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March 29, 2018

The Honorable Sam Kito III
Chair, House Labor and Commerce Committee
State Capitol, Barnes 124
Juneau, AK 99801

RE: HB 384 An Act relating to the Regulatory Commission of Alaska and broadband Internet regulations

Dear Chairman Kito and Members of the Committee,

We are writing to express our opposition to HB384 and provide information regarding the authority federal and state regulators have over broadband service.

Support for an Open Internet

ATA member companies have been steadfast in their commitment to an open internet. We do not and will not impair our customers' access to lawful internet services or content. The Federal Communications Commission recently restored the light-touch regulation that allowed the internet to flourish for over 20 years. To the extent additional rules are needed to guarantee that customers will continue to be in charge of their online experience, we support bi-partisan federal legislation and will continue to work with Alaska's delegation to achieve this result.

Federal Preemption

Under Democratic and Republican leadership, the FCC has unequivocally asserted its jurisdiction over broadband internet access service, noting that "it is well-settled that Internet access is a jurisdictionally interstate service." The FCC expressly prohibits state and local governments from adopting their own separate requirements, including specifically preempting, "any so-called 'economic' or 'public utility-type' regulations."[1] HB384 directly conflicts with this federal preemption by defining providers of broadband internet access as public utilities for purposes of the Regulatory Commission of Alaska, the body which imposes public utility-type regulation on Alaska's utilities.

States' Role

States have a role in oversight of broadband internet access service under existing law. The FCC describes that role as a valued partnership, stating, "We appreciate the many important functions served by our state and local partners, and we fully expect that the states will 'continue to play their vital role in protecting consumers from fraud, enforcing fair business practices, for example, in advertising and billing, and generally responding to consumer inquiries and complaints' within the framework of this order."[2] The states are also expressly authorized to continue to designate eligible telecommunications carriers, administer rights-of-way, and adopt state universal service policies.

[1] See Restoring Internet Freedom Order at paragraphs 194-204.
[2] Id.

The state already has an important role in broadband oversight. The RCA has authority to protect consumers and participate in the broadband landscape under existing federal law and regulation. Attempting to expand that role to broad-based, utility-style regulation is clearly preempted.

Cost of Expanded RCA Regulation

Disregarding federal preemption for a moment, expanding state authority by imposing traditional, utility-style regulation on broadband service would still be inadvisable due to the cost. HB384 would add a new layer of regulatory activity and unavoidable cost to both the state and Alaska's broadband providers. The RCA would require additional staff and expertise to develop initial rules and support ongoing regulation. And broadband providers would find themselves grappling with a substantially increased burden of regulatory cost, uncertainty, and delay; all of which deter investment in broadband infrastructure.

ATA members currently support a significant burden of regulatory oversight from both federal and state regulators. We comply with hundreds of regulatory requirements annually touching virtually every aspect of our businesses and diverting resources away from investment in networks. Adding a new layer of regulation would only exacerbate that burden and further divert scarce resources away from serving Alaskans.

Federal law and regulation clearly defines an important role for the Regulatory Commission of Alaska regarding broadband internet access and also clearly preempts state action to impose utility-style regulation as HB384 attempts to do. Adding new layers of regulatory obligation and burden to the state and industry during difficult economic times is inadvisable. We respectfully express our opposition to this bill.

Respectfully submitted,

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