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WHAT THE INDUSTRY READS FIRST

Fresh Opinion: Sixth Circuit Strikes Down FCC's Title II Order

The **Sixth Circuit** has made its call on the **FCC's** most recent attempt to regulate broadband as a Title II service, with Thursday's decision finding that the agency lacks the legal authority to institute such rules.

That means the FCC's Safeguarding and Securing the Open Internet Order, adopted in April, will now be set aside. With the Chevron Doctrine no longer in play, the court instead used this ruling to determine the best reading of the statute in the first instance. "Applying Loper Bright means we can end the FCC's vacillations," Circuit Judge *Richard Allen Griffin* said in the opinion.

Ultimately, the court decided that using the traditional tools of statutory construction, broadband ISPs offer only an information service, meaning the FCC cannot impose net neutrality policies through the "telecommunications service" provision of the Communications Act. "Nor does the Act permit the FCC to classify mobile broadband—a subset of broadband Internet services—as a 'commercial mobile service' under Title III of the Act (and then similarly impose net-neutrality restrictions on those services)," the opinion read. "We therefore grant the petitions for review and set aside the FCC's Safeguarding Order."

In August, a three-judge panel from the Sixth Circuit approved a stay of the FCC's order while the court weighed its opinion on the petitions from those representing ISPs. Chief Judge *Jeffrey Sutton* wrote separately that he would have granted the stay because the best reading of the statute and the one in place for

all but three of the last 28 years shows that Congress likely did not view broadband providers as common carriers under Title II.

The ruling had several ISP advocates and associations celebrating with **ACA Connects**, **NCTA**, **USTelecom**, **CTIA** and the **U.S. Chamber of Commerce** all calling the opinion a win for the future of the internet that validates a light-touch regulatory framework. **MoffettNathanson** told clients this marks a long and torturous chapter for cable investors that ultimately dates to 2010 when then-FCC Chair *Julius Genachowski* first raised the idea of Title II reclassification. "We won't be sorry to never have to write about this subject again," the firm wrote.

Former FCC Chair *Ajit Pai*, who spent his time in public service arguing all regulations under the net neutrality umbrella are unlawful and ultimately pointless, was among those applauding the court's opinion.

"It's time for regulators and activists to give up on this tired non-issue once and for all and focus on what actually matters to American consumers—like improving Internet access and promoting online innovation," Pai said in a [post](#) on X. Incoming FCC Chair *Brendan Carr* also spoke out in support of the ruling, but said it will take time to continue to unwind other examples of the *Biden* Administration's "regulatory overreach."

Outgoing FCC Chair *Jessica Rosenworcel* stood on the other side of the debate, saying this decision makes it clear Congress needs to listen to consumers and put open internet principles in federal law. **American Association of Public Broadband** Executive Director *Gigi Sohn* took to X as well to

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[speak](#) on the decision, noting Congress has had more than two decades to act, but has failed to do so.

“If you are satisfied with your broadband service, think that there is adequate competition and the price you pay is fair, the decision won’t matter much. If you would like to see ISPs to be held accountable for anticompetitive and anticonsumer behavior, then you are out of luck,” Sohn said. “The best recourse here would be for Congress to give @FCC authority to oversee the broadband market. We can debate the scope of that authority, but depriving the @FCC of any oversight over the most important network of our lifetimes is just plain wrong.”

CARRIAGE DISPUTE CHECK-IN

The turn of the year usually comes with carriage negotiations and subsequent blackouts, and 2025 isn’t any different. **TelevisaUnivision** networks [went dark](#) on **Fubo** shortly before New Year’s Day, and as the clock struck midnight Wednesday, **MSG Networks** were dropped from **Altice USA**’s Optimum lineups. That means folks in the New York tri-state area lost access to Knicks, Rangers, Islanders and Devils games. Altice had 1.94 million residential video customers at the end of 3Q24. “As a last-ditch effort to save their struggling business at the expense of subscribers, Altice is trying to charge their customers more and give them less,” MSG Networks said in a statement. “We offered Altice a number of fair and reasonable proposals that called for Altice to pay us less than last year. Altice rejected all of them, including our offer to keep MSG Networks on the air while we continued to try to reach a deal. We remain ready to negotiate in good faith.” Of course, Optimum is singing a different tune, saying MSG Networks wanted “exorbitant” programming fees while being made available on a more widely distributed tier. “Now more than ever, especially in this economy, it is unfair for MSG Networks to demand more money from their Optimum viewers, especially when there are ways for fans to get games directly from MSG through other direct-to-consumer options,” Optimum said, adding that it offered to absorb MSG Networks’ price demands if it could package the nets in a way that would provide flexibility for customers. MSG Networks declined those offers. Optimum is directing customers to call or visit a [website](#) that offers alternative ways for customers to continue watching their teams. One of which is **Fubo**, which Optimum is partnering with to offer a free trial and 30% off their first two months, while another way could be accessing **MSG+** via the **Gotham Sports** app. MSG Networks has its own “KEEPMSG” [landing page](#) to encourage customers to contact Optimum. Elsewhere in Cincinnati, **Paramount** networks remain dark on **altafiber** after being dropped in October. The provider told **CFX** there remain no plans to bring the networks back.

LIGHTSHED RAISES BANKRUPTCY SPECTER FOR MSG

As for further ramifications of the **Optimum-MSG Networks** dispute, **Lightshed** said in a note that the blackout “could set off a bankruptcy for MSG Networks,” which would in turn affect other MSG companies like **Sphere Entertainment** and **MSG Sports** as well as the broader sports media landscape. “Altice has been working to push RSNs out of the bundle. New packaging for Altice, under the banner of Optimum Stream, essentially puts a \$55 surcharge on RSNs. Over time, that will clearly mean far fewer subscribers to RSN packages. Altice wants very low penetration minimums to further its efforts, while MSGN knows those low minimums would make it insolvent. Of note, MSGN already offered a rate reduction, which was rejected,” Lightshed said in a note. The firm noted MSG Networks has been working with lenders regarding its debt, which has already been due and remains unpaid. The *NY Post* said the network has been in default on \$830 million in loans since October and has a forbearance agreement with lenders that runs out Jan. 10. “Plus, we believe there is a renewal with Charter coming at the end of 2025. The result seems to be heading toward Chapter 11,” Lightshed noted.

CARRIAGE

One America News launched on [Sling TV](#) Thursday, just in time for the 9pm ET debut of the “The Matt Gaetz Show.” The network is also being carried in **DISH**’s America’s Top 120 (Channel 212). “BREAKING NEWS: @OANN has just been added to the news package on @Sling. Not tired of winning!” Gaetz [posted](#) on X. Gaetz’s name has been in the news since the election, having been nominated by President-elect *Donald Trump* to serve as the U.S. attorney general before withdrawing his name from consideration after pushback. A report released last month by the **House Ethics Committee** accused the former Florida Republican House member of paying for sex, using illegal drugs and having sexual relations with a 17-year-old girl. – **Fox Business** will launch on **Optimum**’s Extra TV television lineup around Jan. 28. Fox Business will now be available to residential customers subscribing to Optimum Value, Optimum Core, Extra TV and above. Extra TV was introduced in the fall with an \$85/month price point and 125+ channels, including **ABC**, **Bravo**, **CBS**, **CNN**, Disney Channel, ESPN, FOX News Channel, NBC, USA Network and more. It’s available via Optimum Stream and traditional cable boxes.

DIAMOND SPORTS EMERGES FROM BANKRUPTCY

Diamond Sports is finally emerging from Chapter 11 bankruptcy

after 10 months, and it is doing so with a new name. It will now be known as Main Street Sports and will continue to operate 16 RSNs through its new naming rights agreement with **FanDuel**. It will serve as the broadcast home to 13 NBA teams, 8 NHL teams and 8 MLB teams, most recently striking a deal with the Milwaukee Brewers that will see Main Street Sports produce and distribute the team's 2025 telecasts on FanDuel Sports Network Wisconsin. Thanks to its financial restructuring, Main Street Sports has reduced approximately \$9 billion of pre-petition debt to \$200 million.

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CONGRESS RETURNS

Plenty of action in Washington, with the 119th Congress set to convene at noon ET Friday and vote for a House Speaker. Notably, current Speaker *Mike Johnson* gave **C-SPAN** permission to have its TV cameras inside the U.S. House for the first day of the session and Speaker vote tomorrow. C-SPAN cameras also got the OK to be in the chamber for the Electoral College vote count and certification on Monday. Normally, C-SPAN's House coverage is the feed from government-controlled cameras, but special events such as a Speaker of the House election, allow for independent cameras. That's what let the public affairs network provide such riveting coverage last January of the 15 votes taken before *Kevin McCarthy* was elected. Will we see another dramatic speaker election tomorrow? Trump has endorsed Johnson, but Rep *Thomas Massie* (R-KY) has said he plans to vote against him. We'll be tuning in to find out if Massie has enough supporters to thwart Johnson from taking the gavel. Meanwhile, **House Commerce** Chairman-Elect *Brett Guthrie* (R-KY) announced the committee's senior staff, including *Joel Miller* as Chief Counsel. Miller, who has spent the last four years in the private sector, served as Chief of Staff under former **FCC** Commissioner *Mike O'Rielly* and was previously Guthrie's Deputy Chief of Staff and Legislative Director.

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DOJ GETS TIME IN VENU HEARING

Next week's **Venu** oral arguments in the Second Circuit will see the **DOJ** get three minutes of argument time, with the minutes shaved off of **Fubo**'s clock. Venu jv owners **Disney**, **Fox** and **Warner Bros. Discovery** will have 15 minutes to make their case against a stay that's prevented the sports streamer from launching as **Fubo** challenges its legality. **Fubo** agreed to take 12 minutes for arguments Monday and give three minutes to the government, which has filed an amicus curiae brief in support of **Fubo**, citing Section 7 of the Clayton Act that prohibits mergers, acquisitions and certain jvs that may lessen competition or create a monopoly.

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FCC COMMS REPORT ILLUSTRATES FIBER, FWA COMPETITION

Cable operators have felt the need for speed in recent years. According to the **FCC**'s 2024 Communications Marketplace Report released Tuesday, the weighted mean advertised speed for cable broadband subscribers participating in the Measuring Broadband

America program was approximately 483 Mbps as of Oct. 2022. That was a 58% increase compared to the prior year, and has only continued to go up. The weighted mean maximum advertised download speed for residential cable broadband connections reported in the Dec. 2023 FCC Form 477 subscription data was approximately 496 Mbps. According to the report, the number of residential connections to cable services dropped slightly from 74.5 million to 73.4 million from Dec. 2022 to Dec. 2023. At the same time, residential FTTP connections have been on the rise, increasing from 24.4 million to 28 million (a 15% increase) during the same time period. Fixed wireless also showed explosive growth with terrestrial connections rising from 4.5 million to 6.8 million for a 51% increase from 2022 to 2023. Fixed wireless services have been criticized by cable and fiber executives for their inability to offer comparable levels of speed and capacity, and the report confirmed that there is a significant difference in what fixed wireless can offer. The weighted mean maximum advertised download speed for connections reported in the Dec. 2023 Form 477 subscription data was approximately 112 Mbps. By Dec. 2023, about 84% of the population had access to broadband via fixed wireless technologies, 46% had access to fiber and 87% was covered by cable technology. Incoming **FCC** Chair *Brendan Carr* took issue with the report on a number of fronts, arguing for the agency to provide an accurate assessment of the converged market for communications services rather than continuing to use a decades-old approach of investigating services within distinct and separate silos. He also condemned the report's expanded look into various equity considerations that distract from the focus on competitive indicators Congress is most interested in. "Where the FCC does conduct a limited cross-technology competitive analysis in today's Report, it picks winners and losers, declaring that the availability of certain technologies is overstated in the FCC's own broadband map," Carr said. "This approach is counterproductive to the FCC's broader objectives of closing the digital divide and ensuring Americans have access to competitive, high-speed services."

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INDUSTRY LOSES CABLE TITANS

Over the holiday break, the cable industry lost two of its pioneers, **Cablevision** and **HBO** founder *Charles Dolan* and former **Time Warner** CEO *Richard Parsons*. Reflections have poured in for both men. "Working for the Charles F. Dolan and family business was the best experience one could hope for in a business life," *Tom Rutledge*, Director Emeritus for **Charter** and former Cablevision COO, said in a statement to **CFX**. "Chuck was a true creative and a fierce, fearless, entrepreneur wrapped in a polite and genial veneer. It was always pure excitement. Look at all the businesses he created, and he and his family built. He truly gave us all the modern world of entertainment and communication." **Warner Bros. Discovery** CEO *David Zaslav* recalled Parsons as a "tough and brilliant negotiator, always looking to create something where both sides win." Visit Cablefax.com for more of our coverage of [Dolan](#) and [Parsons](#).

PROGRAMMER'S PAGE

'Goosebumps: The Vanishing' Delivers The Thrills

The revival of the beloved *R.L. Stine* series "Goosebumps: The Vanishing" takes a new turn in its second season, shifting the setting to Brooklyn, New York, with a fresh storyline and new characters (premieres Jan. 10 on **Disney+** and **Hulu**). *David Schwimmer* stars as Anthony Brewer, a former botany professor and recent divorcee, whose life changes dramatically when his twin children, Devin and Cece—played by *Sam McCarthy* and *Jayden Bartels*—move in with him. The plot thickens as Anthony's ongoing investigation into the mysterious disappearance of his brother and friends in 1984 leads to his infection with a symbiotic organism. Though the iconic book series is known for its spine-chilling scares, the show balances elements that cater to both thrill-seekers and families. Schwimmer touched on the family friendliness of the show while emphasizing the importance of his role as an on-screen father, saying he draws on his real-life parenting experiences. "Being able to tap into or access and use that reality of my own life, [that] was really enjoyable to play a caring, loving present parent who's also got a lot of his own problems happening, trying to take care of his mother with dementia," he said. "I've always wanted to be part of this genre of action, comedy horror. The fact that it's the kind of scares that are appropriate for teenagers—it's not too gory or gruesome. It's just some really fun frights." Don't take that to mean that there aren't some moments that will make you jump. "We didn't want to condescend our audience, just like R.L. Stine didn't in 'Goosebumps,'" Executive Producer *Hillary Winston* said. "We are trying to really lean into the horror and the scares and everything, just like we would do if we were making it for adults. And it's mostly adults that watch." — *Noah Odige*

REVIEWS

"Landman," Sunday, **Paramount+**: *Taylor Sheridan's* success is like a heroin addiction, with lots of viewers and TV executives hooked. And the sensation is exhilarating, for now, with viewers and networks devouring hits like "Yellowstone," "Lioness" and "Mayor of Kingstown," among others. With heroin, the high is great until it isn't. And the crash usually is awful. As such, people are wondering when the Sheridan high may end. With strong reviews and solid ratings, "Landman" certainly isn't starting a downward spiral. Indeed, while the series isn't important viewing, it's a helluva entertaining watch, especially for *Billy Bob Thornton*. Moreover, like other Sheridan series, *Landman* centers on a subculture, in this case oil workers, whose pay is relatively good, though the job is extremely dangerous. Thornton's Tommy Morrison is the brains, muscle and, occasionally, heart of M-Tex Oil, a company that has made owner Monty Miller (*Jon Hamm*) rich. Very much like the lead in "Mayor," *Mike McLusky* (the wonderful *Jeremy Renner*), Tommy is indistinguishable from his job, with issues arising faster than he can solve them. Unlike McClusky, Tommy has immediate family: a gorgeous former wife (*Ali Larter*) and a nubile daughter (*Michelle Randolph*), but they're foppish, momentary distractions only. It's Tommy's testosterone-laden world and Thornton's delivery of TV's best zingers since Roger Sterling (*John Slattery*) of "Mad Men" makes it worthwhile. — *Seth Arenstein*

BASIC CABLE		
P2+ PRIME RANKINGS*		
(12/23/24-12/29/24)		
MON-SUN	MC	MC
	US	US AA
	AA%	(000)
ESPN	0.663	2101
NFL	0.479	1518
FNC	0.413	1309
HALL	0.270	855
HGTV	0.185	587
TBSC	0.161	512
USA	0.160	506
FRFM	0.155	492
HALLMYS	0.151	478
AMC	0.150	475
INSP	0.137	435
HIST	0.132	417
ID	0.125	396
TLC	0.121	385
PRMNT	0.121	383
MSNBC	0.119	376
FX	0.111	353
TNT	0.110	348
DISC	0.108	342
FOOD	0.100	316
CNN	0.088	280
TVLAND	0.088	277
A&E	0.086	272
WETV	0.084	265
GSN	0.083	264
LIFE	0.082	261
OXY	0.073	231
SNDNCE	0.069	220
NATGEO	0.066	210
COM	0.066	209
SYFY	0.064	204
ADSM	0.059	188
NAN	0.059	187
TRAVEL	0.058	184
NWSMX	0.057	180

*P2+ L+SD rankers are based on national Nielsen numbers, not coverage.

Most Powerful Women Cablefax

The Cablefax team is thrilled to announce this year's honorees for The Most Powerful Women Awards, recognizing the distinguished women leaders who are innovating and inspiring in the media and broadband space.

JUST RELEASED

www.CablefaxWomen.com