

# Cablefax Daily™

Monday — November 11, 2019

What the Industry Reads First

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## Rare Win: FCC Stands with AT&T on Retrans Complaint

AT&T scored a win in the District Friday with the FCC deciding to uphold its complaint against a group of TV station groups for failing to negotiate in good faith. The decision comes as MVPDs are arguing for the renewal of the Satellite Television Extension and Localism Act (STELAR), which includes the mandate requiring negotiating in good faith. The complaint was filed in June against **Deerfield Media, GoCom Media, Howard Stirks Holdings, HSH, Mercury Broadcasting, MPS Media, KMTR Television, Second Generation of Iowa and Waitt Broadcasting**. The groups, all managed by **Sinclair Broadcast Group** through shared services agreements, were collectively represented by **Max Retrans' Duane Lammers** during the retrans negotiations. They unsuccessfully argued that because they were jointly represented, there were in effect in constant negotiations. The good faith rules require that each negotiating entity participate, directly or through its agent, in retransmission consent negotiations. That standard still applies when an entity is involved in joint negotiations, and Lammers should have been engaging in separate and station-specific talks with AT&T over the individual carriage agreements. "The record in this case shows that Mr. Lammers made not a single offer or proposal, formal or informal, that could have resulted in the carriage of the Defendant Stations, even if accepted unchanged by AT&T," the Commission said. "Mr. Lammers' actions in this case amount to an impermissible refusal to negotiate." In its original complaint, AT&T asked the Commission to find that each station had failed to negotiate in good faith and convince them to head back to the bargaining table. And if they refused, fine them. The FCC did not fine the stations, but reserved the right to take further enforcement action should the groups fail to negotiate in good faith in the future. "This was clearly one of the more egregious examples of how broadcasters routinely hold consumers hostage into paying higher and higher retrans fees, rather than being stewards of the public airwaves," AT&T said in a statement. "The bad faith negotiations that caused these TV blackouts harmed the public and we agree with the FCC's condemnation of these anti-consumer practices." AT&T has reached new deals with three of the nine broadcasters specifically involved in its complaint, renewing GoCom Media on Oct 3, Second Generation of Iowa on Nov 1 and Deerfield Media on Wednesday. The Commission has urged the parties involved to return to the

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bargaining table and commence negotiations “in an atmosphere of honesty, purpose and clarity of purpose.”

**Congressman Threatens Comcast Breakup over Byron Allen Suit:** Entertainment Studios’ founder *Byron Allen*’s \$20bln discrimination suit against **Comcast** is set to go in front of the Supreme Court Wednesday, and Rep *Bobby Rush* (D-IL) believes the claims are enough to warrant a breakup of the media company. He made that clear in a letter the House Commerce member sent to Comcast CEO *Brian Roberts* Thursday. “It is evident to me that with this demonstration of corporate greed, Comcast has forfeited and repudiated its claim to be an inclusive company that is a friend of the black community and, with this betrayal, has shown itself to be an enemy of minority communities,” Rush wrote. “Simply put, it is my belief that the Comcast Corporation needs to be broken up.” Comcast fought back against the claims in the letter, saying there is “no major media company in America” that has done more to promote diverse programming. “We’ve gone above and beyond the MOUs from the NBCUniversal transaction in every case,” Comcast said in a statement. Allen responded to the letter by saying he’s “highly confident” that if Comcast appears to challenge the civil rights of over 100mln before SCOTUS next week, Comcast will be broken up.

**Cable One Beats Margins Again, High Video Decline:** **Sparklight** (previously known as **Cable One**) once again posted near 50% margins in 3Q19, the highest in the cable industry. Reported adjusted EBITDA margins came in at 49.1%, easily beating the consensus estimate of 47.6%. The company saw total broadband net additions of 7.4K, up from 6.9K a year ago, while total revenues rose 6.2% YOY to fall at \$285mln. **MoffettNathanson** noted that Cable One’s decline in video “remains much faster than at peers,” but “numbers are at least approaching the range of what might be called ‘normal,’ or at least something in the neighborhood of ‘normal.’” The company lost 10.4K video subs, a 9.4% YOY decline, leaving the Phoenix-based MSO with only 283,303 video subs. The quarter was the first in which Cable One was able to see the benefits of its M&A activity. Cable One closed on its acquisition of **Clearwave Communications** in Jan 2019, and its Business Services unit now accounts for 17.7% of its revenue, one of the highest percentages of any MSO. The company completed the acquisition of data, video and voice business and other related assets of **Fidelity Communications** on Oct 1 of this year.

**Arkansas Sides With DOJ On T-Mobile/Sprint:** Arkansas is the latest and ninth state to join the **DOJ** in support of the proposed merger between **T-Mobile** and **Sprint**. The Natural State joined Colorado, Florida, Kansas, Louisiana, Nebraska, Ohio, Oklahoma and South Dakota as plaintiffs that originally sued to block the transaction, but have agreed to settle so long as certain spectrum assets and Sprint’s prepaid business are divested to **DISH**.

## TELL US WHAT ELSE WE SHOULD KNOW ABOUT YOUR WORK CULTURE.

Cablefax is seeking nominations for The 2020 Work Culture List.

This recognition program pulls back the curtain to give a glimpse at the culture behind the company names, shining a light on the magic that happens when work enhances your life.

WE LOOK FORWARD TO YOUR SUBMISSION!

Free to Nominate

Deadline: December 13, 2019

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**Disney Plus Up NYC:** As part of Disney+'s Nov 12 launch, **The Walt Disney Company** is taking over the streets of New York City with a "plus up" event. The pop-up streaming hub will be on 6th Avenue and include an appearance from *Tony Hale*, a glass cube streaming truck to check out all the new content, a treats truck with free coffee, hot cocoa, Simpsons-style donuts and Disney+ cookies, as well as musicians roaming around the city. Nationally, Disney+ partnered with **Lyft** to give thousands of free rides with the code "DISNEYPLUS."

**AT&T Adding NBA League Pass:** Beginning Nov 10, **DirectTV** customers who order the "Choice" package or above and **U-verse** customers with the "U-300" package or above will get the 2019-2020 season of **NBA League Pass** at no additional cost. Starting Dec 12, fans can switch from their other provider to **AT&T TV** and have the 2019-2020 season of NBA League Pass premium included, commercial free.

**People:** **WarnerMedia** named *Andrew Reinsdorf* as svp, government relations. He previously served as svp of video policy at **AT&T**. -- **Nickelodeon** tapped *Dr. Michael H. Levine* to the role of svp, learning and impact, for **Noggin**, the net's DTC learning service for preschoolers. He spent 12 years at **Sesame Workshop** where he served as chief knowledge officer.

## Cablefax Dashboard

### Tweet Tweet



### Up Ahead

**Nov 14:** **WICT Rocky Mountain Tech It Out**, Denver, CO

**Nov 21:** **Gracies Leadership Awards**, NYC

**Dec 4:** **TV of Tomorrow Show**, NYC

**Dec 5:** **Cablefax Most Powerful Women 2019**, NYC

**Dec 5-6:** **CableLabs Latin America & Caribbean Summit 2019**, Miami

**Dec 13:** **Cablefax Work Culture 2020 Entry Deadline**

### Research

- Most of consumers (81%) are using smartphones daily to engage with all types of video, audio, or written media.
- The majority (56%) are using their phones to stream content daily and would increase the rate at which they stream if it didn't affect mobile data plans
- Consumers genuinely enjoy ads that are for something they're interested in (74%), make them laugh (72%), and provide some sort of new information (70%).

(Source: **Xandr Relevance Report 2019**)

### Quotable

"We're confident that we're really ready to scale. That BAMTech platform has been tested under pretty interesting circumstances, including this past Saturday night when you have hundreds of thousands of people signing up for a pay-per-view event in a very, very short concentrated period of time... We feel that the platform is robust enough and all the elements that need to be in place to manage that kind of scale are there.

**– Disney CEO Bob Iger on the upcoming launch of Disney+ during the 3Q19 earnings call**

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