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What the Industry Reads First

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GSN Complaint: Enforcement Bureau Doesn't Think Cablevision Discriminated

As **GSN** awaits the decision of the **FCC's** administrative law judge on its carriage complaint against **Cablevision**, the Enforcement Bureau has said it doesn't think the programmer proved discrimination. The ALJ heard the case in July and asked the Bureau to give its opinion, although the judge will make the recommended decision to the FCC. In comments filed Thurs, the Bureau wrote that it doesn't believe GSN produced any direct evidence of unlawful affiliation based on discrimination by Cablevision nor did it show that GSN was similarly situated to **WE tv** and **Wedding Central**. "There is no smoking gun in the record," the Enforcement Bureau said. GSN filed the complaint in 2011 after Cablevision moved it to a \$6.95/month sports and entertainment tier, claiming that Cablevision-affiliated **WE tv** and now-folded **Wedding Central** were competitors who received broader distribution (both nets used to be owned by Cablevision subsidiary **Rainbow**). Closing arguments are slated to take place in the case on Oct 29. During the nearly 2-week long hearing in July, GSN alleged that Cablevision offered to return GSN to a broader tier if the network's part owner, **DirecTV**, gave broad carriage to fledgling **Wedding Central**. "However, there does not appear to be any evidence in the record—and GSN cites none—indicating that Cablevision made the decision to retier GSN in order to obtain favorable coverage for **Wedding Channel** (sic) on **DirecTV**. Rather, the evidence reflects that Cablevision made the offer to reinstate GSN's coverage on a broader tier if **DirecTV** carried **Wedding Channel** only after it communicated the retiering decision to GSN in December 2010 and only in response to discussions that GSN and **DirecTV** initiated," the Bureau wrote, adding that it appeared to be GSN execs who originally had the idea of **DirecTV** offering to carry **Wedding** for broader GSN carriage. "Moreover, the negotiations did not bear any fruit. Nothing changed as a result. Consequently, this evidence proves nothing." The Bureau also concluded that GSN targets and attracts a different audience than **WE tv** and **Wedding Central**. While GSN characterized itself as a women's network, it also repeatedly distinguished itself from women's nets and held itself out as a channel targeting a wider audience, the Bureau said. It said the programming also differed, with GSN concentrating on game shows as programming hallmarks, while **WE tv** and **Wedding** emphasized scripted comedies, dramas and movies. In addition to recommending a finding that Cablevision hasn't violated discrimination rules, the Bureau said the judge should not recommend mandating broader carriage of GSN.

That's Settled: **Cablevision** and **Viacom** said they've resolved the antitrust litigation related to a 2012 carriage agreement between the companies. Details of the settlement and arrangements weren't disclosed, but the 2 said they are "simultaneously entering into mutually beneficial business arrangements." Cablevision sued in Feb '13, claiming that Viacom was illegally bundling less-desirable channels with must-have channels like **MTV** and **Comedy Central**. Viacom counter-sued. "We are pleased to have put these matters behind us in ways that benefit both of our companies and look forward to working together to benefit Cablevision's customers." Altice is in the process of acquiring Cablevision, a move that Viacom pres/CEO *Philippe Dauman* described as a "real positive force" at an investor conference last month.



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Incentive Auction: The **FCC** set the final opening bid prices that will be offered to eligible broadcast stations that want to participate in the spectrum incentive auction, with **WCBS** of NY the most valuable at \$900mln. The prices give broadcasters guidance on what they can get for their spectrum, with a Dec 18 deadline looming to decide if they will participate. "For all practical purposes, we've fired the starting gun: the release of final opening bid prices—combined with the detailed application procedures and other data released yesterday—provides broadcasters with all of the information they need to decide whether to apply to participate in the auction," FCC chmn *Tom Wheeler* said.

Altice-Cablevision: Let the **FCC** docket watching officially begin. **Altice** has filed its application with the agency to acquire **Cablevision**. In making its case for prompt approval of the deal, Altice said there is no anticompetitive effect from the transaction and argued Cablevision customers will benefit from its global expertise. "The Transaction will magnify Cablevision's capacity to compete. Altice is a substantially larger company than Cablevision, and as such has extensive access to capital and the ability to pursue innovation on a significantly larger scale, distributing the benefits over a much larger global customer base," Altice said. The FCC is still weighing Altice's proposed acquisition of **Suddenlink**. The companies have said the proposed acquisition of Cablevision should not affect the timing or substance of the Commission's review in the Suddenlink deal, which has been pending before the FCC since June 3. The Suddenlink deal has received approval from all but 2 of the state regulatory authorities reviewing the transaction, and no opposition has been filed in the 2 remaining states where approval is pending, the companies said.

Special Access Probe: The **FCC** has launched an investigation into certain contracts for special access services, the wholesale data lines leased by smaller carriers from larger incumbents like **AT&T, Verizon, Frontier, and Century Link**; and offered to small and medium sized organizations as dedicated data and voice services. "With substantial advocacy in the record on both sides of the issues, we believe that a more systematic inquiry into the tariff pricing plans in question is needed before any determination on the merits can be made," the Wireline Competition Bureau said.

Ratings: Live + 3 numbers are in, and **AMC's** "The Walking Dead" picked up nearly 5mln viewers over the past few days through time-shifting. Sun's Season 6 premiere notched 19.5mln, up from the 14.6mln for Live + Same Day. It drew 12.8mln 18-49s in L+3, up from 9.4mln. While the premiere's L+SD ratings fell short of last season's 17.3mln total viewers, it goes down as the highest-rated premiere for the '15-'16 season among 18-49s and 25-54s in L+3. TWD owned **Twitter** during its debut, with nearly 1mln tweets generated Sun (3.6bln potential impressions via 825K unique users). The back half of Season 6 will debut on Feb 14. -- **TBS's** presentation of Game 5 of the NLDS between the Mets and Dodgers averaged 7.4mln total viewers and a 4.5 US HH rating, making it the 2nd most-viewed NLDS game eve on the net. Locally, it delivered an 18.4 HH rating in NY, a high for an LDS game on TBS in the market.

SCTE Wrap: Attendance at **SCTE's Cable-Tec Expo** in New Orleans last week hit 8600—up about 5% since 2010, the last time the show was held in that city. It's down about 5% though from last year's Expo in Denver, which drew 9100. The show floor featured nearly 400 exhibitors, a slight increase over Expo 2014. There were 66 first-time exhibitors at the show. Next year's show is slated for Sept 26-29 in Philly.

Editor's Note: Our Rockville HQ is upgrading to new digs down the road, but as a result our Week in Review stockwatch was unavailable at deadline. It'll return next Fri. New addy: 9211 Corporate Blvd. 4th Floor Rockville, MD 20850.



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