

# Cablefax Daily™

WHAT THE INDUSTRY READS FIRST

## Tick Tock: Sinclair, DISH Approaching Retrans Deadline

The clock is ticking, and time is running out for **DISH** and **Sinclair** to strike a new retransmission consent deal ahead of their current deal's expiration. At press time, *WSJ* reporter *Lillian Rizzo* tweeted that the two had reached a "short-term extension" to tonight's deadline. Should they fail to sign a new agreement, Sinclair expects 108 stations to be dropped, including 97 **ABC**, **CBS**, **Fox** and **NBC** affiliates. Both sides are continuing to push viewers to call the other and pressure them into signing deals that will keep the stations on DISH's lineup.

"DISH Network has already taken away many local sporting events from your favorite local teams by dropping Bally Sports from its lineup," Sinclair said in a Thursday update to customers. "Don't let DISH take away your favorite primetime and local programming."

Meanwhile, DISH told customers that Sinclair is trying to force it to carry the Bally regional sports networks. The satellite provider dropped those RSNs back in July 2019. "Over the past couple of years, Sinclair spent billions of dollars on these channels, and now wants you to reimburse them for their purchase," DISH vp *Kevin Covell* said in a video playing on the satellite service. "Why would we agree to tax you for something you don't have any interest in just so they can subsidize their own out-of-control spending?"

Sinclair president/CEO *Chris Ripley* has hinted in the past that RSNs would be a major part of any retransmission con-

sent negotiations for the company. "We've had tremendous success with all the traditional MVPDs coming with incentives to take broader packages of content, and I would expect us to continue to have that success in the future," he said on the company's 4Q20 earnings call in February when asked about DISH negotiations.

DISH chairman *Charlie Ergen* has long been talking about the state of broadcast retrans consent fees, calling it "basically an **NFL** season ticket subscription" back in April. There's also a lack of the typical events and sports games that viewers have traditionally designated as "must-see TV" at the moment. The Tokyo Olympics came to a close earlier this month, and there are still a few weeks left before the start of the college football and NFL seasons.

And while the satellite provider has said that it likes to avoid blackouts, it also isn't afraid to let a deal lapse if the terms don't align with its own expectations. Some 14 **Cox Media** stations were blacked out on DISH for five months in 2020 before a new multi-year deal was struck between the two in December.

DISH obviously has more to think about than the potential loss of Sinclair stations from its programming lineup. The @dishwireless **Twitter** account lit up with activity for the first time since its creation in September 2019 to promote an appearance by DISH chairman Charlie Ergen at the **Technology Policy Institute's** Aspen Forum Monday. The focus of the discussion was on DISH's wireless efforts and its ongoing fight with **T-Mobile** on the latter's planned January 1 shutdown of its 3G CDMA

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network, the network utilized by DISH's **Boost Mobile** customers. "It's not as healthy of a relationship as we'd like to see it," Ergen said about the relationship between DISH and T-Mobile. "It clearly is an anti-competitive effort clearly aimed at DISH. They're turning off their 3G network, but they're not turning off their 2G network. Now go figure that out. They're not turning off their Sprint network, they're only turning off the CDMA network, and the only company that affects, as far as I know, is Boost and our millions of customers."

**POLE ATTACHMENT BICKERING**

The **FCC's** Enforcement Bureau handed **AT&T** a partial victory in its ongoing dispute with **Florida Power & Light** over pole attachment rates. AT&T's first complaint against the utility, which claims the rate it pays to attach to FPL poles is unjust and unreasonable, is still pending. AT&T filed a second complaint at the FCC alleging two clauses in the joint use agreement—a payment default clause and a pole abandonment clause—are unjust and unreasonable. In an order released Monday, the FCC dismissed the payment default clause claim, saying that AT&T violated Commission rules by failing to assert it in its first complaint. However, it only partially denied AT&T's abandonment clause claim. "Although we find that, properly construed, the clause is not unjust and unreasonable, we conclude that FPL's practices with respect to the clause were unjust and unreasonable," the Enforcement Bureau order declared. FPL sent AT&T a "Notice of Abandonment" stating it would, in 60 days, abandon to AT&T approximately 11,000 wood poles that the utility had replaced with concrete poles. Under the clause, if the owner of a joint use pole gives at least a 60-day notice

of intent to abandon a pole to the other party and that party hasn't removed its attachments in the time allotted, the attachment becomes the owner of the pole and must pay the prior owner for it. AT&T objected, arguing that pole abandonments are relatively rare, and this was actually a matter of pole replacements—a much more common occurrence. The FCC agreed, saying that it was unreasonable to use the clause as a kind of penalty if the attachment fails to transfer its attachments fast enough. "The 60-day deadline is too short and too definite a deadline for the imposition of such severe consequences," the order read, noting that the transfer process is complex and often at the mercy of factors beyond either party's control, such as severe weather or municipality permitting.

**CHANGE OF VENUE FOR NEXSTAR-COMCAST SUIT**

**Nexstar's** breach of contract suit against **Comcast** was moved from the Supreme Court of the State of NY to the US District Court for Southern New York. Comcast filed to move the case, saying that the \$3 million in damages sought by Nexstar exceeds the \$75,000 threshold for district court. "Independently, the Court has original jurisdiction over this action ... because it is clear from the face of Nexstar's pleading that compliance with Federal Communications Commission regulations is an essential element of Nexstar's sole claim; thus, the claim arises under the laws of the United States," Comcast added in its request. Nexstar filed the suit last month, alleging Comcast is refusing to pay millions in retransmission consent fees for NYC station **WPIX**. The lawsuit came after Comcast asked the FCC to rule the broadcaster is in violation of the national audience cap because WPIX is operated

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*(Note: The tilted image shows the Cablefax Daily newspaper cover with headlines such as 'Deal Talk: RCN/News/Grande CEO Discusses \$6.1bn Strongarm Deal', 'Nexstar Sues Comcast Over WPIX Contract', and 'FCC Dismisses AT&T's Payment Default Claim'. It also features a 'Most Powerful Women' award announcement for December 4th.)*

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by **Mission Broadcasting**, which has an agreement in place allowing Nexstar to program the station, sell ad time and to receive 100% of the station's revenues.

#### RDOF PARTICIPANTS CONTINUE WAIVER REQUESTS

Requests for waivers of default penalties from broadband providers that participated in the RDOF Phase I auction are continuing to pour into the **FCC** as more are realizing that census blocks won in the auction have already been served by at least one provider or contain no serviceable addresses. **Cox Communications**, **Windstream** and **United Communications** are among those that sent their requests to the Commission Monday, voicing their decisions not to pursue RDOF support in certain areas. "Cox's assessment has identified certain CBs, listed in Appendix A to this Petition, that either contain no serviceable locations or already receive broadband service at 25 Mbps upload and 3 Mbps download ('25/3') or better from Cox or another provider," Cox said in its filing. "As a result, Cox believes the public interest would be served if the Commission were able to redirect the support associated with these CBs to other areas in a future support auction."

#### VIACOMCBS SELLS BLACK ROCK BUILDING

**ViacomCBS** has entered into an agreement to sell the former **CBS Corp.** headquarters at 51 West 52nd Street for \$760 million. Privately owned international real estate investment and management firm **Harbor Group International** is buying the building, with the transaction expected to close before year-end. ViacomCBS will lease back the space it occupies on a short-term basis.

#### JONES TO OPEN WICT LEADERSHIP CONFERENCE

**MSNBC** president **Rashida Jones** will open the virtual 2021 **WICT** Leadership Conference on Oct 4 with a keynote during its general session. Jones, who was promoted from her role as svp, **NBC News** and **MSNBC** in February, became the first Black executive to lead a major television news network. The conference will take place Oct 4-5 during the industry's Diversity Week and will feature workshops, panels and peer-to-peer networking opportunities.

#### COMCAST ACCELERATOR SET FOR LIFT OFF

**Comcast** has chosen 11 startups for its fourth LIFT Labs Accelerator, powered by **Techstars**. The chosen companies will call Philadelphia home for the duration of the 12-week program, which began Monday. They will partner with mentors and teams at the Comcast Technology Center, setting them up for potential partnerships with **Comcast NBCU** brands. The program will end with a Demo Day, allowing Accelerator participants to showcase their businesses to investors, Comcast NBCU leaders and external members of the tech and startup communities. The 2021 class includes HR reporting and analytics software company **Employee Cycle**, AI-enabled talent experience platform **Hollo**, fitness technology gaming platform creator **Holodia**, creative industry networking marketplace **HUSSLUP**, game backend-as-a-service creator **LootLocker**, speech-to-text and text-to-speech mobile app **Nagish**, intelligent workflow assistant **Paco**, social reading app **Peek**, property and liability insurance provider **Sidewalk**,

AI workplace assistant **Think Confluent** and children's book animator and reader **Zoog**.

#### TCA NOTEBOOK

**HGTV** and **discovery+** continued the **TCA** summer tour Monday, presenting a panel featuring actress **Kendra Wilkinson**, who will star in the upcoming **discovery+** real estate series, "Kendra Sells Hollywood." The show follows Wilkinson, actress-turned-real estate agent, as she hustles to make it in the competitive L.A. real estate market. The series begins streaming Nov 17. **Discovery+** is also adding to its slate of actors-turned-hosts with home reno series "Lil Jon Wants to Do What?" and bedroom makeover series "Remix My Space with Marsai Martin (wt)." Both are set to premiere in 2022 on the streamer. Other originals to be on the lookout for in the coming season include craft competition series "Meet Your Makers Showdown" on **discovery+** starting Nov 27, home renovation series "The Nate & Jeremiah Home Project" on **HGTV** Oct 5 at 9pm and spin-off series "Curb Appeal Xtreme" on **HGTV** Sept 8 at 8pm.

#### ON THE (VIRTUAL) CIRCUIT

The Multicultural Media & Correspondents Association, the National Association of Black Journalists and **STARZ** are partnering to host the first Media Diversity Excellence Awards Reception Thursday at 6pm ET. Honorees include "Newsmaker" Award winner **Karine Jean-Pierre**, who serves as the White House principal deputy press secretary, and "Impact Journalist" Award recipient **Trymaine Lee**, **MSNBC** columnist and podcast host of "Into America." The reception also includes a moderated discussion with **STARZ** talent about the network's #TakeTheLead initiative. The conversation will be moderated by **Kelley Carter**, host of 'Another Act' for **ESPN's** "The Undefeated" and features **STARZ** talent **Patina Miller**, **Hailey Kilgore**, **Amber Stevens West**, **Corbin Reid**, **Ajiona Alexis** and **Michole Briana White**.

#### RATINGS

**BET's** annual "Stellar Gospel Music Awards" was the No. 1 program for Aug 1 on all TV for Black viewers P2+, excluding sports. It saw 867,000 total viewers in L+3 ratings simulcast across **BET** and **BET Her**. On **BET** alone, the program received a .243 P18-49 rating and 798,000 total viewers P2+, up 104% YOY. The telecast grew +18% L+3 A18-49, and **BET** now has the Top 3 cable award shows of 2021 for Black viewers with "BET Awards," "NAACP Image Awards" and "Stellar Awards," excluding sports.

#### CARRIAGE

Australian subscription TV company **Foxtel Group** is expanding its content partnership with **A+E Networks** through a multi-year agreement. The deal will deliver content from **Crime & Investigation**, **History Channel**, **A&E** and **Lifetime Movie Network** to 2.8 million subscribers across **Foxtel**, **Foxtel Now** and **BINGE**.

#### PEOPLE

**Suzanne Fenwick** will replace **Cox** veteran **Andy Albert** as the operator's svp, content acquisition when he retires at the end of the year. She's been vp, content acquisition since 2013 and her current position will be backfilled. Fenwick is actively seeking internal and external candidates.