

# Cablefax Daily™

Wednesday — June 3, 2020

What the Industry Reads First

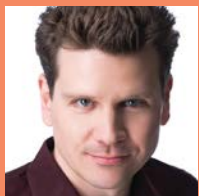
Volume 31 / No. 107

## Program Carriage: Starz Joins Fray, NCTA Says Don't Resurrect Failed Proposals

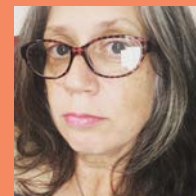
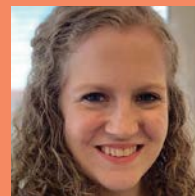
Starz is the latest programmer to dip a toe into the FCC's proceeding examining the rules governing program carriage disputes between programmers and MVPDs. "It is more difficult than ever before for independent video programmers to compete with vertically integrated programmers to secure MVPD carriage," Starz said in comments posted Tuesday. "As a result, fewer diverse programming voices can reach MVPD subscribers, in flat contradiction of Congress's explicit goal of preserving and promoting a diversity of media voices in MVPD offerings, a goal that the Commission has long recognized." Reply comments were due this week regarding the FCC's proposal to modify time limit requirements for filing carriage complaints and staying initial Administrative Law Judge decisions on carriage complaints until parties have pursued all challenges. When it comes to the statute of limitations, Starz took a similar stance as fellow indie programmer **AMC Networks** did in [initial comments](#) last month: there needs to be clarity, but it must be balanced to redress the different kinds of program carriage violations. For example, all may be well when a contract is entered into, but later on an MVPD may allow an affiliated network to do something an unaffiliated network is restricted from via contract. Under current rules, the one-year clock for filing a complaint is tied to the complainant notifying an MVPD of their intent to file with the FCC—not when the offending action occurred. The FCC has proposed tying the one-year clock to the date on which the MVPD has denied or failed to acknowledge a programmer's request for carriage—a move **Comcast, AT&T and NCTA** all support. In arguing against opening up complaints beyond the one-year period, Comcast said it could potentially allow a programmer to claim that an MVPD's failure to increase its carriage during the contract term (beyond what was agreed to) is suddenly discriminatory because of the MVPD's affiliated networks has broader carriage. "This would saddle MVPDs with ongoing uncertainty and litigation risk for material decisions they make pursuant to existing agreements and shadow negotiations they may have with affiliated networks," Comcast said in reply comments this week. Both Comcast and NCTA complained that some programmers are trying to resurrect some of the failed proposals from the FCC's 2011 Program Carriage NPRM. "NCTA explained in 2011 why these proposals had no basis in law or policy and given the dramatically increased competition in the ensuing nine years the rea-

# Cablefax

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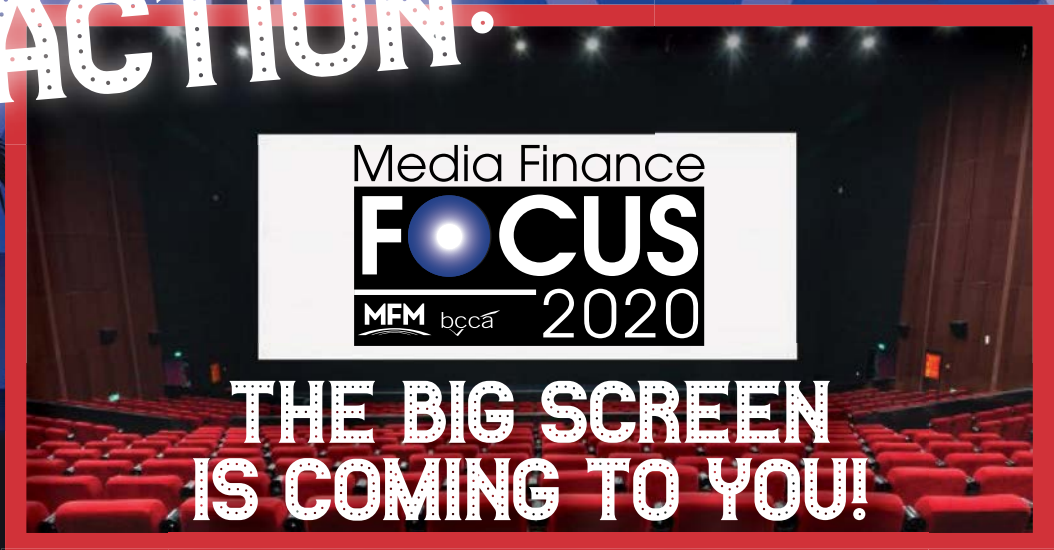


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sons not to take these actions are even stronger today,” the cable association said. Those additional obligations include things such as a damage remedy, a rule explicitly prohibiting retaliation by an MVPD against a programmer filing a program carriage complaint or a requirement that MVPDs negotiate in good faith with any networks similarly situated to their own networks. Starz acknowledged that there are many ways for networks to reach audiences today, but said “MVPD carriage remains a primary means for its voice to reach, attract and retain viewers.”

**Corporate Voices Weigh in on Black Lives Matter:** Companies are stepping up to speak out in support of Black Lives Matter, but more need to join the chorus, **AT&T CEO Randall Stephenson** said on **CNBC** Tuesday. “All of us CEOs have large African American employee bodies. We owe it to them to make sure that we’re speaking to this, that we’re asking our policymakers to step up, that we’re asking our political leaders to step up and recognize and just say it: ‘We’ve got a problem,’” said Stephenson, who will be replaced by **John Stankey** when he retires on July 1. “We have a big problem and it needs to be dealt with.” Not everyone is speaking out, with former **Cablevision** CEO and NY Knicks owners **James Dolan** reportedly sending an internal message to Madison Square Garden employees on the team not issuing a statement on **George Floyd’s** death. “As companies in the business of sports and entertainment, however, we are not any more qualified than anyone else to offer our opinion on social matters,” Dolan wrote in the email, according to **USA Today**. “What’s important is how we operate. Our companies are committed to upholding our values, which include creating a respectful workplace for all, and that will never change.” **Cisco** postponed its virtual Cisco Live event, which was slated to get underway Tuesday. “Today we find ourselves facing another pandemic. Not one that is new by any means, but one that we must confront. The recent murders of **George Floyd, Ahmaud Arbery, Breonna Taylor** and so many more before them are horrific, maddening and truly abhorrent,” chmn/CEO **Chuck Robbins** said in a video message. Cisco is donating \$5mln to charities dedicated to fighting racism and discrimination, which Robbins described as just a first step. **Discovery** is running a PSA across its networks that says it will “always stand for mutual respect, equality and justice” with the Black Lives Matter hashtag. The company is also making donations to the **Emma Bowen Foundation, Equal Justice Initiative** and **NAACP Legal Defense and Educational Fund**. **ViacomCBS** networks went dark **Monday** at 5pm ET for eight minutes and 46 seconds in remembrance of Floyd. **BET** unveiled a series of programming addressing systemic racism, the first being BET News special, “Justice Now,” which airs Tuesday at 8pm ET. BET News also will produce “Justice Now: A BET Town Hall,” a special virtual telecast later this week. And on Juneteenth (June 19), it has invited **Donald Trump** and presumptive Democratic presidential nominee **Joe Biden** to address

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black America. Each interviewed individually will be asked to address a range of critical issues.

**No AT&T Data Cap for HBO Max:** HBO Max will be excused from AT&T's mobile data caps, according to *The Verge*. The streaming service will be excused from the company's traditional data caps as well as the soft data caps on unlimited data caps. That's because HBO Max is using AT&T's sponsored data system, which allows a company to pay a fee to excuse its service from data caps. Traffic from **Disney+** and **Netflix**, on the other hand, would be subject to the company's data caps. "The network is the plumbing, and the content is the water. And you're seeing water and the plumbing kind of coming together," **Otter Media** CEO *Tony Goncalves* told *The Verge*.

**At the Commission:** Twenty-four **House Commerce** Dems have asked **FCC** chmn *Ajit Pai* to delay a June 9 vote on a 5G order, saying local governments need more time to consider and are currently focused on COVID-19. Republican members have come out in support of the measure, which would streamline tower citing and make changes regarding state and local approval of wireless equipment modifications. -- The **FCC** granted a request for temporary access to spectrum to improve access to wireless broadband services in Harlan County, KY, during the pandemic. The move gives **Harlan 2-Way** access to spectrum in the 2.5 GHz band for 60 days. -- The **FCC's** Consumer and Governmental Affairs Bureau is seeking comment on whether 515 docketed Commission proceedings should be terminated as dormant. The action comes in response to FCC rules that delegate authority to the chief of the Consumer and Governmental Affairs Bureau to periodically review all open dockets, consult with the responsible bureaus or offices and identify those that seem to be candidates for termination. Those candidates may include dockets in which no action is required as well as those in which no pleadings or other documents have been filed for several years. Comments will be due 30 days after the public notice's date of publication in the Federal Register.

**Advertising:** **Viamedia** formed a new business division Tuesday focused on creating a cloud-based TV ad solution to bridge the gap between linear TV and digital advertising. Ad tech veteran *John Piccone* has been named president of the new division entitled QTT. Piccone most recently served as pres/CRO of linear television ad seller **Simulmedia**. -- Advanced ad company **OpenAP** announced **AMC Networks** and **The Weather Channel** joined its collection of publishers. They join **Fox**, **NBCU**, **ViacomCBS** and **Univision** as members whose inventory is available via OpenAP.

**Evolution Digital Goes to the Cloud:** **Evolution Digital** launched a cloud-based SaaS device management platform Tuesday for its eSTREAM 4K devices. The platform, called the Evolution Device Manager Android TV, offers greater device management, control and analytics for operators and enables operator managed application update capabilities. **Midco**, **Blue Ridge** and **Service Electric Cablevision** are among some of the first eSTREAM 4K customers signed on.

**People:** **Comcast** named **Sky** CFO *Jason Armstrong* as its evp, treasurer, effective July 1. He took the Sky post at the beginning of the year, but his family's full relocation to the UK was complicated by the COVID-19 pandemic. With current Comcast treasurer *Bill Dordelman's* decision to retire after nearly 30 years, Armstrong will now remain in Philly. Sky named *Simon Robson* as its new CFO.

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