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WHAT THE INDUSTRY READS FIRST

## On the Sidelines: No DirecTV-Disney Deal as Negotiations Drag On

It's Week 1 of "Monday Night Football." Do you know where your ESPN is?

**DirecTV** customers are playing the waiting game. The provider could follow **Charter** and ink a deal with **Disney** moments before kickoff or ESPN and other networks could remain dark as negotiations continue after more than a week of blacked out programming. The New York Jets-San Francisco 49ers game is being simulcast on ABC affiliates as well as ESPN. That means DirecTV satellite subs in more than 200 DMAs will be able to see *Aaron Rodgers'* return to the NFL just fine. Unfortunately for DirecTV, that doesn't include the ABC stations in NYC and San Francisco, which are owned by Disney. Nor does it help those customers who take vMVPD service DirecTV Stream, which has lost ABC rights during the impasse.

Analysts and reporters have suggested since Day 1 of the spat that a deal gets done before MNF. But it's hard to predict DirecTV's next move. The provider has shown it's willing to go to the mattresses—with its 76-day blackout with **Nexstar** not ending until Week 2 of the NFL season. Less problematic for DirecTV is tomorrow's **ABC News** presidential debate as it is being simulcast on a number of networks, including **C-SPAN**, **The Grio**, **CBS**, **Fox News**, **NewsNation** and **Telemundo**. And there's the recent victory of a **Venu** temporary injunction that may have added a bit of wind to the provider's sails.

It's been interesting to watch impacted customers on social

media. Not only is there frustration over the blacked-out channels on DirecTV, but subscribers to subscription streaming service **ESPN+** are also [questioning](#) why they can't get the content there. DirecTV isn't looking to just start a conversation about skinnier programming bundles. It's hoping ABC affiliate owners get involved since they're losing out of delivering the debates, football and other content to DirecTV Stream households. Nexstar owns or operates 30 ABC affiliates, followed by **Sinclair** (28) and **Gray TV** (23). **NAB** and broadcast owners have been lobbying the **FCC** for years for the right to negotiate retransmission consent to vMVPDs.

The official line late Monday afternoon was that both sides are still talking. "We urge DirecTV to stop creating diversions and instead prioritize their customers by finalizing a deal," said Disney. DirecTV announced a \$30 credit late Friday that could be used toward direct competitors **Sling** or **Fubo** to help cushion the loss of programming.

DirecTV also filed a complaint at the FCC on Saturday accusing Disney of negotiating retransmission in bad faith, claiming the programmer has predicated a deal on it waiving any legal claims on Disney's past, current, or future actions that it views as anti-competitive. DirecTV claims negotiations have stalled because "Disney insists on bundling and penetration requirements that a federal district court judge in New York recently found in the context of the Venu joint venture to be unlawful, anticompetitive, and 'bad for consumers,'" it told the Commission.

The programmer is likely to blow off the argument as standard

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practice, part of previous clean slate agreements with DirecTV and other providers. Though there does seem to be some question about whether such an argument could pique the FCC's interest. In February, the FCC Media Bureau found Nexstar had [breached](#) its duty to negotiate in good faith by proposing renewal terms that would have blocked **Hawaiian Telcom** from filing complaints with the Commission relating to the parties' negotiation and final renewal agreement. "The Bureau found it irrelevant that the proposed release was mutual. It also found irrelevant Nexstar's claims that such provisions were 'not novel and are routinely included in carriage agreements,'" DirecTV said of the case in its weekend filing. "Rather, '[t]he Commission's rules expressly contemplate the possibility that Negotiating Entities may reach an agreement despite bad faith conduct on the part of one of the entities, and permit complaints in those scenarios."

Nexstar is currently fighting the ruling and the proposed \$720,000 fine. The broadcaster has [argued](#) that recent Supreme Court rulings, including its overturning of the Chevron Doctrine, support its arguments. Not surprisingly, the **American Television Alliance** has DirecTV's back. "The FCC recently clarified that the one thing you cannot do in retransmission consent negotiations is prevent the other side from filing FCC complaints. This makes sense—without such a rule, broadcasters would never be held accountable for any anticompetitive activity. Yet this is exactly what Disney has done here," said *Michelle Bowling*, spokesperson for the American Television Alliance, in a statement.

## NTIA TO GATHER LOCALIZED DATA ON DIGITAL DIVIDE

NTIA launched a new project Monday designed to help improve its understanding of the digital divide on a more granular, local level. Called Local Estimates of Internet Adoption (Project LEIA), the joint program between NTIA and the **U.S. Census Bureau** is meant to deliver improved and more timely estimates of internet adoption in counties and communities that will allow NTIA to better track its progress in digital equity. The data will also drive research and policy development efforts. The agency launched a request for comment on Project LEIA asking for input on potential uses of the model-based estimates of internet adoption for smaller populations. It is also looking for suggestions for improvements to the initial experimental model and what additional geographies should be considered as future focuses for Project LEIA.

## INDUSTRY URGES FCC TO MOVE FORWARD ON 37 GHZ BAND

ISPs and industry associations are applauding an **FCC** public notice that looks to develop a shared-use framework between

federal and non-federal users for the lower 37 GHz band. The lower 37 GHz band poses an opportunity for the agency to quickly give more spectrum resources to fixed wireless providers and expand access to broadband. The notice was released last month with comments due Monday, and the FCC asked for specific updates on uses for the band and a possible two-phase coordination process meant to balance meaningful access to spectrum and the need for adequate interference protection. **INCOMPAS** gave the Commission a pat on the back, saying the framework is simple enough for users to bring services quickly to market while also including opportunities for parties to resolve disputes over harmful interference if necessary. "The framework seemingly leverages the existing coordination tools the Commission has in place and considers objective protection criteria that will not only address sharing concerns in the near term but will also allow the Commission to layer on additional tools as needed to enhance the coordination framework over time," INCOMPAS said in comments. INCOMPAS did caution the Commission on its suggestion to use the band for Aeronautical Mobile Services due to potential difficulties that come with coordination between those services and fixed services. **Charter** chimed in on the proposal as well, saying the 37 GHz band is ready to be 2024's spectrum success story. "Over nearly a decade, a thorough technical record has been compiled that shows a simple licensed sharing regime—that allows both commercial and federal use of the 37 GHz band—is ready for deployment," Charter said. "Charter alongside many fellow Commenters have shown the significant support for FCC action to expeditiously unleash this valuable millimeter wave spectrum into an existing equipment ecosystem that will deliver commercial operations quickly, and without the need for an auction."

## PROTOCOL ACT AIMS TO IMPROVE GRANT COORDINATION

Reps. *August Pfluger* (R-TX) and *Debbie Dingell* (D-MI) introduced legislation last week aimed at improving the mapping process for broadband funding and interagency coordination when it comes to the process of awarding broadband funding grants. The PROTOCOL Act would align the **FCC's** Broadband Deployment Locations Map with the **NTIA's** Broadband Infrastructure Funding Database. The bill also includes a request for non-mandatory reports on state-based programs for inclusion in the NTIA database and FCC map. Other federal agencies would be required to use the new FCC map when awarding broadband infrastructure funding.

## AMCN, PULSEPOINT PARTNER ON PROGRAMMATIC

**AMC Networks** is working with the marketing technology company PulsePoint to allow PulsePoint's clients to purchase live linear inventory from AMCN via its preferred demand-side platform. The network claims it's the first to enable programmatic buying on linear networks. PulsePoint's clients span pharmaceutical, health and wellness.

## PEACOCK, NBC KICK OFF NFL

The 2024-25 **NFL** season got underway this past weekend, and it was the feathers of **Peacock** standing out with its exclusive Friday game that saw the Eagles beat the Packers 34-29. The streamer averaged a total audience delivery (TAD) of 14.2 million viewers, according to live plus same-day custom fast nationals from **Nielsen** and digital data from **Adobe Analytics**. That's the most-watched non-Olympic Friday show since April 5—only behind the 14.4 million viewers tuning in for Iowa women's basketball's win over UConn in the Final Four on **ESPN/ESPN2**). That 14.2 million also includes **NBC** local stations in Green Bay, Milwaukee and Philadelphia as well as **NFL+**. It also was the second most-watched live event on Peacock behind the AFC Wild Card exclusive in January. The game peaked at a TAD of 15.3 million viewers from 9:30-9:45pm. **NBC Sports** also had the season-opener between the Chiefs and Ravens on Thursday. The Chiefs' win recorded a TAD of 28.9 million viewers on NBC and Peacock. The average minute audience across Peacock, NBC Sports Digital platforms and NFL Digital platforms came in at 4.6 million viewers, which is the second-most simulstreamed NBC NFL game ever.

## OLYMPICS A HIT FOR X1 USERS

The Olympics took the world by storm in July and August, and it was a hit among **Comcast's** Xfinity X1 users as well. The company revealed that 87% of X1 homes watched Olympics coverage, and **Nielsen's** live plus same-day ratings on X1 came in at 78% higher than the national average for **NBC's** daytime and primetime coverage. Approximately 65% of X1 households engaged with one of the Olympics-focused features such as the Olympics hub, interactive schedule and curated playlists. "Paris Prime" from 2-5pm and "Primetime in Paris" from 8-11pm were the most-watched shows on X1 across all linear channels during the Games.

## FIBER FRENZY

**Consolidated Communications** was awarded an \$11.8 million grant from the New Hampshire Broadband Matching Grants Initiative to build a new fiber network across 12 rural communities in the state. The project would bring the company **Fidium Fiber** service to over 1,500 homes and businesses. Consolidated will pitch in \$7.7 million for a project total of

\$19.5 million. It's not stopping there with the fiber announcements as Consolidated also announced it's partnering with Lincoln County, Maine, to bring fiber internet to the area. The project is partially thanks to a \$6 million grant from the Maine Connectivity Authority's board as part of its Partnerships for Enabling Middle Mile program.

## RATINGS

The season premieres of "Unsellable Houses" and "Bargain Block" last week combined to help **HGTV** record its highest-rated Wednesday night in prime in nearly two years. Nearly two million total viewers tuned in to the former in the 8pm hour, while over 2.4 million total viewers were recorded for the latter at 9pm. Both series checked in as top-five non-news/sports cable premieres among A25-54 and W25-54 for Wednesday.

## PROGRAMMING

**FanDuel** is adding more viewing options for the upcoming third season of "Up & Adams." The season—which starts today—will air on truTV every weekday at 5pm and live locally on **MSG Network** during the week at 11am. The show will also become available on **FanDuel TV**, **FanDuel TV+**, **YouTube** and **Max**. – **HBO's** comedy series "The Franchise" will premiere Oct. 6 at 10pm. **Max** will have it to stream. – The Halloween season is right around the corner. **Lifetime** has six more new original films on deck for its "Ripped from the Headlines" movie slate. "The Girl Who Wasn't Dead" will kick off Oct. 5 before "Nobody Dumps My Daughter" follows Oct. 12. "Alyssa Paldl Story" and "Mormon Mom Gone Wrong: The Ruby Franke Story" will debut Oct. 19 and 26, respectively, before "Kidnapping in Amish Country" airs Nov. 2 and "Searching for a Serial Killer: The Regina Smith Story" follows Nov. 9. The six movies join the previously announced "Buried Alive and Survived (Sept. 21) and "He Slid into Her DMs" (Sept. 28). All movies will begin at 8pm. – **SundanceTV's** three-part true crime docuseries "The Hunt for the Chameleon Killer" will premiere Oct. 10 at 10pm. Episodes will be released weekly. AMC+ and Sundance Now will have it available as a full-series binge.

## PEOPLE

**Fox Weather** named *Jason Hermes* as VP, Advertising Sales and Partnerships, joining from **The Weather Channel** where he was VP, Content Marketing Sales. He'll report to SVP, Fox News Digital Sales *Dan Realson*. Hermes was at TWC since 2020, having spent time at **NBC News** and **NBCUniversal**. – **America's Public Television Stations** tapped *Kate Riley* as its next President/CEO effective Oct. 1. She succeeds *Patrick Butler*, who will retire after nearly 14 years in his position. Riley—who has been APTS' VP, Government and Public Affairs since 2014 and joined the organization in 2010—was unanimously chosen by APTS' Board of Trustees following an eight-month national search.