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What the Industry Reads First

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Retrans Watch: Nexstar Sues DirecTV Over Fees for Unlaunched Station

When **Nexstar** came forward with its plan to buy **Tribune**, there were objections from some distributors that claim the broadcaster is a bad actor when it comes to retransmission consent negotiations. But this time around, Nexstar is pointing the finger at the other side of the negotiating table. It has sued **DirecTV** in a NY federal court, claiming breach of contract. At issue is an “unlaunched station fee” that it says DirecTV agreed to pay for not being required to immediately launch Nexstar station **WHAG** (aka **WDVM**). The Hagerstown, MD, station lost its affiliation with NBC on July 1, 2016. “DirecTV now erroneously claims that its obligation to pay the unlaunched station fee depends on the station retaining its network affiliation. Nothing in the contract supports DirecTV’s wishful thinking,” Nexstar told the court. “Indeed, the contract plainly places the risk on DirecTV that the station might lose its network affiliation during the contract’s term.” Reached for comment, an **AT&T** spokesperson said, “While we hope to resolve this with Nexstar, we dispute their claims and plan to respond.” WHAG made retrans waves earlier this year, with **Antietam Broadband** losing it on Jan 1 (it remains off the provider’s lineup). **DISH** and **Verizon Fios** carry the channel, which offers local news for the area. **Comcast** carries the station in-market, but stopped carrying it out-of-market in March. It sounds like this unlaunched station fee is a bit unusual, with Nexstar ordinarily requiring distributors to retransmit all of its stations. The broadcaster told the court it made this accommodation to DirecTV, with the satellite provider paying the same base license fee, but to an aggregate of 220K subs vs the actual subs. DirecTV had to agree to consider launching WHAG. If it did launch, the unlaunched fee would cease and the license fees for WHAG based on actual subs would begin. WHAG has encouraged viewers to express their concerns over lack of carriage to DirecTV directly. Nexstar and DirecTV’s contract began in July 2015, but the DBS provider advised Nexstar in November it would no longer pay the unlaunched station fee and said it had overpaid Nexstar by more than \$10.5mln, according to the complaint. Nexstar argues that the deal was never contingent on affiliation, noting that some specific stations in the contract had language specifically related to affiliation. Nexstar says it’s owed more than \$1mln in unlaunched station fees, plus another \$102K for DirecTV paying the incorrect rate for a month and a half.

Sinclair’s RSN Playbook: Sinclair declined to reveal what MVPD deals are coming up for the 21 **Fox/Disney**

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RSNs it's purchasing, but CEO *Chris Ripley* pledged that the broadcaster has done "significant due diligence." "They're very similar to the existing distribution outlook for our core business on the broadcast side," he said in an investor call Monday. "When we looked at the situation, we got comfortable around the strength and the product here and our relationships with the MVPDs." *Sports Business Daily* has said **DISH's** deal for the nets expires this summer, citing unnamed sources. We know **Big3 Basketball**, an unsuccessful bidder for the RSNs, had approached **Charter** about carriage terms. **BTIG** analyst *Rich Greenfield* believes Charter is up this fall, followed by **AT&T/DirectTV** (summer 2020) and **Comcast** (fall 2020). Ripley said the RSNs currently have carriage on "all the [MVPDs] that matter." Sinclair shares skyrocketed Monday, closing up 34.5% to \$60.48. There are minority holders (including teams) in the venture in addition to **Entertainment Studios'** chmn *Byron Allen*, with Sinclair owning 90%+ of the total economics. It's worth noting that Allen will be providing content for the RSNs. "He has a very large TV production studio that will play into opportunities to program the RSNs, especially in the non-game inventory," Ripley said.

Byron in the Bayou: *Byron Allen* is on a roll. His latest media purchase has him plunking down \$165mln in a stock transaction for **Bayou City Broadcasting**, acquiring four stations **WEVV** (CBS-Evansville, IN), **WEEV** (Fox-Evansville, IN), **KLAF** (NBC-Lafayette, LA) and **KADN** (Fox-Lafayette, LA). Bayou was founded by *DuJuan McCoy*, who announced last month he's forming a new company (**Circle City Broadcasting**) to buy **WISH-TV** and **WNDY-TV** in Indianapolis from **Nexstar** for \$42.5mln The Bayou stations join Allen's **Entertainment Studios** portfolio, which includes a suite of nine HD channels, theatrical productions and **Weather Channel**. Allen is buying the stations through his company **Allen Media Broadcasting**. On Friday, news came that Allen is a strategic equity partner in Sinclair's \$10.6bln purchase of 21 Fox/Disney RSNs.

XFL Deals: Ahead of its inaugural 2020 season, **XFL** signed multi-year deals with **ESPN** and **Fox Sports** to televise its games. XFL games will air weekly on broadcast TV (**ABC** and **Fox**) but also on **ESPN**, **ESPN2**, **FS1** and **FS2**. The league begins its 10-game regular season Feb 8, with a 2pm kick-off on ABC followed by a 5pm game on Fox. XFL first launched in 2001 for a single season as a jv between **WWE** (then **WWF**) and **NBC** before folding. **WWE** owner *Vince McMahon* announced last year he's relaunching the league.

Keep it Fresh: **Facebook** is revamping its video rating system, the algorithm which determines how widely distributed original content is. The changes will affect video distribution across Facebook, including News Feed, **Facebook Watch** and its recommendations. Loyalty and intent will play a key factor in the revamped formula, giving more weight in ranking to videos that people seek out and return to on a weekly basis. It'll also give a bigger boost to videos that keep

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viewers engaged for at least one minute, especially on videos that are at least three minutes long. The social network is following up on a promise it made in April 2018 to limit distribution for unoriginal or repurposed content from other sources that don't add value. Facebook is now demoting video content from any Pages on the site that are involved in sharing schemes and will place stronger limits on the distribution and monetization of that content.

Indie Nets on Broadcast Rules: Many of the same independent networks who objected to **Sinclair-Tribune** are speaking up about the broadcast ownership rules. In a filing at the **FCC** last week, the group of programmers said the agency should keep its Local TV Ownership Rule, which limits the number of full-power TV stations an entity may own within the same local market. Generally, an entity can own up to two as long as no more than one is a "top-four" station in the market. There are exceptions, such as Indianapolis, where Tribune owns two top-four stations after the **CBS** affiliation moved to **WTTV**. **Nexstar** wants to keep those two stations, while **NCTA** and others have objected. The indie programmers, which include **RIDE TV**, **MavTV**, **Cinemoi**, **beIN Sports** and **Newsmax**, also called on the FCC to keep the dual network rule, which prohibits **ABC**, **CBS**, **Fox** and **NBC** from merging. "Independent programmers are concerned that elimination of the rule will undermine this careful balance, resulting in more broadcaster consolidation and amplifying the harms to competition, localism, and viewpoint diversity highlighted above," the nets said.

Drop in the Bucket: The **FTC** received some pushback Monday on its plans to settle with **Facebook** over the company's consumer privacy practices and breaches. *Sens Josh Hawley (R-MO)* and *Richard Blumenthal (D-CT)* sent a letter to FTC chmn *Joseph Simons* calling for the FTC to impose long-term limits on Facebook's collection and use of its users' personal information. They also called for "rules of the road" to be set that include the deletion of tracking data and restricting the collection of certain types of information. In its 1Q19 earnings statement, Facebook estimated that the FTC investigation would cost the company \$3-5mln. "Even a fine in the billions is simply a write-down for the company, and large penalties have done little to deter large tech firms," the letter read. "If the FTC is seen as traffic police handing out speeding tickets to companies profiting off breaking the law, then Facebook and others will continue to push to boundaries."

WOW! Alabama: **WOW!** partnered up with **Breland Companies** as the preferred internet provider for Clift Farms, a 530-acre mixed-use community coming to Huntsville, AL. WiFi speeds will reach up to 1Gps with options for 100Mbps and 500Mbps.

Inclusive Tech: Diversity in Blockchain, a non-profit organization dedicated to creating equal opportunities in the blockchain industry, is launching its first chapter Tuesday in NYC. The NYC chapter launch comes in the leadup to NY Blockchain Week. Starting Thursday, the weeklong event will include a hackathon and a blockchain job fair.

Topic Time: Former **HBO** exec *Maria Zuckerman* has landed at **Topic Studios** as its newest evp, leading overall strategy. She spent nearly 20 years at HBO, where she oversaw the production of more than 30 titles that earned 92 Emmy nominations. She most recently had the title of SVP, HBO Films. Current Topic projects include sports doc "Losers" from **Netflix** and doc "XY Chelsea" about *Chelsea Manning*, premiering June 7 on **Showtime**.

Ratings: The 2019 Kentucky Derby saw 15% YOY OOH audience gains on May 4, an average of 3.1mln viewers, according to **Tunity Analytics**. This year's OOH audience was 69% male and 31% female, and nearly 58% came from adults 25-34. -- The **UCL** semifinal match on Wednesday between Barcelona and Liverpool pulled in 763K P2+ viewers on **Univision/UDN**, making it the most watched semi-final match in the US on any network, regardless of language.

Programming: **Tubi** scored the rights to all 15 seasons of "The Apprentice" in a content partnership deal with **MGM Television**. All the episodes are available on the AVOD service beginning Monday. -- **PBS** and **Smithsonian Channel** teamed up to create "When Wales Walked: Journeys in Deep Time." The two-hour film premieres June 19 at 9pm on both nets. -- **Bravo** greenlit "Spy Games," a series following ten people who compete in a game of espionage for \$100K. -- **HGTV** ordered 13 more episodes of "One of a Kind," a series that sees Fort Worth, TX-based interior designer *Grace Mitchell* revamp family homes with their unique stories in mind. New episodes are slated to premiere in late 2019.

People: **Viamedia** promoted *Tom Walsh* to chief digital officer. He joined the company in 2017 as svp of advanced advertising over from **FreeWheel**.

FAXIES Call for Entries: The FAXIES have expanded to include content and design categories along with PR and marketing. FAXIES award categories include "Best Program," "Best Limited Series," "Social Influencer of the Year" and "Integrated Marketing Campaign." Don't miss the [June 21 deadline!](#)

CFX TECH

Should I Play or Should I Go?

It's hard to forget the "Pokemon Go" phenomenon of 2016, which drove kids out of their homes to catch Pikachus in the summer sun. Since then, ancillary content that introduces AR and/or VR features can move the needle on brand perception in a positive direction, so long as they enhance the experience in meaningful ways. That's according to **Magid's** "Immersive Tech Ancillary Content Study." The danger for brands comes when they venture into "cash-grab" territory, allowing the functionality of the app to suffer in order to release the app earlier

Oxygen found success with the 2018 launch of its crime-focused AR app "Forensic Detective: Inside the Crime Scene," which transformed rooms into crime scenes and asked fans to track down the killer.

"When you're watching true crime, you're doing that in your mind," Magid qualitative research analyst *Nicole Meighan* told **Cablefax**. "This app was a clear extension of the technology and an extension of the source material that made sense, and therefore it had a meaningful connection. That communicated something about the Oxygen brand because they were moving in the realm of true crime, so that had a really positive impact."

The Oxygen app and others like it can act as amplifiers, reinforcing fandoms and deepening a consumer's connection with a brand, or as gateways, introducing consumers to brands that they may like. But if you're going to embark on the road to AR, you'd better be prepared to do it right. Consumers have been jilted by the plethora of AR apps that have been poorly executed or been knock-offs of other successes. And that's why when developers have something great on their hands, Magid svp, global media and entertainment *Debby Ruth* is encouraging them to think about how to make the content as discoverable as possible. "There are missed opportunities in these apps to really leverage the viral nature of it," she said.

On the other hand, the majority of consumers feel that VR content is "a step in the right direction" for most brands

and are more forgiving when the content isn't necessarily engaging. Consumers are particularly excited to see the applications for VR in sports and news, but they don't believe the technology is there yet. It's not worth it to throw every egg into the VR basket right now with the huge barriers to entry. The required equipment is pricey, some folks experience motion sickness and it can take a decent chunk of time to experience content fully.

So while there can be plenty of upside for the folks that do VR/AR content right, brands need to ask themselves a number of questions before even beginning to embark on the journey. "If it's about reach, that's not what this is about," Ruth said, adding that your reasons have to be to engage people on a deeper level. "Do you have the budget to do that well... to market your marketing? If you can answer yes to those things, then the final question is what is it that you want the consumer to experience?" – *Sara Winegardner*

The Way Forward: For broadcasters to compete in the digital landscape, there's only one way forward: ATSC 3.0. **Sinclair** CEO *Chris Ripley* spoke highly of the next-gen broadcast standard at the **DOJ's** workshop on competition in television and digital advertising Friday. "When ATSC 3.0 rolls out for broadcast, we'll be able to do targeted [advertising]. It's certainly a disadvantage we have right now in the linear world, but we'll catch up from a technology perspective," Ripley said. Broadcasters have committed to deploying the next-gen broadcast standard in 40 markets by the end of 2020. **Janus Strategy and Insights** president *Howard Shimmel* said where ATSC 3.0 can act as a gamechanger is in its ability to provide stations like Ripley's **Netflix**-like first-party data, allowing them to own the customer relationship. Ripley said that Sinclair is looking to expand into and experiment with other platforms that are more ad-friendly. That was a major driver behind the launch of its national, ad-supported streaming service **STIRR** in January. "We're trying to spread our content to as many platforms as possible so that we can compete for the advertising dollar on those platforms," Ripley said.

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