

# Cablefax Daily™

WHAT THE INDUSTRY READS FIRST

## Sort of Friends: Comcast, Nexstar Do Deal, FCC Complaints Still Pending

**Nexstar** and **Comcast** have kissed and made up, with **WPIX** returning to Comcast's NYC DMA systems over the weekend. The two also have reached a new retransmission consent agreement that keeps Nexstar's 90 stations on Comcast. The operator could have lost the stations over the weekend if a new deal wasn't reached.

That doesn't mean the hatchet is completely buried, though. "Our recent retransmission consent agreement with Nexstar settles the pending litigation our companies have in the Southern District of New York. However, it does not address our proceedings at the **FCC**, which remain open," a Comcast spokesperson said.

Comcast has filed two separate complaints against Nexstar at the FCC. The agency is currently considering an informal complaint filed by Comcast in July 2021 that alleges Nexstar is in violation of the 39% national broadcast ownership cap. Comcast argued that WPIX should be attributable to Nexstar because of its sidecar arrangement with WPIX owner **Mission Broadcasting**. Nexstar had to divest WPIX as part of its 2019 Tribune acquisition so that it didn't go over the cap. Comcast argues that the marketing agreement with Mission gives it the right to negotiate retrans, program the station and more and thus is essentially the same as owning it.

NYC **CW** affiliate WPIX had been off Comcast since Dec. 3, with Comcast blaming the blackout on Mission not granting

it rights to continue carrying the station, though it reached a renewal to continue carrying the 17 other Mission stations. Instead, Nexstar wanted WPIX covered by its retransmission consent with Comcast. The dispute resulted in Comcast filing a [complaint](#) at the FCC last week claiming that Nexstar and Mission failed to negotiate retrans consent in good faith. While those types of complaints are often dropped once a deal is reached, Comcast isn't pulling it—at least as of right now.

According to Comcast, litigation in the federal court system will be dropped. Nexstar had sued the operator, claiming it was owed millions in unpaid retrans fees for WPIX. Comcast countersued. Nexstar has also sued **Charter** for similar reasons. That case is still pending. As is Charter's FCC complaint against Nexstar over WPIX national audience attribution. There's still plenty to watch here, since Charter still needs to do a renewal with Nexstar before year-end.

The other big retrans story this week involves **Standard General**. As [reported](#) by **Cablefax**, the company late Friday told the FCC it would voluntarily and irrevocably waive enforcement of any term or condition of a retrans consent agreement that would result in a retrans consent agreement between **Cox Media Group** and any MVPD applying to any current **TEGNA** station that would be controlled by Standard General following the deal's close. This is in effort to get the FCC to approve its \$5.4 billion acquisition of TEGNA, with Standard General noting that the purchase price increases every day



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that the review continues (the transaction is on Day 242 of review at the FCC).

**New Street Research** analysts don't expect the Commission to accept the offer as adequate, but believe it kicks off negotiations. MVPDs are likely to argue that the Standard General offer doesn't go far enough because it is limited to current contracts (typically just 3 years) and it doesn't address the risk that private equity owners of broadcast groups, like **Apollo Global Management**, could collude.

**American Television Alliance**—a group of mostly MVPDs pushing for retrans reform—already fired back. “We understand that Standard General has offered conditions to the FCC designed to address some of the harms we identified. But the reality is that the proposed investment increases the parties' incentive and ability to collude in ways unaddressed by Standard General's offer. The FCC should look closely at the transaction and do whatever it takes to prevent big broadcast from colluding,” ATVA said Monday.

New Street still thinks the deal will get done. “We still expect approval with conditions on jobs, prices, and anti-collusion protections sometime in the first few months of 2023 but will obviously adjust as Standard General and the opponents, and perhaps even leadership at the FCC, begin to play their cards publicly,” the firm concluded in a research note.

#### OUTLOOK: 2023 LOOKS GOOD FOR CABLE

Cable will continue to be a good business in 2023, according to **MoffettNathanson**. In a forward-looking outlook to clients, the firm said that while there are ongoing challenges that cable will face in the new year (including the ongoing slowdown in

broadband growth and increased competition), there's no threat large enough that it should have investors running to the hills. Fixed wireless is continuing to grow and could have an impact on operators that have more rural footprints, including **Cable One** and **Suddenlink**. The larger threat to cable is more likely fiber, but MoffettNathanson isn't convinced that those providers are going to steal away a significant portion of the market just yet. “The expected returns from fiber overbuilds will be disappointing, in our view, both because deployment costs (including the cost of capital) have risen sharply, and because expected densities of available markets are falling sharply,” the firm said. “The spiraling costs of fiber deployment also make it likely that there will be upward, not downward, pressure on broadband ARPU in competitive markets, as overbuilders scramble to cost-justify not only their existing projects, but, perhaps more importantly, the projects on which they have not yet broken ground.” MoffettNathanson also pointed out that capital markets continue to largely ignore the success of cable's wireless businesses and the strategies they unlock. “Cable's current (and future) advantaged cost structure in wireless is why **Charter** is able to offer such seemingly aggressive pricing as their Spectrum One bundled pricing,” it added. Looking at the traditional wireless carriers, MoffettNathanson upped **Verizon** from “Underperform” to “Market Perform,” keeping a target price of \$41, and downgraded **AT&T** from “Market Perform” to “Underperform.” “Verizon has significantly underperformed the broader market on both a YTD and more recent basis, a relative performance that is all the more noteworthy given Verizon's low beta. The bulk of that underperformance

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has come over the past six months as the weakness of their hand has become increasingly apparent,” MoffettNathanson said. “By contrast, and perhaps more surprisingly, AT&T has outperformed, and is now up handily relative to the broader market on both a year-to-date basis and, once again, particularly since the end of the second quarter.”

#### STARRY RECEIVES LOAN CUSHION

**Starry** has entered into a ninth amendment to its credit agreement with its lenders that will provide it with more than \$11 million in interim loan financing. The deal also gives Starry the ability to access additional funding through an uncommitted accordion debt basket of additional loans of up to \$30 million. “The macroeconomic environment continues to present challenges for companies seeking to raise additional capital, but we continue to remain confident in our business and our ability to find the best path forward for our business,” CEO *Chet Kanojia* said in a statement. “We’re grateful to our lenders for the extension of interim financing as we chart the next path for our company.” Starry hired **PJT Partners** in October to advise it on M&A, capital raising and balance sheet solutions. That process is ongoing.

#### FCC DEADLINE FOR BROADBAND LABELS

The comment deadlines have been set for the **FCC**’s Further Notice Proposed Rulemaking on broadband consumer labels. Comments are due Jan. 17 with reply comments due Feb. 14. The agency is seeking comment on issues related to more comprehensive pricing information, bundled plans, label accessibility, performance characteristics, service reliability, cybersecurity, network management and privacy issues, the availability of labels in multiple languages, and whether the labels should be interactive or otherwise formatted differently.

#### PARROT PARTNERS FOR UNIVERSITY STUDY

**Parrot Analytics** is teaming up with the University of Chicago, McGill University and Duke University to study the impact of OTT platforms and streaming services on shaping communities of taste around the globe. The universities will also examine the dynamics between local audiences and the global accessibility of content. The collaboration is funded by the Franke Institute for the Humanities at the University of Chicago. The initial case study will investigate Netflix’s “Squid Game” and collect digital trace data from the U.S., Japan and South Korea to analyze audience response patterns and the dynamics of its global success.

#### FBA NAMES NEW BOARD

**On Trac** President *Joseph “JJ” Jones* was elected Chair of the Board of the **Fiber Broadband Association**, effective Jan. 1. **Nex-Tech** General Manager/CEO *Jimmy Todd* will serve as Vice Chair, **Utopia Fiber** CMO *Kimberly McKinley* is Secretary and **Corning** Director, Americas Market Development *Joe Jensen* has been elected Treasurer. McKinley and **Google Fiber** Manager, Public Policy and Government Affairs *Ariane Schaffer* are newly elected and will serve three-year terms starting in 2023. They replace **Clearfield** CMO *Kevin Morgan* and **CTC**

**Technology & Energy** President *Joanne Hovis* who will term out of their board tenure. Boxer was re-elected to a second three-year term. The remaining members of the board are **OFS** Technical Manager, Solutions and Applications Engineering *Mark Boxer*; **EPB** VP, New Products *Katie Espeseth*; **Graybar** National Market Manager, Broadband *Scott Jackson* and **Te-lapex** VP, Engineering *Gregg Logan*.

#### CARRIAGE

**fuboTV** signed a multi-year distribution agreement with **Scripps Networks** that will bring **ION**, **ION Mystery**, **ION Plus**, **Bounce**, **Grit**, **Newsy** and **Court TV** to the vMVPD’s channel lineup.

#### AT THE COMMISSION

The **FCC** is committing another more than \$65 million to a new funding round of the Emergency Connectivity Program. It supports applications from the program’s third application window and will provide support to more than 200 schools, 20 libraries and two consortia.

#### PROGRAMMING

**MTV Entertainment Studios** is working together with **Glass Entertainment Group** to produce “MTV’s Family Legacy,” a music docuseries focused on the artists of the ‘90s and some of the network’s most celebrated events. Additionally, an “MTV’s Family Legacy” special will premiere as part of the network’s “We Speak Music” programming event, airing globally starting on Dec. 19. – **Ovation TV** is airing the U.S. premiere of Season 16 of “Murdoch Mysteries” on Feb. 11 at 7pm ET.

#### PEOPLE

*Maggie Chan* has been named Managing Director/EVP, Global Advertising and Partnerships by **NBCUniversal**. She’ll report to Global Advertising and Partnerships Chairman *Linda Yaccarino*, and grow the company’s advertising partnerships in the U.S., EMEA and the Asia Pacific region. Chan succeeds *KC Sullivan*, who was elevated to **CNBC** President in August. She most recently held the role of COO, Global Distribution at **BBC Studios**. – **Comcast** upped *Amy Lynch* to President of **Comcast Cable**’s Northeast Division. She’ll succeed the retiring *Kevin Casey* and be responsible for operations in 14 northeastern states from Maine through Virginia as well as Washington, D.C. Lynch has held a number of regional roles through her 18 years at Comcast Cable, previously serving as Comcast West Division SVP, Customer Experience and Customer Operations. – *Clay Fisher* is joining **Windstream** as CMO of **Kinetic**. He comes from *The New York Times* where he served as SVP, Consumer Marketing and Revenue and has also spent time as VP of **DirectTV**’s digital media group.

#### CALL FOR CABLEFAX 100 NOMS

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