DirecTV announces termination of deal to buy Dish satellite business

DirecTV CEO Bill Morrow indicated his company wasn’t willing to change the deal to satisfy Dish bondholders. “We have terminated the transaction because the proposed Exchange Terms were necessary to protect DirecTV’s balance sheet and our operational flexibility,” Morrow said.

AT&T still selling DirecTV stake

AT&T owns 70 percent of DirecTV but plans to sell its stake to private equity firm TPG, which owns the other 30 percent. DirecTV said this separate deal is still moving forward.

“The termination of the Dish acquisition does not affect TPG’s acquisition of the remaining 70 percent stake in DirecTV from AT&T, which is expected to close in the second half of 2025,” DirecTV said.

EchoStar was hoping to get rid of the declining satellite TV business and focus on its cellular ambitions. When the deal was announced on September 30, EchoStar said it would be able “to focus more clearly on enhancing and further deploying its nationwide 5G Open RAN wireless network.”

DirecTV and Dish tried to merge over two decades ago. The deal was scrapped after the US Department of Justice filed an antitrust lawsuit, saying the merger “would eliminate competition between the nation’s two most significant direct broadcast satellite services.”

AT&T bought DirecTV for $48.5 billion in 2015 but lost nearly 10 million subscribers in the ensuing years before completing a spinoff in 2021. The subscriber losses continued after the spinoff; DirecTV lost 1.8 million subscribers in 2023, bringing it down to an estimated 11.3 million.

EchoStar recently reported having 5.89 million Dish TV subscribers and 2.14 million Sling TV subscribers after the latest customer losses in the satellite division and customer gains for the Sling streaming service.

https://arstechnica.com/tech-policy/2024/11/directv-plan-to-buy-dish-for-1-is-off-as-satellite-rivals-remain-separate/

Dow Jones says Perplexity is “freeriding,” sues over copyright infringement

Rupert Murdoch’s Dow Jones and the New York Post have accused artificial intelligence start-up Perplexity of a “brazen scheme” to rip off their journalism for its AI-driven search engine in a lawsuit filed in New York on Monday.

The publishers, both subsidiaries of News Corp, alleged the AI start-up, which is seeking to raise up to $1 billion in a funding round that will value it at $8 billion, was “engaging in a massive amount of illegal copying” of their work.

The lawsuit said Perplexity is “diverting customers and critical revenues” away from the news publishers, whose titles

include The Wall Street Journal, “freeriding on the valuable content the publishers produce.”

Perplexity’s search engine allows users to get instant answers to questions, with sources and citations, using large language models (LLMs) from platforms such as OpenAI and Anthropic.

However, its “answer engine” copies on a “massive scale… copyrighted news content, analysis, and opinion as inputs into its internal database,” the lawsuit said. These then generate responses to users’ queries “that are intended to and do act as a substitute for news and other information websites,” according to the lawsuit, whose claims include copyright infringement.

The lawsuit is the latest clash between publishers and AI companies, which are keen to use content to train their models and provide up-to-date responses to users.

Some, such as OpenAI, have signed commercial partnerships and licensing agreements with publishers, including News Corp and the Financial Times, which are among the newspapers that allow ChatGPT users to see select attributed summaries, quotes and links.

https://arstechnica.com/tech-policy/2024/10/dow-jones-says-perplexity-is-freeriding-sues-over-copyright-infringement/

T-Mobile, AT&T oppose unlocking rule, claim locked

phones are good for users

AT&T enables unlocking of paid-off phones after 60 days for postpaid users and after six months for prepaid users. AT&T lodged similar complaints as T-Mobile, saying in an October 7 filing that the FCC's proposed rules would "mak[e] handsets less affordable for consumers, especially those in low-income households," and "exacerbate handset arbitrage, fraud, and trafficking. "

AT&T told the FCC that "requiring providers to unlock handsets before they are paid-off would ultimately harm consumers by creating upward pressure on handset prices and disincentives to finance handsets on flexible terms." If the FCC implements any rules, it should maintain "existing contractual arrangements between customers and providers, ensure that providers have at least 180 days to detect fraud before unlocking a device, and include at least a 24-month period for providers to implement any new rules," AT&T said.

Verizon, which already faces unlocking rules because of requirements imposed on spectrum licenses it owns, automatically unlocks phones after 60 days for prepaid and postpaid users. Among the three major carriers, Verizon is the most amenable to the FCC's new rules.

Consumer groups: Make Verizon rules industry-wide

An October 18 filing supporting a strict unlocking rule was submitted by numerous consumer advocacy groups including Public Knowledge, New America's Open Technology Institute, Consumer Reports, the National Consumers League, the National

Consumer Law Center, and the National Digital Inclusion Alliance.

“Wireless users are subject to unnecessary restrictions in the form of locked devices, which tie them to their service providers even when better options may be available. Handset locking practices limit consumer freedom and lessen competition by creating an artificial technological barrier to switching providers,” the groups said.

https://arstechnica.com/tech-policy/2024/10/t-mobile-att-oppose-unlocking-rule-claim-locked-phones-are-good-for-users/

Judge slams Florida for censoring political ad: “It’s the First Amendment, stupid”

Because “Caroline’s diagnosis was terminal… an abortion would not have saved her life, only extended it. Florida law would not allow an abortion in this instance because the abortion would not have ‘save[d] the pregnant woman’s life,’ only extended her life,” the group said.

Judge: State should counter with its own speech

Walker’s ruling said the government can’t censor the ad by claiming it is false:

> *Plaintiff's argument is correct. While Defendant Ladapo refuses to even agree with this simple fact, Plaintiff's political advertisement is political speech—speech at the core of the First Amendment. And just this year, the United States Supreme Court reaffirmed the bedrock principle that the government cannot do indirectly what it cannot do directly by threatening third parties with legal sanctions to censor speech it disfavors. The government cannot excuse its indirect censorship of political speech simply by declaring the disfavored speech is "false."*

State officials must show that their actions "were narrowly tailored to serve a compelling government interest," Walker wrote. A "narrowly tailored solution" in this case would be counterspeech, not censorship, he wrote.

"For all these reasons, Plaintiff has demonstrated a substantial likelihood of success on the merits," the ruling said. Walker wrote that a ruling in favor of the state would open the door to more censorship:

> *This case pits the right to engage in political speech against the State's purported interest in protecting the health and safety of Floridians from "false advertising." It is no answer to suggest that the Department of Health is merely flexing its traditional police powers to protect health and safety by prosecuting "false advertising"—if the State can rebrand rank viewpoint discriminatory suppression of political speech as a "sanitary nuisance," then any political viewpoint with which the State disagrees is fair game for censorship.*

Walker then noted that Ladapo "has ample, constitutional alternatives to mitigate any harm caused by an injunction in this case." The state is already running "its own anti-Amendment 4 campaign to educate the public about its view of Florida's abortion laws and to correct the record, as it sees

fit, concerning pro-Amendment 4 speech," Walker wrote. "The State can continue to combat what it believes to be 'false advertising' by meeting Plaintiff's speech with its own."

https://arstechnica.com/tech-policy/2024/10/judge-slams-florida-for-censoring-political-ad-its-the-first-amendment-stupid/

Amazon exec tells employees to work elsewhere if they dislike RTO policy

Amazon workers are being reminded that they can find work elsewhere if they're unhappy with Amazon's return-to-office (RTO) mandate.

In September, Amazon told staff that they'll have to RTO five days a week starting in 2025. Amazon employees are currently allowed to work remotely twice a week. A memo from CEO Andy Jassy announcing the policy change said that "it's easier for our teammates to learn, model, practice, and strengthen our culture" when working at the office.

On Thursday, at what Reuters described as an "all-hands meeting" for Amazon Web Services (AWS), AWS CEO Matt Garman reportedly told workers:

> *If there are people who just don't work well in that environment and don't want to, that's okay, there are other companies around.*

Garman said that he didn’t “mean that in a bad way,” however, adding: “We want to be in an environment where we’re working together. When we want to really, really innovate on interesting products, I have not seen an ability for us to do that when we’re not in-person.”

Interestingly, Garman’s comments about dissatisfaction with the RTO policy coincided with him claiming that 9 out of 10 Amazon employees that he spoke to are in support of the RTO mandate, Reuters reported.

Some suspect RTO mandates are attempts to make workers quit

Amazon has faced resistance to RTO since pandemic restrictions were lifted. Like workers at other companies, some Amazon employees have publicly wondered if strict in-office policies are being enacted as attempts to reduce headcount without layoffs.

In July 2023, Amazon started requiring employees to work in their team’s central hub location (as opposed to remotely or in an office that may be closer to where they reside). Amazon reportedly told workers that if they didn’t comply or find a new job internally, they’d be considered a “voluntary resignation,” per a Slack message that Business Insider reportedly viewed. And many Amazon employees have already reported considering looking for a new job due to the impending RTO requirements.

However, employers like Amazon “can face an array of legal consequences for encouraging workers to quit via their RTO policies,” Helen D. (Heidi) Reavis, managing partner at Reavis Page Jump LLP, an employment, dispute resolution, and media law firm, told Ars Technica:

https://arstechnica.com/tech-policy/2024/10/amazon-exec-tells-

employees-to-work-elsewhere-if-they-dislike-rto-policy/

US suspects TSMC helped Huawei skirt export controls, report says

In April, TSMC was provided with $6.6 billion in direct CHIPS Act funding to “support TSMC’s investment of more than $65 billion in three greenfield leading-edge fabs in Phoenix, Arizona, which will manufacture the world’s most advanced semiconductors,” the Department of Commerce said.

These investments are key to the Biden-Harris administration’s mission of strengthening “economic and national security by providing a reliable domestic supply of the chips that will underpin the future economy, powering the AI boom and other fast-growing industries like consumer electronics, automotive, Internet of Things, and high-performance computing,” the department noted. And in particular, the funding will help America “maintain our competitive edge” in artificial intelligence, the department said.

It likely wouldn’t make sense to prop TSMC up to help the US “onshore the critical hardware manufacturing capabilities that underpin AI’s deep language learning algorithms and inferencing techniques,” to then limit access to US-made tech. TSMC’s Arizona fabs are supposed to support companies like Apple, Nvidia, and Qualcomm and enable them to “compete effectively,” the Department of Commerce said.

Currently, it’s unclear where the US probe into TSMC will go or whether a damaging finding could potentially impact TSMC’s CHIPS funding.

Last fall, the Department of Commerce published a final rule, though, designed to “prevent CHIPS funds from being used to directly or indirectly benefit foreign countries of concern,” such as China.

If the US suspected that TSMC was aiding Huawei’s AI chip manufacturing, the company could be perceived as avoiding CHIPS guardrails prohibiting TSMC from “knowingly engaging in any joint research or technology licensing effort with a foreign entity of concern that relates to a technology or product that raises national security concerns.”

Violating this “technology clawback” provision of the final rule risks “the full amount” of CHIPS Act funding being “recovered” by the Department of Commerce. That outcome seems unlikely, though, given that TSMC has been awarded more funding than any other recipient apart from Intel.

The Department of Commerce declined Ars’ request to comment on whether TSMC’s CHIPS Act funding could be impacted by their reported probe.

https://arstechnica.com/tech-policy/2024/10/us-suspects-tsmc-helped-huawei-skirt-export-controls-report-says/

Elon Musk changes X terms to steer lawsuits to his

favorite Texas court

Vladeck questioned the ethics of X's terms in comments quoted by NPR. "For X to say we want all of our litigation to go into a forum that may have no connection to where we're located, to where plaintiffs are located, runs headlong into the federal system's preference for convenience," Vladeck was quoted as saying. "Are we going to allow companies to override that principle of convenience in the name of trying to stack the deck in their favor whenever they have the power to get you to agree to terms of service?"

Legal precedents help X

Fitzpatrick said that legal precedents support the enforceability of X's terms. He pointed to *Carnival Cruise Lines, Inc. v. Shute*, in which the Supreme Court ruled that a non-negotiated forum-selection clause requiring disputes to be handled in Florida was valid.

The Supreme Court's 1991 ruling said the clauses "are subject to judicial scrutiny for fundamental fairness." That means companies can't select certain venues to discourage people from pursuing legitimate claims and can't obtain consent to terms through fraud or overreaching. Parties bound by such terms must also be given sufficient notice of the forum clause.

Fitzpatrick said that "courts have upheld particular districts" named in forum-selection clauses and that business-to-business "contracts often say you have to sue in New York City."

Fitzpatrick said users could argue that terms are

unconscionable, but he described this as a longshot. “If the forum has no connection to either party and there is no other good faith reason for picking the forum, there might be an argument the terms are unconscionable; the Court in *Shute* left open that possibility,” he said. “Likewise, if you are poor and the dispute small, there might be an argument that it is unconscionable to make you travel to Texas to sue. But… my understanding is that unconscionability is still a very disfavored doctrine.”

Media Matters’ argument that the Northern District of Texas lacked jurisdiction was rejected even before X moved its headquarters. Media Matters argued that Texas is an improper forum for the dispute because “X is organized under Nevada law and maintains its principal place of business in San Francisco, California, where its own terms of service require users of its platform to litigate any disputes.”

O’Connor ruled that his court has jurisdiction because Media Matters articles “targeted” Texas-based companies that advertised on X, even though those companies were not parties to the lawsuit.

https://arstechnica.com/tech-policy/2024/10/xs-new-terms-steer-lawsuits-to-texas-court-where-judge-owns-tesla-stock/

X’s depressing ad revenue helps Musk avoid EU’s strictest antitrust law

Following an investigation, Elon Musk's X has won its fight to avoid gatekeeper status under the European Union's strict competition law, the Digital Markets Act (DMA).

On Wednesday, the European Commission (EC) announced that "X does indeed not qualify as a gatekeeper in relation to its online social networking service, given that the investigation revealed that X is not an important gateway for business users to reach end users."

Since March, X had strongly opposed the gatekeeper designation by arguing that although X connects advertisers to more than 45 million monthly users, it does not have a "significant impact" on the EU's internal market, a case filing showed.

A gatekeeper "is presumed to have a significant impact on the internal market where it achieves an annual Union turnover equal to or above EUR 7.5 billion in each of the last three financial years," the case filing said. But X submitted evidence showing that its Union turnover was less than that in 2022, the same year that Musk took over Twitter and began alienating advertisers by posting their ads next to extremists' tweets.

Throughout Musk's reign at Twitter/X, the social networking company told the EC, both advertising revenue and users have steadily declined in the EU. In particular, "X Ads has a too small and decreasing scale in terms of share of advertising spend in the Union to constitute an important gateway in the market for online advertising," X argued, further noting that X had a "lack of platform power" to change that anytime soon.

"In the last 15 months, X Ads has faced a decline in number of advertising business users, as well as a decline in pricing," X argued.

https://arstechnica.com/tech-policy/2024/10/eu-officials-side-with-musk-find-that-x-is-not-as-important-as-facebook-tiktok/

Student was punished for using AI—then his parents sued teacher and administrators

The motion said the punishment had “a significant, severe, and continuing impact on RNH’s future earning capacity, earning potential, and acceptance into an elite college or university course of study given his exemplary academic achievements.” The parents allege that “Defendants exceeded the authority granted to them in an abuse of authority, discretion, and unfettered state action by unfairly and unjustly acting as investigator, judge, jury, and executioner in determining the extreme and outrageous sanctions imposed upon these Students.”

Now “a senior at the top of his class,” RNH is “a three-sport varsity student-athlete, maintains a high grade point average, scored 1520 on his SAT, earned a perfect score on the ACT, and should receive a National Merit Scholarship Corporation Letter of Commendation,” the motion said. “In addition to his high level of academic and athletic achievement, RNH has substantial community service hours including working with cognitively impaired children playing soccer with the Special Needs Athletic Partnership known as ‘SNAP.'”

School defends “relatively lenient” discipline

In their motion to dismiss, school officials defended “the just and legitimate discipline rendered to RNH.”

“This lawsuit is not about the expulsion, or even the suspension, of a high school student,” the school response said. “Instead, the dispute concerns a student, RNH, dissatisfied with a letter grade in AP US History class, having to attend a ‘Saturday’ detention, and his deferral from NHS—rudimentary student discipline administered for an academic integrity violation. RNH was given relatively lenient and measured discipline for a serious infraction, using Artificial Intelligence (‘AI’) on a project, amounting to something well less than a suspension. The discipline was consistent with the applicable Student Handbook.”

https://arstechnica.com/tech-policy/2024/10/student-was-punished-for-using-ai-then-his-parents-sued-teacher-and-administrators/

FTC “click to cancel” rule seeks to end free trial traps, sneaky auto-enrollments

Vice President Kamala Harris will likely continue Biden's war on "junk fees" if elected, Reuters reported, and Holyoak claimed that Khan pushed for the rule's adoption to help follow "through on a campaign pledge made by the Chair's favored presidential candidate."

According to Holyoak, the final rule is deeply flawed, "improperly generalizing" unfair and deceptive practices "from narrow industry-specific complaints and evidence to the entire American economy." She argued that the FTC only based the rule on 35 cases, which is allegedly not enough to establish that harmful practices are "prevalent."

"Whatever the merits of the past cases, the Majority does not remotely come close to explaining how the evidence in those limited cases are similar to the myriad contexts an economy-wide rule would inevitably apply to," Holyoak suggested.

She also claimed that "if similarity among complaints and cases only at the highest level of generality constitutes the 'prevalence' sufficient to ground an economy-wide rulemaking, then a 'prevalence' determination is in fact no meaningful guardrail on the Commission's conduct at all."

In the press release, the FTC discussed the wide reach of harms, noting that it "receives thousands of complaints about negative option and recurring subscription practices each year," with the number "steadily increasing over the past five years."

But Holyoak insisted that the final rule is such an overreach that it "may not survive legal challenge."

"The Chair has put political expediency over getting things right," Holyoak said, raising "the possibility that foreordained outcomes and political goals curtailed considering the rulemaking record with an open mind and without prejudgment, as law requires."

A key legal flaw, Holyoak claimed, is that the rule prohibits any misrepresentations of a negative option, not just those relating to “deceptive terms.” That means businesses risk civil penalties for any material fact deemed misleading, which she alleged “fails to meet” the level of “specificity” required for FTC rulemaking. That seeming textual oversight “will no doubt invite serious legal challenge on this basis,” Holyoak predicted.

https://arstechnica.com/tech-policy/2024/10/ftc-click-to-cancel-rule-seeks-to-end-free-trial-traps-sneaky-auto-enrollments/