

# Cablefax Daily™

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What the Industry Reads First

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## Sinclair-Tribune: Does ALJ Go Away? Does Tribune Stay Single?

If you thought the FCC seemed skeptical of some of Sinclair's proposed station divestitures, you should see what Tribune has to say. In its \$1bn lawsuit against its would-be acquirer, Tribune claims it warned Sinclair against such sales, saying the broadcaster deliberately disregarded repeated warnings from Tribune and regulators. "Sinclair knew that it was taking a substantial risk by concealing from the FCC material information about its relationships with certain buyers," Tribune writes in its suit. Those would-be buyers were **Cunningham Broadcasting**, which has stations Sinclair employees operate under joint sales agreements, and **Steve Fader**, who is an associate of Sinclair exec chmn **David Smith**. In designating the merger for a hearing before the FCC's administrative law judge, the FCC raised the question of whether Sinclair had misrepresented the deals or had a lack of candor. Sinclair has strongly denied this. On Thursday, the same day Tribune withdrew from the merger, Sinclair filed with the FCC to give notice that it will appear on the date to be set for an ALJ hearing. Tribune was expected to make a similar filing. The FCC's hearing designation order is still in effect, which meant parties had until Thursday to file their written appearances. It's not clear what happens to the order now. While most think the ALJ hearing will be terminated like the deal, the questions of possible misrepresentation and candor are still there, so it's conceivable the ALJ process moves forward. Sinclair is hoping that's not the case, filing a motion Thursday for chief administrative law judge **Richard Sippel** to terminate the hearing proceeding. Inquiries to Sinclair and its attorneys at **Pillsbury Winthrop Shaw Pittman** were unanswered at press time. Not so quiet were critics of the deal—from NM Senator **Tom Udall** (D) to **Newsmax** CEO **Christopher Ruddy**. "We beat Sinclair," proclaimed a missive from **Free Press**, who credited calls, signatures, donations, etc from the public for causing FCC chmn **Ajit Pai** to send the merger to the ALJ. Also not quiet was Tribune, holding its first earnings call in more than a year—having halted them because of the pending deal. "I think what transpired was not a function of an unwelcoming regulatory environment, but more of how this transaction was prosecuted by our merger partner. We feel like the environment remains welcoming and open to sensible consolidation and there's tons of activity out there," CEO **Peter Kern** said during the call. "Given our balance sheet and assortment of assets, we remain open to all opportunities in terms of further consolidation as well as just pushing our businesses as hard as we can push them." Wall Street

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seems to believe Tribune will have plenty of suitors. "We continue to believe Tribune is a long-term seller with no shortage of potential buyers," **Evercore ISI** analysts said, reminding us of a Sinclair proxy that revealed a four-month bidding war that resulted in Sinclair's \$43.50 cash/stock offer, **Nexstar** counter offering five times and six additional broadcast group plus six private equity funds involved in discussions.

**Butting Heads:** There's still no end in sight to the ongoing **Univision** and **DISH** battle, Univision CEO *Vince Sandusky* said in the company's 2Q earnings call Thursday. In fact, Univision is prepared to utilize the strength of its network to convert DISH subscribers to other providers should the company refuse to negotiate. "We're not asking them to do anything outrageous," said Sandusky in his first earnings calls since taking the reins at the Spanish-language programmer. "If DISH doesn't start to negotiate in a real serious way, we're ready to go in terms of using full promotional capabilities of our company and begin to convert what we believe is well over a million DISH Latino subscribers." Sandusky stands firm on his point that Univision is not out-of-line in its terms. "We are compatible with English language services in terms of total viewership," he said. "I know that we are not being unreasonable. We're just simply trying to narrow it and we think this, we know this is market and we know this is a reasonable ask as its been accepted by other major distributors." Last week, DISH chmn *Charlie Ergen* said on the company's earnings call that he believes the dispute and resulting blackout will be a permanent one. While he said there were no hard feelings with the company, Ergen saw Univision as losing value to customers. Univision's total revenue decreased 2% to \$749.8mln in Q2, but net income increased to \$114.3mln from \$106.1mln. The net will also be one of the first four networks featured on a dedicated section of **Facebook Watch**.

**Reckless Optimism:** When it came to **Viacom's** 3Q earnings call Thursday, CEO/pres *Bob Bakish* had one message for shareholders: don't give up on the company's turnaround. He highlighted the continued strength of Viacom's flagship networks, particularly **BET**, **MTV** and **Comedy Central**. He also talked of major improvements in US distribution, an area of concern when Bakish stepped into the driver's seat. "By rebuilding and expanding our relationships with distribution partners, we closed major renewals, secured incremental carriage and broadened the scope of our partnerships to include advanced advertising and co-production deals," Bakish said. Two Viacom channels are being carried on **AT&T Watch's** Entertainment Only bundle and the company participated in a funding round for **Philo**. Sub declines are moderating, Bakish said, in large part thanks to the restoration of Viacom nets to **Charter** and **Suddenlink** systems. And more growth opportunities are in the near future with digital endeavors, especially with the impact of the recent **AwesomenessTV** acquisition to be seen. As much as this is all good news, the numbers paint a different picture. Revenues fell 4% to \$3.24bln, adjusted operating income dropped 5% to \$767mln and net earnings sank to

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\$511mln. Why? Drops in the company's domestic ad revenues and international struggles. It's placing high hopes on its Advanced Marketing Solutions business, which saw revenues increase 33%. Bakish also announced that an agreement with **Fox** that will see the latter licensing the technology behind the Viacom Vantage audience targeting platform. CFO *Wade Davis* emphasized that this is a new line item on the balance sheet and sparks significant opportunity for them with other publishers. Of continuing concern to analysts is the state of **Nickelodeon**, which saw pres *Cyma Zarghami* step down in June. "Nickelodeon is Viacom's single most important brand and profit generator," **Bernstein's Todd Juenger** wrote in a research note. "We don't see any hope of sustainably stabilizing, let alone improving, linear kids' networks. In fact, we don't think fully distributed linear kids' networks will exist much longer."

**Energy Saving STBs:** That voluntary set-top box agreement between **NCTA** and **CTA** has resulted in \$3.5bln in savings and the avoidance of more than 20mln metric tons of CO2 emissions, according to a report by independent auditor **D+R International**. Interesting new data point in this five-year program is the number of devices consumers are using to watch pay TV without a set-top. More than 100mln connected devices were used last year to access multichannel services without a set-top, compared to an estimated 207mln boxes still in the field. App usage could replace or reduce demand for set-tops, something future reports will monitor (reports must be published annually through 2021). The companies signing the pact (which is pretty much everyone) purchased 5.2mln fewer set-tops in 2017 than 2016, something the report says is likely due to a decline in subs. In 2017, 97.5% of service providers' set-top box purchases met new, more rigorous energy levels, better than the 90% commitment under the voluntary pact.

**T-Mobile/Sprint Combo:** The **FCC's** Wireless Bureau is seeking comment on **T-Mobile** and **Sprint's** requests for clarification or a waiver to ensure that their agreement to combine won't bar their independent participation in 5G spectrum in the 28 GHz and 24 GHz bands. The companies have argued independently that the agreement doesn't constitute a joint bidding arrangement. Comments are due Aug 22.

**Hail Mary:** The dispute between the **Big Ten Network** and **Comcast** is turning into quite a rumble, with **BTN** calling on some of its biggest coaches to enter the fight. A video released by **BTN** featured names like Michigan's *Jim Harbaugh* and Penn State's *James Franklin* speaking to their team's fans. A voice at the end of the video said: "Hey Comcast Xfinity customers, you could lose Big Ten football. Don't let Comcast take away your games." **BTN** has already been dropped from the Xfinity lineup in out-of-market area and the carriage agreement between the two is set to expire on Sept 1.

**Cable ONE's 2Q:** With an emphasis on broadband over video, **Cable ONE** sometimes gets slammed for not having higher HSD growth, but CEO *Julie Laulis* told analysts Thursday that you have to consider its markets. "There are marketplaces where we do very well in terms of penetration, but not all markets are created equally. Penetration varies by market, by region, depending on the competitor in the marketplace," she said during 2Q earnings. "I don't expect that penetration in markets in Mississippi or rural Oklahoma are going to match New York City exactly. But I think we have room on the penetration side and we're going to aim to get there with a balanced mix of rate and volume. We are testing those pieces right now." Legacy Cable ONE data posted 13K subscriber additions in the quarter, representing YOY growth of 2.5%. Residential HSD rev rose 18.3% to \$122.5mln, something *Laulis* attributed to subs jumping to the 200Mbps tier, which costs \$65 vs \$55 for 100Mbps. Cable ONE is gearing up to launch a new residential and business portal next quarter and it has expanded its scheduled rollout of its 2 Gig business product Piranha Fiber to triple the number of planned launches for 2018. Net income was \$43.8mln in 2Q, an increase of 57.2% from a year ago.

**First to the Punch:** **DISH** has added **Bitcoin** Cash as a payment option and is using BitPay. **DISH** subs can use the cryptocurrency to pay for their monthly bill as well as for PPV movies and events. **DISH** has been a longtime supporter of cryptocurrencies, becoming the first subscription model pay-TV provider to accept Bitcoin back in 2014. -- **Epix's** entire catalog of 4K UHD movies is now available to **DISH** customers with a Hopper 3 or 4K Joey, 4K TV and an Epix subscription. **DISH** says it is the first pay-TV provider to roll out this offering.

**Public Affairs:** **NBCU** launched a new "Erase The Hate Campaign" in a partnership with **Civic Nation** to help create a more inclusive America. The campaign is near to **NBCU Cable** chmn *Bonnie Hammer*, who started it in **USA** in 1994. To promote the social impact campaign, *Timbaland* and *Princess Nokia* released a joint song and music video that will debut at 8pm on Friday across the **NBCU** nets. A campaign manifesto video, marking the one-year anniversary of Charlottesville, also features *Ryan Phillippe*, *Christopher Meloni*, *Padma Lakshmi*, *Soledad O'Brien* and *Andy Cohen*.

**People:** *Cherie Grzech* was upped to vp of **Fox News'** DC bureau, while *Bryan Boughton* was promoted to bureau svp. *Grzech* will report to *Boughton*, who began his career as the original overnight assignment editor for Fox News.

# PROGRAMMER'S PAGE

## Truth More Dramatic than Fiction?

In some ways, **Smithsonian Channel's** "Sacred Sites" covers familiar ground—from ancient Mayan temples to the well-worn pilgrimage route to Spain's Santiago de Compostela. But what makes the documentary series noteworthy is its gift for unearthing new information. When Sacred Sites' second season debuts Monday at 8pm, viewers will hear new evidence that the legend of King Arthur is rooted in fact. "There are people making breakthroughs in these sites regularly, and that's what drives this series," said executive producer *Tim Evans*. "You think you know this, but your mind is going to be blown by some of the stuff that coming out of the ground at the cutting edge of science right now." Take the Mayan pyramids explored in the ep 2—underneath them in a secret temple that was just discovered in the past year. "These stories from Sacred Sites are really more dramatic than 'Game of Thrones,'" Evans said, describing an Egyptian sex and fertility cult run by women. "We have an ancient sex priestess who takes on the pharaoh and wins... We have real human stories that are dramatic." With it being a Smithsonian series, it's filmed in 4K as is the grand majority of network programming. **Layer3 TV** became the first MVPD this past fall to carry the net's full 4K on demand library. "The team from Tile Films went all over the world... They did an extraordinary job of not only getting into places, but showing you how the place works. They find a way to get to that site on the day of the solar eclipse or solstice so you can see the sun rising over this particular point," Evans said. At only 35mln homes, Smithsonian Channel is still an emerging channel. Evans believes that high quality, nonfiction content will scratch a neglected itch for some. "They're looking for authentic information," he said. "But they're not looking for education. They're looking for a story. What we know is the most compelling drama is real life." — *Amy Maclean*

**Reviews:** "Ballers," Season 4 premiere, 10pm, Sunday, **HBO**. For viewers hankering for the material high-life and male bonding of "Entourage" with more than a bit of sports thrown in, this is the ticket. *Dwayne "The Rock" Johnson* and *Rob Corddry*, as Johnson's wacky business partner, have tremendous chemistry. Meanwhile, other storylines show aspects of **NFL** culture, many of them serious issues portrayed seriously. Accordingly, fans are wondering if "Ballers" will tackle the kneeling-during-the-anthem controversy. -- "Carter," 10pm, Tuesday, **WGN**. With today's angst and tension, it can be fun when a serious genre leans back and pokes fun at itself. This is the case with "Carter," a new WGN series that has fun with the detective procedural (Tuesday is its second episode). Police tropes are parodied galore; many when Harley Carter (the wonderful *Jerry O'Connell*), an actor who plays a detective on TV, jumps into real police work in his hometown of Bishop, Canada. Instances of art imitating life and vice versa make for laughs thanks to the chemistry between the goofy O'Connell and Sam, the straight-laced detective he works with, played with appropriate gravitas by *Sydney Poitier* *Heartsong*. After a hard day at work, Carter will bring more than a few smiles to your face. — *Seth Arenstein*

Basic Cable P2+ Prime Rankings\*  
(07/30/18-08/05/18)

Mon-Sun	MC	MC
	US	US AA
	AA%	(000)
FNC	0.767	2,336
MSNBC	0.519	1,579
HGTV	0.447	1,362
USA	0.433	1,320
ESPN	0.367	1,116
TBSC	0.359	1,092
HALL	0.353	1,076
HIST	0.343	1,044
TLC	0.330	1,004
ID	0.310	943
A&E	0.310	943
NICK	0.308	937
NAN	0.299	910
CNN	0.295	899
FOOD	0.284	864
DISC	0.280	852
ADSM	0.243	740
FX	0.240	730
BRAVO	0.224	683
TNT	0.218	663
HMM	0.210	638
TVLAND	0.203	617
DSJR	0.199	607
NATGEO	0.185	563
AMC	0.181	551
INSP	0.181	551
DSNY	0.180	548
SYFY	0.177	538
LIFE	0.175	532
APL	0.167	507
VH1	0.162	494
FRFM	0.157	478
MTV	0.155	472
PARA	0.150	457
TRAVEL	0.147	448
NKJR	0.145	441
HBO	0.143	435
CRN	0.139	423
GSN	0.138	421
WETV	0.133	406
BET	0.130	396

\*P2+ L+SD rankers are based on national Nielsen numbers, not coverage.

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