constant change, but it just feels more turbulent right now. And just the unknowns of: are we really bifurcating? Is content going one direction, service providers going another? What does that mean? What does that mean for us? We do a pretty good job of staying on top of the technological changes, but with the consolidation and the number of customers combining, I think just the turbulence of the true changes going on in the industry keeps me up.”

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regulatory overreach. Of course, a presidential election on the horizon could bring changes to the regulatory landscape. One thing that probably won't change too much is the \$42 billion devoted to broadband deployment in the BEAD program. That's because that money has already been appropriated. There's still room for some changes though. "NTIA has moved in the last few weeks to approve more state plans. If the money starts going out, is there... an ability to tweak or change some of those requirements" around the money, asked **Alpine Group** SVP *Curtis Philp*. Many operators are hoping the answer is yes. "Every time they add another bell and whistle or just extra stuff to it, I think a lot of our members who we've worked with say it ain't worth it," said **Kelley Drye & Warren** Partner *Tom Cohen*, citing NTIA's involvement on issues such as prevailing wages and pricing for low-cost broadband options. He said ACAC is gearing up now to make a filing in Texas urging that providers be able to define project areas to make them more efficient versus "someone trying to make them some large geographic area with lots of extremely high-cost locations where you then just throw up your hands and walk away."

BULK BILLING UNCERTAINTY

Operators continue to ponder what, if anything, might happen with an **FCC** proposal to potentially ban bulk billing arrangements in multi-tenant environments. The good news for providers who rely on those arrangements is that nothing has happened thus far. A TIS24 panel agreed that it's highly unusual that the agency hasn't released a Notice of Proposed Rulemaking after Chairwoman *Jessica Rosenworcel's* March press release announcing plans to circulate a proposal that would seek to eliminate bulk billing arrangements that impose a specific broadband service provider for tenants. That might be because the ban has had push back from nonprofits like Education Superhighway and HOAs as well as providers. **HWG** Partner *Mike Nilsson* said he'd be surprised to see anything happen on the issue before November's election. Even after the election, he's not sure what the appetite will be for the ban, with some suggesting that it may have been more of a priority for the Biden administration. But **Hotwire Communications** SVP, Public Affairs *Ross Lieberman* cautioned that operators shouldn't let their guard down. "It's just important for us to stay vigilant and not just say the item hasn't moved in six months, maybe it won't move and just stop," he said. "It's just constantly having to remind the Commission, elected officials—local, federal, state—that this is a problem, and this thing shouldn't be moving forward because of the harm that will cost consumers." Hotwire, Blue Stream and other providers have argued that bulk billing provides lower broadband and video prices for consumers and can be especially helpful for seniors, college students and those on fixed incomes.

OVERALL TV USAGE UP IN JULY, NIELSEN'S 'THE GAUGE' FINDS

While there were only a few days of Olympic action recorded in July, **Nielsen's** monthly "The Gauge" report found it still helped fuel a 2.3% increase in TV usage compared to the previous month. That helped the broadcast and cable categories combine for 47% of the overall usage pie (cable taking 26.7% and broadcast 20.3%). Streaming reached 41.4% of share, led by **YouTube** Main becoming the first streaming platform to eclipse 10% of total TV viewing with 10.4%. **Netflix** was second with 8.4% with "other streaming" close at 6%, while **Prime Video** (3.4%), **Hulu** SVOD (2.7%) and **Disney+** and **Tubi** (both 2.1%) followed. **Peacock** saw a 0.3% bump to 1.5% from its Olympics coverage.

MINERVA NETWORKS TAPS VIAMEDIA FOR AD DELIVERY

The digital and linear ad rep firm **Viamedia** is partnering with **Minerva Networks** to integrate Viamedia's Parrot Ad Decisioning System (ADS) into Minerva's platforms. Minerva, an advanced entertainment delivery solutions provider, will use Parrot ADS to streamline ad insertion and improve inventory management across traditional and CTV formats. Parrot ADS also enables a single order to span both linear and streaming inventories while adding more support for ad insertion on additional networks and enabling transitions for sales teams to addressable platforms.

TIS24 NOTEBOOK

NBCUniversal closed down *Blake Shelton's* bar Ole Red for TIS attendees Tuesday night. While *Kasi Jones* of NBC's "The Voice" showed off her chops on the main stage (with an assist from **NCTC's** *Sweet Lou Borrelli* on drums), the rooftop venue featured a rocking set from *Jared Ming*, who might have looked a little familiar to some. He's the son of **Syndeo Institute** Chief Program Officer *Camilla Formica*, an accomplished jazz singer herself. Formica briefly took the mic and wowed with "Fly Me to the Moon." Also impressive—some of the boot-scooting dance moves y'all showed off! – ACA Connects revealed "Imagine the Possibilities" as the theme for its March 4-6 Summit in D.C. The annual event provides keynotes and sessions on public policy as well as a lobbying day on the Hill.

PROGRAMMING

NBC Sports is going full speed with its **NASCAR** coverage for the next few races. Starting with Saturday's Coke Zero Sugar 400 on **NBC**, NBC Sports will only use side-by-side ad breaks during green flag racing to provide uninterrupted coverage. The same format will be used for the Quaker State 400 (Sept. 8 on **USA**) and the YellaWood 500 (Oct. 6 on **NBC**).

Think about that for a minute...

The Fee Fantasy

Commentary by Steve Effros

We instituted a “meals tax” where I live in a small, ¼ mile square historic, railroad town just outside of Washington, D.C. I’m on the Town Council. The battle over that tax took years, with the local restaurants (we have five of them) arguing that such a tax would seriously injure their businesses.

The owner of one of those establishments acknowledged to me the other day that he was surprised he hasn’t heard one complaint or even comment about the new 2% charge on the check. I’m not surprised. That’s true even though we’re being honest and calling it a “tax,” which it is, rather than a “fee,” which is what most politicians prefer. They never want to be associated with new “taxes,” but they also have to continue to find ways to pay for all the things the public expects from the government.

But therein lies a real problem. “Fees” are usually attached to some specific thing being purchased. We know that well in the cable business since we have been listing all sorts of “fees” on bills for years. The “retransmission consent fee,” the “sports carriage” fee, the public access channel fee, and the like. As you may know, the feds are in the process of attacking all that. Sure, they are add-ons, like the franchise fee, which don’t put money in the pocket of the government or business that collects them. The local broadcasters get the retrans fee, the local government gets the “meals tax” fee, the franchise fee and the public access channel fee. But splitting all that information out creates major confusion as to how much the ultimate bill for a given service might be. Consumers hate that. It’s about to change.

There’s nothing wrong with fully divulging where some of the costs of providing service come from. The franchise fee, for instance, was something local governments fought hard against allowing to appear separately on the cable bill. They didn’t want cable customers to know that they were getting hit with a special tax that only applied to them. Transparency is fine, and we should continue to do that. But the “full tab” is now going to have to be clearly advertised as well.

On the other side, the folks imposing fees are now getting in trouble too. That’s because a lot of those fees are based on specific uses. Cable and gas for your car, for instance. In both cases the subscription revenue or gas purchases are going down, and the localities and states that relied on those hidden taxes are suddenly finding themselves with shortfalls of expected revenue. The reasons are clear; folks are shifting from “cable” to broadband streaming. But there’s no fee attached to the latter. And folks are moving to hybrid and EV cars. They’re buying less gas. The income from the gas taxes, which usually go toward maintaining the roads, is going down too. Now what?

Well, of course the answer is going to be that new “fees” or taxes are going to be adopted. In the case of “franchise fees,” the idea, currently blocked by FCC rules, is that those cable fees can’t be applied to broadband because there is a competing federal policy of wanting to promote the nationwide distribution of broadband. I don’t think that will last. There’s the same conundrum with gas taxes. The government needs to make up the shortfall, but also wants to promote adoption of EV use for other, obvious reasons. I now pay an extra fee for my car registration because I have a hybrid and I don’t buy “enough” gas!

The day is coming soon, when we’re all going to have to give up on the hidden “fee fantasy,” call needed tax revenue what it is, and get on with business.



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.)

Most Powerful Women
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Cablefax recognizes the 2024 Most Powerful Women for outstanding qualities including influence and leadership within the cable and broadband industry, as well as dedication to empowering other professionals to grow and thrive. Join us in honoring these women who break boundaries and set new standards.