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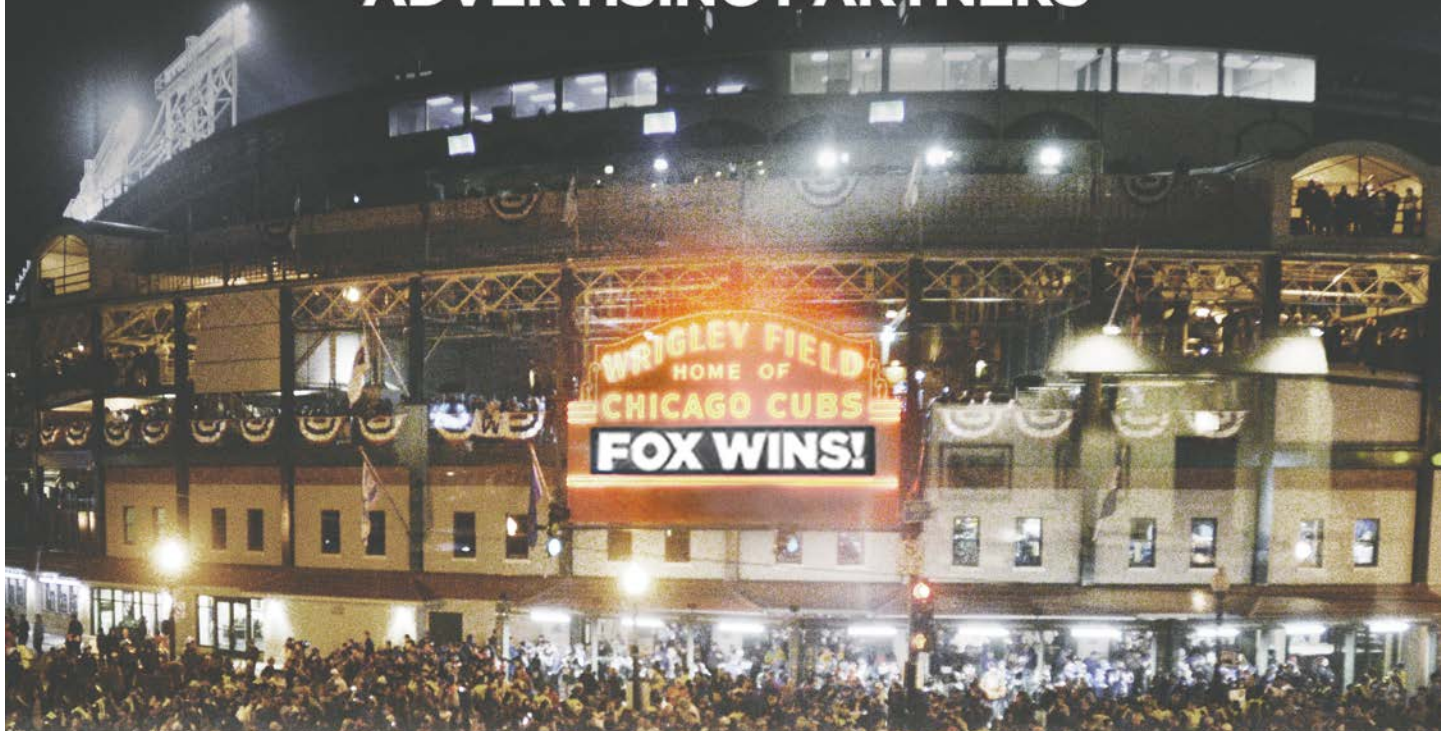
Friday — November 11, 2016

What the Industry Reads First

Volume 27 / No. 219

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 **260 YEARS**

*NFI, PERSONS 2+ 10/30/16
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Effective Competition: FCC Defends Cable's Competitive State

Given the rancor between cable and the FCC these days, it's refreshing to see the two on the same side of something. So was the case Thurs when a 3-judge panel of the DC Circuit Court of Appeals heard oral arguments on **NATOA** and **NAB's** challenge of the agency's effective competition order. Representatives from **NCTA** and **ACA**, who filed as intervenors, sat behind FCC counsel during the half-hour or so arguments. NATOA and the broadcasters are challenging the FCC's June 2015 decision to adopt a rebuttable presumption that cable systems are subject to effective competition nationally. That means local franchise authorities (LFAs) can't price regulate basic cable rates and equipment charges unless they can demonstrate to the Commission that the cable operator doesn't face effective competition in their jurisdiction. Effective competition is defined as MVPD competitors having at least 15% of the local pay TV market. After the rule went into effect, the FCC received only 3 filings seeking effective competition status. One, Campbell County, Kentucky, was thrown out, while 2 areas in Hawaii were found to lack competition and 118 franchise areas were deemed not to have effective competition in Massachusetts. It's that Massachusetts Department of Telecom and Cable filing that received the most attention during Thurs' arguments. "If Massachusetts hadn't filed, the FCC would have found 100% [of jurisdictions] subject to effective competition," *Stephen Kinnaird*, counsel for the petitioners, said in arguing that the FCC is wrong to make a presumption. While there was no indication of how Judge *Cornelia Pillard* felt about the FCC's order, she seemed to reject Kinnaird's argument that the FCC doesn't have to make a presumption either for or against the existence of effective competition. "There is a baseline either way," she said, remarking at one point that Congress told the FCC to streamline the process and the agency chose to do so by flipping the presumption from no effective competition to effective competition. Pillard did follow the petitioner's logic on Massachusetts, asking the FCC why the state, with approx 35% of its LFAs lacking competition, would be atypical. "I don't know," FCC counsel *James Carr* responded. "I think it's important to keep in mind that not every community where there is a finding of no effective competition made a decision to regulate cable rates. It's an expensive proposition." Judge *Douglas Ginsburg* asked why the FCC only received 3 petitions rebutting the effective competition presumption—and doesn't that mean the effective competition standard is met? Kinnaird said it makes sense for LFAs to wait and file once the court had heard this challenge, suggesting it's a costly maneuver.

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“Wouldn’t it make sense to file and wait?” Ginsburg asked, suggesting that LFAs would merely need to “submit a paper.” One of NAB and NATOA’s arguments against the FCC order is that it goes further than Congress intended by changing effective competition rules for all cable operators, not just small operators, as they argue STELAR intended. During arguments, Kinnaird said LFAs don’t have the kind of money to file these petitions, but the top 5 cable operators do. The FCC’s Carr pointed to the 228 effective competition proceedings decided by the FCC over a 2-year period. Of those, 224 were decided in cable’s favor. Pillard noted that could be selection bias, with cable operators only filing petitions when they had a strong case. Carr agreed, but said the Commission considered national data as well—pointing to data suggesting that by 2013 cable competitors had captured 34% of US households (more than double the 15% penetration needed).

FCC’s AT&T Questions: Ahead of **DirectTV Now’s** launch, the **FCC** is raising some “serious concerns” over the streaming service and **AT&T’s** zero-rating wireless data program. In a letter dated Wed, Wireless Bureau chief *Jon Wilkins* asked the telco to explain the “specific impact of AT&T’s zero rating practice on competition and the specific terms.” In addition, “unaffiliated video providers not purchasing sponsored data would likewise face a significant competitive disadvantage in trying to serve AT&T Mobility’s customer base without zero-rating,” he said. The FCC wants AT&T to address the concerns by Nov 21. Here’s the response from AT&T senior evp of external and legislative affairs *Bob Quinn*: “AT&T and other broadband providers offer a service that lets consumers watch video without incurring any data charges. These are incredibly popular services that we hope regulators won’t take away from the millions of people who enjoy them today. It makes it easier for consumers to say goodbye to their cable company. With our Data Free TV offer, DIRECTV picks up the tab for our Mobility customers’ data use when they’re streaming content. For example, consumers can watch DIRECTV content—such as **NBC, Fox News, CBS, CNN, ESPN**—all on their AT&T mobile devices without incurring any data charges. In addition, many companies like insurance firms have provided free well-care and other videos that provide consumers with useful and essential information. While we welcome additional questions, we hope the FCC will consider the enormous value consumers find in obtaining free data or free streaming where someone else is footing the bill for their data. We welcome any video provider that wishes to sponsor its content in the same “data free” way for AT&T Mobility customers and we’ll do so on equal terms at our lowest wholesale rates. Saving consumers money is something we all should support.”

Rutledge’s Take: **Charter** pres/CEO *Tom Rutledge* said a Trump Administration “is good for us,” to the extent that the regulatory environment will be better for companies like Charter. He made the remark during an interview with **CNBC** Thurs. “I am an optimist,” the exec said. Speaking of *Trump*, the President-elect will do his first extensive post-election interview on a broadcast net: Sunday’s “60 Minutes” on **CBS** at 7pm ET. The interview will be conducted by *Lesley Stahl*, who will speak to the Trump family, including First Lady-elect *Melania, Ivanka, Tiffany, Eric* and *Donald, Jr.*, in the Trump’s Fifth Avenue residence in NYC. Meanwhile, Rutledge reiterated his bullish view on the traditional video bundle model. Calling the upcoming **DirectTV Now** streaming offering a “niche” play, Rutledge said most people would still prefer traditional video packages. While there’s an audience for streaming services and skinny bundles, the traditional video packages still offer the most value, he said. “The single best response” to Charter’s marketing initiatives is from people who are broadband-only, but want to get video, he said. Wireless will be an important part of Charter’s future. “I see us building 5G wireless in the long run,” said Rutledge. Using 5G, products will be delivered in high capacity and low latency, he said.

Life Beyond OTT: **Comcast** is focusing its TV Everywhere efforts on raising consumer awareness, *Matt Strauss*, evp/gm of video and entertainment services for **Comcast Cable**, said during the **Wells Fargo Securities** Investor Conference Thurs. That means continuing to make sure customers know that they can access all of their content across devices, he said. **AT&T’s** upcoming **DirectTV Now** streaming offering won’t be a threat to Comcast, according to Strauss, since the MSO already offers skinny bundles and streaming options such as Stream TV and Xfinity on Campus. Is Comcast looking to launch a nationwide OTT product? “OTT is not for the faint of heart, especially if it’s a video-only OTT service,” Strauss said. And such a move isn’t a priority for Comcast, he said. Instead, the MSO is focusing on new businesses like home security, with Strauss saying nearly 100% of Comcast home security subs take multiple products. The strategy of expanding into customers’ homes “allows us to go deeper into our footprint,” he said. Instead of following the OTT and skinny bundle trend, “you want to own the home... We want to go deeper and deeper into our base,” the exec said. It all comes down to where the company can get the most ROI, he said. Another priority at Comcast is implementing voice control across its footprint. Voice control goes behind video, can be a source of information and can be tied to home offerings, he said.

Altice Earnings: Altice's Cablevision unit lost 28K video customers in 3Q versus the 33K video subs it lost a year ago. It ended Sept with around 2.55mln pay-TV subs. Altice's Suddenlink unit lost 12K video subs, compared with a loss of 9K in the year-ago period, ending the quarter with 1.05mln subs. Cablevision's cable revenues grew 2.7% YOY, while Suddenlink saw a 6.7% YOY cable revenue growth during the quarter. At Cablevision, the percentage of new customers taking high speed broadband packages (>100Mbps) increased to 40% in 3Q from 13% in 2Q, following Cablevision's network upgrade to offer all customers across the entire Optimum footprint up to 300/350 Mbps speeds. At Suddenlink, the percentage of total customers taking high speed broadband packages (>100Mbps) more than doubled from 16% to 32% since Altice took ownership of the business in 4Q, 2015. Altice USA chief *Dexter Goei* provided some thoughts on the US election during Thurs' earnings call, saying it's too early to have a view on challenges and opportunities given there's been no real indication of policy by the Trump administration. "I do think the market overall it seems has reacted nicely to the election results, particularly our sector, given more importantly the Congressional side of the vote going Republican in both the House and Senate. It means that many of the things that may have been slight negatives or potential risks going forward may get challenged under a full Republican administration," he said. "On balance, irrespective of where someone sits on the personal political spectrum here, for cable operators, it is probably flat to positive on the administration." As for the proposed AT&T-Time Warner merger, Goei said it follows Altice's belief in full convergence.

Viamedia's Election Report: At only 6% of overall political cable spend, presidential campaign-focused cable-TV PAC expenditures varied by state, with the majority of those dollars in OH, PA and NC bought by Team Clinton, and the majority of those dollars in FL and IN bought by Team Trump, according to Viamedia's preliminary analysis of cable advertising transaction data. "While the Clinton presidential campaign and pro-Clinton PACs outspent Trump significantly on local cable advertising by 9-to-1 across the country in our markets, this just wasn't enough to overcome the earned (free) media strategy adopted by the populist Trump campaign," said *Mark Lieberman*, Viamedia's pres/CEO. According to the 2016 ad buys, 47% of all cable TV political ad spending came from issues advertisers, PACs and other organizations; 38% has come from down-ballot campaigns, primarily for the Senate and House; 9% has come from the presidential campaigns; and 6% reflected spending by PACs on behalf of presidential campaigns. By comparison, in the same Viamedia markets in 2012, 45% of all cable TV political ad spending came from issues advertisers and PACs—including PAC spending on behalf of the presidential campaigns; 44% came from down-ballot campaigns; and 11% was from the presidential campaigns.

Dolan Family Ventures: Dolan Family Ventures, founded by *James Dolan* and *Kristin Dolan*, announced it acquired **Analytics Media Group** (AMG), which provides data analytics and technology services, and launched **605**, a new audience measurement and analytics business focusing on the media and entertainment industries. *Kristin Dolan*, most recently COO of **Cablevision**, is founder/CEO of 605, with *Ben Tatta*, most recently pres of Cablevision media sales, named pres/co-founder of 605; and *Chauncey McLean*, founder/chief revenue officer of AMG, named evp of client solutions.

On the Hill: A few hearings of note next week. **House Commerce's** Communications subcmte and Commerce, Manufacturing and Trade subcmte will hold a joint hearing Wed to understand the role of connected devices in recent cyber attacks. On Tues, the Commerce subcmte will delve into self-driving cars. Over in **Senate Commerce**, the committee will hold its first hearing on augmented reality (Wed, 3pm ET). Yes, **Pokémon Go** has a seat at the witness table, which has us hoping that chmn *John Thune* (R-SD) will find a Pokestop in the Russell Office Building.

Disney Earnings: Disney's cable nets saw operating income decrease \$207mln to \$1.4bln for 4Q because of decreases at **ESPN** and the **Disney Channels**, partially offset by an increase at **Freeform**. ESPN's decline reflected lower ad and affiliate revenue and higher programming and production costs. Lower ad revenue primarily stemmed from fewer impressions and lower rates. Freeform growth was driven by lower programming and production costs, as well as lower marketing expenses, partially offset by a decrease in affiliate revenue. Overall, Disney posted a 16% YOY increase in quarterly earnings.

Programming: **Fox News** bows new 1-hour show "Tucker Carlson Tonight" on Mon at 7pm ET. Carlson will end his co-host duties on "Fox & Friends Weekend," with a rotating personality subbing until a permanent replacement is found. -- **Spike** picked up 6-part docuseries "It Was Him: The Many Murders of Ed Edwards," who was convicted of 5 cold cases in his '70s and is suspected in other killings. -- Don't have **HBO**? **VICE News** and **HBO** have made the full post-election ep of "VICE News Tonight" available to stream for free online at news.vice.com. -- **ESPN** will carry a record number of **America East Conference** events under an 11-year extension to their current media rights agreement that runs through 2026-27. The conference's 9 schools will work with ESPN and the AE office to develop their own in-hour production operations on campuses, resulting in a significant increase in national coverage for multiple sports on **ESPN3** under the banner "The

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AE on ESPN3.” -- **UPTV** added another US premiere movie to its previously announced “We Get Christmas” lineup. “Fall for Christmas” premieres Nov 26 and is 1 of 3 premiere movies debuting Thanksgiving weekend.

People: **Discovery Comm** upped *Jhamal Robinson* to svp, production management, and *Heather Sokolow* to vp, production management. -- **Starz** named *Jamie French* vp of programming publicity. He joined the net after serving as the vp of communications and talent relations at **Esquire Network** and vp of communications for **Style Network**.

4K Trials: Small and mid-sized cable ops are trialing 4K services. Four more ops are testing 4K content across global satellite operator **SES's** UltraHD platform, SES said. The company inked UltraHD trial agreements with **Marquette-Adams, Buckeye Broadband, Service Electric Cable TV, and enTouch Systems**. The deal followed SES' trial agreements with 4 other ops earlier this year, including **Cable America, Golden West Telecommunications, MTC Cable and Sjoberg's Cable TV**.

People: Multiplatform video tech firm **Piksel** said **Discovery Comm** CTO *John Honeycutt* joined its board. Piksel's clients include companies like **Discovery, AT&T and Liberty Global**.

Correction: **Viacom** reported its 4Q earnings Wed, not 3Q.

Cablefax Daily Stockwatch

Company	11/10 Close	1-Day Ch	Company	11/10 Close	1-Day Ch
BROADCASTERS/DBS/MMDS					
DISH:	56.38	(1.55)	INTEL:	34.50	(0.25)
ENTRAVISION:	6.33	0.28	INTERACTIVE CORP:	65.43	0.01
GRAY TELEVISION:	8.35	0.25	LEVEL 3:	53.80	(0.79)
MEDIA GENERAL:	17.77	0.54	MICROSOFT:	58.70	(1.47)
NEXSTAR:	55.05	4.05	NETFLIX:	115.42	(6.77)
SINCLAIR:	27.60	0.80	NIELSEN:	44.88	(0.25)
TEGNA:	19.80	0.54	SEACHANGE:	2.47	(0.01)
MSOS					
CABLE ONE:	576.70	(2.74)	SONY:	29.84	(0.38)
CHARTER:	270.87	1.04	SPRINT NEXTEL:	7.09	(0.02)
COMCAST:	65.09	1.64	SYNACOR:	2.75	(0.05)
GCI:	16.36	(0.06)	UNIVERSAL ELEC:	66.30	0.10
LIBERTY BROADBAND:	68.26	0.10	VONAGE:	6.38	(0.2)
LIBERTY GLOBAL:	30.89	(2.26)	YAHOO:	40.16	(1.05)
SHAW COMM:	19.38	(0.48)	TELCOS		
SHENTEL:	25.35	0.40	AT&T:	36.57	(0.87)
PROGRAMMING					
21ST CENTURY FOX:	27.16	(0.3)	CENTURYLINK:	23.81	(0.48)
AMC NETWORKS:	52.05	(0.08)	FRONTIER:	3.16	(0.05)
CBS:	57.15	(0.27)	TDS:	25.40	(0.57)
DISCOVERY:	26.03	0.13	VERIZON:	46.69	(1.17)
DISNEY:	95.02	0.38	MARKET INDICES		
GRUPO TELEVISA:	22.50	(0.99)	DOW:	18807.88	UNCH
HSN:	37.00	0.35	NASDAQ:	5208.80	(42.28)
LIONSGATE:	23.05	0.32	S&P 500:	2167.48	4.22
MSG NETWORKS:	19.25	UNCH			
SCRIPPS INT:	67.01	1.51			
STARZ:	33.38	0.10			
TIME WARNER:	86.32	(0.28)			
VIACOM:	42.50	0.15			
WWE:	17.57	(0.18)			
TECHNOLOGY					
ADDVANTAGE:	1.84	0.04			
AMDOCS:	58.60	1.87			
AMPHENOL:	66.47	(0.88)			
APPLE:	107.76	(3.12)			
ARRIS GROUP:	28.18	0.45			
AVID TECH:	4.52	(1.8)			
BLNDER TONGUE:	0.55	UNCH			
CISCO:	31.00	(0.36)			
COMMSCOPE:	34.11	0.45			
CONCURRENT:	5.27	(0.6)			
CONVERGYS:	24.51	(1.47)			
CSG SYSTEMS:	40.53	(0.35)			
ECHOSTAR:	49.48	1.27			
GOOGLE:	762.56	(22.75)			
HARMONIC:	4.50	(0.85)			

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PROGRAMMER'S PAGE

Night Shift...

Lice outbreak. Finding a baby surrogate. Guests canceling at the last minute. These are all issues faced by late night talk show talent booker Staci (played by *Ali Wentworth*) and her crew on **Pop's** newest series "Nightcap" (premieres Nov 16, 8pm). Executive producer, writer and star, Wentworth loves the role of high-strung and neurotic Staci, and mentioned some similarities and differences between her and the character. "Staci's a slightly desperate, single middle-aged woman, and I'm middle-aged and desperate, but married," she said. Wentworth developed the show in reflection of the backstage she-nanigans she witnessed while working in late night. "There is so much insanity that happens when putting on a show that it's like 'Will the show go on?'" Wentworth told us. "I've been in situations backstage where the celeb or rockstar was having amorous relations with the publicist and the door was locked and that celebrity had to go on in five minutes and everyone was banging on the door, begging them to come out." One of the most common problems is when a guest cancels. Seen in a later episode titled "Lice-ism," Staci takes drastic measures at the last minute when *Denis Leary* claims he is too sick to attend. After Staci follows him to his set, Leary gets caught in a lie after deciding to go to a hockey game instead of doing the show. By allowing celebs to depict themselves, playing off celebrity stereotypes, the show is "breaking down celebrity worship in a way, because you see them as real people," Wentworth said. "We live in a celebrity obsessed society and it's fun to see all the flaws. We're all just people and we're all trying to do our jobs." The guest list for the faux talk show is impressive—*Sarah Jessica Parker, Michael J. Fox, Whoopi Goldberg, Jason Biggs*... Wentworth, who will be a special guest at **Cablefax's** Most Powerful Women's lunch in NYC on Nov 17, assured us the stars came to play (one storyline has Staci trying to get Fox to be shot out of a cannon). *Nightcap* has already been picked up for a second season. — *Hayley Spillane*

Reviews: "The Killing Season," Sat, 9pm, **A&E**. If one of the signs of a good documentary is its ability to fill the viewer's head with contrasting opinions, then ep 1 of this docu-series succeeds mightily. It begins by tracking clues related to the Long Island serial killer, alleged to have murdered 10-17 sex workers over two decades. Did the police botch the cases? Since the victims were sex workers, did they not care? And how many serial killers are at work in the US? 60-80? 200-300? More? -- "Polar Bear Town," Wed, 8pm, **Smithsonian**. Following from the previous review, another sign of a good doc is when the viewer is exposed to an unknown slice of life. "Polar Bear Town" succeeds splendidly, introducing us to Churchill, Manitoba, where every fall 1K gorgeous polar bears pass through the small, remote town. That's also when loads of tourists and a few colorful guides turn up. But don't get too close to the bears; they've ended their hibernation and are hungry. -- "Undercover," 2-night premiere, Wed, Thurs, 8pm, **BBC America**. The 6-part series starts slowly, toggling between London and Louisiana, with few clues about *Adrian Lester's* character. Fortunately, *Sophie Okonedo* picks up the slack as a crusading lawyer. Hang in; a good story unfolds faster in subsequent eps. — *Seth Arenstein*

Basic Cable Rankings (10/31/16-11/06/16)			
Mon-Sun Prime			
1	FOXN	1.4	3152
2	ESPN	1.1	2403
3	HALL	0.8	1904
4	MSNB	0.7	1646
5	USA	0.6	1324
6	AMC	0.5	1234
6	CNN	0.5	1213
6	FX	0.5	1176
6	TBSC	0.5	1153
6	HGTV	0.5	1141
6	DISC	0.5	1096
6	NFLN	0.5	892
6	DSE	0.5	99
14	DSNY	0.4	1003
14	TNT	0.4	973
14	FOOD	0.4	927
14	HIST	0.4	885
14	ID	0.4	860
14	ADSM	0.4	848
14	HMM	0.4	606
21	NAN	0.3	733
21	BRAV	0.3	724
21	LIFE	0.3	720
21	TLC	0.3	662
21	TVLD	0.3	637
21	NKJR	0.3	593
21	A&E	0.3	591
21	DSJR	0.3	517
21	FOXD	0.3	177
30	SPK	0.2	529
30	FRFM	0.2	526
30	SYFY	0.2	518
30	OWN	0.2	499
30	VH1	0.2	447
30	CMDY	0.2	435
30	APL	0.2	426
30	ESP2	0.2	409
30	TRAV	0.2	403
30	TRU	0.2	394
30	WETV	0.2	393
30	NBCS	0.2	377
30	NGC	0.2	373
30	GSN	0.2	369
30	LMN	0.2	349

*Nielsen data, supplied by ABC/Disney, is based on coverage area of individual networks



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