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WHAT THE INDUSTRY READS FIRST

New Feud: Comcast Says Nexstar Violates Audience Cap, Tribune Order

Comcast wants the **FCC** to issue a ruling that **Nexstar** should actually be attributed ownership of NYC station **WPIX**, which would make it in violation of the 39% cap on broadcast national audience reach. The cable operator claims Nexstar's divestiture of the station to meet FCC requirements in its acquisition of Tribune was a "sham."

In 2019, Nexstar agreed to divest WPIX as well as **WSFL** in Miami and **KASW** in Phoenix in order to stay under the 39% ownership cap following its \$4.1 billion acquisition of Tribune. The deal, which made Nexstar the nation's largest local broadcast station group, raised a number of red flags within the industry. **NCTA** and **DISH** asked the FCC at the time to prohibit sharing arrangements between Nexstar and any of the divestiture stations, but the Commission said the issue was moot because Nexstar said it "will not be providing ongoing services under sharing agreements ... to any of the stations that it is divesting."

Nexstar sold WPIX to **Scripps**, but it retained the option to repurchase the station—presumably in case the national ownership cap was increased or it divested more stations. Comcast said that when it became clear months later that the FCC wouldn't raise the cap, it assigned its purchase option to **Mission Broadcasting**, which exercised it and closed on the acquisition in December 2020. Nexstar then executed an local marketing agreement with Mission that gives it the rights

to program the station, sell ad time and to receive 100% of the station's revenues, according to Comcast. Nexstar's 1Q21 distribution fee revenue rose 13% YOY to \$621.2 million on the back of its 2020 renewals and synergies tied to the closing of WPIX.

All of this came to a head as Comcast negotiated retransmission consent with WPIX owner Mission Broadcasting. "Nexstar has asserted retransmission consent and other broad rights over WPIX, contrary to Nexstar's express representations to the Commission during the Nexstar-Tribune transaction that it would (1) divest WPIX to stay under the national ownership cap and (2) not provide any services for the station post-transaction," Comcast told the FCC in a Petition for Declaratory Ruling last week. Nexstar declined comment on Tuesday.

Comcast said that if Nexstar has its way, the retransmission fees it pays for WPIX would increase dramatically, providing a figure that was redacted for the public. What's more, it warned that WPIX and possibly all other Nexstar stations could go dark on Comcast systems. "Expedited Commission action on the Petition is therefore necessary to protect consumers and the integrity of the Commission's transaction review process and ownership rules," the operator said.

Comcast wants the FCC to find that not only is Nexstar over the national audience cap, but that it's in violation of the Nexstar-Tribune merger order. It claims Nexstar's actions are similar to some of the factors that caused the agency to nix a proposed **Sinclair-Tribune** merger. "Nexstar appears to have

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pulled a bait-and-switch in its interactions with WPIX,” Comcast said, suggesting remedies such as requiring the broadcasters to bring service agreements into compliance with media ownership rules and to eliminate existing financial relationships. Other suggested remedies include the FCC imposing structural and behavioral conditions on Nexstar’s ability to negotiate retransmission consent on behalf of a licensee.

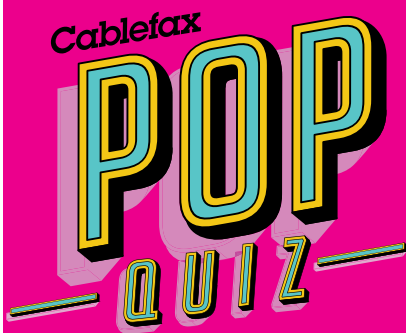
COULD FCC NOMINATIONS BE COMING SOON?

Is this the week we see *Biden* nominate an **FCC** chair? *New Street Research’s Blair Levin* and team think yes—but with a caveat. “As we have thought ‘next week’ for the last three weeks, we are sheepish in saying, we think it will be this week,” Levin wrote in a July 6 update. He’s not making any predictions on who it might be, only noting that when things go on this long, the unexpected is more likely. We tend to agree, which may not bode well for acting chair *Jessica Rosenworcel* getting the nod. She has plenty of supporters though, with several key labor unions, including **CWA** and **IBEW**, sending a letter to Biden last week urging him to make her the permanent chair. Levin suggested the fate of two FCC slots as well as the empty **NTIA** Administrator position may be bundled with an Executive Order on competition that’s expected to be unveiled in the coming days. *New Street* expects it to have more impact in sectors such as healthcare, transportation and financial, though the analysts think the administration would like to do more in the communications space if it can find the administrative powers. “We’re looking at an effort across the government, looking at the different antitrust statutes and the different measures that agencies can take to try to improve competition and actually

improve the opportunities for businesses to compete fairly without being impeded as well,” *Brian Deese*, director of the *National Economic Council*, said in press briefing Friday.

FTC, BROADCOM REACH PROPOSED SETTLEMENT

The **FTC** and DOCSIS and set-top box silicon supplier **Broadcom** agreed to settle charges that the vendor has illegally monopolized markets for semiconductor components used to deliver television and broadband internet services. *Broadcom* said in a statement that it disagreed that it violated the law, but is pleased to move toward resolving the matter. It adds it’s pleased the *FTC’s* investigation into its other business closed without action. The *FTC* charges that *Broadcom* entered long-term agreements with original equipment manufacturers and service providers that prevented these customers from purchasing chips from *Broadcom* competitors. According to the *FTC* complaint, the company entered these agreements with at least 10 OEMs and had similar agreements with major U.S. service providers. Under the proposed consent order, *Broadcom* will be prohibited from entering into certain types of exclusivity or loyalty agreements with its customers for the supply of key chips for traditional broadcast set-tops and DSL and fiber broadband internet devices. It also requires the company to cease conditioning access to or requiring favorable supply terms for the chips on customers’ commitments to exclusivity. Additionally, it prohibits *Broadcom* from retaliating against customers for doing business with its competitors. The vote to issue the complaint and accept the proposed consent order for public comment was 4-0-1, with chair *Lina Khan* not participating.



One winner will be selected each week for a Starbucks gift card

Last week’s answer: **Andy Cohen** was evp, development and talent for **Bravo**.

Kudos to last week’s winner: **Patrick McOwen**, **EffectTV**

Who interviewed Larry King on the 20th anniversary of CNN’s “Larry King Live”?

[CLICK HERE TO ANSWER](#)

LPTV ANALOG SUNSET

We're a week away from the date all low-power television stations and translator stations must terminate all analog television operations. The FCC Media Bureau issued a reminder that as of July 13, 11:59pm local time, stations must terminate all analog television operations regardless of whether their digital facilities are operational. The Bureau reminded permittees for new digital LPTV/translator stations with July 13, 2021 construction permit expiration dates that they must complete construction of their facilities by that date, begin operating, and within 10 days file a license to cover application.

UNIVERSAL FILMS MOVE TO SIBLING PEACOCK

Universal movies are headed straight to Comcast sibling Peacock after their theatrical run, ending a longstanding deal with HBO. The new licensing agreement begins with the 2022 theatrical slate, which includes films such as "Jurassic World: Dominion" and "Minions: The Rise of Gru." Universal, Focus Features, Illumination, and DreamWorks Animation titles will stream exclusively to Peacock no later than four months following their theatrical debuts. Original films developed and produced exclusively for Peacock by Universal Pictures will also appear on the streamer in 2022. The agreement blows up the traditional 18-month Pay-One window. Instead of having rights for 18 months, Peacock will have the exclusive rights to all Universal Film Entertainment Group films for the first and last four-month segments of the 18-month period. Additional distribution partners will be announced for the rights to the remaining 10 months.

ESPN PULLS NICHOLS FROM NBA FINALS SIDELINES

If you missed that NYTimes story over the holiday weekend about comments ESPN host Rachel Nichols made about "NBA Countdown" host Maria Taylor, here's the link. It detailed the fallout of a leaked conversation in which Nichols suggest Taylor was chosen to cover the NBA Finals because she is Black. Word came Monday that Nichols wouldn't be on the sidelines for tonight's Suns-Bucks game. There was no new episode Tuesday of daily NBA show "The Jump," which Nichols hosts. The NY Post reports the show is expected to be back tomorrow. The Jump did air Monday, with Nichols opening the broadcast with an apology for "disappointing those she hurt, particularly Maria Taylor."

SHENTEL DECLARES SPECIAL DIVIDEND

Shentel's board declared a special dividend of \$18.75 per share on the issued and outstanding shares of the com-

pany's common stock. The special dividend is payable to shareholders on record as of the close of business on July 13 on Aug 2. The company expects approximately \$19.6 million of the special dividend to be reinvested in shares of Shentel's common stock via its Dividend Reinvestment Plan. The total payout to shareholders before any reinvestments is estimated to be \$936.6 million. The special cash dividend announcement follows the completion of T-Mobile's purchase of Shentel's wireless assets and operations on July 1, at a cash consideration of approximately \$1.94 billion, including adjustments and net of certain transaction expenses.

SLING TV OFFERS FREE HALLMARK PREVIEW

Sling TV is offering subscribers a free week-long preview of Hallmark Channel for the net's "Christmas in July" programming event. Hallmark Channel is normally only available to those who take the \$6/month add-on Lifestyle Extra package. Sling users can access the promotion starting Friday, just before the premiere of "Crashing Through the Snow" Saturday at 9pm ET. The free preview ends July 16.

PROGRAMMING

Showtime Networks and Amblin Partners renewed their exclusive output agreement. Amblin Partners films released theatrically through December 2024 will air across Showtime, The Movie Channel, Flix and on Showtime multiplex channels and streaming service. The deal extends the relationship between Amblin and Showtime, which began in 2010, and will include the addition of up to 18 films including "Distant," "Easter Sunday" and "Last Voyage of the Demeter."

PEOPLE

Charnelle Anderson joined TV One and CLEO TV as svp, marketing and creative services. Anderson most recently worked at nonprofit Dfree Global Foundation as head of marketing, branding communications and business partnerships. - Longtime Energy & Commerce committee staff director Jeff Carroll will leave Capitol Hill after 25 years of service. Carroll's departure brings the promotions of two staff members. Current deputy staff director Tiffany Guarascio will become staff director and general counsel Waverly Gordon will add deputy staff director to his nameplate. - President Biden announced his nomination of Alexander Hoehn-Saric as chair, Consumer Product Safety Commission. Hoehn-Saric formerly served as svp, government affairs at Charter.

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