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WHAT THE INDUSTRY READS FIRST

Long Game: Sohn Confirmation Vote Nixed, Another Hearing to Come

A senate official confirmed to **CFX** late Tuesday that there will not be a **Senate Commerce** vote on *Gigi Sohn's* nomination to the **FCC** tomorrow morning and another hearing on the Democratic nominee is in the works.

Sohn was supposed to be one of the nominees considered at a markup at 10am ET Wednesday, with many predicting she would gain approval by a 14-14 party line vote. On Tuesday, news came that Committee member *Ben Ray Lujan* (D-NM) is in the hospital after suffering a stroke. He is expected to make a full recovery. Lujan has been a big supporter of another controversial *Biden* nominee that's slated for consideration at tomorrow's markup, **FTC** pick *Alvaro Bedoya*. It was unclear at press time if Bedoya would still be voted on at the meeting.

Senate Commerce Ranking Member *Roger Wicker* (R-MI) has been pushing for a second hearing to delve into Sohn's dealings with **Locast**. There will likely be new issues to cover with **NCTA** and **USTelecom** raising questions Tuesday on why Sohn should recuse herself from any issue where retrans consent or broadcast copyright is a material issue, but not other matters. Both said they were not objecting to her nomination, however.

"Her recusal is explicitly based on her advocacy before the FCC while at **Public Knowledge** over a decade ago. While NCTA strongly supports adherence to government ethics rules to guard against a conflict of interest or the appearance of a conflict, Ms. Sohn's letter raises several serious concerns,"

NCTA President & CEO *Michael Powell* wrote to Senate Commerce leaders Monday.

In short, NCTA wants to know why broadcast issues are being singled out for recusal given that as co-founder of Public Knowledge, Sohn was involved in so many more subjects. By USTelecom's count, **Public Knowledge** filed more than 1,100 public comments during her time leading the organization. What's more, Sohn's time as a chief FCC adviser during the *Obama* Administration had her weighing in publicly on a lot of other matters. NCTA argues that there's no logical basis for treating those issues differently.

USTelecom President and CEO *Jonathan Spalter* called Sohn's recusal offer "unprecedented," saying it appears to set a new standard that mere participation in a prior FCC rulemaking is reason for recusal.

Sohn's nomination is certainly one for the history books. In the past, senators have placed holds on nominees that dragged out the confirmations of FCC commissioners for months, but the Sohn situation is different—attracting a multitude of op/eds, letter-writing campaigns and even a father/son [break](#) at conservative news outlet **One America News**.

New Street Research analyst and former **FCC** Chief of Staff to *Reed Hundt* (1993-1997) *Blair Levin* thinks the issue isn't so much Sohn herself, but the highly charged political environment. But there's another factor at play here. "Most of the people who get nominated [for the FCC] are Senate staffers, and there's a certain kind of courtesy that's given," he

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told **CFX**. “Gigi doesn’t come from that background. I would just say that I think it’s good to have someone who doesn’t work on Capitol Hill. Nothing against Capitol Hill, but it’s good to have a different point of view. But by having a certain point of view, you’re going to attract a certain type of opposition.”

Andrew Jay Schwartzman, Senior Counselor for the **Benton Institute for Broadband & Society**, agrees the issue isn’t so much Sohn herself, but today’s politicized environment. As a Democratic nominee, her confirmation would break the 2-2 partisan tie at the Commission. The standard procedure for FCC nominations used to be that they would pair appointees from each party to get bipartisan approval. “Now, it’s one by one, and everyone taking off on it,” he said. (For the record, Schwartzman hired Sohn for **Media Access Project** 35 years ago, and she was a part of the Benton Institute until her nomination).

While he acknowledged that Sohn’s confirmation process is unique, he recalled a few other controversial FCC nominees over his many years of public interest work. Most notable was *James Quello*, a *Nixon* appointee in 1974 who had been a radio station manager and was accused by *Ralph Nader* as being a pawn for broadcasters.

Schwartzman described the whole process, including the latest questions from NCTA and USTelecom, as a game of “stall ball.” “My hypothesis, and it’s just that, is this is a coordinated stall... The longer they can keep the Commission to two-to-two so it’s only doing non-controversial things, the better.”

This ball game may well go into extra innings. Assuming she is eventually voted out of Committee, it’s highly likely a Republican senator will put a hold on her nomination. The

Democrat-controlled Senate can get around the procedural move, but Majority Leader *Chuck Schumer* (D-NY) would be required to devote hours of floor time to debate. That’s not attractive right now when there are big legislative priorities, a Supreme Court nominee and a whole lot of nominations that need to be dealt with.

Schwartzman feels certain Sohn, a huge Jets and Mets fan, understands the playbook: “She is very familiar with the concept of working the refs, and I’m confident she understands that’s what’s going on here.”

AT&T CHOOSES SPIN OFF OF WARNERMEDIA

AT&T’s board approved a plan to spin off the wireless operator’s interest in **WarnerMedia** following the merger of WarnerMedia and **Discovery** in 2Q22. When the deal closes, AT&T shareholders will receive, on a tax-free basis, an estimated 0.24 shares of WBD common stock for each share of AT&T common stock. In total, AT&T shareholders will receive stock representing approximately 71% of the newly-combined company. The board also approved a post-close annual dividend of \$1.11 per AT&T share. In an interview on **CNBC’s** “Squawk on the Street” last week, AT&T CEO *John Stankey* said that a split would be an attractive way to reduce the AT&T share count, but it would be an incredibly large split and one that could cause confusion among stockholders. “To execute a split, especially one of this size, it would require some value leakage to execute that and actually get the shares placed. I’m not sure I’m really a big fan of that value leakage dynamic right now and being second guessed on it,” he said. Stankey also emphasized that it was his desire to move through a split

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or spin as quickly as possible, and a spin tends to be a much faster avenue than a split. Following the close of the transaction, WarnerMedia Discovery common stock will be listed on the NASDAQ Global Select Market under the ticker "WBD." AT&T will continue to trade on the New York Stock Exchange under the ticker "T." AT&T is also hosting an investor conference on March 11 to provide expectations for financial and operational performance of the company's Communications segment following the close of the WarnerMedia deal.

NBCU WALKS BACK DTC RSN NEWS

An announcement Monday for *Valari Dobson Staab's* appointment to Chairman, **NBCUniversal Local** generated a lot of interest because of a line that mentioned development of a direct-to-consumer offering for NBC's RSNs. But NBCU execs walked that back Tuesday saying the reference was "inadvertently included and was misleading." Staab's in charge of the division that houses the RSNs as well as NBC O&O stations and Telemundo-owned stations. "At this stage in the process, our DTC strategy is evolving as we assess options in each of the unique sports markets we serve. At this time, we don't have any further details about launch plans including timing or markets. More information will be announced when available," an NBCUniversal Local spokesperson said. Staab joined NBCUniversal in 2011 as President of the NBC Owned Television Stations group.

BREEZELINE TURNS ON SOMERSWORTH

Breezeline (formerly **Atlantic Broadband**) activated the first residential and business customers in Somersworth, New Hampshire. It's part of a more than \$80 million investment to expand the company's reach to nearly 70,000 additional homes in New Hampshire and West Virginia. In the coming months, Breezeline plans to bring service to Concord, Dover, Durham and Madbury in New Hampshire and Westover, Morgantown, Granville and Star City in West Virginia. Cloud-based TV service Breezeline Stream TV has also been launched in Somersworth and will be coming to other Breezeline service areas later this year.

JANUARY RATINGS WRAP

ESPN was the most-watched cable network in prime for January, averaging 3.74 million viewers. **Fox News** took second-place with 2.24 million, a sizable lead over third-place finisher **MSNBC** (1.15 million). Fox News beat ESPN in total day (1.41 million vs 1.3 million). January is an important month for the news net, as it has now been the most-watched cable news net in total day and prime in total viewers and 25-54s for 20 years. January was also good to **HGTV** and **Hallmark Channel**, which finished in the fourth and fifth spots, respectively for primetime and total day.

ROKU NABS NIELSEN AUDIENCE GUARANTEES

Roku launched **Nielsen's** Digital Ad Ratings audience guarantees on its OneView platform, making it the first ad buying platform to enable Nielsen guarantees across TV streaming. OneView users will be able to choose specific age and gender demographics and only pay for ad impressions that reach those audiences. Publishers that enable OneView as a demand source will also be able to receive data from Roku designed

to improve the accuracy of audience guarantees.

NETCRACKER, T-MOBILE SHAKE HANDS

Netcracker and **T-Mobile** have renewed their BSS and managed services partnership for the wireless operator's wholesale business, including MVNO and IoT markets. Netcracker Digital BSS acts as T-Mobile's billing platform for the wholesale aspect of the business, and the complete BSS suite will be used to enhance the customer experience across all channels.

BLACK HISTORY MONTH

AMC Networks is rolling out its 9th annual Black History Month PSA this month in partnership with members of the **Congressional Black Caucus** and racial justice organization **Color of Change**. The spots began airing today across the company's national networks, FAST channels and streaming service **ALLBLK** and will continue to do so throughout the month. This year's PSA was developed with the theme "A Closer Look at the Black Experience" and features eight Congress members addressing issues that disproportionately impact the Black community. Additionally, **AMC+** will feature "Black Stories & Storytellers," a collection of documentaries and films, in February. Special programming events will also take place across the company's linear networks. – **HBO Max** is highlighting diverse stories in February through its "More Than a Month" initiative. The month-long campaign aims to elevate stories and performances from the Black community and will include a free sampling of HBO Original's "A Choice of Weapons: Gordon Parks" along with additional titles available for free on the Watch Free section of HBOMax.com. HBO Max's Scene in Black Twitter account will also host weekly watch parties throughout February to further create discussions among audiences.

LIFETIME'S JACKSON DOC DELIVERS VIEWERS

The Rhythm Nation came out for "Janet Jackson," **Lifetime's** documentary series on the pop icon. The event averaged 3.1 million total viewers across its premiere airings on **Lifetime** and **A&E** on Friday. It was Lifetime's best non-fiction performance since 2019's groundbreaking "Surviving R. Kelly" across total viewers, A25-54, A18-49, W25-54 and W18-49. When counting all airings on linear and video views on digital, the event reached more than 15.7 million total viewers.

PROGRAMMING

Fox Entertainment and **Hulu** agreed to a program output deal that will give the streamer the rights to all out-of-season episodes of certain Fox unscripted and animated series. Shows covered by the deal include "The Masked Singer," "MasterChef," "I Can See Your Voice" and "HouseBroken". The agreement also includes future unscripted programming that will be owned and controlled by Fox. – **MTV Entertainment Studios** signed a multi-picture deal with studio **Gunpowder & Sky** Tuesday. Gunpowder & Sky will develop comedic movies for MTV Entertainment's portfolio of networks. The studio is led by former **Viacom Media Networks** Music & Logo Group CEO *Van Toffler*. – **AMC Networks** greenlit two original series for 2023: "Damascus" and "Invitation to a Bonfire". Both shows will have six episodes in their first season and will appear on **AMC** and **AMC+**.