

# Cablefax Daily™

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What the Industry Reads First

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## Mega Blackout: FCC Intervenes DISH-Sinclair Dispute

With the largest local channel blackout in history underway, FCC chmn *Tom Wheeler* seems determined to end the impasse between **DISH** and **Sinclair**. “Today, I have directed the Media Bureau to convene an emergency meeting with DISH and Sinclair to get to the bottom of the dispute and bring back local programming to consumers,” Wheeler said in a statement. The parties have until midnight to file their views with the agency. Wheeler has circulated an NPRM to review the so-called “totality of the circumstances test” for good faith negotiations over retrans. “The facts surrounding this dispute inform our findings in that proceeding, but we will not wait to act on behalf of consumers,” Wheeler said. The proposal is expected to come out of Wheeler’s office by Sept 4. It all started at 5pm ET Tues, when the 2 failed to reach an agreement after an extension expired. Sinclair’s 129 local channels in 79 markets across 36 states and DC went dark on the satcaster. **Wells Fargo** analysts said that equates to more than 5mln of DISH’s 14mln sub base. The 2 reached a temporary deal on Aug 15, when their previous pact was set to expire at midnight. Most of the stations are affiliated with the Big 4 networks or the **CW**. Unlike most other rate-driven blackouts, this one, at least according to DISH, has to do with the broadcaster desire for a cable channel. “We have agreed to rates and all terms to carry Sinclair’s local stations... But Sinclair is blacking out 129 local stations in an effort to negotiate a carriage agreement for an unrelated cable channel that it hopes to acquire, but does not own today,” said *Warren Schlichting*, DISH svp of president of programming, in a statement. He claimed the two had been making steady progress in their recent negotiations and DISH offered another short-term contract extension that would include a retroactive “true-up” when new rates were agreed upon, and would allow DISH subs to access Sinclair’s local stations while negotiations continued. He noted the “true-up” would ensure that Sinclair was made whole at the new rates for the period of any contract extension. Sinclair rejected the offer, according to DISH. The satellite company filed its complaint with the FCC earlier this month accusing Sinclair of failing to negotiate in good faith and is requesting preliminary injunctive relief. DISH’s complaint now has a new section entitled “forced bundling,” **BTIG** analyst *Rich Greenfield* noted in a blog post. “This is the first time we have ever heard of a station group trying to get affiliate fees for a cable network that it does not even own/operate at the time,” he wrote. DISH believes such behavior may go beyond a retrans violation and could draw **DOJ/FTC** attention if deemed an antitrust violation. On its station websites,

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the broadcaster fired back. “Although we do not believe it is productive to negotiate its private business relationships in the public, the inability to reach agreement with DISH Network is about more than just money.” Sinclair even noted it’s possible that DISH will never carry these stations in the future. While neither DISH nor Sinclair identified the cable network, it’s clear that the broadcaster has been investing in original programming to boost the value of its nets. It launched the Sinclair Original Programming division last year to focus on entertainment and business-to-consumer content. Sinclair already owns a cable news channel, **NewsChannel 8** in DC, through its purchase of a half-dozen stations from **Allbritton** in 2013. Sinclair execs previously said they may expand the 24-hour cable net’s reach. The broadcaster also has expressed interest in a potential cable network to cover high school and college sports. Broadcaster-backed **TVFreedom.org** slammed DISH. “The TV blackout strategy executed by Dish is deliberately timed to create hysteria and persuade the FCC to alter rules to give them a regulatory advantage,” said the group’s spokesman *Robert Kenny*. “That’s typical behavior for Dish, which just lost its \$3.3 billion bid to manipulate the AWS-3 auction. We’re hopeful that policymakers reject the gamesmanship and misinformation from companies like Dish who use viewers as pawns in their retrans game.”

**More on Dispute:** Subs affected by the blackout took to **Facebook** and **Twitter** to voice their frustration. Both companies had their fair share of disputes. Since Jan 2012, **DISH** has been involved in 32 of the 74 retrans fights that have led to blackouts of nets like **Turner-owned** channels and **Fox News Channel**. **Sinclair**, on the other hand, has battled ops including **DirecTV**, now part of **AT&T**, and **Time Warner Cable**. **BTIG’s Rich Greenfield** said regulators are looking for reasons to get more involved to help consumers, and Sinclair may have finally given them “a blatant enough excuse.” “Unfortunately for broadcasters the end result may not simply impact Sinclair, it could very well lead to a reform of retransmission consent negotiations that helps level the lopsided playing field,” he wrote in a blog post. According to **Wells Fargo** analysts, DISH made up about 15% of Sinclair’s retrans revenue in 2014 and is the 2nd largest of Sinclair’s pay-TV distributors behind DirecTV. The timing of the dispute could not be worse, “given the negative sentiment currently cast across all media stocks” combined with the pending retrans consent NPRM, the analysts said. Meanwhile, the DISH blackout, along with the ongoing blackout between DirecTV and **KSL-TV** since last Fri, have left Utah’s 2 local stations off the air. The station impacted in the DISH dispute is **CBS** affil **KUTV**. Unlike the DISH impasse, the DirecTV blackout is related to rates.

**Comcast’s New Hispanic Nets:** **Comcast** is accepting proposals for 2 “substantially” Hispanic American owned, independent English language nets that it will launch in some Comcast markets by Jan 28, 2017. It is part of Comcast’s commitment to launch 10 independently owned and operated nets as part of the Comcast/**NBCU** merger conditions. Of the 10 nets, all of which must be launched by 2019, 4 are to be majority African American owned, 2 must be operated by Hispanic American programmers, 2 will be substantially Hispanic American owned, and 2 will be independent. Criteria include: the content of the network; whether the network is fully financed; whether the network’s ownership and/or management group(s) are well established, have relevant experience, and are substantially owned by Hispanic Americans; whether the network is already launched and has existing MVPD distribution; price; and whether the network and its potential carriage provide value to Comcast and its customers. Comcast will accept proposals for every major genre, including general entertainment, movies, music, kids, news, and sports.

**VA Shooting:** A very sad day in Roanoke, VA. Reporter *Alison Parker* and cameraman *Adam Ward* at **CBS** affiliate **WDBJ** were killed by a gunman identified by the police as *Vester Flanagan* Wed morning during a live broadcast. Flanagan was a former reporter at the station. Flanagan reportedly shot himself in the head but failed to kill himself. He later died in the hospital. Some cable news nets, including **CNN**, initially aired the footage of the shooting before using stills due to the disturbing nature. The tragedy prompted Democrat presidential candidate *Hillary Clinton* to post this tweet: “Heartbroken and angry. We must act to stop gun violence, and we cannot wait any longer. Praying for the victims’ families in Virginia.” Our prayers go to the victims, their family and friends, and the station.

**VAB on Cord Cutting:** The **Video Advertising Bureau** (formerly **CAB**) released its own whitepaper on cord cutting, offering a promising outlook that many cord cutters would like to return to subscription TV packages—for the right price. The decision to cut the cord is about cost, not content, with most cord cutters saying they’d prefer an MVPD subscription because it offers a wider variety of content. Cord cutters aren’t all millennials. While 18-34s make up about one-third of cord cutters, 28% are Gen Xers and 38% are 50+. Fully 59% of cord cutters are households earning less than \$50K (29% under \$25,000), whereas only 10% earn more than \$100K, VAB said, citing **SNL Kagan** data. As for cord nevers, they

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are more likely to be millennials (40%) or seniors (41%), with over-the-air TV more likely than online TV programming to meet their needs.

**Spoiler Alert:** TiVo Research's new survey on TV spoilers found they're pretty much everywhere, with 82% of those surveyed reporting that they've encountered a spoiler, up from 78% in 2014. Respondents blamed the overall Internet for most often revealing spoilers (22%), followed by Facebook (20%) and friends, acquaintances and coworkers (16%).

**Ratings:** Fri's Season 3 finale of "Marriage Boot Camp Reality Stars" on WE tv was the highest-rated ep of the franchise among total viewers (1.5mln), 25-54s (1mln) and women 18-49 (nearly 800K). It helped boost the S4 premiere of "Kendra on Top," which had its best-ever season opener among adults 25-54 (817K) and total viewers (1.1mln). All numbers are Live+3.

**Programming:** One World Sports extended its exclusive, long-term agreement with soccer club Arsenal's official net Arsenal FC TV in the US and Canada. ONE World will deliver Arsenal's games throughout the 10-month season, including those within the English Premier League, Union of European Football Associations Championship and Football Association Cup. -- **Destination America** brings back "Alaska Monsters" for a sophomore season (Sept 19, 10pm), followed by the world premiere of "Alaska Haunting" (Sept 20, 10pm).

## Cablefax Daily Stockwatch

Company	08/26 Close	1-Day Ch	Company	08/26 Close	1-Day Ch
<b>BROADCASTERS/DBS/MMDS</b>					
DISH:	58.57	0.74	CONVERGYS:	22.34	1.01
ENTRAVISION:	7.44	0.07	CSG SYSTEMS:	30.01	0.02
GRAY TELEVISION:	10.86	UNCH	ECHOSTAR:	43.37	1.35
MEDIA GENERAL:	11.29	0.22	GOOGLE:	629.12	47.06
NEXSTAR:	45.16	1.21	HARMONIC:	5.61	0.12
SINCLAIR:	25.61	0.43	INTEL:	27.30	1.43
TEGNA:	23.23	0.81	INTERACTIVE CORP:	69.72	2.48
<b>MSOS</b>					
CABLE ONE:	413.92	0.69	LEVEL 3:	44.53	1.38
CABLEVISION:	23.29	0.70	MICROSOFT:	42.71	2.24
CHARTER:	177.60	6.31	NETFLIX:	110.18	8.66
COMCAST:	55.37	1.52	NIELSEN:	44.23	1.43
COMCAST SPCL:	55.72	1.18	RENTRAK:	44.60	1.05
GCI:	16.77	0.46	SEACHANGE:	5.93	0.12
LIBERTY BROADBAND:	53.20	0.68	SEACHANGE:	5.93	0.12
LIBERTY GLOBAL:	46.90	0.47	SONY:	25.04	1.25
SHAW COMM:	19.75	0.41	SPRINT NEXTEL:	4.79	0.19
SHENTEL:	39.38	1.95	TIVO:	8.85	0.22
TIME WARNER CABLE:	185.20	4.48	UNIVERSAL ELEC:	43.62	(0.27)
<b>PROGRAMMING</b>					
21ST CENTURY FOX:	27.34	0.61	VONAGE:	5.87	0.14
AMC NETWORKS:	69.72	0.46	YAHOO:	32.52	0.78
CBS:	44.35	1.08	<b>TELCOS</b>		
CROWN:	4.51	0.03	AT&T:	32.69	0.89
DISCOVERY:	26.52	0.70	CENTURYLINK:	26.37	1.20
DISNEY:	99.23	3.34	FRONTIER COMMUNICATIONS:	4.84	(0.08)
GRUPO TELEVISIA:	29.63	0.73	TDS:	27.36	0.43
HSN:	61.13	0.93	VERIZON:	45.16	1.66
LIONSGATE:	36.58	0.69	<b>MARKET INDICES</b>		
MSG:	70.12	(0.57)	DOW:	16285.51	619.07
SCRIPPS INT:	52.00	0.62	NASDAQ:	4697.54	191.05
STARZ:	36.74	0.75	S&P 500:	1940.51	72.90
TIME WARNER:	71.67	1.98			
VIACOM:	40.63	0.26			
WWE:	19.87	0.53			
<b>TECHNOLOGY</b>					
ADDVANTAGE:	2.30	(0.02)			
AMDOCS:	56.40	1.00			
AMPHENOL:	50.59	1.00			
APPLE:	109.70	5.96			
ARRIS GROUP:	25.66	0.67			
AVID TECH:	8.00	0.09			
BLNDER TONGUE:	0.57	0.03			
BROADCOM:	49.85	2.66			
CISCO:	25.68	1.06			
COMMSCOPE:	25.80	(0.03)			
CONCURRENT:	4.61	(0.48)			



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## Think about that for a minute...

### The Fat Canary

Commentary by Steve Effros

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OK, so far as I'm concerned, that puts me right beside all the folks who make those claims and get that money, and so are you. None of us really has any clue as to what "the market" is going to do at any given time. The real danger is that there are a lot of folks (including those analysts and "experts") who think they do, and therein lies the rub.

As we all could not have missed by now, the market is going a bit crazy at the moment. Depending on who you talk to, it's either because of China, Obamacare or Hillary's emails. But wait! Wasn't there a "canary in the mine" on this wildly swinging estimation of the value of businesses, markets, industries, economies, etc.? Well yes there was; the overly fat canary; the telecom stocks, started crashing and resurrecting and crashing again before the rest of the market thought that was a smart thing to do and followed the coughing canary's lead. I say coughing because there is absolutely no indication that this canary is going to die any time soon, if at all. But boy, you couldn't explain that to "investors!"

Why did all this happen first in telecom? Maybe because all those experts and analysts had nothing better to write about and charge for in the summer doldrums. I don't know. All I can tell you is that I do have some expertise (reminder; not in stock buying and selling!) when it comes to observing the cable television and telecommunications industry, and from my perspective the last month or so has proved that very few others, especially market reporters, do.

The cable canary started coughing because a very

small proportion of MVPD customers, mainly DBS subscribers, stopped subscribing. And oh, to be sure, there is lots and lots of increasing competition to the traditional "bundled package" from "streaming video." There's also a sharp downturn in some viewership of some programming, whether bundled or not. That could be because of changing tastes, summer variables, or even the fact that there has yet to be a decent "rating" mechanism for wireless viewing (that's television viewing on a tablet, phablet or phone...why it suddenly is not considered "television viewing" simply because there's no wire connected to the wall is a story for another day.) Anyway, all those "indicators" resulted in a stampede of opinion and news articles suggesting that the sky was falling on traditional telecom, be it the cable, satellite or telco deliverers or the programmers who were having a bad season.

Here, however, is the rest of the news; viewing hours among the young are up, not down. The "loss of subscribers" is true, and likely to trend, but it actually is at the moment a rounding error. The "new, disruptive business plans" still rely on the infrastructure we have built and continue to improve. The timeline for any new substitutable nationwide video infrastructure is counted in multiple years, possibly decades. Remember, for instance, HDTV research started in 1970, tech standard setting started in 1977. That's the reality that I have lived through, and know about. I really don't know what the "market experts" think is going to happen differently. "Trends?" Sure. Always more competition, always new technology. But crisis? Read the "disclaimer" at the top again, then buy.

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)

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