

# Cablefax Daily™

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What the Industry Reads First

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## Future Investing: Industry Heavyweights Contemplate Title II Rollback

While *Ajit Pai* may have been the main attraction of the **Free State Foundation's** 9th Annual Telecom Policy Conference, it was the event's all-star panel that offered a deeper look into the industry's take on a future with lighter regulation. Unsurprisingly, the panel, which was meant to discuss the challenges and opportunities ahead, circled around the topic of Title II. Perhaps unexpectedly, though, the topic of paid prioritization was only casually touched upon. Instead, opinions rose over whether or not a "light touch" approach by the **FCC** would mean higher investment in the future and whether or not Title II has impacted investment since its enactment. **Comcast** senior evp *David Cohen* lauded the current US Internet ecosystem, which he attributed to a "consistent light regulatory touch that has been developed by Democratic and Republican administrations up until the last five years or so." He pointed out that the private sector has invested one and a half trillion dollars under the FCC's light regulatory touch to build out the current broadband network, which is twice the per capita rate of private investment that has existed in Europe. Cohen also referenced a variety of studies, including one by the **Free State Foundation**, that found significant reduction in capital expenditures and capital investment by ISPs as the result of the reclassification of broadband. Cohen pointedly stated that his number one priority was to support the *Pai* in unraveling the Title II classification of broadband, which he emphasized would not unravel net neutrality. That's been a consistent message from cable as the heated public fight on the issue ramps up again. *Robert Quinn*, **AT&T's** senior evp, external and legislative affairs, stated his belief that the overhang from Title II on the market is that it is "essentially a rate regulation tool." He pointed to Europe being passed by in terms of 4G LTE deployment rates as the result of having a "very regulated structure on the wireless services market," similar to the types of policies the US is moving toward. *Blair Levin*, former executive director of the FCC's National Broadband Plan, offered an opposing view on reclassification. Levin said he has yet to see Title II make a dent in investment. He framed the issue as a philosophical problem as to whether to keep a safety valve, catch-all regulation to act ahead of time if there's bad behavior or to keep the light-touch approach and only change the rules as things come up. Despite differences in opinion, **CTIA** pres/CEO *Meredith Baker* expressed optimism that rules everyone can live with—and that Congress will enact—are "closer than we think." Later in the day, *Pai* sat down with Free State pres *Randolph May* to

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talk about his plans to roll back the rules. He cited harm to investment and infrastructure as problems he has with the Title II classification.

**Ratings:** Despite an undeniable lack of drama leading up to the Finals, the **NBA Playoffs** powered **TNT** to the best average viewership in primetime among basic cable nets during May. **Nielsen** data shows that the net averaged 2.6mln P2+ from 8-11pm, knocking **Fox News** (2.3mln) from the primetime perch it held during April. The top 20 most-viewed programs on cable in May were all NBA games that aired at least partially in primetime—14 on **TNT** and six on **ESPN**. **MSNBC** (1.7mln), **ESPN** (1.6mln) and **HGTV** (1.4mln) rounded out the top five in primetime. In total day viewership, Fox News led took the top spot for the 11th straight month with an average of 1.4mln viewers. Still, the now *Bill O'Reilly*-less news net is feeling pressure due to month-over-month dips in both total day and primetime. It also faces increased competition from **MSNBC**, which saw increases across the board. **Nickelodeon** (1.1mln) ranked second in total day, followed by **MSNBC** (929K), **TNT** (912K) and **CNN** (823).

**Slow Drip:** Cord-cutting is “no big calamity” for the cable industry, at least not if you ask **Netflix** CEO *Reed Hastings*. During a **CNBC** interview Wednesday, Hastings asserted that the rate at which Americans are cutting the cord is slow. “If you look at cord-cutting, it is like 2-3 percent per year, like broadcast ratings over the last 30 years,” he said. “It will take a very long, slow, secular decline. No big calamity. And then they will adjust the economics.” He added that pricing—not Netflix—is the main reason consumers are cutting the cord. Hastings also addressed the FCC’s proposed rollback of the 2015 net neutrality regulations, saying that while such a change would be “unfortunate,” it would not be all that significant because “the principles of net neutrality are very well accepted by all the large ISPs around the world.” Cable would like that embroidered on throw pillows... Hastings added that given its stature, Netflix is relatively “insulated” from the impact of a Title II rollback compared to smaller firms. Regarding Netflix’s growth prospects, Hastings pushed back against the idea that the SVOD service is nearing a saturation point the U.S. “If we kept the product the same, we said no more improvements, then we would saturate. But we are continuing to improve Netflix.”

**Measurement News:** **comScore** expanded its agreement with **Charter** to integrate aggregated and anonymized television data. The expansion includes all **Spectrum** markets added from its transactions with **Time Warner Cable** and **Bright House Networks**, as well as viewing information from Charter’s Spectrum TV Everywhere application. The new deal means comScore’s passive TV measurement services will cover more than 35mln homes and 75mln TVs.

**Programming:** **NBC Sports** obtained exclusive TV and streaming rights for a number of **USA Swimming** events through 2024. The deal includes the six-stop arena Pro Swim Series and National Championships, as well as the Pan Pacific Swimming Championships every four years. The events will air across **NBC**, **NBCSN** and the **Olympic Channel**.

**Digital Programming:** **Nickelodeon** is introducing a series of play-along preschool videos within its \$5.99-a-month **Noggin** SVOD service. The videos, which will first be made available Thursday on iOS platforms, were created by an in-house team using a proprietary tool allowing for the simultaneous creation of interactive digital and linear TV content. The initial rollout includes more than 30 interactive videos featuring “Blaze and the Monster Machines,” “Bubble Guppies” and “Team Umizoomi.” -- **YouTube** launched a new series Wednesday called “Hyperlinked” on its **YouTube Red** SVOD service. Starring music group **L2M**, the 10-ep scripted series follows a group of girls who create their own website. The show aspires to encourage girls to take an interest in STEM subjects, and the first ep is available to non-subscribers for free.

**O Pioneers!:** Congrats to the 51st class of Cable TV Pioneers! With the demise of **INTX**, the 23 new members will be inducted into the Pioneers at a ceremony to precede the opening of **SCTE/ISBE** Cable-Tec Expo in Denver on October 17. This year’s class, which is up from 14 members in 2016, features many familiar faces, including **Showtime Networks** chmn *Matt Blank*, **CTAM’s** *Anne Cowan* and **BET’s** *Debra Lee*. For info on the banquet, visit cabletv pioneers.com.

**Rooney Rides Again:** Another cable vet has joined the **Layer3 TV** gang. Former **Cox** CMO *Joe Rooney* was named chief marketing officer. Rooney, known for promoting the cable bundle and for his longtime service as event co-chair of **Adaptive Spirit**, spent 29 years at Cox before retiring in 2015. “I moved to Denver to retire and kept hearing about what was being built at Layer3 TV. When I met with the talented team I became inspired by the company’s product and leadership. It is a thrill to help reinvent the next generation of the cable television,” he said in a statement.

## Think about that for a minute...

### Numerology

Commentary by Steve Effros

Somehow we've moved into the realm of believing that there's magic in the accumulation of numbers. Given the craziness of Washington these days, it's not surprising. "Numerology" is defined as "...any belief in the divine, mystical relationship between a number and one or more coinciding events." In the situation we face today, some members of Congress and their associated lobbying cohorts are spending a whole lot of time and effort to achieve a given number in the magical belief that it will somehow prove their position and vanquish those who would disagree with them.



It's all nonsense. The "magic number" is apparently anything over 4 million, and the objective is to get at least that number of "comments" filed at the FCC in the net neutrality notice of rulemaking proposing to change the designation of broadband delivery from a "Title II" service to a "Title I" service. You will, of course, remember that's the real debate going on regarding net neutrality. No one is proposing the ISPs be allowed to block access to legal sites on the Internet. No one is proposing to "shut down" or "destroy" the Internet as we know it. The debate is whether the government, and particularly the FCC, should assume the power to rate regulate, should it want to, the pricing and offering of some types of broadband service.

The underlying disagreement is whether "prophylactic" regulations should be imposed, as they are now, to prohibit things like tiered service offerings (the Internet equivalent of Express Mail, Priority Mail, etc.) or should they let those offerings develop and retain the power to intervene if it's shown that the market is being injured or unfairly affected. The FCC went the prophylactic route, Title II, in 2015 because of pure speculation that such offerings might be bad. The prior regulations, since the

broadband market started, and now again under the proposed reversion back to those rules, would wait to find some actual market dysfunction before the government jumped in.

In 2015 those who supported "Title II" imposition triggered a viral Internet campaign to get their supporters to file "comments" with the FCC. They managed to get some 4 million filings. The fact that some of them, as is happening again today, came from "Santa Claus" or "Mickey Mouse" and that many thousands apparently came from a single "bot" engine repeatedly sending the same "comment" does not seem to matter to these folks. It's the numbers. So once again, those who think that just creating a tweet storm or viral email has some significance in terms of serious policy discussions are working overtime to get to a magic number. Somehow that is supposed to convince the FCC of their position.

OK, this is silly, but let's look at some numbers. There are some 355 million fixed and mobile broadband connections in the US (YE 2015). So if 4 million of those actually send a "vote" to the FCC, that would be a grand total of about 1.12 percent. But let's be fair, some users have both types of connections. There are 275 million folks who have "access" to the Internet. That would be about 1.45%. Some of the new filings have already been found fraudulent from those on both sides of the Title II debate. Other "filers" when contacted, admitted they had no idea what the subject was they were filing about. If we're going to start making believe that simply the number of filings have some significance, then the believers in numerology have a long way to go before their numbers have any heft. This is all ridiculous.

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*(Steve Effros was President of CATA for 23 years and is now an advisor and consultant to the cable industry. His views do not necessarily reflect the views of Cablefax.)*

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