

Cablefax Daily™

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What the Industry Reads First

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In the Courts: Charter Files Motion to Dismiss Univision Complaint

Charter made its case Fri for why **Univision's** breach of contract claim against it should be dismissed. Charter's motion to dismiss only applies to Univision's breach of contract claim. At this point, it's not seeking dismissal of Univision's declaratory judgment claim regarding rights and obligations under the Charter and Time Warner Cable agreements. The MSO told the court that it will ultimately show that its position that the TWC contract applies to all of New Charter's cable systems is consistent with the contract and the structure and organization—"as well as common-sense understanding of how the programming business is structured." Charter completed its acquisition of TWC and **Bright House** on May 18, creating "New Charter." In July, Univision sued over whether Charter can use the terms of Time Warner Cable's contract, claiming the MSO is perpetuating a ruse by claiming TWC is the acquiring company. **Fox News** and **Showtime** also have filed similar lawsuits. Charter's contract with Univision expired on June 30. Rather than negotiate a new deal, Charter maintains that distribution is pursuant to TWC's contract, which expires in June 2022 (Univision says it expires at year-end because of the acquisition, and even so, Charter's legacy systems aren't covered by it). Charter claims no contract was breached as it did pay the agreed rate until the deal expired on June 30. Thus "it is a matter of basic contract law that a plaintiff cannot state a breach of contract claim for an expired contract." The MSO also rejected Univision's allegation that it breached the contract by refusing to negotiate a new deal or "acknowledging" that the TWC contract terminates at the end of the year. With Charter paying the TWC rates for now, "Univision has at best alleged only that defendants intend to breach the now-expired Charter agreement in the future," the motion to dismiss said. As for the argument over whether Charter or TWC control the combined company, Charter declared that there is nothing in its contract "that gives Univision any say in how Charter and Time Warner Cable could structure their transaction." There's a long way to go in this process, with investors and programmers keeping a close watch on how it pans out. Charter consistently said leading up to the TWC and Bright House acquisitions that it expects about \$800mln in cost savings in the first 3 years after the deals close.

Nexstar-Media General: **Nexstar** won the **Dept of Justice's** blessing for its \$4.6bln acquisition of Media General by agreeing to divest 7 broadcast stations. "Without the required divestitures, the prices for broadcast television spot advertising and the fees charged to multichannel video programming distributors—such as cable and satellite providers—for the retransmission of broadcast television programming to MVPD subscribers would likely increase in six designated market areas located across the United States," the DOJ said Fri. DOJ's Antitrust Division filed a civil antitrust suit to block the proposed transaction. It simultaneously filed a proposed settlement, which if approved by the court, would resolve the competitive harm alleged in the suit, DOJ said. Under the settlement, the following stations would go to these acquirers: **WBAY-TV**, in Green Bay, to **Gray Television**; **WSLS-TV**, in Roanoke-Lynchburg, to **Graham Holdings**; **KADN-TV** and **KLAF-LD**, in Lafayette, to **Bayou City Broadcasting Lafayette**; **WTHI-TV**, in

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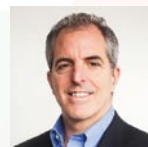
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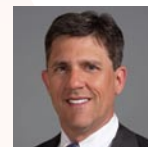
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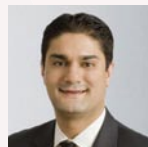
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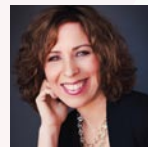
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View Agenda and Register at www.CFXtvsummit.com

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Terre Haute, to **USA Television MidAmerica Holdings**; **WFFT-TV**, in Fort Wayne, to **USA Television**; and **KWQC-TV**, in Quad Cities, to Gray.

Charter Plays Ball: With distributors in L.A. continuing to balk at launching **Dodgers** net **SportsNet L.A.**, Charter announced a deal that will have Tribune broadcast station **KTLA5** broadcast 6 games, including the final series of the 2016 regular season against the Giants. "This award-winning network is only available today through Charter, and providing this preview during *Vin Scully's* last few games is a great way to allow all Dodger fans to enjoy the legendary announcer as he closes out his iconic career. We're also looking forward to showcasing the network as a way to remind all Dodger fans who don't subscribe to Charter what they're missing," said **Michael Bair**, evp, **Spectrum Networks**. Charter will simulcast the first of the games beginning Sept 23 on SportsNet LA and KTLA5.

The Hispanic Vote: **Univision** pres/CEO **Randy Falco** penned a letter to **Commission on Presidential Debates** exec dir **Janet Brown** on Fri expressing his "disappointment, and frankly disbelief," that the Commission has not chosen a Hispanic journalist to moderate the presidential debates. He said that though the inclusion of **CBS's Elaine Quijano** as a moderator for the veep debate is a "welcome addition," he said it was not sufficient in light of past cycles, demographic trends and the role Latinos play in shaping the economic and social fabric of the country. "It's an abdication of your responsibility to represent and reflect one of the largest and most influential communities in the U.S.," the letter said. Falco said that no candidate for President has won without at least 30% of the Latino vote since 1980, and that the number of registered Hispanic voters in battleground states has increased. As such, he wrote that that candidates "must engage and speak directly to these voters."

Set-top Suit: On Fri, the 2nd Circuit Court of Appeals upheld a lower court decision rejecting an antitrust class action claim against **Time Warner Cable** for allegedly tying premium cable channels to the leasing of set-tops. The complaint, originally filed in 2008, claimed that Time Warner Cable (now Charter) used its market power in 53 markets to force subs to lease boxes as a condition of getting premium services. The majority opinion concludes no tying arrangement can exist unless there is a sufficient demand for the purchase of the tied product separate from the tying product. The complaint "fails to allege facts that, if proven, would show the existence of a demand for bi-directional cable boxes separate from the demand for premium cable services," the decision said. The court notes the FCC's deep involvement since 1996 in trying to develop separate markets for cable boxes, saying that the Commission itself has acknowledged that efforts have failed. "In March 2016, the FCC proposed new regulations in a further attempt to create separate markets, but its historic failure to do so over the time period covered by the complaint bolsters our conclusion that the plaintiffs have not plausibly alleged separate product markets for bi-directional cable boxes and premium cable services," the court said.

Programming: **Disney XD** greenlit "Mech-X4" for its sophomore season prior to the series debut on **Disney Channel** and **Disney XD** on Nov 12 at 8pm. A preview eps of the sci-fi live action series will air on Oct 28 via the **Disney XD App**, **VOD** and **YouTube Channel**.

Editor's Note: Your next issue of **Cablefax Daily** will arrive Mon evening because of the holiday. Have a restful Labor Day!

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Cablefax Week in Review

Company	Ticker	9/2 Close	1-Week % Chg	YTD %Chg
BROADCASTERS/DBS/MMDS				
DISH	DISH	51.78	6.02%	(9.44%)
ENTRAVISION	EVC	7.83	3.85%	1.56%
GRAY TELEVISION	GTN	11.28	1.62%	(30.8%)
MEDIA GENERAL	MEG	18.05	2.85%	11.76%
NEXSTAR	NXST	54.22	5.26%	(7.63%)
SINCLAIR	SBGI	29.33	2.98%	(9.86%)
TEGNA	TGNA	20.66	(1.1%)	(19.04%)

Company	Ticker	9/2 Close	1-Week % Chg	YTD %Chg
MSOS				
CABLE ONE	CABO	558.71	4.69%	28.84%
CHARTER	CHTR	271.79	8.31%	48.52%
COMCAST	CMCSA	66.16	0.99%	17.24%
GCI	GNCMA	13.58	(0.59%)	(16.64%)
LIBERTY BROADBAND	LBRDA	70.38	4.98%	36.26%
LIBERTY GLOBAL	LBTYA	32.84	6.55%	(22.47%)
SHAW COMM	SJR	20.37	1.14%	18.50%
SHENTEL	SHEN	25.78	3.04%	(40.12%)

Company	Ticker	9/2 Close	1-Week % Chg	YTD %Chg
PROGRAMMING				
21ST CENTURY FOX	FOXA	24.55	0.04%	(9.61%)
AMC NETWORKS	AMCX	54.87	1.14%	(26.53%)
CBS	CBS	52.22	1.52%	10.80%
DISCOVERY	DISCA	25.89	0.62%	(2.96%)
DISNEY	DIS	94.42	(0.83%)	(10.14%)
GRUPO TELEVISIA	TV	27.67	0.95%	1.69%
HSN	HSNI	42.23	(0.68%)	(16.66%)
LIONSGATE	LGF	20.48	(3.03%)	(36.77%)
MSG NETWORKS	MSGN	17.48	(1.3%)	(15.96%)
SCRIPPS INT	SNI	63.83	0.73%	15.61%
STARZ	STRZA	30.84	(1.5%)	(7.94%)
TIME WARNER	TWX	78.53	(0.9%)	21.43%
VIACOM	VIA	44.70	(2.66%)	1.61%
WWE	WWE	21.19	0.71%	18.78%

Company	Ticker	9/2 Close	1-Week % Chg	YTD %Chg
TECHNOLOGY				
ADVANTAGE	AEY	1.96	0.00%	8.29%
AMDOCS	DOX	60.91	2.27%	11.62%
AMPHENOL	APH	62.58	1.74%	19.82%
APPLE	AAPL	107.73	0.74%	2.35%
ARRIS GROUP	ARRS	28.45	4.83%	(6.93%)
AVID TECH	AVID	9.12	(2.04%)	25.10%
BLNDER TONGUE	BDR	0.56	(8.2%)	40.00%
CISCO	CSCO	31.83	1.53%	17.19%
COMMSCOPE	COMM	29.87	1.46%	15.37%
CONCURRENT	CCUR	5.48	8.09%	10.71%
CONVERGYS	CVG	30.30	2.09%	21.74%
CSG SYSTEMS	CSGS	44.59	2.55%	23.93%
ECHOSTAR	SATS	39.47	3.05%	0.92%
GOOGLE	GOOG	771.46	0.25%	1.66%
HARMONIC	HLIT	5.10	14.61%	25.31%
INTEL	INTC	36.08	2.33%	4.73%
INTERACTIVE CORP	IAC	59.00	3.16%	(1.75%)
LEVEL 3	LVLIT	50.13	1.72%	(7.78%)
MICROSOFT	MSFT	57.67	(0.62%)	3.95%
NETFLIX	NFLX	97.38	(0.2%)	(14.86%)
NIELSEN	NLSN	52.67	0.34%	13.03%
SEACHANGE	SEAC	2.91	4.68%	(56.82%)

Company	Ticker	9/2 Close	1-Week % Chg	YTD %Chg
SONY	SNE	32.64	(1.63%)	32.63%
SPRINT NEXTEL	S	6.42	4.56%	77.35%
SYNACOR	SYNC	2.83	0.71%	61.71%
TIVO	TIVO	11.02	1.47%	27.69%
UNIVERSAL ELEC	UEIC	76.27	0.53%	48.53%
VONAGE	VG	5.81	(2.19%)	1.22%
YAHOO	YHOO	43.28	2.39%	30.13%

Company	Ticker	9/2 Close	1-Week % Chg	YTD %Chg
TELCOS				
AT&T	T	40.95	0.66%	19.01%
CENTURYLINK	CTL	27.94	(2.85%)	11.05%
FRONTIER	FTR	4.56	(1.08%)	(2.36%)
TDS	TDS	28.14	1.01%	8.69%
VERIZON	VZ	52.88	1.56%	14.41%

Company	Ticker	9/2 Close	1-Week % Chg	YTD %Chg
MARKET INDICES				
DOW	DJI	18491.96	0.52%	6.12%
NASDAQ	IXIC	5249.90	0.59%	4.84%
S&P 500	GSPC	2179.98	0.50%	6.66%

WINNERS & LOSERS

THIS WEEK'S STOCK PRICE WINNERS

COMPANY	CLOSE	1-WK CH
1. HARMONIC	5.10	14.61%
2. CHARTER	271.79	8.31%
3. CONCURRENT	5.48	8.09%
4. LIBERTY GLOBAL	32.84	6.55%
5. DISH	51.78	6.02%

THIS WEEK'S STOCK PRICE LOSERS

COMPANY	CLOSE	1-WK CH
1. BLNDER TONGUE	0.56	(8.2%)
2. LIONSGATE	20.48	(3.03%)
3. CENTURYLINK	27.94	(2.85%)
4. VIACOM	44.70	(2.66%)
5. VONAGE	5.81	(2.19%)

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