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WHAT THE INDUSTRY READS FIRST

Venu Emergency? Fubo Sees No Red Flags for Programmers in Streaming Fight

Fubo said it's OK with Disney, Warner Bros. Discovery and Fox Corp. seeking an expedited briefing schedule for their appeal to the Second Circuit of a preliminary injunction that halted the launch of sports streaming jv Venu. But it does want to clear the record, objecting to "the numerous misstatements, unsupported factual assertions and mischaracterizations of the district court's decision made by appellants in their claimed 'Emergency' motion."

Fubo made the comments in a "non-opposition" response Monday that was no longer publicly available in the docket Tuesday as the Second Circuit identified the filing as a "defective document." The court told Fubo to refile using the filing type "opposition" by Aug. 29.

While Fubo has not opposed the Venu owners' request for an expedited case, it used the filing to object to their claims that this is an emergency, arguing that the programmers never offered witness testimony or documentary evidence of the harms that they may face from a delay in the launch of Venu. In fact, the vMVPD said that the arguments and evidence the programmers have presented thus far actually undermines their case for a sudden emergency.

"Until filing the motion at issue, Appellants had consistently insisted that they expect the jv to be at best a marginal offering, unlikely to attract a significant number of subscribers or even turn a substantial profit," Fubo told the Second Circuit in

Monday's filing, adding that the programmers have described Venu as a "niche service" and that they make more money licensing a large bundle of channels to a distributor. "Their newfound alarm at the calamity that they now claim will ensue from a delay of the jv's launch contradicts those earlier efforts to downplay the jv's likely impact."

Disney, Fox and WBD told the federal appeals court that they are losing "millions of dollars" that they've invested in the start-up business, have "dozens of employees" hired to work for Venu that are in limbo and consumers are denied access to an innovative new product offering. By the end of August, the companies together will have invested approximately \$74 million in preparing for the launch of a new streaming business, in hiring personnel for that business and in developing its technological platform, according to court docs. That figure doesn't include the millions spent on research and analysis, legal fees and other necessary corporate expenditures, the programmers said.

While the injunction dealt a blow to plans to launch Venu ahead of the college football season, the jv owners argue that an expedited appeal would give them a chance to mitigate their losses with a launch in advance or during college and NFL playoffs and the Super Bowl. They're seeking a schedule that would have their brief due Sept. 20, Fubo's due Nov. 4 and appellants' reply brief would be due Nov. 25. They're requesting that the court hold oral arguments as soon as possible, preferably in December.

Fubo argued the trio doesn't need the jv to offer their sports

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networks directly to consumers (which Disney plans to do with ESPN next fall). And it takes issue with the programmers' "hyperventilation" over the preliminary injunction. They claim the district court order contains multiple legal errors and violated the Supreme Court's long-established requirement that a plaintiff demonstrate antitrust injury.

"While this response is not the occasion to argue the merits of the appeal, Fubo cannot allow the misleading impression that it agrees with Appellants' motion as filed by Appellants. Fubo agreed only to a briefing schedule, so as not to burden this Court with that ministerial matter. Nothing more," Fubo said.

REPORT: CHINESE HACKERS INFILTRATE U.S. ISPS

Lumen said in a [blog post](#) Tuesday that it has identified four U.S. victims and one non-U.S. victim in the internet service provider, managed service provider and IT sectors of a hack related to the Chinese government. *The Washington Post* [reported](#) that separate hacking campaigns have accessed least two major providers with millions of customers as well as to several smaller providers, with Chinese government-backed hackers having "penetrated deep into U.S. internet service providers in recent months to spy on their users." No names of affected companies were given. Lumen detailed a hack involving software from **Versa Networks**, specifically Versa SD-WAN customers using Versa Director. Versa issued a patch yesterday and said impacted customers failed to implement system hardening and firewall guidelines, leaving a management port exposed on the internet that provided the threat actors with initial access.

BRONFMAN DROPS OUT OF PARAMOUNT RACE

In yet another twist in the **Paramount** ownership rollercoaster, one of the interested buyers is bowing out. *Edgar Bronfman Jr.*, who [entered the race](#) late with a \$4.3 billion bid to buy **National Amusements** before it was upped to around \$6 billion, has pulled out of the go-shop period to strike a deal. That leaves **Skydance Media** as the [last accepted bidder](#) standing, and Paramount Global's board special committee has officially closed its go-shop period. During the period, representatives of the special committee contacted more than 50 third parties to determine if there was any interest in submitting a proposal to acquire the company. "Having thoroughly explored actionable opportunities for Paramount over nearly eight months, our Special Committee continues to believe that the transaction we have agreed with Skydance delivers immediate value and the potential for continued participation in value creation in a

rapidly evolving industry landscape," Special Committee Chair *Charles Phillips Jr.* said in a statement. The Skydance transaction is expected to close in the first half of 2025.

DUCKS WADDLE AWAY FROM BALLY

The **NHL's** Anaheim Ducks are the latest team to unveil plans in a post-**Bally Sports** world. The team partnered with **A Parent Media** and KCOP (a **Fox Corp** O&O) to air all Ducks games for free within its market. A Parent Media owns **Victory+**, which is a free DTC service that'll stream all local Ducks games. Victory+ will be available on smart TVs, tablets and smartphones starting next month. KCOP will get 65 games to broadcast OTA, which means Ducks games will be available to the entire L.A. regional market.

NTIA ISSUES DRAFT BEAD GUIDANCE ON LEO, FWA

NTIA released proposed guidance on the use of alternative technologies to provide broadband to unserved locations through the BEAD program. It has defined those alternative technologies as any broadband access technology that terminates at the end user's location or premises and does not qualify as reliable under BEAD program rules, but does meet the technical requirements of delivering speeds of 100/20 Mbps and latency less than or equal to 100 milliseconds. That includes LEO satellite services and unlicensed fixed wireless. NTIA said states can consider projects deploying alternative technologies as options when it has project areas for which no prospective subgrantee has submitted an offer to deploy service via a more reliable technology, or in project areas for which proposals to deploy reliable technologies exceed the Extremely High Cost Per Location Threshold. The proposed guidance also looks at how funding can be used to support the alternative technology projects, and NTIA is seeking comment on how to allow those technologies into the BEAD program while also considering factors like consumer affordability, key consumer protections and program integrity safeguards. NTIA is proposing allowing states and territories to reserve LEO internet capacity to ensure LEO projects meet BEAD speed and latency requirements and guarantee service availability for the life of the program. The agency also proposed states and territories to ensure necessary equipment at customers' homes is affordable. That includes antennas for fixed wireless service or terminals for LEO service. NTIA is also seeking comment on mechanisms that ensure compliance with BEAD obligations for LEO capacity subgrants, and comments are due by midnight ET on Sept. 10.

PEACOCK INTRODUCING NEW AD BREAKS, PRODUCTION FEATURES

Peacock will introduce a new commercial break format this upcoming NFL season. Starting with Opening Weekend, Peacock will replace traditional commercial segments with studio takeovers at various times throughout each game. Similar to last season's NFL on Peacock games, which featured no standard commercial breaks, this season will include extended studio commentary in place of advertising breaks. Peacock will debut this format during the NFL Kickoff game between the Kansas City Chiefs and Baltimore Ravens and use it three times during the first-ever NFL game in Brazil, in São Paulo, between the Philadelphia Eagles and Green Bay Packers. The NFL Kickoff game will air Thursday, Sept. 5, at 8:20 p.m. ET on NBC, while the NFL game in Brazil will stream exclusively on Peacock on Friday, Sept. 6, at 8:20 p.m. ET.

MONTHLY RATINGS

It was a busy August for the news networks with the Democratic National Convention wrapping up last week. **Fox News** led the month in prime with an average of 2.27 million viewers P2+. **MSNBC** wasn't too far behind with 1.83 million while **CNN** came third with 1.08 million. Another news net, **Spectrum News**, averaged 1.7 million daily viewing households across linear and digital platforms within Spectrum News' footprint. **USA**, which enjoyed Olympics coverage and the start of the **Premier League**, recorded 803,000 viewers in prime while **ESPN** followed with 607,000. It was an identical top five in total day as Fox News topped the chart with 1.43 million viewers. MSNBC and CNN followed with 1.02 million and 615,000, respectively, which MSNBC claims is its largest monthly viewership advantage over CNN since November 2019. USA (599,000) and ESPN (366,000) rounded out the top five. – For the business networks, it was **Fox Business** that came out on top in total day during the week. It had 125,000 total viewers for August while **CNBC** recorded 122,000. CNBC did lead in the A25-54 demo in total day with 27,000 compared to Fox Business' 13,000. It was a tight race for business day hours (9:30am-5pm). CNBC barely edged Fox Business with 188,000 total viewers compared to 187,000. CNBC also had 38,000 A25-54 during business day compared to Fox Business' 10,000.

DISH MEDIA, LIVERAMP AGREE TO NEW PARTNERSHIP

DISH Media struck an expanded partnership with **LiveRamp** to enable the latter's Authenticated Traffic Solution across the satellite TV and OTT inventory on **DISH** and **Sling TV**. DISH is the first MVPD to implement the solution, which will allow brand marketers to connect their first-party user data with DISH Media's user data to unlock enhanced advertising capabilities transparently and securely. Advertisers will be able to target

audiences across various identity solutions regardless of the demand-side platform used.

COMCAST NBCU SPORTSTECH CLASS SCORES BUSINESS DEALS

The 10 company participants in the fourth class of **Comcast NBCUniversal's SportsTech** accelerator secured 15 pilots, partnerships and commercial deals by the conclusion of the program. This class includes **Dizplai**, which seamlessly integrates social media, messaging apps, user-generated content and sports data into broadcasts with dynamic graphics, and **Mantis.AI**, a company that transforms raw footage into organized video assets and actionable intelligence. Since the first SportsTech class debuted in 2021, alumni have achieved 159 pilots, partnerships and commercial deals with consortium partners.

FIBER FRENZY

Glo Fiber plans to deploy fiber-optic broadband to approximately 15,000 homes and businesses in Steubenville, Mingo Junction, Wintersville and surrounding areas in Jefferson County, Ohio. – **Fidium Fiber** turned on multi-gig broadband speeds to more than 2,400 homes and businesses in Pittsfield, Maine. The provider serves more than 270,000 homes and businesses in Maine and it plans to bring more communities online soon.

PROGRAMMING

Original film "Sweethearts" will debut Nov. 28 on **Max**. – **NBC** and **Peacock** are ready to see which canine will take home the gold in the "Purina Pro Plan Incredible Dog Challenge." The series features several competitions including agility, weave pole racing, fetching and the Surf Dog competition. The Western Regional Competition airs Sept. 8 at 2pm ET on NBC and Peacock. The National Finals will be presented by NBC and Peacock on Dec. 1. – **Apple TV+** renewed comedy series "Acapulco" for a third season. The show has been critically acclaimed, earning nine nominations at this year's Imagen Awards, including Best Comedy and Best Actor for star and executive producer Eugenio Derbez. All three seasons of the **Lionsgate Television** production are available to stream on Apple TV+. – FAST network **Fubo Sports** announced three Fantasy Life original series ahead of the upcoming NFL season. "Fantasy Life" will provide analysis for fantasy football players, while "The Fantasy Life Show" will feature discussions and weekly guidance on fantasy football. "The Betting Life Show," hosted by *Matthew Friedman* and *Thor Nystrom*, will offer insights into sports betting. The Fantasy Life Show will stream daily Tuesday through Saturday at 10 a.m. ET on Fubo Sports while Fantasy Life and The Betting Life Show will be available on-demand with a Fubo subscription.