

Cablefax Daily™

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What the Industry Reads First

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Retrans 2019: Charter Loses Tribune Stations, Other Blackouts Continue

At 5pm ET Wednesday, **Charter** lost 33 **Tribune** stations in 24 markets as well as cable network **WGN America**. Impacted stations include **KDVR (Fox)** in Denver and **WTTV (CBS)** in Indianapolis. It's the latest year-end contract dispute, with **American TV Alliance**, the retrans reform group supported by companies such as **DISH** and **Mediacom**, estimating that consumers faced up to 70 year-end blackouts. In Charter and Tribune's case, the contract actually expired at 12:01am ET Tuesday, but the two agreed to a brief extension until 5pm Wednesday as they continued to negotiate. Those talks didn't prove fruitful. "We've offered Spectrum fair market rates for our top-rated local news, live sports and high quality entertainment programming, and similarly fair rates for our cable network, WGN America," **Gary Weitman**, Tribune's svp, corporate relations, said in a statement. "Spectrum has refused our offer and failed to negotiate in a meaningful fashion." Charter claims Tribune wants more than double what it currently pays for the programming. The blackout hits just ahead of **NFL** playoff action that begins Saturday. Charter is telling customers that all NFL games are available for free on the NFL and Yahoo Sports mobile apps. "It is unfortunate that Tribune has decided to pull its programming from our customers' line-ups," Charter said. It's also directing subs to **Locast.org**, a free broadcast streaming app available on **Roku** and online in Dallas, Denver, Houston and NY. For 2018, ATVA counts 140 blackouts. That's down from the record-breaking 213 in 2017, but up from the 104 blackouts that took place in 2016. **Verizon Fios'** New Year's Eve blackout with three **TEGNA** stations, including DC **CBS** affiliate **WUSA**, continued Wednesday with no end in sight. "TEGNA is no longer negotiating with Verizon and has not responded to our last offer. TEGNA is demanding nearly double the current monthly rates and using its own viewers as leverage, even as ratings on broadcast TV are down," Verizon said. "We remain hopeful that TEGNA will respond to Verizon's last proposal so we can focus on reaching a fair deal and returning the channels to customers." TEGNA sees things differently, naturally, saying it's ready to reach a fair deal with Verizon as it has with other MVPDs. "We have made multiple, market-based offers to Verizon and continue to hope we reach an agreement that restores our signal as soon as possible," a spokesperson said Wednesday. One potential New Year's Eve blackout that didn't come to be was **Disney-ESPN** and Verizon. The two reached a deal ahead of a Monday 5pm ET deadline that kept O&Os **WABC** (NYC) and **WPVI** (Philly) on **Fios** as well as **Disney Channel**, **ESPN**, **Freeform** and sister cable nets. Under the new deal, Ve-

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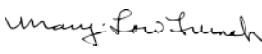

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rizon will continue carrying a slew of Disney channels as well as the **ACC Network** when it debuts Aug 22. Verizon joins **Altice USA** in the initial distribution circle for the college sports net. **TDS** didn't dodge the blackout bullet, with **Nexstar** stations in Colorado, New Mexico, Nevada, Texas and Utah dark. TDS said it marks the first time it has lost a Big 4 station. "We have given Nexstar our best offer—one that we consider a reasonable increase. Nexstar, however, is continuing to demand rates that are well outside industry norms—now up to a 130% increase. TDS will continue negotiations with Nexstar to reach a fair agreement that does not unduly impact customers' bills," the operator said. Nexstar's messaging: "Our efforts have been thwarted by what appears to be a strategy of unrealistic proposals and outright delay by a distributor willing to hold its paying subscribers captive because it won't agree to pay a fair price for your local ... station." **ACA** has jumped on the dispute, calling it evidence as to why federal retransmission consent rules need to be updated. It's also making sure lawmakers are aware that this is the same broadcaster attempting to buy Tribune, with the proposed \$4.1bln deal to make it the largest TV group in the US. The deal "would put Nexstar in position to black out at least more than half of the country," ACA said in a press release. "Should Nexstar really have this much power, especially when it has a track record of fudging the facts in a way that looks a lot like the behavior displayed by **Sinclair Broadcast Group**?"

Stingray's Out: **Stingray** pulled its \$120mln offer to acquire **Music Choice**. The original bid was presented to MC's management and each of its owners, including **Charter, Comcast, Cox Communications, Sony Corp of America, WarnerMedia, Arris** and **Microsoft**. "While we continue to see benefits in a combination of Music Choice with Stingray, we are extremely confident in our strategic direction and are excited by the significant opportunities before us," pres/CEO of Stingray **Eric Boyko** said in a statement. **Altice USA** and Stingray recently reached a deal bringing 50 of its channels to Altice's customer base, further demonstrating intent to penetrate into US markets. "For us we have a lot of tools in our toolbox," Stingray's svp, marketing and communications **Mathieu Péroquin** told **CFX**. "We're obviously going to pursue a strategy to aggressively compete in the US marketplace." Stingray already has US partnerships with major companies and organizations such as **AT&T, NCTC, Comcast, Cox Communications** and **Amazon**. Music Choice and Stingray have been embroiled in patent infringement lawsuits since 2016, but Péroquin stated the majority have been resolved. "We basically concluded and won on most of, if not all of the patents," Péroquin said. "I think there may be one or two remaining that have little or no potential impact. Most of all those patent suits were rejected by the board."

Shutdown Standstill: The **FCC** will suspend most operations in the middle of the day Thursday due to the continued partial lapse in federal government funding. Employees will have up to four hours to "complete an orderly shutdown of operations," according to a statement from the regulator. The general shutdown plan states that more than 80% of the staff

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would be furloughed. The shutdown will not affect the agency's first 5G wireless spectrum auction, which will resume as scheduled on Thursday. The FCC will shut down its consumer complaint and inquiry lines, as well as halting all consumer protection and enforcement activity. Licensing activity for broadcast, wireless and wireline industries is also shut down as the FCC regulates those industries, meaning merger reviews, such as the **Sprint/T-Mobile** deal, are also on hold. The agency is also extending all filing deadlines so that submissions that would be due during the suspension of operations will now be due on the second day of normal operations. The government has been partially shut down since Dec 22 over Trump's demand that funding for a border wall be included in any spending bill passed by Congress.

Fuse Out: As **Cablefax** reported in November, **Comcast** made good on its promise to drop **Fuse** on Dec 31. But it wasn't the only MVPD to bid the multicultural-focused channel adieu, with **Verizon Fios** also dropping the network on New Year's Eve. The news, coupled with **Z Living's** plans to cease operations on Jan 31, illustrates the tough environment for networks—particularly indies. "In this case, much of the content carried by Fuse is similar to content that also is available on other networks, such as **BET, BET Her, TV One, Bounce TV** and **Pop**," Comcast said of the drop, adding that it's launching two new African American majority owned nets **AFRO** and **CLEO TV**. According to Fuse Media pres/CEO **Michael Schwimmer**, the Comcast discontinuation wasn't about money. "This decision is both surprising and troubling considering that Fuse met Comcast's financial demands and no other requirements were ever communicated to us," he said, saying the decision to drop the channel gives "further credence to the merit of on-going **DOJ** oversight." That avenue may be closed. The *NY Post* reports that **DOJ** has opted not to ramp up an investigation into Comcast-**NBCU**. In August, the DOJ reportedly notified Comcast that it would continue monitoring the company's handling of programming and distribution even after its consent decree in the NBCU transaction expired on Sept 1. In a statement on the Verizon drop, Fuse said the loss of Fios customers represents a low single-digit reduction of distribution vs 2018 levels. It continues to have carriage through all of the other traditional MVPDs as well as vMVPDs **DirecTV Now, Sling TV** and **fuboTV**. Verizon said it decided to drop Fuse as it reviewed proposals from content providers to ensure the rates were in line with their viewership. Fuse said that while Verizon claims "to be committed to supporting customers from underserved communities, Verizon Fios is removing unique content programmed to the passions and values of the large and growing multicultural millennial audience." That language sounds similar to some of the statements **Univision** made after its flagship channel and other nets were dropped from **DISH** in June. Latino groups, including **LULAC** and the **National Hispanic Foundation for the Arts**, have had Univision's back in the fight. However, in another ominous sign for networks, the Univision channels are still dark and the dispute widened in November to include **Univision Deportes**.

Net Neutrality: FCC chmn **Ajit Pai** took time Wednesday to celebrate that the 115th Congress failed to pass a resolution that would have overturned the agency's Restoring Internet Freedom order. The new Democrat-controlled Congress can't use the Congressional Review Act to invalidate the FCC order, though Democratic leadership is expected to grill Pai repeatedly on the issue. The big showdown, however, is in the DC Circuit, which will hear a challenge of the rules on Feb 1. On Wednesday, news came that the three-judge panel hearing the case will be **Judith Rogers, Patricia Millett** and **Stephen Williams**. Williams, a **Ronald Reagan**-appointee, was part of the three-judge panel that released a decision in 2016 upholding the **Obama**-era FCC's rules that revoked Title II regulation. Williams dissented in part, saying he would have vacated the rules for various reasons, including his belief that the FCC's justification for the switch to Title I from Title II was based on an explanation of policy that was "watery thin and self-contradictory." The other two judges were nominated by **Bill Clinton** and **Barack Obama**.

Broadcast Deals: **Gray TV** closed on its \$3.6bn acquisition of **Raycom**. The merger already had the OK from the **FCC** and **DOJ**, with Justice requiring the divestiture of stations in nine markets. Gray now owns or operates TV station and digital properties in 91 markets. **Hilton Howell** became Gray's exec chmn/CEO. **Pat LaPlatney**, formerly Raycom's pres/CEO, became Gray's pres and co-CEO. -- **Scripps** closed on its acquisition of three **ABC**-affiliated TV stations in Florida and Texas owned by **Raycom**. **KXXV, KRHD** and **WTXL** were divested as part of Gray's acquisition of Raycom. This expands Scripps' holdings to 36 stations in 26 markets. The \$55m transaction was funded with cash on hand. Scripps also plans to purchase 15 stations in 10 markets from **Cordillera**, expected to close this spring.

Ratings: Several New Year's Six bowl games on **ESPN** delivered record ratings on Jan 1. The Rose Bowl (Washington vs Ohio State) saw a 9.7 overnight, and the Sugar Bowl (Texas and Georgia) delivered a 7.8. Both achieved their highest non-CFP Semifinal rating in the playoff's five-year history. The Rose Bowl was up 3% from the 2017 game and 23% from 2016. The Sugar Bowl saw a 28% increase from 2017 and a 46% jump from 2016. -- CFP semifinal ratings were down 25% YOY. Part of the reason could be semifinals were played Dec 29 instead of New Year's Day. Clemson vs Notre Dame in the Cotton Bowl saw 16.8m viewers on **ESPN**, and Alabama vs Oklahoma in the Orange Bowl drew in 19.069m.

Think about that for a minute...

Resolution

Commentary by Steve Effros

2019! And I've already changed my mind. The last column I wrote suggested that I would engage in the time-honored exercise of year-end prognostication in the "final" column of the year. Little did I know that the final column had been canceled by the good folks at Cablefax because of the holidays! Good move on their part, since it gave me enough time to reconsider that plan: it really wasn't worth the effort. I feel the same about the "year in review" stuff that fills the media. We all know what happened in 2018. Most of us would prefer to quickly move on.

Prognostication is just a big word for "guess." I don't need to guess as to what is going to happen in 2019. I know that the courts will be dealing with the legal net neutrality challenge and the partisans will be spewing press releases which will have no bearing on the legal issues being discussed. I know that there will be a serious effort to look at the issue of privacy and security on the internet. What I don't know is if Congress will be able to do anything productive about it.

But given that there appears to be a bipartisan agreement that the subject itself is serious, and has many characteristics that most folks can agree upon, I thought it would be useful to start looking at "the internet" issues in more detail. I'm going to need your help.

I have lunch on a pretty regular basis with a friend who could easily be characterized as a "computer nerd," except he is a whole lot more than that. He's one of the best programmers in the country and knows more than most folks about privacy, security, spam, misuse of the Internet and the like. He knows that I am feeling somewhat guilty about being part of the generation of policy folks who, like him, promoted and encouraged



the development of "the web." I, along with a lot of other folks, are becoming more and more convinced that this new technological advance in communications has also been one of the root causes of the current divisiveness, instability, angst and anger that seems to be proliferating worldwide. There was a very good opinion column in yesterday's Washington Post by Megan McArdle ("Blame the Internet..."), which pretty much sums up my concern. She focuses on the universal, international nature of this instantaneous new communications medium as a unifying reason for the spreading discord, rather than the regional vagaries. I think she's right. She ends, unfortunately, with the conclusion that there are likely to be "... more convulsions until societies have fully processed the technological shift; 2019 is apt to look like 2018, only more so."

With that in mind, I want to start looking for some solutions. OK, we can start to identify some of the root causes, but having done that, what can we do about it? Clearly this is going to be complicated. Privacy versus transparency, data use versus data collection, "unfettered" opinion versus curated fact-checking. As I said to my computer friend, we created this mess, it's up to us to help figure out ways to clean it up!

But again, I'm going to need your help. We need to talk across industry lines, across political lines, with the technical as well as business and legal folks and the ones who can find a political "common ground" that can get through the legislative process. Your thoughts are needed. Share them. Easy, right? Welcome to 2019.

Steve

T:202-630-2099
steve@effros.com

(Steve Effros was President of CATA for 23 years and is now an advisor and consultant to the cable industry. His views do not necessarily reflect the views of Cablefax.)

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