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Fox, Time Warner Cable Talks Continue

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Reporter: CNN

NEW YORK (CNNMoney.com) -- Negotiations to keep the Fox network and other News Corp. channels on Time Warner Cable systems in several major cities continued Friday, hours past a midnight deadline that threatened to take the programming away from 13 million subscribers.

Time Warner Cable and News Corp. (NWS, Fortune 500), Fox's parent company, have been locked in a public battle over how much the cable giant should pay for the right to deliver Fox networks into its subscribers' homes.

If a deal is not reached, all of the Fox-owned broadcast networks and some of its cable channels could disappear for most of Time Warner Cable's 13 million subscribers in cities such as New York, Los Angeles, Dallas and Detroit. On Friday morning, Fox spokesman Scott Grogin told CNN that the parties were still negotiating in Los Angeles. □

News Corp. wants to charge Time Warner Cable (TWC) \$1 per subscriber for airing its broadcast station, Fox. The contracts for six Fox cable channels -- FX, Speed, Fuel TV, Fox Reality, Fox Soccer and Fox Sports en Español -- as well as certain regional sports networks are also slated to expire. But Fox News Channel and Fox Business Network will not be affected.

Public officials weigh in

As the deadline approached, a flurry of government officials tried to intervene. On Thursday, Rep. Steve Israel, D-N.Y., wrote a letter calling for a 30-day "cooling off period" to avoid programming blackouts. Time Warner Cable responded that it would agree to an interim agreement, but a Fox Network representative said the company was not ready to agree to that temporary deal and would continue to negotiate.

Federal Communications Commission Chairman Julius Genachowski also weighed in, saying the companies should "agree to a temporary extension of carriage."

Fox refused an offer made by Time Warner Cable Wednesday to enter binding arbitration with the FCC. That offer stemmed from a suggestion made in a letter written Sen. John Kerry, D-Mass., who is the chairman of the Senate Commerce Subcommittee on Communication, Technology and the Internet, addressed to both companies.

A Time Warner Cable spokeswoman said "we've offered reasonable compensation, agreed to carry Fox while we work out a deal, and agreed to binding arbitration. We've done everything we can to reach a fair agreement." She would not comment on the fees offered to Fox, saying that negotiations are ongoing "but [Fox's] current demands are still unreasonable," especially during a recession.

Kerry issued a statement Friday praising the two sides for continuing the talks.

"I am pleased that Fox has not pulled its programming and that the parties remain at the table," said Kerry. "I

encourage a long-term, mutually agreeable solution that does not strip consumers of programming unnecessarily and believe that good faith negotiations should result in an agreement."

What's at stake

The dispute reflects television's changing business model, as programming choices continue to expand and advertising revenues plummet, noted David Wertheimer, chief executive of the Entertainment Technology Center at the University of Southern California.

Cable networks have always counted on revenue from both advertising and subscriber fees. So even as ad sales have declined, cable channels have stayed afloat on those fees, which Wertheimer says have remained steady. But broadcast networks that rely solely on ad revenue are casting about for new sources of revenue, which is likely what's driving Fox's bid for higher fees.

At the same time, providers like Time Warner Cable are in a costly battle to retain subscribers as they fend off threats from satellite TV and Web-based programming. Time Warner Cable argues that Fox is charging too much to renew the contract and that any cost increase would only hurt consumers.

End-of-year standoffs between cable providers and TV networks aren't uncommon, since these deals typically expire on Dec. 31. At midnight, Fox is scheduled to be airing the Billboard New Year's Eve with Carmen Electra and FX is slated to show paid programming.

If the new year doesn't bring a new agreement, it would be a lose-lose situation for the companies. Time Warner Cable's customers would undoubtedly be angered to lose access to programming like NFL Football, "House" and "American Idol," and some might cancel their subscriptions. At the same time, the Fox networks would lose millions of viewers that its advertisers want to reach.

The companies will likely come to an agreement, however. Last year Time Warner Cable and Viacom (VIA), which owns MTV, Comedy Central and Nickelodeon, were deadlocked in a similar battle but reached an agreement early on Jan. 1.

Furious football fans

But two Florida cable subscribers, who also happen to be avid football fans, weren't willing to take that chance. University of Florida alums Thomas Moore and Richard Anderson were so concerned that a stalemate would cause them to miss the Sugar Bowl football game Friday that they filed a petition for temporary injunction Wednesday against News Corp.

Their complaint, filed by Morgan & Morgan law firm, claims that the two men "can never be made whole" if they miss the New Year's Day game.

According to the filing, Thomas Moore and Richard Anderson "have alleged and will demonstrate that [News Corp.'s] actions are immoral, unethical, oppressive, and unscrupulous."

News reports said Circuit Judge Maura Smith in Orlando declined to rule on the case Wednesday, saying she would let a U.S. judge decide if federal court was the proper venue.

Calls to Smith's office and to Morgan & Morgan were not returned, and it remains unclear whether Moore and Anderson will be able to witness what they describe as an "event of undeniable public interest."

Cablevision drops Food, HGTV

In a separate dispute, Cablevision Systems, which delivers cable programming to homes in the New York metropolitan area, said Friday it was no longer carrying channels operated by Scripps Networks, including The Food Channel and HGTV.

"We are sorry that Scripps' current financial difficulties are making it impossible for them to continue our relationship on terms that are reasonable for Cablevision and our customers," Cablevision said in a statement. "We

wish Scripps well and have no expectation of carrying their programming again, given the dramatic changes in their approach to working with distributors to reach television viewers."

"Viewers love our talent and our shows, which is why Food Network and HGTV rank among the top networks in cable," said Kenneth W. Lowe, chairman of Scripps Networks Interactive, in a statement. "But our valuable networks simply are not being compensated like top ten networks by Cablevision."

Scripps says it has launched viewer Web campaigns aimed at getting the two networks back on Cablevision, which says it has 4.7 million customers in the New York area.

In another cable retransmission negotiation, Baltimore-based Sinclair Broadcasting said Thursday it has agreed to an 8-day extension of its agreement with cable operator Mediacom, to midnight ET on Jan. 8. The negotiations affect customers in markets that include Minneapolis-St.Paul, St. Louis, Milwaukee and Nashville, Tenn.

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