

Cablefax Daily™

Tuesday — October 27, 2020

What the Industry Reads First

Volume 31 / No. 208

Good Faith: Broadcasters Want Retrans Penalty Nixed or Slashed by Millions

The broadcasters involved in the FCC's first ever forfeiture order over failure to negotiate retransmission consent in good faith aren't giving up the fight. The Commission voted last month to deny an appeal of the Media Bureau's determination that a number of station groups failed to negotiate retrans consent in good faith with AT&T, proposing a forfeiture of \$512K against each station.

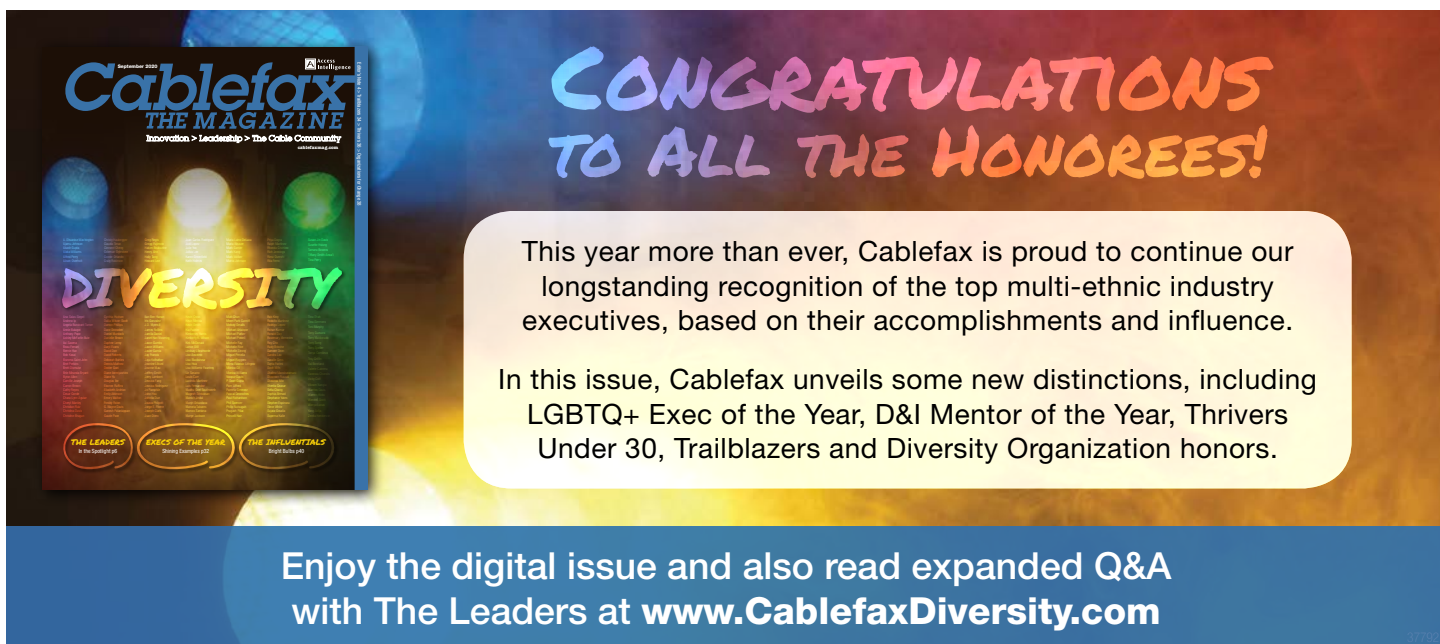
While the broadcasters argue the FCC should vacate the decision and dismiss the proceeding, at the very least, they want the Commission to reduce the amount of proposed forfeitures to \$25K per station. That would take the proposed penalty from more than \$9m for the 18 stations involved down to a collective \$450K.

Those station groups—**Deerfield Media, GoCom Media, HSH, Mercury Broadcasting, MPS Media, KMTR Television, Second Generation of Iowa** and **Waitt Broadcasting**—complained in a recent FCC filing that the proposed fine is more than 10 times the \$50K forfeiture that the Commission imposed on two broadcasters controlled by fellow defendant **Howard Stirk Holdings**. Howard Stirk agreed back in May to pay the penalty, while the other station groups continued to fight.

The complaint from AT&T was filed in June 2019 against the broadcasters, all of which were represented by *Duane Lammers* of **Max Retrans**. The broadcasters claim the FCC erred in its determination, arguing that since they were jointly represented by Lammers, they were in effect in constant negotiations with AT&T. However, the FCC found that Lammers sent draft carriage proposals that didn't specifically include the defendant stations.

AT&T unsuccessfully sued Max Retrans, with the US District Court for Eastern Missouri dismissing the breach of contract suit. AT&T argued the loss actually reinforced the FCC decision that the stations failed to negotiate in good faith. Deerfield and the other broadcasters see it differently and think the US Court of Appeals for the DC Circuit will as well.

"The factual record here is undisputed; the Commission simply drew the wrong legal conclusion about whose proposals were embodied in Mr. Lammers' drafts. The Eastern District of Missouri has concluded that the drafts reflected proposals by [redacted] and Defendants, and therefore rejected AT&T's position that Max Retrans could not disclose their terms to Defendants. There is no basis to believe the DC Circuit, on de novo review, will conclude otherwise," the broadcasters wrote.



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This year more than ever, Cablefax is proud to continue our longstanding recognition of the top multi-ethnic industry executives, based on their accomplishments and influence.

In this issue, Cablefax unveils some new distinctions, including LGBTQ+ Exec of the Year, D&I Mentor of the Year, Thrivers Under 30, Trailblazers and Diversity Organization honors.

Enjoy the digital issue and also read expanded Q&A with The Leaders at www.CablefaxDiversity.com

Cablefax Daily (ISSN 1069-6644) is published daily by Access Intelligence, LLC ● www.cablefax.com ● 301.354.2101 ● Editorial Director: Amy Maclean, 301.354.1760, amaclean@accessintel.com ● Publisher, Cablefax & Synopsis: Robbie Caploe, 917.974.0640, rcaploe@accessintel.com ● Senior Editor: Sara Winegardner, 301.354.1701, swinegardner@accessintel.com ● Associate Editor: Mollie Cahillane, 212.621.4951, mcahillane@accessintel.com ● VP, Sales: Mike Farina, 203.218.6480, mfarina@accessintel.com ● Exec Dir, Strategic Partnerships: Albert Nassour, 917.545.3129, anassour@accessintel.com ● Dir of Marketing: Kate Schaeffer, kschaeffer@accessintel.com ● Prod. Mgr: Joann Fato, jfato@accessintel.com ● Kerry Smith, Divisional President, Marketing & Media Group, ksmith@accessintel.com ● Group Subs/Subscription Questions, Client Services: 301.354.2101, clientservices@accessintel.com ● Annual subscription price: \$1,749.00/year ● Access Intelligence, LLC, 9211 Corporate Blvd., 4th Floor, Rockville, MD 20850

FX Not Dropped on Comcast: Imagine our **Cablefax** editor's surprise to find a sponsored content post on her Facebook feed Sunday that declared, "Thanks to **Comcast, FX and National Geographic** are no longer available to you." The spot garnered more than 300 comments, including several from Comcast subs who noted the channels were right where they always are. What happened? It looks like the ads were supposed to deploy only if a deal wasn't reached by an Oct 31 deadline, but were accidentally scheduled early, according to a [report](#) from *The Desk*. A source told the site that the ads were pulled Saturday morning, but we still saw one Sunday afternoon. FX Networks-owner **Disney** said Monday that there is no issue with FX on Comcast, but didn't clarify if the two have reached a renewal yet.

Broadband Still Bananas in 3Q: **Cable One** offered up a sneak peek of its 3Q earnings Monday, and it looks like broadband momentum is not slowing. The MSO reported that residential data subs grew by approximately 21K on a sequential basis—a nice uptick from the 6.4K reported a year ago. Subs grew by another 5K when you account for the acquisition of **ValuNet** in July. Cable One's 3Q preliminary estimates have revenue in the range of \$333m-\$339m. Net incomes is expected to be between \$62m and \$66m, while adjusted EBITDA is projected to be at \$170m-\$174m. "Cable One is well-situated to benefit from the trends driving broadband adoption industry-wide. Rural broadband is all the rage at the moment, with minimal competition and, generally speaking, lower penetration," **MoffettNathanson** analysts said in a research note that declared "broadband is shooting the lights out. For everyone." Cable One announced the preliminary results because of the commencement of a private offering of \$500m aggregate principal amount of senior notes due 2030. It intends to use the net proceeds for general corporate purposes, which may include acquisitions and strategic investments, including its previously announced investment in Mega Broadband Investments.

Net Neutrality Again: Ahead of Tuesday's **FCC** meeting that includes an order that deals with net neutrality, House Dems are lining up and taking aim. "Chairman Pai is at it again, pushing his anti-consumer agenda—this time on the eve of an historic election. Americans deserve strong net neutrality protections, but this FCC is rushing ahead of November 3rd to further cement its efforts to deprive Americans of these critical protections," House Commerce leaders **Frank Pallone** (D-NJ) and **Mike Doyle** (D-PA) said in a statement. The FCC is slated to vote on an item addressing some of the issues the DC Circuit had with the Restoring Internet Freedom order, which repealed Title II regulation for ISPs—something the court upheld. The DC Circuit did ask the agency to look at the order's effect on public safety, the ability to regulate pole attachments and the Lifeline program's ability to support broadband. In what's expected to be the party line vote, the FCC will vote on an order that finds all areas are appropriately addressed.

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WarnerMedia Distribution Shakeup: WarnerMedia distribution heads *Sofia Chang* and *Rich Warren* are departing WarnerMedia as part of a larger organizational change. Head of commercial operations *Tony Goncalves* is creating a new sales and distribution structure within the company, made up of four teams. *Jennifer Mirgorod* will lead as head of sales and account management for all MVPD, vMVPD, retail, hotel, business and airline accounts. *Jim Wuthrich* will lead product marketing and planning for home entertainment businesses as well as overseeing content licensing. Head sales and account management for global platforms has not yet been announced, and Wuthrich will oversee it until an appointment is made. The company announced earlier this month that *Jean-Paul Colaco* will head up ad sales. Chang and Warren first took on the role in September 2019 when distribution was combined for the **Turner** nets, **HBO**, **HBO Max** and **Cinemax**. Chang had been at HBO since 2000, and Warren with Turner for 20 years.

Comscore 2021 Roadmap: Comscore is updating its comprehensive vision and product innovation as it heads into its second decade of cross-screen media measurement. In 2021, Comscore is launching or enhancing an array of offerings, including integrating 10mln additional households into its measurement footprint, local and national cross-platform measurement, national addressable, additional first party privacy-focused solutions for a cookieless world and outcome-based attribution.

Get Voting: *Oprah Winfrey* is hosting virtual town halls in key states to encourage and inspire voters ahead of the election as part of **OWN's** "OWN Your Vote" nonpartisan initiative. The first kicks off with Wisconsin at 8pm on Monday, followed by North Carolina on Tuesday, Michigan, Minnesota, Ohio and Pennsylvania on Wednesday and South Carolina on Thursday. -- **Freeform** is launching a two-part digital series to air on the net's Instagram as part of its "Kick 2020 in the Ballots. FF'ing Vote" initiative. The two-part series debuts on Tuesday and Nov 3.

Distribution: **Obsession Media** and **Outdoor Sportsman Group** struck a deal for distribution on Obsession's Outdoor America platform, distributing outdoor programming on OTT/CTV platforms. Outdoor Sportsman Group will soon start presenting content under the branded block "Game & Fish" on Outdoor America.

Doing Good: **Sparklight Business** donated \$7K to nonprofit Texarkana Resources in Texas. Now, the nonprofit will be able to purchase supplies necessary to run its vocational training and life skills program, and CASA (Court Appointed Special Advocates) for Children can continue to recruit and train volunteers.

Ratings: Sunday's premiere of mystery "The Undoing" on **HBO** notched 1.4mln viewers across platforms, matching the premiere of "Lovecraft Country" in August, which eventually amassed more than 10mln viewers for ep 1.

Programming: **HBO's** documentary "Crazy, Not Insane" debuts on Nov 18 at 9pm. The doc follows a psychiatrist's lifelong attempts to discover why people kill. The net is also producing a documentary "The Day Sports Stood Still." It looks at the story of the unprecedented shutdown of sports in March 2020, debuting next year. -- *Buddy Valastro* is returning to **Food Network** and **TLC** this holiday season. "Buddy vs. Christmas" premieres on Food Nov 22 at 10pm, and viewers can catch the *Cake Boss* in a two-hour special on TLC Dec 23 at 9pm, following Buddy's road to recovery from a serious hand injury. -- **OWN** picked up "Cherish the Day" for Season 2. -- **Insight TV** will broadcast two live Red Bull competitive events live in November. On Nov 14 at 2pm the channel will debut Red Bull Street Style Final 2020 freestyle soccer competition, and on Nov 28 at 2pm breaking competition Red Bull BC One World Final will air.

On the Circuit: During the **C2HR** CONFERENCE, the org is hosting a dedicated day to uplift, inspire and connect HR professionals. On Nov 13, the "For You Friday" kicks off with "Coffee & Conversations with the CHROS" at 10am featuring **A+E Networks'** *Karen Gray*, **Charter's** *Paul Marchand* and **Comcast's** *Bill Strahan*.

Honors and Awards: **Telemundo's** sports commentator *Andres Cantor* has been honored with the National Soccer Hall of Fame 2020 Colin Jose Media Award. He received the US Soccer award during a special **Telemundo Deportes** broadcast on Oct 25 prior to the net's Chivas vs. Cruz Azul match coverage. He is the 13th recipient of the awards and the first Spanish-language broadcast personality to be honored with it.

People: **UP Entertainment** promoted *Melissa Ingram* to svp, multicultural networks and strategy. She will continue day-to-day oversight of **AspireTV** and will now also be responsible for driving the growth of current and future UP Entertainment multicultural brands across all distribution platforms. UP also upped *Julia Lucas* to vp, content services and production. -- **Firstlight Media** is expanding its sales and business development team. It named *Bal O'Neil* as vp, solutions engineer, *Eric Goldstein* head of business development and *John Ferrandino* head of sales. O'Neil most recently served as vp, solutions delivery for **Evergent Canada**. Goldstein spent almost a dozen years with **Disney/ABC** spearheading distribution, business development and strategic partnerships, most recently vp, distribution and digital products for Radio Disney Networks. Ferrandino was most recently svp of sales, **Americas for Amagi**.