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Here Are the Real Reasons Comcast Customers Won't Get to Watch Nets, Yankees Games

Dispute with YES Network showcases tensions over online viewing, data

YES Network, which is home to the New York Yankees and Brooklyn Nets, was dropped by Comcast. *PHOTO: ASSOCIATED PRESS/KATHY WILLENS*

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The business of TV is going through so much change that even live sports—the golden goose of the industry—are no longer immune.

Once upon a time, a cable provider dropping the network that airs the New York Yankees for subscribers in the northeast would have been almost unthinkable. But that's exactly what happened last week. The dispute between Comcast Corp. and YES Network showcases the rising tensions between TV distributors and programmers as both try to adapt to the realities of online viewing, cord-cutting and the power of data.

Last week, Comcast stopped carrying YES Network, a regional sports channel that is home to the New York Yankees and Brooklyn Nets and majority owned by 21st Century Fox. Comcast had been distributing the channel to roughly 900,000 homes in New Jersey, Connecticut and Pennsylvania.

Pay-TV providers have been willing to pay more to carry YES Network than any other regional sports network in the country—almost $5 a month per subscriber, according to SNL Kagan. So what changed? That depends on who you ask.

Comcast cited new insights into its set-top-box viewing data as a key factor in its decision to stop carrying YES, noting that the channel cost too much relative to its low viewership. The data showed that more than 90% of Comcast customers who receive YES didn't watch the equivalent of even one-quarter of the Yankees' 130 baseball games this past season. (It is worth noting that the channel wasn't dropped until the baseball off-season.)

Pay-TV providers have been willing to pay more to carry YES Network, home to the New York Yankees. *PHOTO: REUTERS*

Fox said it's yet to see Comcast's data and claims the dispute is really over Comcast wanting to maintain a contractual clause that could have hampered Fox's ability to strike deals with emerging digital TV distributors. (21st Century Fox was until mid-2013 part of the same company as Wall Street Journal-owner News Corp.)

While carriage fee disputes have been going on for years, the fights have gotten more frequent as distributors seek to push back on rising programming costs, and as TV channels seek to stake out their flexibility in the streaming landscape.

"The precedents that are made here will ripple through the industry," said Ed Desser, president of consulting firm Desser Sports Media.

At issue from Fox's perspective is contractual language known as a "most-favored nation" clause, which essentially helps a distributor ensure that a channel won't strike a better deal with a rival, according to people close to Fox. Comcast was asking for "special treatment that tilts the playing field in their favor," YES Network Chief Executive Tracy Dolgin said in an interview.

Under its old contract, which was struck before Fox took a controlling interest in the channel, YES Network was bound by a most-favored nation clause to offer Comcast any better terms that it might offer a rival distributor, like a cheaper rate or streaming rights. Comcast wanted to maintain that clause in the new contract, a person close to Comcast said.

But Fox wanted the clause to apply to its channels as a group to ensure that Comcast doesn't get to "cherry-pick" favorable terms from a creative deal it might strike with a new entrant, the people close to Fox said. For instance, if it granted Apple the right to carry YES at a cheaper rate but won wider distribution of other Fox channels like Fox Sports 1, it would want Comcast to also abide by the terms. That means Comcast would have to agree to the wider distribution of those other channels to secure the cheaper rate for YES. Under the previous clause, Comcast would only have had to abide by terms that apply to YES.

Comcast viewed Fox's demand as an attempt to use the Yankees to leverage greater distribution of Fox's other channels, a person close to Comcast said.

Comcast's carriage deal with YES expired Jan. 31. During contract extensions, Comcast had agreed to pay a higher rate, which Fox executives point to as a sign that the dispute wasn't over price. But Comcast agreed to the higher rate while it was in the process of buying Time Warner Cable, the person close to Comcast said. After the merger fell apart, the price no longer made sense, the person said.

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