

Cablefax Daily™

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What the Industry Reads First

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Not So Fast: Massachusetts Appeals FCC Effective Competition Order

Massachusetts isn't giving up rate regulation of the basic cable tier without a fight. The **Massachusetts Department of Telecommunications and Cable** (MDTC) has filed a petition with the US Court of Appeals for the First Circuit seeking to overturn a unanimous **FCC** decision that found OTT offering **AT&T TV Now** constitutes effective competition for **Charter** in 32 Massachusetts communities and Kauai, HI. The petition claims the FCC order violates federal law, including the Communications Act, and is arbitrary, capricious, and is in excess of statutory jurisdiction and authority. In October, the FCC's five commissioners granted Charter's petition, determining that AT&T TV Now passes the local exchange carrier test, which requires an LEC affiliate (in this case, **AT&T**) to offer a comparable video programming service by any means other than DTH satellite in areas that substantially overlap a cable system's franchise. The Charter order took effect as of the petition's filing in September 2018. In recent weeks, **Comcast** and **Cox** have asked the FCC to make the same effective competition determination for their Massachusetts service areas. MDTC has asked the FCC Media Bureau to hold off on those requests pending resolution of its appeal in federal court. "The possibility of some change to the Commission's ruling in the Charter MO&O is real, as that proceeding tackled a novel issue, requiring the interpretation of statutes and regulations in light of new technologies and the resulting changes in consumer and multichannel video-programming-distributor markets," MDTC told the FCC in its request for abeyance. It also argued the pause won't delay any possible rate increases from Cox in the short-term since it has told the department that it will not raise its current rates for regulated services through March 16, 2021. In the case of Comcast, MDTC expressed a willingness to hold its review of Comcast's current rate proceeding before the department in abeyance if the Bureau agrees to pause the proceeding. Most of the country is already presumed to have effective competition due to a change in FCC rules in 2015. In 2017, the DC Circuit upheld that FCC decision to adopt a rebuttable presumption that cable systems are subject to effective competition nationally, rejecting a challenge from **NATOA** and broadcasters.

DISH-Cox Media Still Talking: A 7pm ET deadline of Jan 14 for **DISH** and **Apollo Global**-owned **Cox Media Group** to strike a new retrans agreement has been extended to 1:59am on Wednesday, Jan 15. Meanwhile, **Mis-**

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sion Broadcasting stations in 18 markets, including CBS in Springfield, MO, and Fox in Billings, MT, have been dark on DISH since Jan 3. Three Fox affiliates owned by **Marshall Broadcasting**, including KMSS in Shreveport, LA, have also been dark on DISH since Jan 3.

Amazon at TCA: Amazon Prime Video execs say they aren't worried about the increasingly crowded streaming marketplace, mainly because they see themselves outside the OTT mainstream. "We're in a very different business model," said *Albert Cheng*, **Amazon Studios** COO and co-head of television, noting Amazon's consumer business that sets it apart from "pure play" streamers. "We can be really focused on what our customers want, and we're going to keep doing what we do best." Amazon Studios head *Jennifer Salke* said all content decisions lead back to the Prime business, either enhancing it for current customers or attracting new Prime subs. "We find ourselves saying customer a lot, and we never found ourselves saying that in our previous incarnations," she said. "We try really not to pay attention to the competition." The execs said it's more about curation than volume, with Amazon Studios TV co-head *Vernon Sanders* arguing that a quality-over-quantity focus helps attract better talent as well. "The excitement, the passion about the content, is really what drives us to support the talent that comes in," he said. Said Salke: "It's a hit driven business and it's about breaking through globally. We think a curated approach gives us the best shot at over-delivering on that."

Senate Proposes Funding Alternatives to Huawei, ZTE: A bipartisan group of senators proposed legislation Tuesday that could set aside more than \$1bln for the funding of 5G technologies that could stand as alternatives to those offered by Chinese manufacturers like **Huawei** or **ZTE**. The Utilizing Strategic Allied Telecommunications Act would create a fund of at least \$750mln for companies developing 5G wireless technologies. Those dollars would come directly from the **FCC's** auctions of wireless spectrum licenses over the next five years. The bill would collect either \$750mln or 5% of all auction proceeds depending on which is the higher number. A separate \$500mln fund would be directed towards companies that are known for deploying secure equipment around the globe. Those funds would come out of the Secretary of State's Multilateral Telecommunications Security Fund. Sens *Richard Burr* (R-NC) and *Mark Warner* (D-VA) introduced the bill.

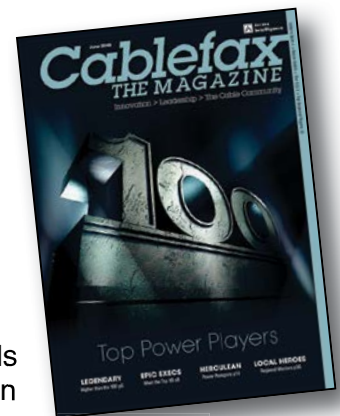
Ratings: The news had it last week. **Fox News** finished first and **MSNBC** took second in prime and total day for Jan 6-12 among ad-supported, basic cable nets. Fox had a sizable lead, finishing tops in prime with 3.227mln viewers compared to MSNBC's 1.76mln. In total day, Fox News averaged 1.84mln compared to MSNBC's 987K. Rounding out the top five nets in prime for the week were **TLC** (1.19mln), **Hallmark** (1.121mln) and **A&E**



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(1.119mln). **CNN** landed in 6th place in prime with 1.105mln viewers, and nabbed third in total day (740K). -- The College Football Playoff National Championship on **ESPN** delivered more than 25.5mln viewers Monday night, up 4% YOY, and outperforming all other cable programming since Jan 2018. ESPN's presentation of LSU's victory surpassed Clemson's win last year by 308K viewers, and was cable's best viewership, sports and otherwise, since the Alabama-Georgia championship game in Jan 2018. -- **Amazon Prime Video's** "The Marvelous Mrs. Maisel" has found streaming success to match its critical success. Season 3's premiere (available Dec 6, 2019) saw more than double its premiere day average minute audience from Season 2, according to **Nielsen**. Season 3 Ep 1 had an average minute audience of over 2.1mln US Persons 2+, compared to 972K for Season 2's premiere. Looking at all episodes across premiere day, Season 3 pulled in 600K viewers compared to 240K for Season 2. It had the largest average minute audience of all Amazon Original premieres. Season 2 of "Jack Ryan" had 2.06mln on Nov 11, 2019, and Season 1 of the same series pulled in 1.5mln (Aug 31, 2018). "The Boys" came in fourth, with 1.3mln, followed by Season 2 of Mrs. Maisel.

Disney+ Dominates 4Q US App Market: **Disney+** was the most downloaded app in the US for 4Q19, counting more than 31mln US downloads after its launch on Nov 12. That's more than **Hulu** and **Amazon Prime Video** had in all of 2019, according to the latest research from **Sensor Tower**. Disney+ grossed more than \$50mln in its first 30 days even with its offer of a seven-day free trial, generating 16% of total US SVOD revenue in the fourth quarter.

Comcast NBCU Adds Sports Tech Startups to Accelerator Lineup: **Comcast NBCU** launched a global accelerator for sports technology startups Tuesday. Called SportsTech, the accelerator will feature a partnership of **NBC Sports**, **Sky Sports** and **Golf Channel** and **Comcast Ventures** along with **Nascar**, **US Ski & Snowboard** and **USA Swimming**. Each partner will serve on an advisory committee and offer startups direct access to mentorship, partnership opportunities and industry relationships. Based in Atlanta's SunTrust Park, the accelerator will welcome its inaugural class in August. The program will offer a three-month program for up to 10 startups with initial areas of focus including esports, media & entertainment and sports wagering.

Cold? ImOn Ice: This has to one of the cleverest sports names since the defunct minor league hockey team The Macon Whoopee of Macon, GA. **ImOn Communications**, **Cablefax's** 2018 Independent Operator of the Year, is buying the naming rights for the city-owned Cedar Rapids Ice Arena. It's now called ImOn Ice and that'll be the name of the home of the Cedar Rapids Roughriders junior hockey club at least through 2024. The Gazette of Cedar Rapids reports ImOn will pay \$500K over five years for the rights, and potentially another \$575K over another five years for the name.

Peabody Awards L.A.-Bound: The **Peabody Awards** will be held in L.A. for the first time ever. The June 18 event at the Beverly Wilshire celebrates the most intelligent, powerful and moving stories told in broadcasting and digital media. Nominees for Peabody Awards will be announced in April, with the winners revealed in May.

Programming: **Hallmark Channel's** longest-running series "When Calls the Heart" returns for Season 7 on Feb 23 at 8pm. The net also announced its first-ever movie adaptation of a Hallmark Publishing original novel. The film, based on "the Secret Ingredient," is slated to air this February in conjunction with Hallmark Channel's "Love Ever After" programming event. -- **Pop TV** ordered new comedy pilot "Mother Mary," a new twist on the story of immaculate conception. It also announced Season 2 of "Flack" will premiere March 13 at 10pm. Finally, "One Day At a Time" will make its first appearance on the net with a new season, following the pickup from **Netflix**. **ODAAT** premieres March 24 at 9:30pm, before moving to its regular timeslot at 9pm, beginning April 4. -- **Comedy Central** extended "Tosh.0" for an additional four seasons as part of an overall deal with *Daniel Tosh*. The deal also includes a first-look deal for new scripted and unscripted development. Additionally, the net will launch a dedicated Tosh.0 channel on **YouTube** in early 2020, and launched on **Pluto TV** on Tuesday. -- **USA** tapped **WWE** Superstar *Mike Mizanin* and *Rosci Diaz* to host upcoming competition series "Cannonball," premiering Summer 2020. *Simon Gibson* will serve as sideline reporter.

People: **Insight TV** named *Marco Frazier* svp, Insight TV Studios US. In the newly created role, he'll oversee content production and sales operations to the US. He comes over from **AMC Networks**, where he served as svp, international distribution for digital and new platforms. -- **Crunchyroll** and **VRV** promoted *Thomas Overton* to CTO. He previously held the title of vp of engineering for the brands for the past years. *Simon Obstbaum*, former CTO, has stepped down and will help with the transition before moving back to Germany with his family.