

HB

277

<TARGET><BILL>HB 277</BILL><SUBJECT>HB
277</SUBJECT><COMM>HL&C30</COMM></TARGET>



Representative Scott Jiu Wo Kawasaki

Alaska State Legislature

District 1 Fairbanks

MEMORANDUM

Date: January 29, 2018

To: Representative Sam Kito
Chair, House Labor & Commerce Committee

From: Representative Scott Kawasaki
District 1 Fairbanks 

RE: Hearing Request for House Bill 277

I respectfully request a hearing for House Bill 277: An Act relating to the regulation of broadband Internet; and making certain actions by broadband Internet service providers unlawful acts or practices under the Alaska Unfair Trade Practices and Consumer Protection Act.

I have included the following items with this request:

- HB 277: 30-LS1213\D
- Sponsor statement
- Sectional analysis
- Testimony list
- Supporting documents

Please let me know if there's anything else I can provide for you. Thank you for your consideration of hearing HB 277.



Representative Scott Jiu Wo Kawasaki

Alaska State Legislature

District 1 Fairbanks

House Bill 277 Sponsor Statement

“An Act relating to the regulation of broadband Internet; and making certain actions by broadband Internet service providers unlawful acts or practices under the Alaska Unfair Trade Practices and Consumer Protection Act.”

HB 277 would require Internet Service Providers (ISPs) who provide broadband Internet to Alaskan families engage in the practice of net neutrality. The bill would make sure all data on the Internet is treated equally. It would protect small businesses from uncompetitive practices and guarantee an open and free internet for all users.

Without net neutrality, ISPs may legally speed up certain sites, slow down others, block sites all together, and require certain users to pay more for Internet fast lanes. The elimination of net neutrality gives ISPs the power to determine what websites consumers could visit and what content website creators could share. Allowing ISPs to discriminate based on content undermines a free and open Internet.

On multiple occasions, millions of Americans have publicly commented in favor of protecting net neutrality and have spoken out against the recent Federal Communications Commission order to eliminate net neutrality rules implemented in 2015. The internet is a modern necessity for individuals and businesses. Net neutrality is widely supported by consumer rights groups, privacy groups, and businesses organizations.

This bill would ensure that the Internet remains a platform for unrestricted economic competition and free communication. I respectfully request your support for HB 277.

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In Juneau ◦ Alaska State Capitol Room 502, Juneau, Alaska 99801
In Fairbanks ◦ 1292 Sadler Way Suite 306, Fairbanks, Alaska 99701
Juneau ◦ (907) 465-3466 ◦ **Fairbanks** ◦ (907) 456-7423
Email: Rep.Scott.Kawasaki@akleg.gov



Representative Scott Jiu Wo Kawasaki

Alaska State Legislature

District 1 Fairbanks

House Bill 277 Testimony List

"An Act relating to the regulation of broadband Internet; and making certain actions by broadband Internet service providers unlawful acts or practices under the Alaska Unfair Trade Practices and Consumer Protection Act."

Presenting testimony will be:

- Rep. Scott Kawasaki
- Jacob Gerrish, Aide to Rep. Scott Kawasaki

In Juneau ◦ Alaska State Capitol Room 502, Juneau, Alaska 99801
In Fairbanks ◦ 1292 Sadler Way Suite 306, Fairbanks, Alaska 99701
Juneau ◦ (907) 465-3466 ◦ **Fairbanks** ◦ (907) 456-7423
Email: Rep.Scott.Kawasaki@akleg.gov



Representative Scott Jiu Wo Kawasaki

Alaska State Legislature

District 1 Fairbanks

House Bill 277 Supporting Documents

"An Act relating to the regulation of broadband Internet; and making certain actions by broadband Internet service providers unlawful acts or practices under the Alaska Unfair Trade Practices and Consumer Protection Act."

- HB277 Supporting Document-Letter to Attorney General Lindemuth 1.29.18
- HB277 Supporting Document-Letter to Congressional Delegation 1.29.18
- HB277 Supporting Document-Rep. Kawasaki Letter to Governor 1.29.18
- HB277 Supporting Document-Governor's Letter 1.29.18
- HB277 Supporting Document-Letter to Senator Murkowski 1.29.18
- HB277 Additional Document-Dec. 13 Article Business Insider 1.29.18
- HB277 Additional Document-Jan. 4 FCC Order 1.29.18
- HB277 Supporting Document-Dec. 14 Article Business Insider 1.29.18
- HB277 Supporting Document-Dec. 15 Article Business Insider 1.29.18
- HB277 Supporting Document-Dec. 15 Article NPR 1.29.18
- HB277 Supporting Document-Portugal Payment Package Example 1.29.18
- HB277 Supporting Document-University of Maryland Survey 1.29.18

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Juneau ◦ (907) 465-3466 ◦ **Fairbanks** ◦ (907) 456-7423
Email: Rep.Scott.Kawasaki@akleg.gov



Representative Scott Jiu Wo Kawasaki

Alaska State Legislature

District 1 Fairbanks

House Bill 277 Sectional Analysis

"An Act relating to the regulation of broadband Internet; and making certain actions by broadband Internet service providers unlawful acts or practices under the Alaska Unfair Trade Practices and Consumer Protection Act."

Please note that this summary should not be considered a comprehensive or authoritative interpretation of the bill, and the bill itself is the best statement of its contents.

Section 1: Adds a new Internet neutrality section to AS 42.05, The Alaska Public Utilities Regulatory Act, that requires Internet Service Providers (ISPs) to:

- Disclose network management practices, performance, and commercial terms so that consumers can make informed decisions
- Not block, impair, prioritize, or interfere with Internet access, website content, or Internet traffic

Section 2: AS 45.50.471, adds violation of Internet neutrality to the list of unlawful acts and practices in the Alaska Unfair Trade Practices and Consumer Protection Act

Section 1: Applicability section for contracts entered after the effective date of this bill. HB 277 does not apply to contracts entered between ISPs and consumers before that date.

In Juneau ○ Alaska State Capitol Room 502, Juneau, Alaska 99801
In Fairbanks ○ 1292 Sadler Way Suite 306, Fairbanks, Alaska 99701
Juneau ○ (907) 465-3466 ○ **Fairbanks** ○ (907) 456-7423
Email: Rep.Scott.Kawasaki@akleg.gov

Fiscal Note

State of Alaska
2018 Legislative Session

Bill Version: HB 277
Fiscal Note Number: _____
() Publish Date: _____

Identifier: HB277-LAW-CIV-02-02-2018
Title: BROADBAND INTERNET:
NEUTRALITY/REGULATION
Sponsor: KAWASAKI
Requester: House Labor & Commerce

Department: Department of Law
Appropriation: Civil Division
Allocation: Commercial and Fair Business
OMB Component Number: 2717

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2019	Included in	Out-Year Cost Estimates				
	Appropriation Requested	Governor's FY2019 Request	FY 2020	FY 2021	FY 2022	FY 2023	FY 2024
OPERATING EXPENDITURES	FY 2019	FY 2019					
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimated SUPPLEMENTAL (FY2018) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2019) cost: 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No
If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version/comments:

Not applicable, initial version.

Prepared By: <u>Valerie Rose, Budget Analyst</u>	Phone: <u>(907)465-3674</u>
Division: <u>Administrative Services Division</u>	Date: <u>02/02/2018</u>
Approved By: <u>Jahna Lindemuth, Attorney General</u>	Date: <u>02/02/18</u>
Agency: <u>Department of Law</u>	

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2018 LEGISLATIVE SESSION

BILL NO. HB 277

Analysis

Section 1 of HB 277 would add AS 42.05.147 to the powers and duties of the Regulatory Commission of Alaska (RCA). That provision would require a utility that provides broadband services in the state to publicly disclose accurate information regarding the network management practices, performance, and commercial terms of the utility's "broadband Internet access service" (a new term defined by the bill). Further, proposed AS 42.05.147 would prohibit certain conduct by a utility that provides broadband services in the state.

The classes of prohibited conduct can broadly be described as blocking, throttling, paid and affiliate prioritization and interference with network use by an "edge provider" (a new term defined by the bill). However, whether specific behavior is prohibited conduct would entail a technical analysis of network operations. The RCA may waive the provision related to paid or affiliate prioritization on a showing of benefit to the public interest and no negative impact on "the open nature of Internet in the state."

Sec. 2 would make violation of proposed AS 42.05.147 an unlawful act and practice actionable under AS 45.50.471 (Unfair Trade Practices and Consumer Protection). The Attorney General is authorized to investigate and seek action to restrain prohibited acts under AS 45.50.

The Department of Law receives an average of 450 consumer complaints per year. It is estimated that the section may receive an additional 60-85 consumer complaints per year regarding internet neutrality issues. This estimate is based on internet complaints filed with the Federal Communications Commission (FCC); since the FCC no longer regulates this area, we expect consumers to file complaints with our office. From June 1, 2015 to May 1, 2017, consumers filed about 47,000 complaints with the FCC and about 125 were filed by Alaskans. This averages 65 complaints per year. Based on the national and local media coverage of net neutrality issues, more Alaskan consumers would be aware of the issue and likely lead to the filing of more consumer complaints. While the department expects some increased work, the exact amount of work the bill would generate, and whether that work can be absorbed within existing resources is unknown. If the bill becomes law, the department can monitor the work and may seek additional resources, if needed, to address the increased workload.

Fiscal Note

State of Alaska
2018 Legislative Session

Bill Version: HB 277
Fiscal Note Number: _____
() Publish Date: _____

Identifier: HB277-DCCED-RCA-02-02-18
Title: BROADBAND INTERNET:
NEUTRALITY/REGULATION
Sponsor: KAWASAKI
Requester: (H) Labor and Commerce

Department: Department of Commerce, Community and
Economic Development
Appropriation: Regulatory Commission of Alaska
Allocation: Regulatory Commission of Alaska
OMB Component Number: 2417

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2019	Included in	Out-Year Cost Estimates				
	Appropriation Requested	Governor's FY2019 Request	FY 2020	FY 2021	FY 2022	FY 2023	FY 2024
OPERATING EXPENDITURES	FY 2019	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023	FY 2024
Personal Services	***		***	***	***	***	***
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	***	0.0	***	***	***	***	***

Fund Source (Operating Only)

None							
Total	***	0.0	***	***	***	***	***

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues

None	***		***	***	***	***	***
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimated SUPPLEMENTAL (FY2018) cost: 0.0 (separate supplemental appropriation required)
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2019) cost: 0.0 (separate capital appropriation required)
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? yes
If yes, by what date are the regulations to be adopted, amended or repealed? 01/01/23

Why this fiscal note differs from previous version/comments:

Not applicable, initial version.

Prepared By:	Stephen McAlpine, Chairman	Phone:	(907)276-6222
Division:	Regulatory Commission of Alaska	Date:	02/02/2018
Approved By:	Catherine Reardon, Director	Date:	02/02/18
Agency:	Division of Administrative Services, DCCED		

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2018 LEGISLATIVE SESSION

BILL NO. HB 277

Analysis

House Bill 277 would add a new section (AS 42.05.147) to the enabling statutes of the Regulatory Commission of Alaska (RCA). That provision would require a utility that provides broadband services in the state to publicly disclose accurate information regarding the network management practices, performance, and commercial terms of the utility's "broadband Internet access service" (a new term defined by the bill). Further, proposed AS 42.05.147 would prohibit certain conduct by a utility that provides broadband services in the state subject to reasonable network management.

The classes of prohibited conduct can broadly be described as blocking, throttling, paid and affiliate prioritization, and interference with network use by an "edge provider" (a new term defined by the bill). However, whether specific behavior is prohibited conduct would entail a technical analysis of network operations. The RCA may waive the provision related to paid or affiliate prioritization on a showing of benefit to the public interest and no negative impact on "the open nature of Internet in the state."

Section 2 of House Bill 277 would make violation of proposed AS 42.05.147 an unlawful act and practice actionable under AS 45.50.471 (Unfair Trade Practices and Consumer Protection). The Attorney General is authorized to investigate and seek action to restrain prohibited acts under AS 45.50.

It is anticipated that regulations directed by House Bill 277 would be adopted within the time allowed by AS 42.05.175(e), within 730 days after a rule-making proceeding is opened.

The fiscal impact of this legislation cannot be accurately determined at this time. It is anticipated that additional staff would be necessary, but the RCA has not had the opportunity to meet and deliberate on precisely how the statutes would be implemented or how the costs would be funded.

From: Donna Rae Faulkner
To: [House Labor and Commerce](#)
Subject: We strongly support NET NEUTRALITY and hope that you will too! HB 277
Date: Friday, February 2, 2018 4:49:54 PM

To our Honorable Alaskan Senators and Representatives -

We strongly believe that net neutrality is an important aspect of freedom of speech and do not want to see it done away with!! We do not want companies censoring, charging differentially for speed and content and we want Alaskans and all Americans to have access to the internet. It sounds like HB277 is an effort to protect broadband internet and net neutrality. Please support it. Thank you very much.

Feel free to contact us if you would like to know more about our perspectives.

Sincerely,

Donna Rae and Don

Donna Rae Faulkner and Don "Iceman" McNamara
Oceanside Farms
58508 East End Road
Homer, AK 99603
(907) 235-SURF or (907)299-SURF

From: [Rep. Sam Kito](mailto:Rep.Sam.Kito)
To: [Caitlyn Ellis](mailto:Caitlyn.Ellis)
Subject: FW: House Bill 277
Date: Thursday, February 1, 2018 12:35:30 PM

For the HB277 file

From: homeraha@gmail.com [mailto:homeraha@gmail.com]
Sent: Tuesday, January 30, 2018 4:56 PM
To: Rep. Adam Wool <Rep.Adam.Wool@akleg.gov>; Rep. Andy Josephson <Rep.Andy.Josephson@akleg.gov>; Rep. Louise Stutes <Rep.Louise.Stutes@akleg.gov>; Rep. Chris Birch <Rep.Chris.Birch@akleg.gov>; Rep. Sam Kito <Rep.Sam.Kito@akleg.gov>; Rep. Gary Knopp <Rep.Gary.Knopp@akleg.gov>; Rep. Colleen Sullivan-Leonard <Rep.Colleen.Sullivan-Leonard@akleg.gov>; Rep. Mike Chenault <Rep.Mike.Chenault@akleg.gov>; Rep. Bryce Edgmon <Rep.Bryce.Edgmon@akleg.gov>
Subject: House Bill 277

To the Members of the House Labor and Commerce Committee:

I'm writing to voice my strong support for House Bill 277. I oppose the actions of the FCC at the federal level, which removed the level playing field for all internet users and service providers, and believe that changes must be made at the national level. As this may or may not occur, I believe that it is urgent that laws protecting internet neutrality be passed at the State level.

The internet has become essential to the functioning of the lives of a large majority of Alaskans: from paying bills, to accessing our bank accounts, to communicating with family and friends, to storing photographs, to renewing fishing licenses and vehicle registrations, to filling out our permanent fund applications, to checking the marine and onshore weather forecasts and warnings, to checking the tide tables, to accessing insurance and medical records, to ordering goods, to watching movies, to buying stamps, to accessing library media and renewing library books, to looking up information on any and all topics, to completing coursework, to looking up phone numbers, to accessing real-time tsunami alert and earthquake information, to finding our way in the wilderness with GPS, to contacting our legislators (!),...the list goes on and on!

It is absolutely essential that the internet remain equally accessible to all people, organizations, and businesses! Thank you for considering this bill. I urge your support!

Sincerely,

Ann Agosti-Hackett
PO Box 15344
Fritz Creek AK 99603



**Testimony of
Gerard Keegan
CTIA
In Opposition to Alaska House Bill 277**

Before the Alaska House of Representatives Committee on Labor & Commerce

February 9, 2018

Chair Kito, Vice-Chair Wool, and members of the committee, on behalf of CTIA, the trade association for the wireless communications industry, I submit this testimony in opposition to Alaska House Bill 277. CTIA and its member companies support a free and open internet. To further that goal, we believe that a national regulatory framework with generally applicable competition and consumer protections at the federal and state levels is a proven path for ensuring a free and open internet while enabling innovation and investment throughout the internet ecosystem.

The mobile wireless broadband marketplace is competitive and continuously changing. It is an engine of innovation, attracting billions of dollars in network investment each year, and generating intense competition to the benefit of consumers. From the beginning of the Internet Age in the 1990s, the Federal Communications Commission (FCC) applied a regulatory framework to internet service that allowed providers to invest, experiment, and innovate. In that time, an entire internet-based economy grew. But in 2015, the FCC took a much different approach, applying 80-year-old common-carrier mandates meant for traditional public utilities and reign in the then unchecked practices of huge monopolies, despite the fact that internet services are nothing like public utility offerings such as water or electricity or even landline telephone service.



In 2017, the FCC's *Restoring Internet Freedom Order* reversed that 2015 decision, finding that application of those 1930s utility-style rules to the internet services of today actually harms American consumers. The FCC cited extensive evidence showing a decline in broadband infrastructure investment – an unprecedented occurrence during an era of economic expansion. In the mobile broadband market alone, annual capital expenditures fell from \$32.1 billion in 2014 to \$26.4 billion in 2016. This slowdown affected mobile providers of all sizes and serving all markets. For example, small rural wireless providers noted that the 2015 decision burdened them with unnecessary and costly obligations and inhibited their ability to build and operate networks in rural America.

The FCC's overbroad prohibitions on broadband providers harmed consumers in other ways, too—particularly with respect to innovation. After the 2015 Order, the FCC launched a yearlong investigation of wireless providers' free data offerings, which allow subscribers to consume more data from certain services and content without incurring additional costs. The risk of FCC enforcement cast a dark shadow on mobile carriers' ability to innovate, compete and deliver the services that consumers demanded. In addition, the inflexible ban on paid prioritization precluded broadband providers from offering one level of service quality to highly sensitive real-time medical applications and a differentiated quality of service to email messages. The FCC's 2017 *Restoring Internet Freedom Order* takes a different path – one that will benefit consumers and enable new offerings that support untold varieties of technological innovations in health care, commerce, education, and entertainment.



Based on the way some people have talked about the *Restoring Internet Freedom Order*, you might think that the FCC eliminated federal rules that had always applied to internet services and that the federal government has left consumers without any protections. But that is just not the case. The internet was not broken before 2015, and it will not break because of the FCC's most recent decision.

The FCC has simply restored the same national regulatory framework that applied before 2015, which is credited with facilitating the internet-based economy we have today. Under that national regulatory framework, mobile wireless broadband providers have every incentive to invest in and deliver the internet services that consumers demand. In fact, there have been virtually no instances in which U.S. mobile broadband providers blocked traffic or prevented consumers from going where they wanted to on the internet. The truth is that, in a competitive market like wireless, mobile broadband providers have no incentive to block access to internet services, for if they did, their customers would simply switch providers.

Further, the FCC's *Restoring Internet Freedom* clearly provides consumers with legal protections that complement the competitive forces in play. First, the FCC retained the "transparency" rule that was adopted under President Obama's first FCC Chairman in 2010 and maintained in the 2015 decision, which requires broadband providers to publicly disclose extensive information about their network management practices to consumers and internet entrepreneurs. If a broadband provider fails to make the required disclosures, or does not live up to its commitments, it will be subject to enforcement by the FCC.



Second, by restoring to the FCC's pre-2015 view that broadband internet access is an information service and not a utility-style common carrier service like landline telephone service, the FCC restored the Federal Trade Commission's jurisdiction over broadband offerings. The FTC is the nation's lead consumer protection agency, but the 2015 decision had stripped away its authority over broadband providers. The FTC has broad authority to take action against any business whose actions are deceptive or unfair. This authority extends beyond broadband providers and includes authority over so-called edge providers. The nation's leading broadband providers have told consumers that they will not block or throttle traffic in an anticompetitive manner, and the FTC will be there to make sure they live up to those promises.

Third, the Department of Justice and FTC enforce federal antitrust laws, which, as the *Restoring Internet Freedom Order* emphasizes, preclude anticompetitive network management practices. For example, a broadband provider may not anticompetitively favor its own online content or services over the content or services of third parties, or enter into an agreement with other broadband providers to unfairly block, throttle, or discriminate against specific internet content.

Finally, the FCC made clear in the 2017 *Restoring Internet Freedom Order* that generally applicable state laws relating to fraud, taxation, and general commercial dealings apply to broadband providers just as they would to any other entity doing business in a state, so long as such laws do not regulate broadband providers in a way that conflicts with the national regulatory framework to broadband internet access services. This ruling reaffirmed the FCC's 2015 decision that states and localities may not



impose requirements that conflict with federal law or policy, but may otherwise enforce generally applicable laws. Thus, Alaska remains empowered to act under its UDAP statute.

In short, Alaska consumers are well protected against anti-competitive or anti-consumer practices. They enjoy protections provided by the FCC, the FTC, federal antitrust law, and – importantly – existing Alaska state law. On the other hand, state-specific net neutrality rules imposed on broadband providers would harm consumers, and would – along with other state and local mandates – create a complex “patchwork quilt” of requirements that would be unlawful.

The FCC's 2017 *Restoring Internet Freedom Order* explains that broadband internet access is an inherently interstate and global offering. Internet communications delivered through broadband services almost invariably cross state lines, and users pull content from around the country and around the world – often from multiple jurisdictions in one internet session. Any attempt to apply multiple states' requirements would therefore be harmful to consumers for the same reasons the FCC's 2015 rules were harmful, in addition to the fact that those requirements will be at best different and at worst contradictory.

These problems multiply in the case of mobile broadband: questions will arise over whether a mobile wireless broadband transmission is subject to the laws of the state where users purchased service, where they are presently located, or even where the antenna transmitting the signal is located. State-by-state regulation even raises the prospect that different laws will apply as the user moves between states. For example, a



mobile broadband user could travel through multiple states during a long train ride, even the morning commute, subjecting that rider's service to multiple different legal regimes even if the rider spent that trip watching a single movie. Such a patchwork quilt of disparate regulation is untenable for the future success of the internet economy.

Moreover, the FCC found broadband-specific state laws would be unlawful. The *Restoring Internet Freedom Order* exercised the agency's preemption powers under the U.S. Constitution and federal law. It held that state or local laws that impose net neutrality mandates, or that interfere with the federal preference for national regulation of broadband internet access, are impermissible.

Ultimately, Congress may decide to modify the existing federal regulatory framework for broadband internet access, and some members of Congress have already introduced legislation addressing these matters. CTIA stands ready to work with Congress should it choose to adopt rules for the internet ecosystem that promote a free and open internet while enabling the innovation and investment we need for tomorrow. Nevertheless, today, state-by-state regulation of broadband internet access services would harm consumers and conflict with federal law.

In closing, it would be unnecessary to pass HB 277 due to the strong consumer protections currently in place and national wireless providers agreeing not to block or throttle lawful content. It would also be premature in light of the recent state Attorneys General legal action on this issue. For these reasons, we respectfully ask that you not move HB 277. Thank you for the opportunity to submit testimony.



Shawn Uschmann
Director, Alaska
External Affairs

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February 8, 2017

Honorable Sam Kito
Chair, Labor and Commerce
Alaska State Capitol
Room 403
Juneau, AK 99801

Honorable Adam Wool
Vice Chair, Labor and Commerce
Alaska State Capitol
Room 412
Juneau, AK 99801

RE: Opposition House Bill 277 – Broadband Internet: Neutrality/Regulation

Committee Chair Kito and Vice-Chair Wool:

On behalf of AT&T, please accept this letter of opposition regarding House Bill 277 – Broadband Internet: Neutrality/Regulation -- a bill that proposes to regulate internet service providers at the state level to ensure a free and open internet. While history has shown that the internet will remain free and open even without regulation, AT&T supports appropriately tailored federal legislation to ensure internet openness and to end the uncertainty from over a decade of FCC rule changes. The nature of the internet is inherently interstate, a web of interconnected networks that spans across state, and even national borders. Accordingly, any such legislation must be adopted by Congress to ensure a consistent approach across all states. Alaska should urge its congressional delegation to craft federal open internet legislation.

For more than a decade, under both Republican and Democratic administrations, AT&T has consistently made clear that we provide broadband service in an open and transparent way.

- We do not block websites.
- We do not censor online content.
- We do not throttle or degrade internet traffic based on content.
- We do not unfairly discriminate in our transmission of internet traffic.

These are legally enforceable commitments that are published on our website and readily available for consumers to review.



In addition to making these longstanding enforceable commitments, AT&T has long supported and continues to support a legislative solution in Congress that would make these core consumer protections permanent, while preserving incentives to invest and innovate. Congressional action ensures uniformity of the rules that regulate the internet. Attempts by individual states to pass disparate legislation can result in a patchwork of possibly inconsistent state laws that would be virtually impossible to implement. Instead, we need strong and permanent rules across the internet ecosystem to help create a stable regulatory environment that encourages investment in next generation technologies and the delivery of innovative services.

I have included an open letter from AT&T Chairman and CEO Randall Stephenson published recently in the New York Times, the Los Angeles Times, USA Today, and the Wall Street Journal. As expressed in Mr. Stephenson's letter, AT&T is calling on Congress to end the debate once and for all by writing new laws that govern the internet and protect consumers across all states.

The internet has thrived, and Alaskans have benefitted from all of the great innovations and technological advancements that were made under balanced framework first established by the Clinton Administrations and that remained in place for all but two years over the last two decades. AT&T fully supports Congress adopting basic rules of the road to permanently ensure that the internet remains an open and flourishing platform for all users. That action needs to be taken by Congress, so that consumers can expect and rely on rules that will stand up to the changes of political winds and elections of new administrations.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Shawn Uschmann", with a long horizontal flourish extending to the right.

Shawn Uschmann
Director, Alaska
External Affairs

Enclosures

Consumers Need an Internet Bill of Rights

Government rules for the internet have been debated for nearly as long as the internet has existed, even before a professor coined the term "net neutrality" 15 years ago.

The internet has changed our lives and grown beyond what anyone could have imagined. And it's done so, for the most part, with very few—but often changing—rules. Regulators under four different presidents have taken four different approaches. Courts have overturned regulatory decisions. Regulators have reversed their predecessors. And because the internet is so critical to everyone, it's understandably confusing and a bit concerning when you hear the rules have recently changed, yet again.

It is time for Congress to end the debate once and for all, by writing new laws that govern the internet and protect consumers.

Until they do, I want to make clear what you can expect from AT&T.

AT&T is committed to an open internet. We don't block websites. We don't censor online content. And we don't throttle, discriminate, or degrade network performance based on content. Period.

We have publicly committed to these principles for over 10 years. And we will continue to abide by them in providing our customers the open internet experience they have come to expect.

But the commitment of one company is not enough. Congressional action is needed to establish an "Internet Bill of Rights" that applies to all internet companies and guarantees neutrality, transparency, openness, non-discrimination and privacy protection for all internet users.

Legislation would not only ensure consumers' rights are protected, but it would provide consistent rules of the road for all internet companies across all websites, content, devices and applications. In the very near future, technological advances like self-driving cars, remote surgery and augmented reality will demand even greater performance from the internet. Without predictable rules for how the internet works, it will be difficult to meet the demands of these new technology advances.

That's why we intend to work with Congress, other internet companies and consumer groups in the coming months to push for an "Internet Bill of Rights" that permanently protects the open internet for all users and encourages continued investment for the next generation of internet innovation.



Randall Stephenson
AT&T Chairman and CEO



Alaska Telecom Association

Dave Goggins
President

201 E. 56th Avenue, Suite 114
Anchorage, AK 99518
(907) 563-4000
www.alaskatel.org

Christine O'Connor
Executive Director

February 8, 2018

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

RE: HB277 Broadband Internet: Neutrality/Regulation

Dear Chair Kito and Members of the Committee,

We are writing to express our commitment to the principles of net neutrality, provide more details regarding the issues surrounding net neutrality, and express our support for action by the United States Congress, which can impose rules of net neutrality on *all* participants in the internet landscape.

Consumer Protection

ATA member companies, which include Alaska's internet Service Providers (ISPs) and wireless companies, support an open internet. We have not and do not block websites, throttle or degrade traffic based on content, or unfairly discriminate in our transmission of internet traffic.

Strong protections remain in place to protect the core net neutrality principles. The Restoring Internet Freedom Order retains the requirement, first adopted in 2010, that providers clearly and publicly disclose their network management practices to consumers. The FCC retains authority to police compliance with its own rules by bringing enforcement actions and imposing significant penalties if a provider's blocking, throttling or other practices were inconsistent with the provider's disclosures. The repeal of the FCC's 2015 Order actually strengthens consumer protections by placing one watchdog, the Federal Trade Commission (FTC), over the entire internet. The FTC, the top agency in charge of protecting consumers from unlawful business practices, has a proven, two-decade track record of carrying out this responsibility. Further, antitrust laws protect competition in all sectors of the economy.

Benefits of Light-Touch Regulation

ATA member companies support light-touch regulation which encourages investment in broadband networks and does not burden small companies with excessive regulatory requirements.

Former Congressman Rick Boucher, (D) Virginia, recently wrote, "The FCC's order reinstated bipartisan policy started under President Clinton and continued until 2015, holding that the broadband internet is not a monopoly and should be regulated under Title I of the Communications Act as an information service, rather than being regulated under Title II with heavy-handed common carrier rules. For two decades prior to 2015, broadband investment soared under Title I light-touch regulation, making America's communications network the envy of the world. The FCC

has now sensibly returned the regulatory status of broadband to that of the golden era for investment.”¹

Congressional Action Needed

ATA members encourage Congress to take action to resolve lingering uncertainty over net neutrality. We respectfully ask the Alaska Legislature to defer to Congressional action which can impose rules for ALL participants in the Internet landscape.

The best place for the uncertainty over net neutrality to be resolved is in Congress. It alone has the power to adopt clear internet rules. Clear rules from Congress will give certainty to providers, critical for investment in broadband networks.

ATA members companies will continue our commitment to provide access to the internet according to the principles of net neutrality. We are engaged with Alaska’s Congressional Delegation on this issue and are working with our national trade associations to support Congressional action to adopt legislation to permanently ensure net neutrality.

Respectfully submitted,



Christine O'Connor
Executive Director

¹ See “Congress Shouldn’t Repeat the FCC’s Title II Mistake,” published in Tech & Telecom in Bloomberg Law, January 30, 2018.

Alaska Telecom Association

Dave Goggins
President

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Christine O'Connor
Executive Director

Net Neutrality FAQ

What is Net Neutrality?

- In simplest terms it means that internet customers get to choose what content they access on the internet without interference or influence from their provider. There is broad agreement that Net Neutrality is a good thing. The disagreement is over how much regulation is necessary to achieve it.

Why is Net Neutrality all over the news and social media?

- The Federal Communications Commission (FCC) voted on December 14th, 2017 to restore the light touch regulation of internet service. This action reversed the so-called "Title II" utility-style regulations adopted in 2015 during President Obama's administration and restored the power of internet oversight to the Federal Trade Commission (FTC), where it was for the prior 20 years.

What does the FCC's 2017 reversal of its 2015 Net Neutrality rules mean?

- The FCC returned the internet to the lighter touch regulation that applied during the Clinton and Bush years — a period when the internet thrived and gave way to game changing innovations we consider commonplace today like Google, Facebook, Amazon, Netflix, Twitter, Ebay, Craigslist, etc.

How can I be confident that my internet experience is still protected by the Federal Government?

- This change hasn't ended the open internet. The FCC and FTC have agreed to cooperate in regulating the internet. The FCC's rules require that ISPs transparently disclose their network management practices. The FTC is the original internet cop and is empowered to enforce ISPs' public commitments to preserve net neutrality and to police anticompetitive behavior. Congress also is actively considering permanent net neutrality legislation.

What are state Resolutions HJR31 and SJR 12 asking Congress to do?

- These resolutions ask Congress to overturn the 2017 FCC order that repealed the FCC's "Title II" style regulations. If the FCC order was overturned and the FCC's Title II regulations were re-established, it would strip the FTC's authority to regulate the internet and force internet service providers back into a very heavy handed and murky set of 1930's style utility regulations that ultimately don't work for an industry as dynamic and adaptive as the internet.

What do HB277 and SB160 propose to do?

- These bills propose to reimpose the heavy-handed FCC Net Neutrality rules adopted in 2015 on a state level. Alaska providers have publicly committed that they do not and will not impair their customers' access to internet services or content, regardless of what happens in Washington, D.C. This type of regulation is unnecessary - Alaskans are already getting the desired result of the legislation.
- Federal law preempts state and local Net Neutrality regulation.



February 7, 2018

Honorable Sam Kito
Chair, Labor and Commerce
Alaska State Capitol
Room 403
Juneau, AK 99801

Honorable Adam Wool
Vice Chair, Labor and Commerce
Alaska State Capitol
Room 412
Juneau, AK 99801

RE: Opposition House Bill 277 – Broadband Internet: Neutrality/Regulation

Committee Chair Kito and Vice-Chair Wool:

On behalf of Alaska Communications, please accept this letter of opposition regarding House Bill 277 – Broadband Internet: Neutrality/Regulation -- a bill that proposes to regulate internet service providers at the state level to ensure a free and open internet. While history has shown that the internet will remain free and open even without regulation, Alaska Communications supports appropriately tailored federal legislation to ensure internet openness and to end the uncertainty from over a decade of FCC rule changes. The nature of the internet is inherently interstate, a web of interconnected networks that spans across state, and even national borders. Accordingly, any such legislation must be adopted by Congress to ensure a consistent approach across all states. Alaska should urge its congressional delegation to craft federal open internet legislation.

Alaska Communications offers broadband service in an open and transparent way:

- We do not block websites.
- We do not censor online content.
- We do not throttle or degrade internet traffic based on content.
- We do not unfairly discriminate in our transmission of internet traffic.

These commitments are published on our website and readily available for consumers to review.

In addition to making these commitments, Alaska Communications supports a legislative solution in Congress that would make these core consumer protections permanent, while preserving incentives to invest and innovate. Congressional action ensures uniformity of the rules that regulate the internet. Attempts by individual states to pass disparate legislation can result in a patchwork of possibly inconsistent state laws. Instead, we need strong and permanent rules across the internet ecosystem to help create a stable regulatory environment that encourages investment in next generation technologies and the delivery of innovative services.



Alaska Communications fully supports Congress adopting basic rules to permanently ensure that the internet remains an open and flourishing platform for all users. That action needs to be taken by Congress, so that consumers can expect and rely on rules that will stand up to the changes of political winds and elections of new administrations.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Leonard Steinberg', written over the typed name and title.

Leonard Steinberg
Senior Vice President, Legal, Regulatory and Government Affairs
Alaska Communications

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Governor Bill Walker
STATE OF ALASKA

December 13, 2017

The Honorable Ajit Pai
Chairman
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

Dear Chairman Pai, Commissioners Clyburn, O’Rielly, Carr, and Rosenworcel:

The State of Alaska has a keen interest in any laws or regulations surrounding the accessibility of broadband internet, regardless of location or economic status. Many areas of our state are reliant on the internet, not just for personal use, but for telehealth, distance education, and other important services. Broadband internet can be a lifeline for many of our residents who live in remote areas removed from any law enforcement presence, where a call to a State Trooper or health professional hundreds of miles away is essential for health and safety. Having a reliable, free and open internet is vital for a state as vast and geographically remote as ours.

This is why Alaska has an interest in the “Restore Internet Freedom” proposal to rollback the net neutrality regulations, WC Docket No. 17-108. The recent news regarding the discovery of fake submissions in this Docket—that could number in the millions—causes us great concern. Based on this new information, we respectfully request that the Commission delay its decision on the proposal until the integrity of the process can be appropriately investigated.

Ensuring that the Commission has received and reviewed accurate and meaningful public comments before taking action is an important part of the regulatory process. Public comments help agencies understand the true potential impacts of their actions, and help identify areas that need to be developed more thoroughly to give consumers and businesses necessary direction and clarity. If much of what was submitted to the Commission was fraudulent, it would be difficult to get a clear picture of what the impacts of the proposal truly are.

We believe more time is needed to sort out how this action will impact Alaskans and whether it will lead to discriminatory and harmful practices. That evaluation starts with an open and transparent process based on listening to the comments and concerns of the public. Right now, that process cannot be trusted without further investigation into whether fraudulent comments were submitted and considered by the Commission.


Please consider delaying any further action until the integrity of the process can be restored.

Federal Communications Commission
December 13, 2017
Page 2

Sincerely,



Bill Walker
Governor



Jahna Lindemuth
Attorney General

cc: The Honorable Lisa Murkowski, United States Senate
The Honorable Dan Sullivan, United States Senate
The Honorable Don Young, United States House of Representatives
Stephen McAlpine, Chairman, Regulatory Commission of Alaska
Rebecca Pauli, Commissioner, Regulatory Commission of Alaska
Robert Pickett, Commissioner, Regulatory Commission of Alaska
Norman Rokeberg, Commissioner, Regulatory Commission of Alaska
Jan Wilson, Commissioner, Regulatory Commission of Alaska



Representative Scott Jio Wo Kawasaki
Alaska State Legislature

January 18, 2018

The Honorable Bill Walker
PO Box 110001
Juneau, AK 99811

Dear Governor Walker,

I am writing to bring attention to the recent Federal Communications Commission order reversing the net neutrality regulations put in place during the previous presidential administration. I believe that a free and open internet is a vital issue to Alaska families and small business. As such, I recently introduced House Bill 277, requiring broadband providers to practice net neutrality while doing business in Alaska.

The Open Internet Order of 2015 made changes to Title II of the Communication Act of 1934 to classify broadband providers as "common carriers," meaning they would be treated like utilities. Under the Order, broadband providers treated all information equally and were prevented from engaging in "blocking, throttling and paid prioritization" of the any data they transmitted. By reclassifying broadband providers under Title I as an "information service," broadband providers could legally coerce people into paying more money for the exact same services, or even less services, than they had previously been receiving.

Broadband internet is a modern-day necessity. Powerful internet service providers do not need a handout when thousands of Alaskans lack basic Internet access. There are only two broadband providers available to most of Alaska and I applaud them for their promise to voluntarily practice net neutrality. However, I predict that when larger, out-of-state providers begin to take advantage of their new market powers, our Alaskan providers will be forced to follow suit. We must prevent take quick and decisive action to prevent this from happening

On January 16, the Attorney General of New York joined with Attorneys General in twenty-one other states to file a multistate lawsuit to block the FCC's illegal reversal of net neutrality. I implore you to join their cause and fight to ensure an open internet with the free flow of information and free exchange of ideas remains a cornerstone of our economy and society.

Thank you for you hard work in making Alaska communities safer, stabilizing the state economy, and forging a path to future growth and development. I would be happy to discuss net neutrality further and answer any questions you may have.

Working Hard for Fairbanks Families,

A handwritten signature in black ink, appearing to read "Scott Kawasaki".

Representative Scott Kawasaki
City of Fairbanks

In Juneau State Capitol, Juneau, AK 99801
In Fairbanks 1292 Sadler Way, Fairbanks, AK 99701
Juneau (907) 465-3466 Fax (907) 465-7478 Fairbanks (907) 456-7423 Fax (907) 456-3346
Email: rep.scott.kawasaki@akleg.gov

Alaska State Legislature

Official Business



State Capitol
Juneau, Alaska
99801-1182

Senator Lisa Murkowski
522 Hart Senate Office Building
Washington, DC 20510

Dear Senator Murkowski,

Please help start congressional deliberations on net neutrality with the goal of enacting it into law.

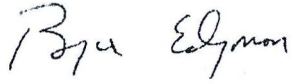
Letting the Federal Communications Commission take the lead on net neutrality creates fear, uncertainty, and instability. Policy may change every time control of the White House changes. It is time for Congress to assert leadership in this arena and create guidelines for the 21st century that provide stability and predictability in something as significant as Internet service.

As the information age has rapidly progressed, the Internet has become a pillar of a democratic society, vital to commerce, education, communications, and everyday life. It is similar to a public utility that needs protection against the kind of chaos once seen in the early days of the telephone. The quality and speed of Internet service should not be determined by private actors who may not have the public's best interests at heart, especially in rural regions where there is often only one Internet provider, making remote areas vulnerable to the dangers of a monopoly. In these instances, competition may not be counted on to protect consumers.

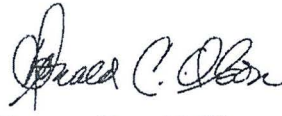
Current protections under the Open Internet Order of 2015 are at risk. The FCC is considering whether to reverse this policy and give private companies an unprecedented level of control over how we use the Internet. The FCC is poised to relinquish its authority to enforce common-sense, net-neutrality rules, letting Internet service providers engage in unfair and predatory practices like site-blocking and throttling. We need to continue to treat broadband Internet providers as common carriers under Title II of the federal Telecommunications Act of 1996 — a law that needs updating to meet the demands of the Internet age which have changed dramatically since Congress passed the measure 21 years ago.

Please oppose attempts to roll back net-neutrality and help set in law protections established in the Open Internet Order of 2015.

Thank you,



Representative Bryce Edgmon



Senator Donald Olson



Representative Neal Foster



Senator Dennis Egan



Representative Sam Kito



Representative Justin Parish



Representative Zach Fansler

ALASKA STATE LEGISLATURE

Session

State Capitol, Rm. 7
Juneau, AK 99801

Interim

1500 W. Benson
Anchorage, AK 99503



December 11, 2017

The Honorable Jahna Lindemuth
Alaska Attorney General
1031 W 4th Avenue, Suite 200
Anchorage, AK 99501

Dear Attorney General Lindemuth,

On December 14, the Federal Communications Commission is set to vote on its November 21 proposal to repeal regulations establishing the nation's broadband policy of net neutrality. We believe the FCC's proposal is bad for Alaskans, and we are asking you to take action on behalf of the people of Alaska to stop this proposal.

The protections net neutrality accords Alaskans should not be so easily extinguished. The FCC's plan would readily permit internet service providers (ISPs) to lawfully discriminate against or charge rates differently among users, websites, content, and other attributes by allowing the ISPs to control the speeds at which internet data is delivered or by restricting or blocking access to certain sites altogether. Like telephone service and electricity, broadband is essential to society and must be regarded as a public utility that is subject to reasonable regulations. Charging more for customers to access certain websites or to experience adequate data delivery speeds; paid-prioritization of some online businesses and content over others; and the likelihood of ISPs conferring preferential treatment to their corporate allies over their competitors results in a pay-to-play system that affronts our tried and cherished principles of equality and fair opportunity. With its proposal, the FCC is knowingly inviting anti-consumer practices and a promise of financial rewards based on discrimination.

We also have grave concerns about the proposal's implications on our First Amendment rights. Free speech is fostered by a neutral net environment that enables the open flow of citizens' thoughts, ideas, and concerns and ensures information that is relied upon to form opinion is accessible. Free speech, free press, and our right of association are all at risk with the FCC's repeal of net neutrality.

The proposal is especially detrimental to Alaskans. Our state's climate and isolation from the Lower 48 means that our people rely heavily on the internet to connect with one another and the Outside, to keep in touch with family, for work, and for education purposes. And our remote communities—many of which already struggle to obtain stable, affordable internet access—appreciate and rely on the principles of net neutrality to maintain connectivity to Alaska's more urban hubs and beyond.

The FCC's proposal seems ill-considered and risks directly hurting vulnerable consumers and offending so many of our fundamental values. But in addition to these inevitable negative consequences, the FCC's public process on this matter has been unacceptably flawed. During the April through August 2017 public comment period, the FCC received an unprecedented 22 million comments. Of those comments, up to one million have already been linked to stolen identities; half a million appear to have been generated from Russian email addresses; 94% appear to have been posted multiple times; 57% came from duplicate or temporary addresses; there were nine instances that 75,000 same or similar comments posted at the exact same second; and the top seven comments made up 38% of the submissions.


A citizen comment process is a necessary aspect of proposing regulation changes. But because the integrity of the public process is in question, the FCC cannot conscientiously weigh those submissions into its net neutrality determination. An FCC decision of this magnitude must be achieved through a legitimate and fair process, without fraudulent influences.

In light of our concerns, we ask you to ensure that Alaska takes a strong stance against the FCC's proposal to end net neutrality. First, the FCC must be urged to delay its December 14 vote to allow investigations into fraudulent public comments to proceed to findings before relying on those submissions or assuming the public process was valid. Second, if the FCC proceeds to a vote on December 14 or thereafter, repealing net neutrality, the State of Alaska should sue or join other plaintiffs to overturn the FCC's decision.

Sincerely,



Senator Bill Wielechowski



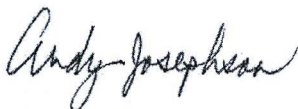
Senator Tom Begich



Senator Berta Gardner




Representative Harriet Drummond



Representative Andy Josephson



Senator Dennis Egan



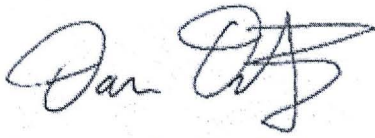
Senator Donny Olson



Representative David Guttenberg



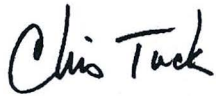
Representative Scott Kawasaki



Representative Dan Ortiz



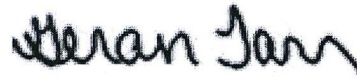
Representative Ivy Spohnholz



Representative Chris Tuck



Representative Justin Parish



Representative Geran Tarr

ALASKA STATE LEGISLATURE

Session

State Capitol, Rm. 7
Juneau, AK 99801

Interim

1500 W. Benson
Anchorage, AK 99503



December 11, 2017

Senator Lisa Murkowski
522 Hart Senate Office Building
Washington, DC 20510

Senator Dan Sullivan
602 Hart Senate Office Building
Washington, DC 20510

Congressman Don Young
2314 Rayburn House Office Building
Washington, DC 20515

Dear Senator Murkowski, Senator Sullivan, and Congressman Young,

On December 14, the Federal Communications Commission is set to vote on its November 21 proposal to repeal regulations establishing the nation's broadband policy of net neutrality. We believe the FCC's proposal is bad for Alaskans, and we are asking you to take action on behalf of the people of Alaska to stop this proposal.

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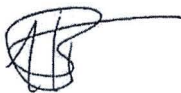
On December 4, 28 of your colleagues in the United States Senate wrote to FCC Chairman Ajit Pai, calling on the FCC to investigate the apparently defective public process, expressing their belief that the FCC action "may be based on an incomplete understanding of the public record." As your colleagues state: "Without additional information about the alleged anomalies . . . the FCC cannot conduct a thorough and fair evaluation of the public's views on this topic, and should not move forward with a vote on December 14, 2017."

We ask you to join your 28 senate colleagues in urging the FCC to conduct a thorough investigation of any possible interference with the public process in this matter and further, that you voice your opposition to the FCC proceeding with its December 14 vote to repeal net neutrality. In addition, we request that you work on behalf of the Alaskans you represent—including, if necessary, introducing or supporting legislation—to ensure the internet accessibility policy of our nation always remains *net neutrality*.

Sincerely,



Senator Bill Wielechowski



Senator Tom Begich



Senator Berta Gardner



Senator Donny Olson



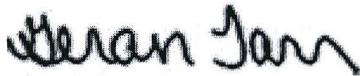
Representative David Guttenberg



Representative Scott Kawasaki



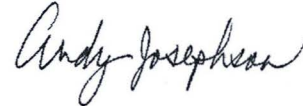
Representative Justin Parish



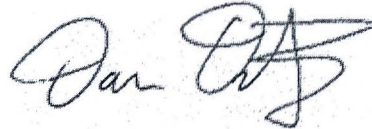
Representative Geran Tarr



Representative Harriet Drummond



Representative Andy Josephson



Representative Dan Ortiz



Representative Ivy Spohnholz



Representative Chris Tuck

BUSINESS INSIDER

Thursday's big net neutrality vote could drastically change the internet — here's what it means for you

EMMA FIERBERG, COREY PROTIN AND STEVE KOVACH
DEC. 13, 2017, 4:54 PM

00:03 / 02:56

Net neutrality is likely going to be repealed by the FCC. Here's why that could be a big problem for anyone who pays a cable or wireless carrier bill. Following is a transcript of the video.

Steve Kovach: The FCC is getting ready to repeal net neutrality rules that were put in place in 2015. Net neutrality is the concept that all traffic on the internet should be treated the same. That means your internet provider can't suddenly decide to slow down YouTube or Netflix because they're not paying enough.

It also means they can't charge you more to access certain services. Everything has to be a level playing field. It means prices are stable and you get the content you want no matter who your internet provider is.

Without net neutrality rules, internet providers are free to charge you more for services they deliver over their pipes. It puts big players like Google and Amazon that can afford to have such services delivered at a huge advantage, and prevents the little guys from being able to afford to do the same.

So, you're probably wondering if net neutrality is so great and it's only been on the books for about 2 years, why does the FCC want to get rid of it all of a sudden? FCC chairman Ajit Pai, the Trump appointee who's running the FCC, put forth a proposal that will repeal the net neutrality rules.

Pai argues that by repealing these rules, the telecom companies will have to be transparent about their offering so if they decide to charge more for one service, it will be up to the customer to decide whether or not to buy it.

But it's easy to remain skeptical. When was the last time your cable provider or wireless carrier was transparent with you? There are tons of examples out there of internet providers and telecom companies abusing their power with content delivered over the internet.

Let's rewind back to 2014 when Comcast got caught slowing down the connection of Netflix streaming. Then there's AT&T which started a sponsored data program which meant apps could pay money to AT&T so they wouldn't suck up your data plan if you use them — giving them an unfair advantage. That's hardly a level playing field.

The net neutrality rules put in place in 2015 largely addressed these problems to make sure all traffic would be treated equally. Now it's going away.

There's also a notion coming out from the FCC that repealing the rules will foster more competition. But that ignores the reality of internet connections here in the United States. Over half of US customers only have access to one broadband provider, and the vast majority only have two options. That's not competition. That's localized monopolies.

The bottom line here is the repeal of net neutrality is likely to commoditize the internet, meaning ISPs and carriers will be able to charge you more for the services they deliver over the internet. That's great news for the telecom companies and internet providers that have been charging you exorbitant amounts for your internet connections over the years, but it's bad news for you.

This video was originally published December 8, 2017.

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)
)
Restoring Internet Freedom) WC Docket No. 17-108

DECLARATORY RULING, REPORT AND ORDER, AND ORDER

Adopted: December 14, 2017

Released: January 4, 2018

By the Commission: Chairman Pai and Commissioners O’Rielly and Carr issuing separate statements;
Commissioners Clyburn and Rosenworcel dissenting and issuing separate statements.

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APPENDIX B – Final Regulatory Flexibility Analysis	

I. INTRODUCTION

1. Over twenty years ago, in the Telecommunications Act of 1996, President Clinton and a Republican Congress established the policy of the United States “to preserve the vibrant and competitive free market that presently exists for the Internet . . . unfettered by Federal or State regulation.”¹ Today, we honor that bipartisan commitment to a free and open Internet by rejecting government control of the Internet. We reverse the Commission’s abrupt shift two years ago to heavy-handed utility-style regulation of broadband Internet access service and return to the light-touch framework under which a free and open Internet underwent rapid and unprecedented growth for almost two decades. We eliminate burdensome regulation that stifles innovation and deters investment, and empower Americans to choose the broadband Internet access service that best fits their needs.

2. We take several actions in this Order to restore Internet freedom. First, we end utility-style regulation of the Internet in favor of the market-based policies necessary to preserve the future of Internet freedom. In the 2015 *Title II Order*, the Commission abandoned almost twenty years of precedent and reclassified broadband Internet access service as a telecommunications service subject to myriad regulatory obligations under Title II of the Communications Act of 1934, as amended (the Act).² We reverse this misguided and legally flawed approach and restore broadband Internet access service to its Title I information service classification. We find that reclassification as an information service best comports with the text and structure of the Act, Commission precedent, and our policy objectives. We thus return to the approach to broadband Internet access service affirmed as reasonable by the U.S. Supreme Court.³ We also reinstate the private mobile service classification of mobile broadband Internet access service and return to the Commission’s definition of “interconnected service” that existed prior to 2015. We determine that this light-touch information service framework will promote investment and innovation better than applying costly and restrictive laws of a bygone era to broadband Internet access service. Our balanced approach also restores the authority of the nation’s most experienced cop on the privacy beat—the Federal Trade Commission—to police the privacy practices of Internet Service Providers (ISPs).

¹ 47 U.S.C. § 230(b)(2). See generally Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (codified at 47 U.S.C. § 151 *et seq.*) (1996 Act).

² See *Protecting and Promoting the Open Internet*, WC Docket No. 14-28, Report and Order on Remand, Declaratory Ruling, and Order, 30 FCC Rcd 5601 (2015) (*Title II Order*).

³ See *Nat’l Cable & Telecomms. Ass’n v. Brand X Internet Servs.*, 545 U.S. 967 (2005) (*Brand X*).

3. Next, we require ISPs to be transparent. Disclosure of network management practices, performance, and commercial terms of service is important for Internet freedom because it helps consumers choose what works best for them and enables entrepreneurs and other small businesses to get technical information needed to innovate. Individual consumers, not the government, decide what Internet access service best meets their individualized needs. We return to the transparency rule the Commission adopted in 2010⁴ with certain limited modifications to promote additional transparency, and we eliminate certain reporting requirements adopted in the *Title II Order* that we find to be unnecessary and unduly burdensome.

4. Finally, we eliminate the Commission's conduct rules. The record evidence, including our cost-benefit analysis, demonstrates that the costs of these rules to innovation and investment outweigh any benefits they may have. In addition, we have not identified any sources of legal authority that could justify the comprehensive conduct rules governing ISPs adopted in the *Title II Order*. Lastly, we find that the conduct rules are unnecessary because the transparency requirement we adopt, together with antitrust and consumer protection laws, ensures that consumers have means to take remedial action if an ISP engages in behavior inconsistent with an open Internet.

5. Through these actions, we advance our critical work to promote broadband deployment in rural America and infrastructure investment throughout the nation, brighten the future of innovation both within networks and at their edge, and move closer to the goal of eliminating the digital divide.

II. BACKGROUND

6. Since long before the commercialization of the Internet, federal law has drawn a line between the more heavily-regulated common carrier services like traditional telephone service and more lightly-regulated services that offer more than mere transmission. More than fifty years ago, the Commission decided *Computer I*, the first of a series of decisions known as the *Computer Inquiries*,⁵ which, in combination, created a dichotomy between "basic" and "enhanced" services.⁶ In 1980's *Second Computer Inquiry*, the Commission established that basic services offered "pure transmission capability over a communications path that is virtually transparent in terms of its interaction with customer supplied information"⁷ and were "regulated under Title II of the [Communications] Act."⁸ Enhanced services, by contrast, were "any offering over the telecommunications network which is more than a basic transmission service. In an enhanced service, for example, computer processing applications are used to act on the content, code, protocol, and other aspects of the subscriber's information."⁹ Unlike basic services, the Commission found that "enhanced services should not be regulated under the Act."¹⁰

7. Just two years later, the federal courts would draw a similar line in resolving the government's antitrust case against AT&T. The Modification of Final Judgment (MFJ) of 1982 distinguished between "telecommunications services," which Bell Operating Companies could offer when

⁴ See *Preserving the Open Internet; Broadband Industry Practices*, GN Docket No. 09-191, WC Docket No. 07-52, Report and Order, 25 FCC Rcd 17905, 17972-80, 17981, paras. 124-35, 137 (2010) (*Open Internet Order*).

⁵ *Regulatory and Policy Problems Presented by the Interdependence of Computer and Communication Services*, Notice of Inquiry, 7 FCC 2d 11 (1966).

⁶ *Amendment of Section 64.702 of the Commission's Rules and Regulations (Second Computer Inquiry)*, Docket No. 20828, Final Decision, 77 FCC 2d 384, 420, para. 97 (1980) (*Computer II Final Decision*).

⁷ *Id.* at 420, para. 96.

⁸ *Id.* at 428, para. 114.

⁹ *Id.* at 420, para. 97.

¹⁰ *Id.* at 428, para. 114.

“actually regulated by tariff,”¹¹ and “information services,” including “data processing and other computer-related services”¹² and “electronic publishing services,”¹³ which Bell Operating Companies (BOCs) were prohibited from offering under the terms of that court decision.¹⁴ The Telecommunications Act of 1996’s (the 1996 Act) “information service” definition is based on the definition of that same term used in the MFJ, which governed the Bell Operating Companies after the breakup of the Bell system.¹⁵

8. In the 1996 Act, intended to “promote competition and reduce regulation,”¹⁶ Congress drew a line between lightly regulated “information services” and more heavily regulated “telecommunications services.”¹⁷ It also found that the “Internet and other interactive computer services have flourished, to the benefit of all Americans, with a minimum of government regulation”¹⁸ and declared it the policy of the United States to “promote the continued development of the Internet and other interactive computer services and other interactive media” and “to preserve the vibrant and competitive free market that presently exists for the Internet and other interactive computer services, unfettered by Federal or State regulation.”¹⁹ The 1996 Act went on to define “interactive computer service” to include “any information service, system, or access software provider that provides or enables computer access by multiple users to a computer server, including specifically a service or system that provides access to the Internet”²⁰

9. For the next 16 years, the Commission repeatedly adopted a light-touch approach to the Internet that favored discrete and targeted actions over pre-emptive, sweeping regulation of Internet service providers. In the 1998 *Stevens Report*, the Commission comprehensively reviewed the Act’s definitions as they applied to the emerging technology of the Internet and concluded that Internet access service was properly classified as an information service.²¹ The *Stevens Report* also found that subjecting Internet service providers and other information service providers to “the broad range of Title II constraints,” would “seriously curtail the regulatory freedom that the Commission concluded in *Computer II* was important to the healthy and competitive development of the enhanced-services industry.”²²

¹¹ *U.S. v. Am. Tel. & Tel. Co.*, 552 F. Supp. 131, 228-29 (D.D.C. 1982) (*MFJ Initial Decision*), *aff’d sub nom. Maryland v. U.S.*, 460 U.S. 1001 (1983).

¹² *Id.* at 179.

¹³ *Id.* at 180.

¹⁴ *Id.* at 228.

¹⁵ *Implementation of the Non-Accounting Safeguards of Section 271 and 272 of the Communications Act of 1934, as amended*, CC Docket No. 96-149, First Report and Order and Further Notice of Proposed Rulemaking, 11 FCC Rcd 21905, 21954, para. 99 (1996) (*Non-Accounting Safeguards Order*); see also, e.g., H.R. Conf. Rep. No. 104-458 at 126 (Jan. 31, 1996) (“‘Information service’ and ‘telecommunications’ are defined based on the definition used in the Modification of Final Judgment.”); see also *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report to Congress, 13 FCC Rcd 11501, 11514, para. 28 (1998) (*Stevens Report*) (citing *MFJ Initial Decision*, 552 F. Supp. at 226-32).

¹⁶ Preamble, Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996).

¹⁷ 47 U.S.C. § 153(24), (53).

¹⁸ 47 U.S.C. § 230(a)(4).

¹⁹ 47 U.S.C. § 230(b)(1), (2).

²⁰ 47 U.S.C. § 230(f)(2).

²¹ *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report to Congress, 13 FCC Rcd 11501, 11536, para. 73 (1998) (*Stevens Report*).

²² *Id.* at 11524, para. 46.

10. In the 2002 *Cable Modem Order*, the Commission classified broadband Internet access service over cable systems as an “interstate information service,”²³ a classification that the Supreme Court upheld in June 2005 in the *Brand X* decision.²⁴ There was no dispute that at least some of the elements of Internet access met the definition of “information services,” and the Court rejected claims that “[w]hen a consumer goes beyond those offerings and accesses content provided by parties other than the cable company” that “consumer uses ‘pure transmission.’”²⁵ To the contrary, the Court found “reasonable” “the Commission’s understanding of the nature of cable modem service”—namely, that “[w]hen an end user accesses a third party’s Web site” that user “is equally using the information service provided by the cable company that offers him Internet access as when he accesses the company’s own Web site, its e-mail service, or his personal Web page,” citing as examples the roles of Domain Name System (DNS) and caching.²⁶

11. In 2004, then-FCC Chairman Michael Powell announced four principles for Internet freedom to further ensure that the Internet would remain a place for free and open innovation with minimal regulation.²⁷ These four “Internet freedoms” include the freedom to access lawful content, the freedom to use applications, the freedom to attach personal devices to the network, and the freedom to obtain service plan information.²⁸

12. In the 2005 *Wireline Broadband Classification Order*, the Commission classified broadband Internet access service over wireline facilities as an information service.²⁹ At the same time, the Commission also unanimously endorsed the four Internet freedoms in the *Internet Policy Statement*.³⁰ The *Internet Policy Statement* announced the Commission’s intent to “incorporate [these] principles into its ongoing policymaking activities” in order to “foster creation, adoption and use of Internet broadband content, applications, services and attachments, and to ensure consumers benefit from the innovation that comes from competition.”³¹

²³ See *Inquiry Concerning High-Speed Access to the Internet Over Cable & Other Facilities; Internet Over Cable Declaratory Ruling; Appropriate Regulatory Treatment for Broadband Access to the Internet Over Cable Facilities*, GN Docket No. 00-185, CS Docket No. 02-52, Declaratory Ruling and Notice of Proposed Rulemaking, 17 FCC Rcd 4798, 4802, para. 7 (2002) (*Cable Modem Order*).

²⁴ *Brand X*, 545 U.S. 967.

²⁵ *Id.* at 998.

²⁶ *Id.* at 998-1000.

²⁷ Michael K. Powell, Chairman, FCC, Preserving Internet Freedom: Guiding Principles for the Industry, Remarks at the Silicon Flatirons Symposium (Feb. 8, 2004), https://apps.fcc.gov/edocs_public/attachmatch/DOC-243556A1.pdf (*Powell Speech*).

²⁸ *Id.* at 5.

²⁹ See *Appropriate Framework for Broadband Access to the Internet Over Wireline Facilities et al.*, CC Docket Nos. 02-33, 01-337, 95-20, 98-10, WC Docket Nos. 04-242, 05-271, Report and Order and Notice of Proposed Rulemaking, 20 FCC Rcd 14853 (2005) (*Wireline Broadband Classification Order*), *aff’d Time Warner Telecom, Inc. v. FCC*, 507 F.3d 205 (3d Cir. 2007).

³⁰ *Appropriate Framework for Broadband Access to the Internet over Wireline Facilities et al.*, GN Docket No. 00-185, CC Docket Nos. 02-33, 01-33, 98-10, 95-20, CS Docket No. 02-52, Policy Statement, 20 FCC Rcd 14986 (2005) (*Internet Policy Statement*).

³¹ *Id.* at 14988, para. 5. The Commission did this, for example, by incorporating such principles in its rules governing certain wireless spectrum. See *Service Rules For the 698-746, 747-762 and 777-792 MHz Bands et al.*, WT Docket No. 06-150 et al., Second Report and Order, 22 FCC Rcd 15289, 15361, 15365, paras. 194, 206 (2007).

13. In the 2006 *BPL-Enabled Broadband Order*, the Commission concluded that broadband Internet access service over power lines was properly classified as an information service,³² and in the 2007 *Wireless Broadband Internet Access Order*, the Commission classified wireless broadband Internet access service as an information service, again recognizing the “minimal regulatory environment” that promoted the “ubiquitous availability of broadband to all Americans.”³³ The Commission also found that “mobile wireless broadband Internet access service is not a ‘commercial mobile radio service’ as that term is defined in the Act and implemented in the Commission’s rules.”³⁴

14. In the 2008 *Comcast-BitTorrent Order*, the Commission sought to directly enforce federal Internet policy that it drew from various statutory provisions consistent with the *Internet Policy Statement*, finding certain actions by Comcast “contravene[d] . . . federal policy” by “significantly imped[ing] consumers’ ability to access the content and use the applications of their choice.”³⁵ In 2010, the U.S. Court of Appeals for the D.C. Circuit rejected the Commission’s action, holding that the Commission had not justified its action as a valid exercise of ancillary authority.³⁶

15. In response, the Commission adopted the 2010 *Open Internet Order*, where once again the Commission specifically rejected Title II-based heavy-handed regulation of broadband Internet access service.³⁷ Instead, the *Open Internet Order* relied on, among other things, newly-claimed regulatory authority under section 706 of the Telecommunications Act to establish no-blocking and no-unreasonable-discrimination rules as well as a requirement that broadband Internet access service providers “publicly disclose accurate information regarding the network management practices, performance, and commercial terms of its broadband Internet access services.”³⁸

16. In 2014, the D.C. Circuit vacated the no-blocking and no-unreasonable-discrimination rules adopted in the *Open Internet Order*, finding that the rules impermissibly regulated broadband Internet access service providers as common carriers,³⁹ in conflict with the Commission’s prior determination that broadband Internet access service was not a telecommunications service and that mobile broadband Internet access service was not a commercial mobile service.⁴⁰ The D.C. Circuit nonetheless upheld the transparency rule,⁴¹ held that the Commission had reasonably construed section

³² See *United Power Line Council’s Petition for Declaratory Ruling Regarding the Classification of Broadband over Power Line Internet Access Service as an Information Service*, WC Docket No. 06-10, Memorandum Opinion and Order, 21 FCC Rcd 13281 (2006) (*BPL-Enabled Broadband Order*).

³³ See *Appropriate Regulatory Treatment for Broadband Access to the Internet Over Wireless Networks*, Declaratory Ruling, 22 FCC Rcd 5901, 5902, para. 2 (2007) (*Wireless Broadband Internet Access Order*).

³⁴ *Id.* at 5916, para. 41.

³⁵ *Formal Complaint of Free Press and Public Knowledge Against Comcast Corporation for Secretly Degrading Peer-to-Peer Applications; Broadband Industry Practices; Petition of Free Press et al. for Declaratory Ruling that Degrading an Internet Application Violates the FCC’s Internet Policy Statement and Does Not Meet an Exception for “Reasonable Network Management*, File No. EB-08-IH-1518, WC Docket No. 07-52, Memorandum Opinion and Order, 23 FCC Rcd 13028, 13052, 13054, paras. 43, 45 (2008) (*Comcast-BitTorrent Order*).

³⁶ *Comcast Corp. v. FCC*, 600 F.3d 642 (D.C. Cir. 2010) (*Comcast*). Among other things, the court held that section 706 of the 1996 Act could not serve as the source of direct authority to which the Commission’s action was ancillary because the Commission was bound in *Comcast* by a prior Commission determination that section 706 did not constitute a direct grant of authority. *Id.* at 658-59.

³⁷ *Open Internet Order*, 25 FCC Rcd at 17972-80, 17981, paras. 124-35, 137.

³⁸ *Id.* at 17992 (Appendix A).

³⁹ *Verizon v. FCC*, 740 F.3d 623, 655-58 (D.C. Cir. 2014) (*Verizon*).

⁴⁰ *Id.* at 650.

⁴¹ *Id.* at 635-42.

706 of the Telecommunications Act as a grant of authority to regulate broadband Internet access service providers, and suggested that no-blocking and no-unreasonable-discrimination rules might be permissible if Internet service providers could engage in individualized bargaining.⁴²

17. Later that year, the Commission embarked yet again down the path of rulemaking, proposing to rely on section 706 of the 1996 Act to adopt enforceable rules using the D.C. Circuit's "roadmap."⁴³ But in November 2014, then-President Obama called on the FCC to "reclassify consumer broadband service under Title II of the Telecommunications Act."⁴⁴ Three months later, the Commission shifted course and adopted the *Title II Order*, reclassifying broadband Internet access service from an information service to a telecommunications service,⁴⁵ and reclassifying mobile broadband Internet access service as a commercial mobile service.⁴⁶ The Commission also adopted three bright-line rules prohibiting blocking, throttling, and paid-prioritization, as well as a general Internet conduct standard and "enhancements" to the transparency rule.⁴⁷ In 2016, a divided panel of the D.C. Circuit upheld the *Title II Order* in *United States Telecom Association v. FCC*, concluding that the Commission's classification of broadband Internet access service was permissible under *Chevron* step two.⁴⁸ The D.C. Circuit denied petitions for rehearing of the case *en banc*,⁴⁹ and petitions for *certiorari* remain pending with the Supreme Court.⁵⁰

18. In May 2017, we adopted a *Notice of Proposed Rulemaking (Internet Freedom NPRM)*,⁵¹ in which we proposed to return to the successful light-touch bipartisan framework that promoted a free and open Internet and, for almost twenty years, saw it flourish. Specifically, the *Internet Freedom NPRM* proposed to reinstate the information service classification of broadband Internet access service. The *Internet Freedom NPRM* also proposed to reinstate the determination that mobile broadband Internet access service is not a commercial mobile service.⁵² To determine how to best honor the Commission's commitment to ensuring the free and open Internet, the *Internet Freedom NPRM* also proposed to re-evaluate the Commission's existing rules and enforcement regime to analyze whether *ex ante* regulatory

⁴² See, e.g., *id.* at 657 (quoting *Cellco Partnership v. FCC*, 700 F.3d 534, 549 (D.C. Cir. 2012)).

⁴³ *Protecting and Promoting the Open Internet*, WC Docket No. 14-28, Notice of Proposed Rulemaking, 29 FCC Rcd 5561 (2014) (2014 Notice).

⁴⁴ President Obama, Statement on Net Neutrality (Nov. 10, 2014), <https://obamawhitehouse.archives.gov/the-press-office/2014/11/10/statement-president-net-neutrality>.

⁴⁵ *Title II Order*, 30 FCC Rcd 5601.

⁴⁶ *Id.* at 5778, para. 388.

⁴⁷ *Id.* at 5607-09, paras. 15-24.

⁴⁸ *United States Telecom Ass'n v. FCC*, 825 F.3d 674 (D.C. Cir. 2016) (*USTelecom*).

⁴⁹ *United States Telecom Ass'n v. FCC*, 855 F.3d 381, 382 (D.C. Cir. 2017) (Srinivasan, J., and Tatel, J., concurring in the denial of rehearing *en banc*) (stating that "[e]n banc review would be particularly unwarranted at this point in light of the uncertainty surrounding the fate of the FCC's Order").

⁵⁰ See Petition for Writ of Certiorari, *Berninger v. FCC*, 825 F.3d 674 (No. 17-498); Petition for Writ of Certiorari, *AT&T v. FCC*, 825 F.3d 674 (No. 17-499); Petition for Writ of Certiorari, *American Cable Ass'n v. FCC*, 825 F.3d 674 (No. 17-500); Petition for Writ of Certiorari, *CTIA-The Wireless Ass'n v. FCC*, 825 F.3d 674 (No. 17-501); Petition for Writ of Certiorari, *NCTA-The Internet & Television Ass'n v. FCC*, 825 F.3d 674 (No. 17-502); Petition for Writ of Certiorari, *TechFreedom v. FCC*, 825 F.3d 674 (No. 17-503); Petition for Writ of Certiorari, *United States Telecom Ass'n v. FCC*, 825 F.3d 674 (No. 17-504)..

⁵¹ *Restoring Internet Freedom*, Notice of Proposed Rulemaking, 32 FCC Rcd 4434 (2017) (*Internet Freedom NPRM*).

⁵² *Id.* at 4453, para. 55.

intervention in the market is necessary.⁵³ Specifically, the *Internet Freedom NPRM* proposed to eliminate the Internet conduct standard and the non-exhaustive list of factors intended to guide application of that rule.⁵⁴ It also sought comment on whether to keep, modify, or eliminate the bright-line conduct and transparency rules.⁵⁵

19. The *Internet Freedom NPRM* prompted more comments than any other rulemaking in the Commission's history. Between release of the *Internet Freedom NPRM* and the close of the comment period on August 30, 2017, more than 22 million comments were filed in our Electronic Comment Filing System (ECFS), with even more submissions lodged during the *ex parte* period.⁵⁶ The Commission is grateful to all commenters who engaged the legal and public policy questions presented by this important rulemaking.

III. ENDING PUBLIC-UTILITY REGULATION OF THE INTERNET

20. We reinstate the information service classification of broadband Internet access service, consistent with the Supreme Court's holding in *Brand X*.⁵⁷ Based on the record before us, we conclude that the best reading of the relevant definitional provisions of the Act supports classifying broadband Internet access service as an information service. Having determined that broadband Internet access service, regardless of whether offered using fixed or mobile technologies, is an information service under the Act, we also conclude that as an information service, mobile broadband Internet access service should not be classified as a commercial mobile service or its functional equivalent. We find that it is well within our legal authority to classify broadband Internet access service as an information service, and reclassification also comports with applicable law governing agency decisions to change course. While we find our legal analysis sufficient on its own to support an information service classification of broadband Internet access service, strong public policy considerations further weigh in favor of an information service classification. Below, we find that economic theory, empirical data, and even anecdotal evidence also counsel against imposing public-utility style regulation on ISPs. The broader Internet ecosystem thrived under the light-touch regulatory treatment of Title I, with massive investment and innovation by both ISPs and edge providers, leading to previously unimagined technological developments and services. We conclude that a return to Title I classification will facilitate critical broadband investment and innovation by removing regulatory uncertainty and lowering compliance costs.

A. Reinstating the Information Service Classification of Broadband Internet Access Service

1. Scope

21. We continue to define "broadband Internet access service" as a mass-market⁵⁸ retail service by wire or radio that provides the capability to transmit data to and receive data from all or

(Continued from previous page) _____

⁵³ *Id.* at 4458, para. 70.

⁵⁴ *Id.* at 4458, para. 72.

⁵⁵ *Id.* at 4460, para. 76, 4461-64, paras. 80-91.

⁵⁶ Initial comments on the *Internet Freedom NPRM* were due on July 17, 2017. Reply comments were originally due on August 16, 2017, but the Commission granted a two-week extension until August 30, 2017, to allow parties "additional time to analyze the technical, legal, and policy arguments raised by initial commenters [and] provide the Commission with more thorough comments, ensuring that the Commission has a complete record on which to develop its decisions." *FCC Extends Restoring Internet Freedom Reply Deadline to Aug. 30*, WC Docket No. 17-108, Order, 32 FCC Rcd 6535, 6535-36, para. 2 (WCB 2017).

⁵⁷ *Brand X*, 545 U.S. at 980.

⁵⁸ By mass market, we mean services marketed and sold on a standardized basis to residential customers, small businesses, and other end-user customers such as schools and libraries. "Schools" would include institutions of higher education to the extent that they purchase these standardized retail services. For purposes of this definition,

(continued...)

substantially all Internet endpoints, including any capabilities that are incidental to and enable the operation of the communications service, but excluding dial-up Internet access service.⁵⁹

22. The term “broadband Internet access service” includes services provided over any technology platform, including but not limited to wire, terrestrial wireless (including fixed and mobile wireless services using licensed or unlicensed spectrum), and satellite. For purposes of our discussion, we divide the various forms of broadband Internet access service into the two categories of “fixed” and “mobile.” With these two categories of services—fixed and mobile—we intend to cover the entire universe of Internet access services at issue in the Commission’s prior broadband classification decisions,⁶⁰ as well as all other broadband Internet access services offered over other technology platforms that were not addressed by prior classification orders. We also make clear that our classification finding applies to all providers of broadband Internet access service, as we delineate them here, regardless of whether they lease or own the facilities used to provide the service.⁶¹ “Fixed” broadband Internet access service refers to a broadband Internet access service that serves end users primarily at fixed endpoints using stationary equipment, such as the modem that connects an end user’s home router, computer, or other Internet access device to the Internet.⁶² The term encompasses the delivery of fixed broadband over any medium, including various forms of wired broadband services (e.g., cable, DSL, fiber), fixed wireless broadband services (including fixed services using unlicensed spectrum), and fixed satellite broadband services. “Mobile” broadband Internet access service refers to a broadband Internet access service that serves end users primarily using mobile stations.⁶³ Mobile broadband Internet access includes, among other things, services that use smartphones or mobile-network-enabled tablets as the primary endpoints for connection to the Internet.⁶⁴ The term also encompasses mobile satellite broadband services.

23. As the Commission found in 2010, broadband Internet access service does not include services offering connectivity to one or a small number of Internet endpoints for a particular device, e.g., connectivity bundled with e-readers, heart monitors, or energy consumption sensors, to the extent the service relates to the functionality of the device.⁶⁵ To the extent these services are provided by ISPs over last-mile capacity shared with broadband Internet access service, they would be non-broadband Internet access service data services (formerly specialized services). As the Commission found in both 2010 and 2015, non-broadband Internet access service data services do not fall under the broadband Internet access

“mass market” also includes broadband Internet access service purchased with the support of the E-rate and Rural Healthcare programs, as well as any broadband Internet access service offered using networks supported by the Connect America Fund (CAF), but does not include enterprise service offerings or special access services, which are typically offered to larger organizations through customized or individually negotiated arrangements. *See Open Internet Order*, 25 FCC Rcd at 17932, para. 45; *Title II Order*, 30 FCC Rcd at 5745-46, para. 336 & n.879.

⁵⁹ 47 CFR § 8.11(a); *Open Internet Order*, 25 FCC Rcd at 17932, para. 44; *id.* at 17935, para. 51 (finding that the market and regulatory landscape for dial-up Internet access service differed from broadband Internet access service).

⁶⁰ *See Wireless Broadband Internet Access Order*, 22 FCC Rcd at 5909-10, paras. 19, 22; *Cable Modem Order*, 17 FCC Rcd at 4818-19, para. 31; *Wireline Broadband Classification Order*, 20 FCC Rcd at 14860, para. 9; *BPL-Enabled Broadband Order*, 21 FCC Rcd 13281; *Title II Order*, 30 FCC Rcd at 5746, para. 337.

⁶¹ As the Supreme Court observed in *Brand X*, “the relevant definitions do not distinguish facilities-based and non-facilities-based carriers.” *Brand X*, 545 U.S. at 997.

⁶² *Open Internet Order*, 25 FCC Rcd at 17934, para. 49; *Title II Order*, 30 FCC Rcd at 5683, para. 188.

⁶³ *See* 47 U.S.C. § 153(34); *Open Internet Order*, 25 FCC Rcd at 17934, para. 49.

⁶⁴ We note that “public safety services” as defined in section 337(f)(1) would not meet the definition of “broadband Internet access service” subject to the rules herein given that “such services are not made commercially available to the public by the provider” as a mass-market retail service. 47 U.S.C. § 337(f)(1).

⁶⁵ *See Open Internet Order*, 25 FCC Rcd at 17933, para. 47, n.149.

service category.⁶⁶ Such services generally are not used to reach large parts of the Internet; are not a generic platform, but rather a specific applications-level service; and use some form of network management to isolate the capacity used by these services from that used by broadband Internet access services.⁶⁷ Further, we observe that to the extent ISPs “use their broadband infrastructure to provide video and voice services, those services are regulated in their own right.”⁶⁸

24. Broadband Internet access service also does not include virtual private network (VPN) services, content delivery networks (CDNs), hosting or data storage services, or Internet backbone services (if those services are separate from broadband Internet access service), consistent with past Commission precedent.⁶⁹ The Commission has historically distinguished these services from “mass market” services, as they do not provide the capability to transmit data to and receive data from all or substantially all Internet endpoints.⁷⁰ We do not disturb that finding here.

25. Finally, we observe that to the extent that coffee shops, bookstores, airlines, private end-user networks such as libraries and universities, and other businesses acquire broadband Internet access service from an ISP to enable patrons to access the Internet from their respective establishments, provision of such service by the premise operator would not itself be considered a broadband Internet access service unless it was offered to patrons as a retail mass market service, as we define it here.⁷¹ Likewise, when a user employs, for example, a wireless router or a Wi-Fi hotspot to create a personal Wi-Fi network that is not intentionally offered for the benefit of others, he or she is not offering a broadband Internet access service under our definition, because the user is not marketing and selling such service to residential customers, small business, and other end-user customers such as schools and libraries.

2. Broadband Internet Access Service Is an Information Service Under the Act

26. In deciding how to classify broadband Internet access service, we find that the best reading of the relevant definitional provisions of the Act supports classifying broadband Internet access service as an information service. Section 3 of the Act defines an “information service” as “the offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information via telecommunications, and includes electronic publishing, but does not include any use of any such capability for the management, control, or operation of a telecommunications system or the management of a telecommunications service.”⁷² Section 3 defines a “telecommunications service,” by contrast, as “the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used.”⁷³ Finally, section 3 defines “telecommunications”—used in each of the prior two definitions—as “the transmission, between or among points specified by the user, of information of the user’s choosing,

⁶⁶ *Id.* at 17965-66, paras. 112-13; *Title II Order*, 30 FCC Rcd at 5696, para. 207; *see also* Illinois DoIT Comments at 1-2 (“We believe it is important to highlight this distinction between BIAS and non-BIAS data services to allow development of innovative business models that address consumer needs, that are not met through a standard BIAS offering.”).

⁶⁷ *Title II Order*, 30 FCC Rcd at 5697, para. 209.

⁶⁸ Cox Comments at 33.

⁶⁹ *Open Internet Order*, 25 FCC Rcd at 17933, para. 47.

⁷⁰ *Id.* Consistent with past Commissions, we note that the transparency rule we adopt today applies only so far as the limits of an ISP’s control over the transmission of data to or from its broadband customers.

⁷¹ *See Open Internet Order*, 25 FCC Rcd at 17935, para. 52. Although not bound by the transparency rule we adopt today, we encourage premise operators to disclose relevant restrictions on broadband service they make available to their patrons. *See id.* at 17936, para. 163.

⁷² 47 U.S.C. § 153(24).

⁷³ 47 U.S.C. § 153(53).



PROGRAM FOR PUBLIC CONSULTATION
 SCHOOL OF PUBLIC POLICY, UNIVERSITY OF MARYLAND

NET NEUTRALITY SURVEY
- QUESTIONNAIRE -

Fielded by: Nielsen Scarborough
Sample size: 1,077 registered voters

Fielding Dates: Dec 6 – 8, 2017
Margin of Error: +/- 3%

Q1-Q12: Withheld for future release

A proposal we would like you to consider calls for changing the regulations for Internet Service Providers. The proposal is to reverse a set of existing regulations known as 'net neutrality.'

Here is the current situation. Internet Service Providers (or ISPs) are companies like Verizon or Comcast that give customers' access to the internet. Under the current regulations, ISPs are required to:

- provide customers access to all websites on the internet.
- provide equal access to all websites without giving any websites faster or slower download speeds.

ISPs are not allowed to:

- charge websites to provide faster download speed for those who visit their website
- charge customers, who use the internet, an extra fee to visit specific websites

The proposal is to remove these regulations. However, ISPs would be required to disclose any variation in download speeds or blocking any websites.

Here are arguments for and against the proposal:

Q13: These rules restricting ISPs are unnecessarily heavy-handed and stifle innovation. There is little evidence that restrictive rules are required, but there is evidence that they are holding back the development of the internet in the United States, which is lagging behind other developed countries'. Companies with websites do not have access to the cutting-edge download speeds that could upgrade the quality of their services. It is time to free up ISPs to bring internet service in the US to a whole new level. If ISPs can do this, they can also provide lower cost internet service for other consumers and provide internet service to more areas. As long as ISPs are required to disclose any variation in download speeds or website blocking, the market will make sure that the ISPs do not overreach.

How convincing do you find this argument?

	Very convincing	Somewhat convincing	Total convincing	Somewhat unconvincing	Very unconvincing	Total unconvincing	Refused / Don't know
National	16.8%	31.1%	47.9%	22.0%	29.0%	51.0%	1.1%
GOP	20.1%	38.6%	58.7%	22.7%	17.0%	39.7%	1.7%
Dem.	15.6%	19.3%	34.9%	24.2%	40.2%	64.4%	0.8%
Indep.	12.2%	44.3%	56.5%	14.6%	28.2%	42.8%	0.7%

Q14: This proposal is basically giving ISPs a license to steal from consumers. Even though they do not create websites themselves they could charge their consumers for access without any of it going to the websites. The ISPs would become like cable companies charging ever-higher fees for access. This would drive up costs for consumers and make it harder for websites to get the necessary traffic to be profitable. While the big website companies could pay to provide faster download speeds, it would give them a leg up, driving their smaller competitors out of business. ISPs could block access to websites for any reason they choose—for political reasons or to block any criticism of their service. Many ISP's provide content, and they could block access to their competitors. All of this would undermine innovation on the internet and hamper economic growth while enriching the ISPs.

How convincing do you find this argument?

	Very convincing	Somewhat convincing	Total convincing	Somewhat unconvincing	Very unconvincing	Total unconvincing	Refused / Don't know
National	45.5%	29.9%	75.4%	11.1%	11.9%	23.0%	1.6%
GOP	39.2%	32.6%	71.8%	14.8%	10.6%	25.4%	2.8%
Dem.	53.9%	23.9%	77.8%	7.9%	13.4%	21.3%	0.9%
Indep.	38.6%	39.0%	77.6%	10.4%	11.4%	21.8%	0.7%

Q15: So, in conclusion, do you favor or oppose the proposal to give Internet Service Providers the freedom to:

- provide websites the option to give their visitors the ability to download material at a higher speed, for a fee, while providing a slower download speed for other websites
- block access to certain websites
- charge their customers an extra fee to gain access to certain websites

Provided these practices are disclosed to customers.

	Favor	Oppose	Refused/Don't know
National	15.5%	82.9%	1.6%
GOP	21.0%	75.4%	3.6%
Dem.	11.0%	88.5%	0.5%
Indep.	14.0%	85.9%	0.1%

Q16-Q19: Withheld for future release

+ Smart Net

Offer of the 1st month of a Smart Net with 10GB / month additional ⁽¹⁾

MESSAGING



€ 4.99 / month
~~€ 6.99 / month~~
 1 month free

To join

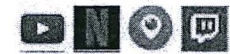
SOCIAL



€ 4.99 / month
~~€ 6.99 / month~~
 1 month free

To join

VIDEO



€ 4.99 / month
~~€ 6.99 / month~~
 1 month free

To join

MUSIC



€ 4.99 / month
~~€ 6.99 / month~~
 1 month free

To join

EMAIL & CLOUD



€ 4.99 / month
~~€ 6.99 / month~~
 1 month free

To join

MEO



Free traffic to MEO apps already included in your tariff

nprpolitics

POLITICS

As FCC Prepares Net-Neutrality Vote, Study Finds Millions of Fake Comments

December 14, 2017 · 5:00 AM ET



BRIAN NAYLOR



Federal Communications Commission Chairman Ajit Pai has started the process to roll back Obama-era regulations for Internet service providers. The agency is scheduled to vote on Thursday on whether to reverse regulations of whether all web traffic should be treated equally.

Emily Bogle/NPR

It seems like a lot of Americans are interested in the net-neutrality debate. Some 22 million public comments have been filed with the Federal Communications Commission on the issue of whether all web traffic should be treated equally.

TECHNOLOGY

FCC Says It Will Vote On Net Neutrality Despite Millions Of Fake Public Comments

Listen · 3:31

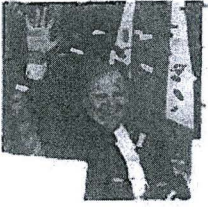
Queue

The agency is scheduled to vote Thursday on whether to reverse regulations put in place during the Obama administration that were aimed at guaranteeing that.

But, it turns out, much of that public input is not what it appears.

The Pew Research Center took a close look at the comments. Associate Director Aaron Smith said several things popped out. Maybe the biggest, 94 percent of the comments "were submitted multiple times, and in some cases those comments were submitted many hundreds of thousands of times."

POLITICS



So in other words, almost all of the comments seem to have been parts of organized campaigns to influence the FCC commissioners to vote one way or the other.

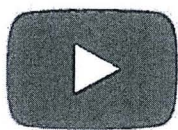
Now, organized campaigns to influence public policy, whether before an agency like the FCC or on issues before Congress are probably as old as the republic.

But this is taking it to a new level. For instance, the names listed in the public comments: Smith said there were a lot of duplicates.

The top name of those submitting the comments was "The Internet." "The Internet," Smith said, "submitted about 17,000 comments out of the 22 million."

Common names, like John Johnson and John Smith, were each on thousands of comments. And there were others that stood out, including John Oliver, the host of HBO's *Last Week with John Oliver*, who did a widely viewed segment in favor of net neutrality regulations.

Net Neutrality II: Last Week Tonight with John Oliver (HBO)



YouTube

"In theory," Smith said, Oliver submitted "several thousand comments. 'Net neutrality' submitted several thousand comments." Smith added, "We saw a number of cases where names were either duplicated or were in some cases not names at all."

Pew found that the most prevalent single comment, filed 2.8 million times, opposed FCC Chairman Ajit Pai's proposal to roll back the net-neutrality regulations. But then the next six most prevalent comments favored Pai's position.



POLITICS

Trump Thanks Omarosa Manigault Newman After White House Announces Her Resignation

New York Attorney General Eric Schneiderman's office conducted its own investigation into the comments, and determined that as many as two million were fake.

"You cannot conduct a legitimate vote on a rule-making proceeding if you have a record that is in shambles as this one is," Schneiderman, a Democrat, told reporters at a recent news conference. He called on the FCC to delay its vote.

Schneiderman also set up a website where people can see if their names appear on any of the comments.



NATIONAL SECURITY

Rosenstein Defends Mueller, Justice Department Amid Attacks About Bias

It's not clear whether the fake comments were submitted by bots, although Pew found that on several occasions, tens of thousands of comments came in at the same precise moment.

Democratic FCC Commissioner Jessica Rosenworcel said half a million of the fake comments originated from Russian email addresses. She said the issue with the FCC comments calls into question the integrity of the entire public comment process, across the government.



POLITICS

Trump Gives Final Tax Pitch As GOP Lawmakers Reach A Deal On A Bill

"Agencies open up their doors, in effect ask the American people to tell them what they think about proposed rules, how their lives might be

changed by them," she said. "It is essential that we come up with ways to manage the integrity of that process in the digital age."

An FCC spokesman said the commission will hold its vote on whether to overturn the net-neutrality rules Thursday as scheduled, despite calls by Schneiderman, Rosenworcel and 28 Democratic senators, who are urging it be delayed in order to investigate the fraudulent comments.

Rosenworcel said that shows the FCCs "sheer contempt" for public input.

john oliver net neutrality fcc

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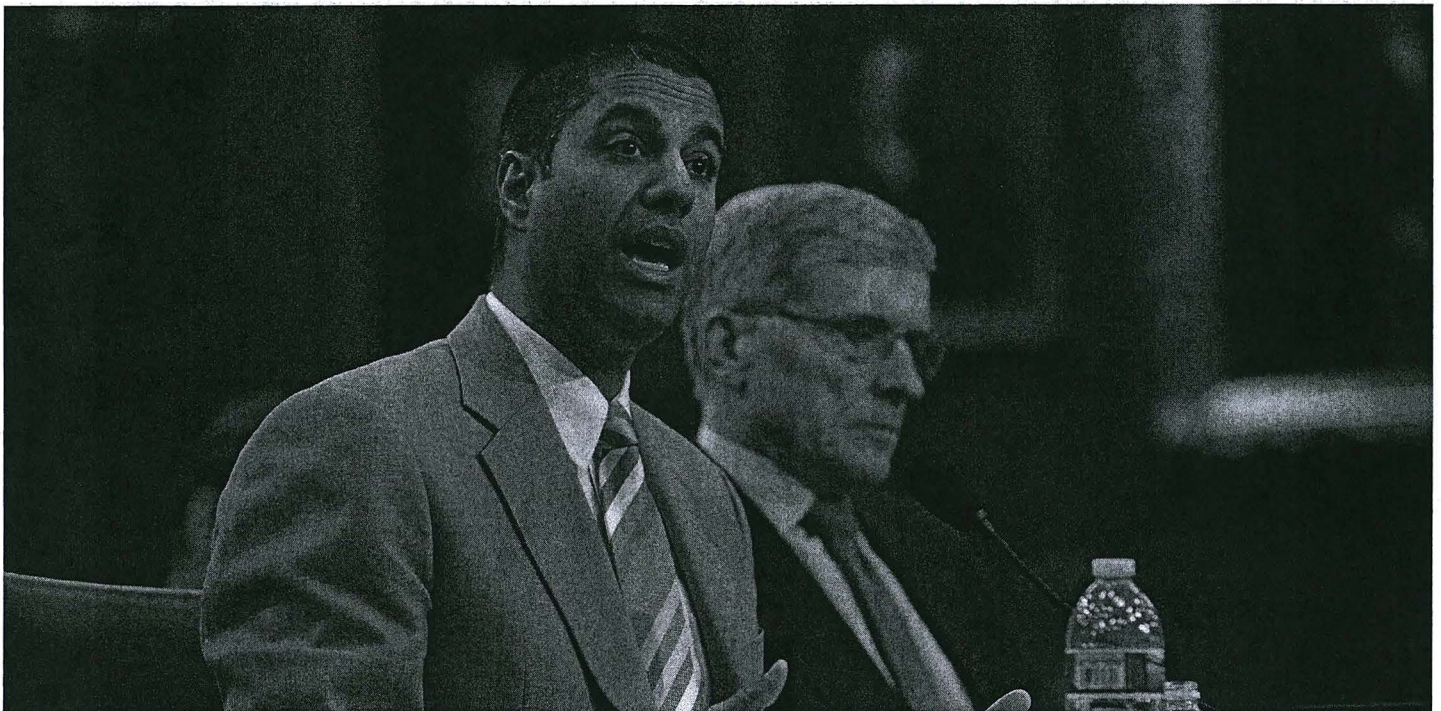
RSS

BUSINESS INSIDER

Portugal hints at what the American internet could eventually look like without net neutrality



ROB PRICE
DEC. 14, 2017, 2:56 PM



Ajit Pai, the chairman of the Federal Communications Commission.

Reuters/Kevin Lamarque

- **The Federal Communications Commission has officially voted to ditch net neutrality, which requires internet providers to treat all data online equally.**
- **A Portuguese internet provider hints at what the American internet could eventually look like.**
- **The company charges people more for additional "zero-rated" data based on the kind of app they want to use, such as those for messaging or for video.**

On Thursday, the US Federal Communications Commission officially voted to roll back Obama-era rules governing net neutrality.

Simply put, net neutrality means that all data on the internet is treated equally. An internet service provider can't prioritize certain companies or types of data, charge users more to access certain websites and apps, or charge businesses for preferential access.

Advocates of net neutrality argue that it ensures a level playing field for everyone on the internet. Telecoms firms, however, are largely against it because of the additional restrictions it places on them.

Pro-net neutrality advocates have vowed to fight the FCC in the courts — but what might the American internet look like without net neutrality?

Take a look at Portugal. The country is bound by the European Union's net-neutrality rules, but it allows for certain kinds of pricing schemes that hint at what a net neutrality-less internet might look like.

The country's wireless carrier Meo offers a package where users pay for traditional "data" for their smartphones — and on top of that, they can pay for additional packages based on the kind of data and apps they want to use, "zero-rating" those services.

The screenshot shows the MEO website interface for the '+ Smart Net' service. At the top, the MEO logo is on the left and a user profile icon is on the right. Below the logo, the text '+ Smart Net' is displayed, followed by a sub-header: 'Offer of the 1st month of a Smart Net with 10GB / month additional (1)'. The main content is organized into a grid of six categories, each with a set of icons, a price, a 'To join' button, and a '1 month free' offer:

- MESSAGING:** Includes icons for WhatsApp, Telegram, Messenger, and others. Price: € 4.99 / month (was € 6.99 / month).
- SOCIAL:** Includes icons for Facebook, Instagram, Twitter, Snapchat, and others. Price: € 4.99 / month (was € 6.99 / month).
- VIDEO:** Includes icons for YouTube, Netflix, and others. Price: € 4.99 / month (was € 6.99 / month).
- MUSIC:** Includes icons for Spotify, SoundCloud, and others. Price: € 4.99 / month (was € 6.99 / month).
- EMAIL & CLOUD:** Includes icons for Gmail, Yahoo Mail, and others. Price: € 4.99 / month (was € 6.99 / month).
- MEO:** Includes icons for various MEO apps. Text: 'Free traffic to MEO apps already included in your tariff'.

English translation via Google Translate.

MEO

Really into messaging? Then pay €4.99 (\$5.86 or £4.43) a month and get more data for apps like WhatsApp, Skype, and FaceTime. Prefer social networks like Facebook, Instagram, Snapchat, Messenger, and so on? That'll be another €4.99 a month.

Zero-rating for video apps like Netflix and YouTube are available as another add-on, while music (Spotify, SoundCloud, Google Play Music, etc.) is another, as is email and cloud (Gmail, Yahoo Mail, iCloud, etc.).

Net-neutrality advocates argue that this kind of model is dangerous because it risks creating a two-tier system that harms competition — people will just use the big-name apps included in the bundles they pay for, while upstart challengers will be left out in the cold.

For example: If you love watching videos, and Netflix is included in the video bundle but Hulu isn't, you're likely to try to save money by using only Netflix, making it harder for its competitors. (Note: Hulu isn't available in Portugal, but you get the idea.)

And without net neutrality, big-name apps could theoretically even pay telecoms firms for preferential access, offering them money — and smaller companies just couldn't compete with that. (It's not clear whether any of the companies named above have paid for preferential access.)

An ISP could even refuse to grant customers access to an app *at all* unless they (or the app company) paid up.

Democratic Rep. Ro Khanna of California originally shared the Meo example on Twitter in October, though he mischaracterised Portugal's net neutrality laws.

"In Portugal, with no net neutrality, internet providers are starting to split the net into packages," he wrote. "A huge advantage for entrenched companies, but it totally ices out startups trying to get in front of people which stifles innovation. This is what's at stake, and that's why we have to save net neutrality."

Yonatan Zunger, a former Google employee, recently retweeted Khanna's tweet, adding: "This isn't even the worst part of ending net neutrality. The worst part happens when ISPs say 'we don't like this site's politics,' or 'this site competes with us,' and block or throttle it."



(((Yonatan Zunger))) @yonatanzunger

21 Nov

Replying to @yonatanzunger

It means new "high-speed serving packages" for your small business, aka "pay us another \$400/mo if you want your website to stay up during the holidays."



(((Yonatan Zunger)))

@yonatanzunger

Basically, it's a huge giveaway to companies like Comcast and AT&T, who get to charge everyone else piles of money for nothing they aren't doing now.

That money comes from your business, and from every company you buy things from - which means it comes from you.

8:28 AM - Nov 21, 2017

4 201 256

×

BUSINESS INSIDER

How the net neutrality repeal will hurt small businesses — including anyone who sells things on sites like Etsy

NOAH FRIEDMAN AND LAMAR SALTER
DEC. 15, 2017, 5:22 PM

00:02 / 02:55

Congressman Tim Ryan (D-OH) explains the likely effects of the FCC's net neutrality repeal for small businesses. Following is a transcript of the video.

Tim Ryan: I'm Congressman Tim Ryan from Ohio.

I think the FCC decision on net neutrality is going to damage the internet as we know it today. I think the internet's going to start looking a lot more like cable television.

What it does is it gives a tremendous amount of power to the internet service providers, which is going to allow them to basically have different toll roads for other websites and people who are providing content. So there'll be a fast lane for certain ones and if there's a fast lane, there has to be a slow lane. So they're going to determine who gets into the fast lane and who is going to be relegated to the slow lane or doesn't get any access at all.

And the real problem here is that the internet service providers are also doing content. So they will give themselves favorable treatment as to they get in the fast lane with their content.

And so it's moving a concentration of information and power on the internet now and I think it's going to be damaging to innovation and smaller businesses like Etsy and others who want to be able to compete on a level playing field, that's why we have to keep an open internet.

I think the net neutrality move by the FCC and the Trump administration is pretty consistent with their governing philosophy in the last year. If you look at what's going on with tax reform, it's moving money and power and influence to a very small concentrated group of the wealthiest people in the country.

If you look at what they're doing with net neutrality, it's the same thing. They're giving all of the power to the corporations right now and moving it away from the people, and I think it's a general governing philosophy.

It does go against everything that he campaigned on because he campaigned on being the blue collar billionaire and he was going to be the person who was going to take on these very, very powerful interests. And so their philosophy is we're going to take care of the people who are in the boardrooms, unfortunately, and not the working class people that he campaigned on, so not much left of the blue collar billionaire anymore.

At least 18 State Attorney Generals are suing the FCC over the repeal.

The lawsuits are helpful but at the end of the day the president has the power. The FCC has the power. And so we've got to make sure that in the next year or two, we go out to the polls and we support candidates against people who have supported what the FCC did with net neutrality and hold those legislators accountable who support this kind of thing and we can move towards overturning it.

ALASKA STATE LEGISLATURE

Session

State Capitol, Rm. 7
Juneau, AK 99801

Interim

1500 W. Benson
Anchorage, AK 99503



December 11, 2017

The Honorable Jahna Lindemuth
Alaska Attorney General
1031 W 4th Avenue, Suite 200
Anchorage, AK 99501

Dear Attorney General Lindemuth,

On December 14, the Federal Communications Commission is set to vote on its November 21 proposal to repeal regulations establishing the nation's broadband policy of net neutrality. We believe the FCC's proposal is bad for Alaskans, and we are asking you to take action on behalf of the people of Alaska to stop this proposal.

The protections net neutrality accords Alaskans should not be so easily extinguished. The FCC's plan would readily permit internet service providers (ISPs) to lawfully discriminate against or charge rates differently among users, websites, content, and other attributes by allowing the ISPs to control the speeds at which internet data is delivered or by restricting or blocking access to certain sites altogether. Like telephone service and electricity, broadband is essential to society and must be regarded as a public utility that is subject to reasonable regulations. Charging more for customers to access certain websites or to experience adequate data delivery speeds; paid-prioritization of some online businesses and content over others; and the likelihood of ISPs conferring preferential treatment to their corporate allies over their competitors results in a pay-to-play system that affronts our tried and cherished principles of equality and fair opportunity. With its proposal, the FCC is knowingly inviting anti-consumer practices and a promise of financial rewards based on discrimination.

We also have grave concerns about the proposal's implications on our First Amendment rights. Free speech is fostered by a neutral net environment that enables the open flow of citizens' thoughts, ideas, and concerns and ensures information that is relied upon to form opinion is accessible. Free speech, free press, and our right of association are all at risk with the FCC's repeal of net neutrality.

The proposal is especially detrimental to Alaskans. Our state's climate and isolation from the Lower 48 means that our people rely heavily on the internet to connect with one another and the Outside, to keep in touch with family, for work, and for education purposes. And our remote communities—many of which already struggle to obtain stable, affordable internet access—appreciate and rely on the principles of net neutrality to maintain connectivity to Alaska's more urban hubs and beyond.

The FCC's proposal seems ill-considered and risks directly hurting vulnerable consumers and offending so many of our fundamental values. But in addition to these inevitable negative consequences, the FCC's public process on this matter has been unacceptably flawed. During the April through August 2017 public comment period, the FCC received an unprecedented 22 million comments. Of those comments, up to one million have already been linked to stolen identities; half a million appear to have been generated from Russian email addresses; 94% appear to have been posted multiple times; 57% came from duplicate or temporary addresses; there were nine instances that 75,000 same or similar comments posted at the exact same second; and the top seven comments made up 38% of the submissions.

A citizen comment process is a necessary aspect of proposing regulation changes. But because the integrity of the public process is in question, the FCC cannot conscientiously weigh those submissions into its net neutrality determination. An FCC decision of this magnitude must be achieved through a legitimate and fair process, without fraudulent influences.

In light of our concerns, we ask you to ensure that Alaska takes a strong stance against the FCC's proposal to end net neutrality. First, the FCC must be urged to delay its December 14 vote to allow investigations into fraudulent public comments to proceed to findings before relying on those submissions or assuming the public process was valid. Second, if the FCC proceeds to a vote on December 14 or thereafter, repealing net neutrality, the State of Alaska should sue or join other plaintiffs to overturn the FCC's decision.

Sincerely,



Senator Bill Wielechowski



Senator Tom Begich



Senator Berta Gardner



Representative Harriet Drummond



Representative Andy Josephson



Senator Dennis Egan



Senator Donny Olson



Representative David Guttenberg



Representative Scott Kawasaki



Representative Dan Ortiz



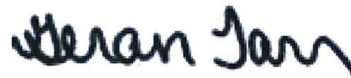
Representative Ivy Spohnholz



Representative Chris Tuck



Representative Justin Parish



Representative Geran Tarr

ALASKA STATE LEGISLATURE

Session

State Capitol, Rm. 7
Juneau, AK 99801

Interim

1500 W. Benson
Anchorage, AK 99503



December 11, 2017

Senator Lisa Murkowski
522 Hart Senate Office Building
Washington, DC 20510

Senator Dan Sullivan
602 Hart Senate Office Building
Washington, DC 20510

Congressman Don Young
2314 Rayburn House Office Building
Washington, DC 20515

Dear Senator Murkowski, Senator Sullivan, and Congressman Young,

On December 14, the Federal Communications Commission is set to vote on its November 21 proposal to repeal regulations establishing the nation's broadband policy of net neutrality. We believe the FCC's proposal is bad for Alaskans, and we are asking you to take action on behalf of the people of Alaska to stop this proposal.

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and concerns and ensures information that is relied upon to form opinion is accessible. Free speech, free press, and our right of association are all at risk with the FCC's repeal of net neutrality.

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A citizen comment process is a necessary aspect of proposing regulation changes. But because the integrity of the public process is in question, the FCC cannot conscientiously weigh those submissions into its net neutrality determination. An FCC decision of this magnitude must be achieved through a legitimate and fair process, without fraudulent influences.

On December 4, 28 of your colleagues in the United States Senate wrote to FCC Chairman Ajit Pai, calling on the FCC to investigate the apparently defective public process, expressing their belief that the FCC action "may be based on an incomplete understanding of the public record." As your colleagues state: "Without additional information about the alleged anomalies . . . the FCC cannot conduct a thorough and fair evaluation of the public's views on this topic, and should not move forward with a vote on December 14, 2017."

We ask you to join your 28 senate colleagues in urging the FCC to conduct a thorough investigation of any possible interference with the public process in this matter and further, that you voice your opposition to the FCC proceeding with its December 14 vote to repeal net neutrality. In addition, we request that you work on behalf of the Alaskans you represent—including, if necessary, introducing or supporting legislation—to ensure the internet accessibility policy of our nation always remains *net neutrality*.

Sincerely,



Senator Bill Wielechowski



Senator Tom Begich



Senator Berta Gardner



Senator Donny Olson



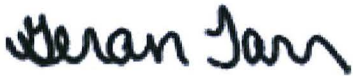
Representative David Guttenberg



Representative Scott Kawasaki



Representative Justin Parish



Representative Geran Tarr



Representative Harriet Drummond



Representative Andy Josephson



Representative Dan Ortiz



Representative Ivy Spohnholz



Representative Chris Tuck



Representative Scott Jio Wo Kawasaki
Alaska State Legislature

January 18, 2018

The Honorable Bill Walker
PO Box 110001
Juneau, AK 99811

Dear Governor Walker,

I am writing to bring attention to the recent Federal Communications Commission order reversing the net neutrality regulations put in place during the previous presidential administration. I believe that a free and open internet is a vital issue to Alaska families and small business. As such, I recently introduced House Bill 277, requiring broadband providers to practice net neutrality while doing business in Alaska.

The Open Internet Order of 2015 made changes to Title II of the Communication Act of 1934 to classify broadband providers as "common carriers," meaning they would be treated like utilities. Under the Order, broadband providers treated all information equally and were prevented from engaging in "blocking, throttling and paid prioritization" of the any data they transmitted. By reclassifying broadband providers under Title I as an "information service," broadband providers could legally coerce people into paying more money for the exact same services, or even less services, than they had previously been receiving.

Broadband internet is a modern-day necessity. Powerful internet service providers do not need a handout when thousands of Alaskans lack basic Internet access. There are only two broadband providers available to most of Alaska and I applaud them for their promise to voluntarily practice net neutrality. However, I predict that when larger, out-of-state providers begin to take advantage of their new market powers, our Alaskan providers will be forced to follow suit. We must prevent take quick and decisive action to prevent this from happening

On January 16, the Attorney General of New York joined with Attorneys General in twenty-one other states to file a multistate lawsuit to block the FCC's illegal reversal of net neutrality. I implore you to join their cause and fight to ensure an open internet with the free flow of information and free exchange of ideas remains a cornerstone of our economy and society.

Thank you for you hard work in making Alaska communities safer, stabilizing the state economy, and forging a path to future growth and development. I would be happy to discuss net neutrality further and answer any questions you may have.

Working Hard for Fairbanks Families,

A handwritten signature in blue ink, appearing to read "Scott Kawasaki".

Representative Scott Kawasaki
City of Fairbanks

In Juneau State Capitol, Juneau, AK 99801
In Fairbanks 1292 Sadler Way, Fairbanks, AK 99701
Juneau (907) 465-3466 Fax (907) 465-7478 Fairbanks (907) 456-7423 Fax (907) 456-3346
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Governor@Alaska.Gov

Governor Bill Walker
STATE OF ALASKA

December 13, 2017

The Honorable Ajit Pai
Chairman
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

Dear Chairman Pai, Commissioners Clyburn, O'Rielly, Carr, and Rosenworcel:

The State of Alaska has a keen interest in any laws or regulations surrounding the accessibility of broadband internet, regardless of location or economic status. Many areas of our state are reliant on the internet, not just for personal use, but for telehealth, distance education, and other important services. Broadband internet can be a lifeline for many of our residents who live in remote areas removed from any law enforcement presence, where a call to a State Trooper or health professional hundreds of miles away is essential for health and safety. Having a reliable, free and open internet is vital for a state as vast and geographically remote as ours.

This is why Alaska has an interest in the "Restore Internet Freedom" proposal to rollback the net neutrality regulations, WC Docket No. 17-108. The recent news regarding the discovery of fake submissions in this Docket—that could number in the millions—causes us great concern. Based on this new information, we respectfully request that the Commission delay its decision on the proposal until the integrity of the process can be appropriately investigated.

Ensuring that the Commission has received and reviewed accurate and meaningful public comments before taking action is an important part of the regulatory process. Public comments help agencies understand the true potential impacts of their actions, and help identify areas that need to be developed more thoroughly to give consumers and businesses necessary direction and clarity. If much of what was submitted to the Commission was fraudulent, it would be difficult to get a clear picture of what the impacts of the proposal truly are.

We believe more time is needed to sort out how this action will impact Alaskans and whether it will lead to discriminatory and harmful practices. That evaluation starts with an open and transparent process based on listening to the comments and concerns of the public. Right now, that process cannot be trusted without further investigation into whether fraudulent comments were submitted and considered by the Commission.

Please consider delaying any further action until the integrity of the process can be restored.

Federal Communications Commission
December 13, 2017
Page 2

Sincerely,



Bill Walker
Governor



Jahna Lindemuth
Attorney General

cc: The Honorable Lisa Murkowski, United States Senate
The Honorable Dan Sullivan, United States Senate
The Honorable Don Young, United States House of Representatives
Stephen McAlpine, Chairman, Regulatory Commission of Alaska
Rebecca Pauli, Commissioner, Regulatory Commission of Alaska
Robert Pickett, Commissioner, Regulatory Commission of Alaska
Norman Rokeberg, Commissioner, Regulatory Commission of Alaska
Jan Wilson, Commissioner, Regulatory Commission of Alaska

Alaska State Legislature

Official Business



State Capitol
Juneau, Alaska
99801-1182

Senator Lisa Murkowski
522 Hart Senate Office Building
Washington, DC 20510

Dear Senator Murkowski,

Please help start congressional deliberations on net neutrality with the goal of enacting it into law.

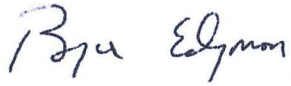
Letting the Federal Communications Commission take the lead on net neutrality creates fear, uncertainty, and instability. Policy may change every time control of the White House changes. It is time for Congress to assert leadership in this arena and create guidelines for the 21st century that provide stability and predictability in something as significant as Internet service.

As the information age has rapidly progressed, the Internet has become a pillar of a democratic society, vital to commerce, education, communications, and everyday life. It is similar to a public utility that needs protection against the kind of chaos once seen in the early days of the telephone. The quality and speed of Internet service should not be determined by private actors who may not have the public's best interests at heart, especially in rural regions where there is often only one Internet provider, making remote areas vulnerable to the dangers of a monopoly. In these instances, competition may not be counted on to protect consumers.

Current protections under the Open Internet Order of 2015 are at risk. The FCC is considering whether to reverse this policy and give private companies an unprecedented level of control over how we use the Internet. The FCC is poised to relinquish its authority to enforce common-sense, net-neutrality rules, letting Internet service providers engage in unfair and predatory practices like site-blocking and throttling. We need to continue to treat broadband Internet providers as common carriers under Title II of the federal Telecommunications Act of 1996 — a law that needs updating to meet the demands of the Internet age which have changed dramatically since Congress passed the measure 21 years ago.

Please oppose attempts to roll back net-neutrality and help set in law protections established in the Open Internet Order of 2015.

Thank you,



Representative Bryce Edgmon



Representative Neal Foster



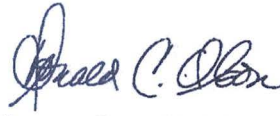
Representative Sam Kito



Representative Justin Parish



Representative Zach Fansler



Senator Donald Olson



Senator Dennis Egan



PROGRAM FOR PUBLIC CONSULTATION
SCHOOL OF PUBLIC POLICY, UNIVERSITY OF MARYLAND

NET NEUTRALITY SURVEY
- QUESTIONNAIRE -

Fielded by: Nielsen Scarborough
Sample size: 1,077 registered voters

Fielding Dates: Dec 6 – 8, 2017
Margin of Error: +/- 3%

Q1-Q12: Withheld for future release

A proposal we would like you to consider calls for changing the regulations for Internet Service Providers. The proposal is to reverse a set of existing regulations known as 'net neutrality.'

Here is the current situation. Internet Service Providers (or ISPs) are companies like Verizon or Comcast that give customers' access to the internet. Under the current regulations, ISPs are required to:

- provide customers access to all websites on the internet.
- provide equal access to all websites without giving any websites faster or slower download speeds.

ISPs are not allowed to:

- charge websites to provide faster download speed for those who visit their website
- charge customers, who use the internet, an extra fee to visit specific websites

The proposal is to remove these regulations. However, ISPs would be required to disclose any variation in download speeds or blocking any websites.

Here are arguments for and against the proposal:

Q13: These rules restricting ISPs are unnecessarily heavy-handed and stifle innovation. There is little evidence that restrictive rules are required, but there is evidence that they are holding back the development of the internet in the United States, which is lagging behind other developed countries'. Companies with websites do not have access to the cutting-edge download speeds that could upgrade the quality of their services. It is time to free up ISPs to bring internet service in the US to a whole new level. If ISPs can do this, they can also provide lower cost internet service for other consumers and provide internet service to more areas. As long as ISPs are required to disclose any variation in download speeds or website blocking, the market will make sure that the ISPs do not overreach.

How convincing do you find this argument?

	Very convincing	Somewhat convincing	Total convincing	Somewhat unconvincing	Very unconvincing	Total unconvincing	Refused / Don't know
National	16.8%	31.1%	47.9%	22.0%	29.0%	51.0%	1.1%
GOP	20.1%	38.6%	58.7%	22.7%	17.0%	39.7%	1.7%
Dem.	15.6%	19.3%	34.9%	24.2%	40.2%	64.4%	0.8%
Indep.	12.2%	44.3%	56.5%	14.6%	28.2%	42.8%	0.7%

BUSINESS INSIDER

Thursday's big net neutrality vote could drastically change the internet — here's what it means for you

EMMA FIERBERG, COREY PROTIN AND STEVE KOVACH
DEC. 13, 2017, 4:54 PM

00:03 / 02:56

Net neutrality is likely going to be repealed by the FCC. Here's why that could be a big problem for anyone who pays a cable or wireless carrier bill. Following is a transcript of the video.

Steve Kovach: The FCC is getting ready to repeal net neutrality rules that were put in place in 2015. Net neutrality is the concept that all traffic on the internet should be treated the same. That means your internet provider can't suddenly decide to slow down YouTube or Netflix because they're not paying enough.

It also means they can't charge you more to access certain services. Everything has to be a level playing field. It means prices are stable and you get the content you want no matter who your internet provider is.

Without net neutrality rules, internet providers are free to charge you more for services they deliver over their pipes. It puts big players like Google and Amazon that can afford to have such services delivered at a huge advantage, and prevents the little guys from being able to afford to do the same.

So, you're probably wondering if net neutrality is so great and it's only been on the books for about 2 years, why does the FCC want to get rid of it all of a sudden? FCC chairman Ajit Pai, the Trump appointee who's running the FCC, put forth a proposal that will repeal the net neutrality rules.

Pai argues that by repealing these rules, the telecom companies will have to be transparent about their offering so if they decide to charge more for one service, it will be up to the customer to decide whether or not to buy it.

But it's easy to remain skeptical. When was the last time your cable provider or wireless carrier was transparent with you? There are tons of examples out there of internet providers and telecom companies abusing their power with content delivered over the internet.

Let's rewind back to 2014 when Comcast got caught slowing down the connection of Netflix streaming. Then there's AT&T which started a sponsored data program which meant apps could pay money to AT&T so they wouldn't suck up your data plan if you use them — giving them an unfair advantage. That's hardly a level playing field.

The net neutrality rules put in place in 2015 largely addressed these problems to make sure all traffic would be treated equally. Now it's going away.

There's also a notion coming out from the FCC that repealing the rules will foster more competition. But that ignores the reality of internet connections here in the United States. Over half of US customers only have access to one broadband provider, and the vast majority only have two options. That's not competition. That's localized monopolies.

The bottom line here is the repeal of net neutrality is likely to commoditize the internet, meaning ISPs and carriers will be able to charge you more for the services they deliver over the internet. That's great news for the telecom companies and internet providers that have been charging you exorbitant amounts for your internet connections over the years, but it's bad news for you.

This video was originally published December 8, 2017.

BUSINESS INSIDER

Portugal hints at what the American internet could eventually look like without net neutrality



ROB PRICE
DEC. 14, 2017, 2:56 PM



Ajit Pai, the chairman of the Federal Communications Commission.

Reuters/Kevin Lamarque

- **The Federal Communications Commission has officially voted to ditch net neutrality, which requires internet providers to treat all data online equally.**
- **A Portuguese internet provider hints at what the American internet could eventually look like.**
- **The company charges people more for additional "zero-rated" data based on the kind of app they want to use, such as those for messaging or for video.**

On Thursday, the US Federal Communications Commission officially voted to roll back Obama-era rules governing net neutrality.

Simply put, net neutrality means that all data on the internet is treated equally. An internet service provider can't prioritize certain companies or types of data, charge users more to access certain websites and apps, or charge businesses for preferential access.

Advocates of net neutrality argue that it ensures a level playing field for everyone on the internet. Telecoms firms, however, are largely against it because of the additional restrictions it places on them.

Pro-net neutrality advocates have vowed to fight the FCC in the courts — but what might the American internet look like without net neutrality?

Take a look at Portugal. The country is bound by the European Union's net-neutrality rules, but it allows for certain kinds of pricing schemes that hint at what a net neutrality-less internet might look like.

The country's wireless carrier Meo offers a package where users pay for traditional "data" for their smartphones — and on top of that, they can pay for additional packages based on the kind of data and apps they want to use, "zero-rating" those services.

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MUSIC	EMAIL & CLOUD	MEO
<p>€ 4.99 / month € 6.99 / month 1 month free</p> <p>To join</p>	<p>€ 4.99 / month € 6.99 / month 1 month free</p> <p>To join</p>	<p>Free traffic to MEO apps already included in your tariff</p>

English translation via Google Translate.

MEO

Really into messaging? Then pay €4.99 (\$5.86 or £4.43) a month and get more data for apps like WhatsApp, Skype, and FaceTime. Prefer social networks like Facebook, Instagram, Snapchat, Messenger, and so on? That'll be another €4.99 a month.

Zero-rating for video apps like Netflix and YouTube are available as another add-on, while music (Spotify, SoundCloud, Google Play Music, etc.) is another, as is email and cloud (Gmail, Yahoo Mail, iCloud, etc.).

Net-neutrality advocates argue that this kind of model is dangerous because it risks creating a two-tier system that harms competition — people will just use the big-name apps included in the bundles they pay for, while upstart challengers will be left out in the cold.

For example: If you love watching videos, and Netflix is included in the video bundle but Hulu isn't, you're likely to try to save money by using only Netflix, making it harder for its competitors. (Note: Hulu isn't available in Portugal, but you get the idea.)

And without net neutrality, big-name apps could theoretically even pay telecoms firms for preferential access, offering them money — and smaller companies just couldn't compete with that. (It's not clear whether any of the companies named above have paid for preferential access.)

An ISP could even refuse to grant customers access to an app *at all* unless they (or the app company) paid up.

Democratic Rep. Ro Khanna of California originally shared the Meo example [on Twitter in October](#), though he mischaracterised Portugal's net neutrality laws.

"In Portugal, with no net neutrality, internet providers are starting to split the net into packages," he wrote. "A huge advantage for entrenched companies, but it totally ices out startups trying to get in front of people which stifles innovation. This is what's at stake, and that's why we have to save net neutrality."

Yonatan Zunger, a former Google employee, [recently retweeted Khanna's tweet](#), adding: "This isn't even the worst part of ending net neutrality. The worst part happens when ISPs say 'we don't like this site's politics,' or 'this site competes with us,' and block or throttle it."



(((Yonatan Zunger))) @yonatanzunger

21 Nov

Replying to @yonatanzunger

It means new "high-speed serving packages" for your small business, aka "pay us another \$400/mo if you want your website to stay up during the holidays."



(((Yonatan Zunger)))

@yonatanzunger

Basically, it's a huge giveaway to companies like Comcast and AT&T, who get to charge everyone else piles of money for nothing they aren't doing now.

That money comes from your business, and from every company you buy things from - which means it comes from you.

8:28 AM - Nov 21, 2017

4 201 256

x

BUSINESS INSIDER

How the net neutrality repeal will hurt small businesses — including anyone who sells things on sites like Etsy

NOAH FRIEDMAN AND LAMAR SALTER
DEC. 15, 2017, 5:22 PM

00:02 / 02:55

Congressman Tim Ryan (D-OH) explains the likely effects of the FCC's net neutrality repeal for small businesses. Following is a transcript of the video.

Tim Ryan: I'm Congressman Tim Ryan from Ohio.

I think the FCC decision on net neutrality is going to damage the internet as we know it today. I think the internet's going to start looking a lot more like cable television.

What it does is it gives a tremendous amount of power to the internet service providers, which is going to allow them to basically have different toll roads for other websites and people who are providing content. So there'll be a fast lane for certain ones and if there's a fast lane, there has to be a slow lane. So they're going to determine who gets into the fast lane and who is going to be relegated to the slow lane or doesn't get any access at all.

And the real problem here is that the internet service providers are also doing content. So they will give themselves favorable treatment as to they get in the fast lane with their content.

And so it's moving a concentration of information and power on the internet now and I think it's going to be damaging to innovation and smaller businesses like Etsy and others who want to be able to compete on a level playing field, that's why we have to keep an open internet.

I think the net neutrality move by the FCC and the Trump administration is pretty consistent with their governing philosophy in the last year. If you look at what's going on with tax reform, it's moving money and power and influence to a very small concentrated group of the wealthiest people in the country.

If you look at what they're doing with net neutrality, it's the same thing. They're giving all of the power to the corporations right now and moving it away from the people, and I think it's a general governing philosophy.

It does go against everything that he campaigned on because he campaigned on being the blue collar billionaire and he was going to be the person who was going to take on these very, very powerful interests. And so their philosophy is we're going to take care of the people who are in the boardrooms, unfortunately, and not the working class people that he campaigned on, so not much left of the blue collar billionaire anymore.

At least 18 State Attorney Generals are suing the FCC over the repeal.

The lawsuits are helpful but at the end of the day the president has the power. The FCC has the power. And so we've got to make sure that in the next year or two, we go out to the polls and we support candidates against people who have supported what the FCC did with net neutrality and hold those legislators accountable who support this kind of thing and we can move towards overturning it.

nprpolitics

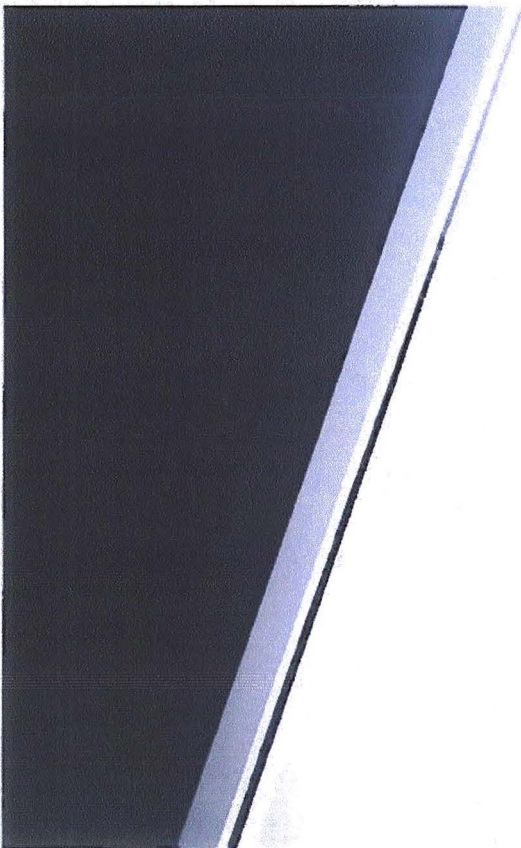
POLITICS

As FCC Prepares Net-Neutrality Vote, Study Finds Millions of Fake Comments

December 14, 2017 · 5:00 AM ET



BRIAN NAYLOR



Federal Communications Commission Chairman Ajit Pai has started the process to roll back Obama-era regulations for Internet service providers. The agency is scheduled to vote on Thursday on whether to reverse regulations of whether all web traffic should be treated equally.

Emily Bogle/NPR

It seems like a lot of Americans are interested in the net-neutrality debate. Some 22 million public comments have been filed with the Federal Communications Commission on the issue of whether all web traffic should be treated equally.

TECHNOLOGY

FCC Says It Will Vote On Net Neutrality Despite Millions Of Fake Public Comments

Listen · 3:31

Queue

The agency is scheduled to vote Thursday on whether to reverse regulations put in place during the Obama administration that were aimed at guaranteeing that.

But, it turns out, much of that public input is not what it appears.

The Pew Research Center took a close look at the comments. Associate Director Aaron Smith said several things popped out. Maybe the biggest, 94 percent of the comments "were submitted multiple times, and in some cases those comments were submitted many hundreds of thousands of times."

POLITICS



So in other words, almost all of the comments seem to have been parts of organized campaigns to influence the FCC commissioners to vote one way or the other.

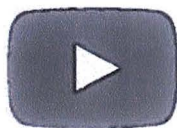
Now, organized campaigns to influence public policy, whether before an agency like the FCC or on issues before Congress are probably as old as the republic.

But this is taking it to a new level. For instance, the names listed in the public comments: Smith said there were a lot of duplicates.

The top name of those submitting the comments was "The Internet." "The Internet," Smith said, "submitted about 17,000 comments out of the 22 million."

Common names, like John Johnson and John Smith, were each on thousands of comments. And there were others that stood out, including John Oliver, the host of HBO's *Last Week with John Oliver*, who did a widely viewed segment in favor of net neutrality regulations.

Net Neutrality II: Last Week Tonight with John Oliver (HBO)



YouTube

"In theory," Smith said, Oliver submitted "several thousand comments. 'Net neutrality' submitted several thousand comments." Smith added, "We saw a number of cases where names were either duplicated or were in some cases not names at all."

Pew found that the most prevalent single comment, filed 2.8 million times, opposed FCC Chairman Ajit Pai's proposal to roll back the net-neutrality regulations. But then the next six most prevalent comments favored Pai's position.



POLITICS

Trump Thanks Omarosa Manigault Newman After White House Announces Her Resignation

New York Attorney General Eric Schneiderman's office conducted its own investigation into the comments, and determined that as many as two million were fake.

"You cannot conduct a legitimate vote on a rule-making proceeding if you have a record that is in shambles as this one is," Schneiderman, a Democrat, told reporters at a recent news conference. He called on the FCC to delay its vote.

Schneiderman also set up a website where people can see if their names appear on any of the comments.



NATIONAL SECURITY

Rosenstein Defends Mueller, Justice Department Amid Attacks About Bias

It's not clear whether the fake comments were submitted by bots, although Pew found that on several occasions, tens of thousands of comments came in at the same precise moment.

Democratic FCC Commissioner Jessica Rosenworcel said half a million of the fake comments originated from Russian email addresses. She said the issue with the FCC comments calls into question the integrity of the entire public comment process, across the government.



POLITICS

Trump Gives Final Tax Pitch As GOP Lawmakers Reach A Deal On A Bill

"Agencies open up their doors, in effect ask the American people to tell them what they think about proposed rules, how their lives might be

changed by them," she said. "It is essential that we come up with ways to manage the integrity of that process in the digital age."

An FCC spokesman said the commission will hold its vote on whether to overturn the net-neutrality rules Thursday as scheduled, despite calls by Schneiderman, Rosenworcel and 28 Democratic senators, who are urging it be delayed in order to investigate the fraudulent comments.

Rosenworcel said that shows the FCCs "sheer contempt" for public input.

john oliver net neutrality fcc

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Free traffic to MEO apps already included in your tariff

Q14: This proposal is basically giving ISPs a license to steal from consumers. Even though they do not create websites themselves they could charge their consumers for access without any of it going to the websites. The ISPs would become like cable companies charging ever-higher fees for access. This would drive up costs for consumers and make it harder for websites to get the necessary traffic to be profitable. While the big website companies could pay to provide faster download speeds, it would give them a leg up, driving their smaller competitors out of business. ISPs could block access to websites for any reason they choose—for political reasons or to block any criticism of their service. Many ISP's provide content, and they could block access to their competitors. All of this would undermine innovation on the internet and hamper economic growth while enriching the ISPs.

How convincing do you find this argument?

	Very convincing	Somewhat convincing	Total convincing	Somewhat unconvincing	Very unconvincing	Total unconvincing	Refused / Don't know
National	45.5%	29.9%	75.4%	11.1%	11.9%	23.0%	1.6%
GOP	39.2%	32.6%	71.8%	14.8%	10.6%	25.4%	2.8%
Dem.	53.9%	23.9%	77.8%	7.9%	13.4%	21.3%	0.9%
Indep.	38.6%	39.0%	77.6%	10.4%	11.4%	21.8%	0.7%

Q15: So, in conclusion, do you favor or oppose the proposal to give Internet Service Providers the freedom to:

- provide websites the option to give their visitors the ability to download material at a higher speed, for a fee, while providing a slower download speed for other websites
- block access to certain websites
- charge their customers an extra fee to gain access to certain websites

Provided these practices are disclosed to customers.

	Favor	Oppose	Refused/Don't know
National	15.5%	82.9%	1.6%
GOP	21.0%	75.4%	3.6%
Dem.	11.0%	88.5%	0.5%
Indep.	14.0%	85.9%	0.1%

Q16-Q19: Withheld for future release



February 9, 2018

House Labor & Commerce Committee
Alaska State House of Representatives
State Capitol
Juneau, AK 99801

Re: Saving the Open Internet: ACLU of Alaska Support for HB 277

Dear Chair Kito, Vice-Chair Wool, and Members of the House Labor & Commerce Committee:

There is a growing threat to freedom of speech on the internet from network providers. I am providing this testimony to give a specific perspective on the net neutrality debate: the threat to our civil liberties. As the internet has grown and become one of the primary means of communication in modern society, restoring meaningful rules to protect internet users from censorship is critical to free speech in the modern era.

We all use the telephone and none of us worry that if we call a particular person or talk about a certain subject, the telephone company will make our connection choppy or add delays to our conversation. But, when it comes to using the internet, this is exactly what the removal of net neutrality rules would permit.

These are not hypothetical concerns; they've already happened. Without net neutrality rules in the United States and elsewhere, we have seen content slowed and blocked based upon the political views and business interests of ISP companies:

- AT&T censored a live Pearl Jam concert stream in response to criticisms of President George W. Bush by the band's lead singer Eddie Vedder;
- Verizon blocked text messages from the pro-choice advocacy group NARAL because Verizon deemed them to be "controversial";
- Telus, a Canadian Telecom company, blocked the website of a union with which it was engaged in a labor dispute;
- AT&T limited its customers' use of FaceTime to coerce them into buying more expensive data plans; and
- AT&T, Sprint, T-Mobile, and Verizon all blocked mobile wallet applications, like Google Wallet, that competed with their own mobile wallet application.

Some claim that without net neutrality, competition between internet service providers and telecom companies will root out this kind of nefarious behavior. But

this hope is misplaced; you can't have competition without a competitive market. Most Americans, and particularly here in Alaska, don't have a choice between their network provider: it is, at best, an oligopoly, and at worst, a monopoly. The costs to build high-speed broadband service are so great, so there is very little competition, which is exactly why so many Alaskans have only one possible network provider to choose from.¹ And manipulations of data are not always easy to detect. Content can be delayed or distorted in important but subtle ways.

Alaska needs this more than any other state. In our state, we rely on fast, reliable, content-neutral internet for our businesses, for our schools, and to provide telemedicine to our remote villages.

Others have suggested that bills like HB 277 may be preempted or raise constitutional issues under the Commerce Clause. These concerns are surmountable: although section 253 of the Communications Act may limit state laws that inhibit interstate telecommunications service, there is an express exception for laws that "ensure the continued quality of telecommunications services and safeguard the rights of consumers."² HB 277 applies only to in-state providers, it does not apply to or unreasonably affect out-of-state commerce, and the courts have consistently upheld neutral regulations on a business's interactions with consumers.³

As of today, thirty states across the nation have introduced or are nearing introduction of bills that would restore net neutrality protections in their states. By passing HB 277, Alaska will join a national chorus of states and bipartisan groups of internet users to announce that the elimination of net neutrality rules is unacceptable.

Sincerely,



Tara A. Rich
Legal & Policy Director

¹ This is precisely why, under the Communications Act of 1934, these entities should be classified under Title II (utility-style regulation, which was undone by the elimination of net neutrality). It takes a good deal of verbal gymnastics to classify internet service providers as "information service" that do not have these same barriers to entry into the marketplace.

² 47 U.S.C. § 253.

³ See, e.g. *Ades v. Omni Hotels Mgmt. Corp.*, 46 F. Supp. 3d 999, 1011–16 (C.D. Cal. 2014) (holding that the California Invasion of Privacy Act does not violate the Dormant Commerce Clause); *Elane Photography, LLC v. Willock*, 309 P.3d 53, 66 (N.M. 2013) (holding that application of New Mexico's anti-discrimination ordinance to a photography business did not violate the First Amendment).

February 28, 2018

To: House L&C

From: Wayne Aderhold / Homer

Ref: **HB-277** / Net Neutrality / **IN SUPPORT**

Please register my testimony in support of HB-277 and net neutrality (internet).

The prospect of "direct democracy" participation via the internet (and social media, in particular) has a scary side to it, but our 1st Amendment opens this door and we must protect it.

As the current investigation(s) into meddling in our democratic process unfolds, the idea of manipulation of this mode of communication becomes even more troublesome when we are learning of all the ways it can (and has been) manipulated for un-democratic purposes.

If the internet is going to continue to exist, it must be kept "neutral" (with respect to access, speed, etc.)

Respectfully,

A handwritten signature in black ink, appearing to read "Wayne Aderhold". The signature is fluid and cursive, with the first name being more prominent.

Wayne Aderhold

353 Grubstake Ave.

Homer, AK 99603

State and Local Efforts to Regulate an Open Internet are Unnecessary and May Curb State Broadband Investment

The Internet Remains Open and Free – Consumer Protections Remain in Place

Q: Why is the Federal Communications Commission (FCC) decision to rollback regulation positive for consumers and the internet ecosystem?

A: The FCC restored the light-touch regulatory framework that allowed the internet to grow and thrive from 1996-2015. They reversed the decision to regulate the internet under the old public utility laws – written over 80 years ago for the analog-age and monopoly telephone service. These rules included regulatory reporting requirements that overwhelmed small internet service providers, reduced their investment capabilities and hindered their ability to bring new and exciting services to their customers. They also give too much power to unelected federal bureaucrats who want to control how the internet operates. That means less freedom for consumers and innovators. No one wants the Internet to be run like their local water or electric company.

Q. How will consumers be impacted?

A. Consumers will see no negative changes to how their internet works. To the contrary, under the restored rules, consumers can expect to see **more** investment in broadband and more innovative services, reversing the adverse effect of the previous rules. There's overwhelming evidence the FCC's 2015 rules slowed broadband deployment nationwide, especially in rural and underserved communities:

- Within 3 months of the FCC's 2015 vote, several **rural Internet providers** stated under oath that Title II's legal uncertainties had slowed broadband deployment.
- Overall broadband investment **has dropped** by billions since 2015 – the first time this has ever happened outside of a recession.

State Legislation is Unnecessary and Risky

Q. Why is legislation at the state-level unnecessary?

A. Strong protections remain in place to ensure the core net neutrality principles of no blocking, no throttling, and no unfair discrimination of internet traffic. The FCC order

requires providers to clearly and publicly disclose their network management practices, and the terms and conditions of their broadband service offerings. In their disclosures, providers have publicly committed to no blocking, no throttling, and no unfair discrimination of Internet traffic, commitments that are fully enforceable under the new FCC order.

Any provider breaching such commitments would face heavy fines and penalties – to say nothing of a customer revolt. Antitrust and state consumer protection authorities also can take action to remedy other practices that harm consumers.

Q. What about the net neutrality violations I hear about?

A. Proponents of heavy-handed forms of net neutrality rely on hyperbole and hypotheticals to try to create support for their extreme positions. That's because real examples are difficult to come by and many of the most frequently cited "net neutrality violations" are simply false, misleading or mistaken. A couple of isolated cases that occurred a decade or more ago were quickly abandoned or resolved by corrective action by the FCC – all without heavy handed regulation that stifles broadband investment.

Q. What are some of the unintended consequences of passing net neutrality regulations at the state or local level?

A. Imagine 49 other states telling your constituents and local businesses what they can and can't do on the Internet? That's what would happen with a patchwork of inconsistent regulation at the state level. State by state (and even worse, municipality-by-municipality) regulation of the internet would confuse consumers, harm competition, and impede innovation and investment. The internet does not stop at the state line.

State legislation has a greater risk to suppress capital investment and hamper innovation of new technologies than it does to protect consumers. Subjecting companies who invest most in broadband to a host of disparate regulatory obligations only threatens to push state level broadband investment elsewhere. Investment in broadband is a key component to a thriving economy and free commerce.

Q. What do I tell my constituents who are concerned about preserving an open internet?

A. The framework put in place by the FCC is not an abandonment of the open Internet, but simply a return to the light touch framework that the FCC used to govern the Internet for over 20 years from its inception until 2015. This framework has a proven track record of protecting consumers over the decades of the internet's growth while also driving unprecedented investment and innovation. Additional state and local laws and regulations are not necessary – Internet service provider commitments to refrain from blocking, throttling, and unfair discrimination of Internet traffic already are publicly disclosed and enforceable under the new FCC order.

What Others Are Saying About Net Neutrality

Neil Bradley, U.S. Chamber of Commerce Senior Vice President and Chief Policy Officer

"Today's FCC vote to undo the 1930s rotary-phone era regulation of the internet will restore certainty to the private sector and encourage investment in the broadband infrastructure necessary to power emerging technologies that contribute to economic growth. The *Restoring Internet Freedom Order* passed today is simply a return to the regulatory framework that allowed for a thriving internet, before the FCC placed it under unnecessary public-utility-style treatment."

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"Small businesses understand that economic progress comes from giving entrepreneurs the freedom to innovate and invest. Businesses today need ever-faster broadband connections to compete, which will only be possible with greater investment in our nation's network infrastructure... Treating dynamic broadband networks like public utilities is a great way to discourage much-needed investment and delay innovation. Title II was designed to regulate Depression-era telephone networks, not the modern internet."

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T-Mobile

"The Commission should revise its regulatory regime recognizing that one-size-fits-all solutions are likely to restrict the options available to consumers and thus undermine consumer welfare. Mobile broadband customers have, and make, many choices regarding the nature of the services to which they subscribe. These choices allow them to configure their services in ways that best suit their own lives and needs. For example, customers can choose from a variety of rate plans with differing features, such as picking Standard Definition rather than High Definition video to conserve data or save money.

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"Next month's FCC vote will simply return the Internet to the same regulatory framework that governed in 2015 and for the 20 years that preceded it. The Internet flourished under this approach, while consumers and innovators alike benefited from a free and open Internet.

"In other words, the FCC is not experimenting with a radical new or anarchic approach to the Internet. Instead, we're returning to the tried-and-true framework that protected consumers without the negative results we've seen during the FCC's two-year detour into heavy-handed, utility-style regulation..."

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"We support an open Internet, our customers expect it and would depart if we degraded their Internet experience. Two years ago, many of us urged the Commission to refrain from subjecting our broadband Internet access service to Title II 'utility style' regulation because that approach was not justified by sound economics or market realities for smaller ISPs and would impose onerous burdens on our operations. Unfortunately, the Commission ignored this evidence, classified us as common carriers, and adopted one-size-fits-all rules. In the wake of this decision, our businesses have suffered... In brief for us and our customers, the rules have been all cost and no benefit."

▸ 22 Small ISPs in a *letter to Chairman Pai*, April 25, 2017

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▸ David Balto, *"What John Oliver Won't Tell You About Net Neutrality,"* The Hill, May 5, 2017

Katie McAuliffe, Digital Liberty Executive Director & Americans for Tax Reform Federal Affairs Manager

"The truth is that Title II and net neutrality are two different things. Title II deals with economics, investment, and micromanagement of business operations. Net neutrality deals with traffic flow, transparency, and basic principles of openness and non-discrimination. The FCC enacted net neutrality rules without Title II in the past, and Congress considered net neutrality laws having nothing to do with Title II as well."

"Title II is not the answer. Antitrust laws address many of the concerns about Internet openness and transparency already. The FCC must complete its work undoing the mess of Title II as quickly as possible. Congressional action to stop this endless game of pong is the best path forward."

▶ Katie McAuliffe, "**The FCC Must Get Rid of Archaic Internet Regulations to Unleash the Modern Digital Economy**," *Daily Caller*, November 15, 2017

Adonis Hoffman, Business in the Public Interest Chairman

"Harking back to the Clinton and George W. Bush years, the principle of light touch regulation seems to have worked well for the stability and growth of the internet. Although recently unpopular, this seems to be a commercially reasonable position that encourages more investment in broadband, while attending to consumer demands. And yet, the simple rationality of the argument has been drowned out by the clarion calls to resist any changes to the rules."

▶ Adonis Hoffman, "**There is a Middle Ground in the Net Neutrality Debate**," *The Hill*, May 15, 2017

Michael Mandel, Progressive Policy Institute Chief Economic Strategist

"As we have said before, the Internet was thriving under the light-touch regulatory regime that preceded Title II. Indeed, government data shows that the telecom industry was one of the top contributors to US productivity growth from 2000 to 2014, before Title II was put in place. Our belief is that the economy could be entering into a renewed period of productivity growth, propelled by the application of digital technology to the physical industries (see The Coming Productivity Boom). That transition would have been much more difficult under the antiquated regulatory structure that comes with Title II."

▶ Michael Mandel, "**Open Internet: Time for Congress to Act**," *Progressive Policy Institute*, May 18, 2017

Fred Campbell, TechKnowledge Director

"Net neutrality advocates worry that ISPs could erect internet "toll booths" while ignoring the 30% toll that Apple charges app developers for the privilege of offering their products and services to consumers who use Apple devices. They worry that ISPs could silence a critical blogger while supporting a law that encourages Google and others to censor legal content without consequence. They worry that ISPs could make it harder for a new social network to reach the market while ignoring the fact that Google and Apple won't let social network Gab into their app stores. While net neutrality advocates were busy fretting about ISPs, monopolistic ad platforms have sucked most of the internet's value from consumers and content creators — and they've done it using the same practices that net neutrality advocates denounce. Democrats' ISP-focused net neutrality rules are hopelessly ill-suited to such a task. They can't ensure a free flow of information on the internet."

▶ Fred Campbell, "**Maybe We Should 'End the Internet as We Know It'**," *Forbes*, October 2, 2017

Jamal Simmons, Internet Innovation Alliance Co-Chairman

"Congress should be able to work together to find a solution to a problem that impacts business executives and consumers of both political parties... Internet Service Providers agree there should not be throttling of speeds or blocking of content. Consumers want the benefits of more applications and choices that come from innovative companies and a regulatory landscape that protects users and startups from anti-competitive practices."

▶ Jamal Simmons, "**It's Time to Pass A Bill That Protects the Internet**," *The Hill*, May 18, 2017

Mike Montgomery, CALInnovates Executive Director

"Since 2005, here's the scorecard: three attempts by the Federal Communications Commission (FCC) to implement net neutrality rules, two reversals, endless litigation and a whole lot of outrage by interest groups and think tanks on all sides of the issue that rely on perpetual conflict to fundraise... This endless loop is not doing most stakeholders any good; not the small businesses that net neutrality is designed to protect from being relegated to slow lanes, nor the consumers who want the new services and ever-increasing internet speeds that innovation and investment create...."

▶ Mike Montgomery, "**End the Policy Ping-Pong, Cement Net Neutrality into Law**," *The Hill*, August 28, 2017

FCC'S PREEMPTION OF STATE REGULATION OF THE INTERNET

State or local legislation that seeks to impose on providers of broadband internet access service common carrier-style regulation from the FCC's 2015 *Title II Order* is preempted by the Communications Act and the federal policy of light-touch regulation of such services. In the 2018 *Restoring Internet Freedom Order*, the FCC exercised its well-recognized authority to preempt inconsistent state regulations and expressly preempted all state laws and regulations that interfere with its pro-competitive and light-touch approach to regulating broadband internet access service. This is a proper exercise of its authority that has been upheld in closely analogous circumstances.

Preemption is also compelled by the Communications Act itself. The *Restoring Internet Freedom Order* restored the historical classification of mass-market retail broadband internet access services as "information services" and mobile services as a "private mobile service" — classifications that for similar services have been upheld by courts including the United States Supreme Court. The Communications Act expressly forecloses common carrier-style regulation of providers of information service and private mobile services, such as prohibitions on blocking, throttling, paid prioritization, and the internet conduct standard.

In The 2018 Restoring Internet Freedom Order, The FCC Expressly Preempted State Laws That Interfere With Its Policy Of Light-Touch Broadband Regulation

In the *Restoring Internet Freedom Order*, the FCC concluded that "regulation of broadband internet access service should be governed principally by a uniform set of federal regulations, rather than by a patchwork that includes separate state and local requirements." *Id.* ¶ 194. The FCC expressly preempted state and local regulation that interferes with its pro-competitive and light-touch policy regarding broadband regulation.

- In the *Restoring Internet Freedom Order*, the FCC established a "calibrated federal regulatory regime based on the pro-competitive, deregulatory goals of the 1996 [Telecommunications] Act." *Id.* ¶ 194. The FCC preempted any state regulation that would "disrupt the balance" or "interfere with the federal deregulatory policy" in the *Restoring Internet Freedom Order*. *Id.* ¶¶ 194, 196.
- The FCC specifically preempted "any state or local measures that would effectively impose rules or requirements that we have repealed or decided to refrain from imposing," or that would "impose more stringent requirements for any aspect of broadband service" addressed by the *Restoring Internet Freedom Order*. *Id.* ¶ 195. This includes "economic" or "public utility-type" regulations akin to common carrier requirements imposed by Title II of the Communications Act. *Id.*
- Although the FCC did not consider it necessary to disturb states' "traditional role in generally policing such matters as fraud, taxation, and general commercial dealings," it indicated that such laws would be preempted to the extent that they "interfere[d] with federal regulatory objectives." *Id.* ¶ 196.

Courts Have Long Recognized The FCC's Power To Preempt State Laws, Including Laws That Interfere With A Policy Of Light Touch Regulation

The FCC's authority to preempt state regulation is well established and widely recognized. In the *Restoring Internet Freedom Order*, the FCC properly exercised that authority to preempt state regulation that interferes with its pro-competitive and light-touch approach to regulating broadband internet access service.

- Courts have long recognized the FCC, like all federal agencies, has broad authority to preempt state laws that conflict with its regulations, and to “determine that its authority is exclusive and preempt[] any state efforts to regulate in the forbidden area.” *City of New York v. FCC*, 486 U.S. 57, 64 (1988). The FCC may use this power to preempt laws that interfere with its policy. See *Minn. Pub. Utils. Comm'n v. FCC*, 483 F.3d 570, 580-81 (8th Cir. 2007) (“Competition and deregulation are valid federal interests the FCC may protect through preemption of state regulation.”).
- The FCC has exclusive jurisdiction over interstate communications, and the authority to preempt state regulation of such communications. See 47 U.S.C. § 152; *La. Pub. Serv. Comm'n v. FCC*, 476 U.S. 355, 368 (1986). And the FCC has repeatedly held, under both Democratic and Republican control, that internet service is an interstate communications service. See *Restoring Internet Freedom Order* ¶ 199 & n.739.
- Courts have upheld prior FCC decisions preempting state regulation of jurisdictionally interstate internet services, such as Voice over Internet Protocol, where the FCC similarly adopted a federal policy of non-regulation and identified the need for “sole regulatory control.” *Vonage Holdings Corp. v. Nebraska Pub. Utils. Comm'n*, 564 F.3d 900, 905 (8th Cir. 2009); *Minn. Pub. Utils. Comm'n v. FCC*, 483 F.3d 570, 580-81 (8th Cir. 2007) (“any state regulation of an information service conflicts with the federal policy of noregulation”); see also *California v. FCC*, 39 F.3d 919, 932-33 (9th Cir. 1994).
- The FCC's preemption determination in the *Restoring Internet Freedom Order* is well within the scope of its authority, and is sure to be upheld under the deferential standard that reviewing courts apply. Those courts “should not disturb” the FCC's decision where, as here, it “represents a reasonable accommodation of conflicting policies that were committed to the agency's care by the statute.” *City of New York*, 486 U.S. at 64.

States Cannot Impose Common Carrier Regulations On Information Services Or Mobile Broadband Services

Even aside from the FCC's express statements, the FCC's classification of mass-market broadband internet access service as an “information service” and a “private mobile service” itself preempts states from imposing the 2015 *Title II Order* requirements on any provider of broadband internet access service.

- Under the Communications Act, providers of interstate communications can be subjected to common-carrier regulation only to the extent that they are providing

telecommunications services. *See Verizon v. FCC*, 740 F.3d 623, 650 (D.C. Cir. 2014). Providers of “information services” cannot be required to operate as common carriers. *See id.*

- The Communications Act also expressly protects providers of private mobile services from common carrier obligations. *See Verizon*, 740 F.3d at 650; 47 U.S.C. § 332(c)(2).
- In the *Restoring Internet Freedom Order*, the FCC returned mass-market retail internet service to its historical classifications as an “information service.” *Restoring Internet Freedom Order* ¶¶ 20, 26-64. The *Restoring Internet Freedom Order* also returned mass-market mobile internet services to its historical classification as a private mobile service. *Id.* ¶¶ 65-85.
- The FCC had already held, in a series of orders issued from 2002 through 2007, and affirmed by the courts, including the Supreme Court, that all other broadband internet access service — including services sold to enterprise, institutional, and government customers — is an information service and private mobile service. *See, e.g. Nat’l Cable & Telecommunications Ass’n v. Brand X Internet Servs.*, 545 U.S. 967, 997 (2005); *Time Warner Telecom, Inc. v. FCC*, 507 F.3d 205, 220 (3d Cir. 2007).
- The result of these classifications is that nobody — not the FCC and not the states — can impose common carrier requirements on providers of any broadband internet access service.
- The prohibitions on blocking, throttling, and paid prioritization as well as the internet conduct standard the FCC adopted in its 2015 *Open Internet Order* are all common carrier requirements. *Verizon*, 740 F.3d at 655-56.
- Therefore, the Communications Act preempts any state attempt to impose such requirements on broadband internet access providers, which cannot be compelled to operate under common-carrier obligations.

State and Local Efforts to Regulate an Open Internet are Unnecessary and May Curb State Broadband Investment

The Internet Remains Open and Free – Consumer Protections Remain in Place

Q: Why is the Federal Communications Commission (FCC) decision to rollback regulation positive for consumers and the internet ecosystem?

A: The FCC restored the light-touch regulatory framework that allowed the internet to grow and thrive from 1996-2015. They reversed the decision to regulate the internet under the old public utility laws – written over 80 years ago for the analog-age and monopoly telephone service. These rules included regulatory reporting requirements that overwhelmed small internet service providers, reduced their investment capabilities and hindered their ability to bring new and exciting services to their customers. They also give too much power to unelected federal bureaucrats who want to control how the internet operates. That means less freedom for consumers and innovators. No one wants the Internet to be run like their local water or electric company.

Q. How will consumers be impacted?

A. Consumers will see no negative changes to how their internet works. To the contrary, under the restored rules, consumers can expect to see **more** investment in broadband and more innovative services, reversing the adverse effect of the previous rules. There's overwhelming evidence the FCC's 2015 rules slowed broadband deployment nationwide, especially in rural and underserved communities:

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▸ David Balto, "**What John Oliver Won't Tell You About Net Neutrality**," *The Hill*, May 5, 2017

Katie McAuliffe, Digital Liberty Executive Director & Americans for Tax Reform Federal Affairs Manager

"The truth is that Title II and net neutrality are two different things. Title II deals with economics, investment, and micromanagement of business operations. Net neutrality deals with traffic flow, transparency, and basic principles of openness and non-discrimination. The FCC enacted net neutrality rules without Title II in the past, and Congress considered net neutrality laws having nothing to do with Title II as well."

"Title II is not the answer. Antitrust laws address many of the concerns about Internet openness and transparency already. The FCC must complete its work undoing the mess of Title II as quickly as possible. Congressional action to stop this endless game of pong is the best path forward."

▸ Katie McAuliffe, **"The FCC Must Get Rid of Archaic Internet Regulations to Unleash the Modern Digital Economy,"** *Daily Caller*, November 15, 2017

Adonis Hoffman, Business in the Public Interest Chairman

"Harking back to the Clinton and George W. Bush years, the principle of light touch regulation seems to have worked well for the stability and growth of the internet. Although recently unpopular, this seems to be a commercially reasonable position that encourages more investment in broadband, while attending to consumer demands. And yet, the simple rationality of the argument has been drowned out by the clarion calls to resist any changes to the rules."

▸ Adonis Hoffman, **"There is a Middle Ground in the Net Neutrality Debate,"** *The Hill*, May 15, 2017

Michael Mandel, Progressive Policy Institute Chief Economic Strategist

"As we have said before, the Internet was thriving under the light-touch regulatory regime that preceded Title II. Indeed, government data shows that the telecom industry was one of the top contributors to US productivity growth from 2000 to 2014, before Title II was put in place. Our belief is that the economy could be entering into a renewed period of productivity growth, propelled by the application of digital technology to the physical industries (see The Coming Productivity Boom). That transition would have been much more difficult under the antiquated regulatory structure that comes with Title II."

▸ Michael Mandel, **"Open Internet: Time for Congress to Act,"** *Progressive Policy Institute*, May 18, 2017

Fred Campbell, TechKnowledge Director

"Net neutrality advocates worry that ISPs could erect internet "toll booths" while ignoring the 30% toll that Apple charges app developers for the privilege of offering their products and services to consumers who use Apple devices. They worry that ISPs could silence a critical blogger while supporting a law that encourages Google and others to censor legal content without consequence. They worry that ISPs could make it harder for a new social network to reach the market while ignoring the fact that Google and Apple won't let social network Gab into their app stores. While net neutrality advocates were busy fretting about ISPs, monopolistic ad platforms have sucked most of the internet's value from consumers and content creators — and they've done it using the same practices that net neutrality advocates denounce. Democrats' ISP-focused net neutrality rules are hopelessly ill-suited to such a task. They can't ensure a free flow of information on the internet."

▸ Fred Campbell, **"Maybe We Should 'End the Internet as We Know It',"** *Forbes*, October 2, 2017

Jamal Simmons, Internet Innovation Alliance Co-Chairman

"Congress should be able to work together to find a solution to a problem that impacts business executives and consumers of both political parties... Internet Service Providers agree there should not be throttling of speeds or blocking of content. Consumers want the benefits of more applications and choices that come from innovative companies and a regulatory landscape that protects users and startups from anti-competitive practices."

▸ Jamal Simmons, **"It's Time to Pass A Bill That Protects the Internet,"** *The Hill*, May 18, 2017

Mike Montgomery, CALInnovates Executive Director

"Since 2005, here's the scorecard: three attempts by the Federal Communications Commission (FCC) to implement net neutrality rules, two reversals, endless litigation and a whole lot of outrage by interest groups and think tanks on all sides of the issue that rely on perpetual conflict to fundraise... This endless loop is not doing most stakeholders any good; not the small businesses that net neutrality is designed to protect from being relegated to slow lanes, nor the consumers who want the new services and ever-increasing internet speeds that innovation and investment create...."

▸ Mike Montgomery, **"End the Policy Ping-Pong, Cement Net Neutrality into Law,"** *The Hill*, August 28, 2017

FCC'S PREEMPTION OF STATE REGULATION OF THE INTERNET

State or local legislation that seeks to impose on providers of broadband internet access service common carrier-style regulation from the FCC's 2015 *Title II Order* is preempted by the Communications Act and the federal policy of light-touch regulation of such services. In the 2018 *Restoring Internet Freedom Order*, the FCC exercised its well-recognized authority to preempt inconsistent state regulations and expressly preempted all state laws and regulations that interfere with its pro-competitive and light-touch approach to regulating broadband internet access service. This is a proper exercise of its authority that has been upheld in closely analogous circumstances.

Preemption is also compelled by the Communications Act itself. The *Restoring Internet Freedom Order* restored the historical classification of mass-market retail broadband internet access services as "information services" and mobile services as a "private mobile service" — classifications that for similar services have been upheld by courts including the United States Supreme Court. The Communications Act expressly forecloses common carrier-style regulation of providers of information service and private mobile services, such as prohibitions on blocking, throttling, paid prioritization, and the internet conduct standard.

In The 2018 Restoring Internet Freedom Order, The FCC Expressly Preempted State Laws That Interfere With Its Policy Of Light-Touch Broadband Regulation

In the *Restoring Internet Freedom Order*, the FCC concluded that "regulation of broadband internet access service should be governed principally by a uniform set of federal regulations, rather than by a patchwork that includes separate state and local requirements." *Id.* ¶ 194. The FCC expressly preempted state and local regulation that interferes with its pro-competitive and light-touch policy regarding broadband regulation.

- In the *Restoring Internet Freedom Order*, the FCC established a "calibrated federal regulatory regime based on the pro-competitive, deregulatory goals of the 1996 [Telecommunications] Act." *Id.* ¶ 194. The FCC preempted any state regulation that would "disrupt the balance" or "interfere with the federal deregulatory policy" in the *Restoring Internet Freedom Order*. *Id.* ¶¶ 194, 196.
- The FCC specifically preempted "any state or local measures that would effectively impose rules or requirements that we have repealed or decided to refrain from imposing," or that would "impose more stringent requirements for any aspect of broadband service" addressed by the *Restoring Internet Freedom Order*. *Id.* ¶ 195. This includes "economic" or "public utility-type" regulations akin to common carrier requirements imposed by Title II of the Communications Act. *Id.*
- Although the FCC did not consider it necessary to disturb states' "traditional role in generally policing such matters as fraud, taxation, and general commercial dealings," it indicated that such laws would be preempted to the extent that they "interfere[d] with federal regulatory objectives." *Id.* ¶ 196.

Courts Have Long Recognized The FCC's Power To Preempt State Laws, Including Laws That Interfere With A Policy Of Light Touch Regulation

The FCC's authority to preempt state regulation is well established and widely recognized. In the *Restoring Internet Freedom Order*, the FCC properly exercised that authority to preempt state regulation that interferes with its pro-competitive and light-touch approach to regulating broadband internet access service.

- Courts have long recognized the FCC, like all federal agencies, has broad authority to preempt state laws that conflict with its regulations, and to “determine that its authority is exclusive and preempt[] any state efforts to regulate in the forbidden area.” *City of New York v. FCC*, 486 U.S. 57, 64 (1988). The FCC may use this power to preempt laws that interfere with its policy. See *Minn. Pub. Utils. Comm'n v. FCC*, 483 F.3d 570, 580-81 (8th Cir. 2007) (“Competition and deregulation are valid federal interests the FCC may protect through preemption of state regulation.”).
- The FCC has exclusive jurisdiction over interstate communications, and the authority to preempt state regulation of such communications. See 47 U.S.C. § 152; *La. Pub. Serv. Comm'n v. FCC*, 476 U.S. 355, 368 (1986). And the FCC has repeatedly held, under both Democratic and Republican control, that internet service is an interstate communications service. See *Restoring Internet Freedom Order* ¶ 199 & n.739.
- Courts have upheld prior FCC decisions preempting state regulation of jurisdictionally interstate internet services, such as Voice over Internet Protocol, where the FCC similarly adopted a federal policy of non-regulation and identified the need for “sole regulatory control.” *Vonage Holdings Corp. v. Nebraska Pub. Utils. Comm'n*, 564 F.3d 900, 905 (8th Cir. 2009); *Minn. Pub. Utils. Comm'n v. FCC*, 483 F.3d 570, 580-81 (8th Cir. 2007) (“any state regulation of an information service conflicts with the federal policy of noregulation”); see also *California v. FCC*, 39 F.3d 919, 932-33 (9th Cir. 1994).
- The FCC's preemption determination in the *Restoring Internet Freedom Order* is well within the scope of its authority, and is sure to be upheld under the deferential standard that reviewing courts apply. Those courts “should not disturb” the FCC's decision where, as here, it “represents a reasonable accommodation of conflicting policies that were committed to the agency's care by the statute.” *City of New York*, 486 U.S. at 64.

States Cannot Impose Common Carrier Regulations On Information Services Or Mobile Broadband Services

Even aside from the FCC's express statements, the FCC's classification of mass-market broadband internet access service as an “information service” and a “private mobile service” itself preempts states from imposing the 2015 *Title II Order* requirements on any provider of broadband internet access service.

- Under the Communications Act, providers of interstate communications can be subjected to common-carrier regulation only to the extent that they are providing

telecommunications services. *See Verizon v. FCC*, 740 F.3d 623, 650 (D.C. Cir. 2014). Providers of “information services” cannot be required to operate as common carriers. *See id.*

- The Communications Act also expressly protects providers of private mobile services from common carrier obligations. *See Verizon*, 740 F.3d at 650; 47 U.S.C. § 332(c)(2).
- In the *Restoring Internet Freedom Order*, the FCC returned mass-market retail internet service to its historical classifications as an “information service.” *Restoring Internet Freedom Order* ¶¶ 20, 26-64. The *Restoring Internet Freedom Order* also returned mass-market mobile internet services to its historical classification as a private mobile service. *Id.* ¶¶ 65-85.
- The FCC had already held, in a series of orders issued from 2002 through 2007, and affirmed by the courts, including the Supreme Court, that all other broadband internet access service — including services sold to enterprise, institutional, and government customers — is an information service and private mobile service. *See, e.g. Nat’l Cable & Telecommunications Ass’n v. Brand X Internet Servs.*, 545 U.S. 967, 997 (2005); *Time Warner Telecom, Inc. v. FCC*, 507 F.3d 205, 220 (3d Cir. 2007).
- The result of these classifications is that nobody — not the FCC and not the states — can impose common carrier requirements on providers of any broadband internet access service.
- The prohibitions on blocking, throttling, and paid prioritization as well as the internet conduct standard the FCC adopted in its 2015 *Open Internet Order* are all common carrier requirements. *Verizon*, 740 F.3d at 655-56.
- Therefore, the Communications Act preempts any state attempt to impose such requirements on broadband internet access providers, which cannot be compelled to operate under common-carrier obligations.



February 7, 2018

Honorable Sam Kito
Chair, Labor and Commerce
Alaska State Capitol
Room 403
Juneau, AK 99801

Honorable Adam Wool
Vice Chair, Labor and Commerce
Alaska State Capitol
Room 412
Juneau, AK 99801

RE: Opposition House Bill 277 – Broadband Internet: Neutrality/Regulation

Committee Chair Kito and Vice-Chair Wool:

On behalf of Alaska Communications, please accept this letter of opposition regarding House Bill 277 – Broadband Internet: Neutrality/Regulation -- a bill that proposes to regulate internet service providers at the state level to ensure a free and open internet. While history has shown that the internet will remain free and open even without regulation, Alaska Communications supports appropriately tailored federal legislation to ensure internet openness and to end the uncertainty from over a decade of FCC rule changes. The nature of the internet is inherently interstate, a web of interconnected networks that spans across state, and even national borders. Accordingly, any such legislation must be adopted by Congress to ensure a consistent approach across all states. Alaska should urge its congressional delegation to craft federal open internet legislation.

Alaska Communications offers broadband service in an open and transparent way:

- We do not block websites.
- We do not censor online content.
- We do not throttle or degrade internet traffic based on content.
- We do not unfairly discriminate in our transmission of internet traffic.

These commitments are published on our website and readily available for consumers to review.

In addition to making these commitments, Alaska Communications supports a legislative solution in Congress that would make these core consumer protections permanent, while preserving incentives to invest and innovate. Congressional action ensures uniformity of the rules that regulate the internet. Attempts by individual states to pass disparate legislation can result in a patchwork of possibly inconsistent state laws. Instead, we need strong and permanent rules across the internet ecosystem to help create a stable regulatory environment that encourages investment in next generation technologies and the delivery of innovative services.



Alaska Communications fully supports Congress adopting basic rules to permanently ensure that the internet remains an open and flourishing platform for all users. That action needs to be taken by Congress, so that consumers can expect and rely on rules that will stand up to the changes of political winds and elections of new administrations.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Leonard Steinberg', written over the typed name and title.

Leonard Steinberg
Senior Vice President, Legal, Regulatory and Government Affairs
Alaska Communications



Published on *Christian Coalition* (<http://www.cc.org>)

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Fast Facts for Conservatives on Net Neutrality

- Since its birth, the Internet has existed on phone lines which were covered under what are known as "common carrier" regulations, (or "Net Neutrality"), which prevented discrimination by network providers based on content or where a call originated. This principle carried over to the Internet and helped make it a dynamic engine for free expression and economic growth.
- In recent months, the Federal Communications Commission (FCC) lifted "net neutrality" regulations off of the Internet, leaving the issue up to Congress to decide. It is currently being debated as part of pending telecommunications legislation.
- **"Net neutrality" policies helped create the most free and fair marketplace in history**, allowing consumers to choose the winners and losers in a competitive marketplace. This resulted in the best ideas, products and services rising to top.
- **Unless Congress acts, it will change drastically - for the worse.** The new regulations will leave consumers with less choice and our economy with less innovation and competition. Without equality of access, such innovation would be diminished at best, or perhaps even begin to move to competing countries in the world economy.
- The new FCC regulations set the cable and phone companies up to become the equivalent of the mafia to the Internet. Today, consumers dictate the evolution of the Internet. **Under the new regulations, cable and phone companies will be making the decisions.** And their decisions will not be made based on quality, but rather on who pays the most "protection money" to be protected from the competition of a truly free marketplace.
- **The Internet currently provides a megaphone for political expression** by virtue of the fact that every site, no matter how obscure, is just as accessible to every individual as any site with a multi-million dollar budget. Every American has the opportunity to create their own site and say what they want to the entire world.

- Conservatives had made many gains in recent years thanks to the power of the Internet. In terms of organization, it has become an indispensable tool. In political communications, it allows us to finally bypass the liberal media and to get our message out more effectively. **These gains must be preserved!**
- Under the new rules, **there is nothing to stop the cable and phone companies from now allowing consumers to have access to speech that they don't support.** What if a cable company with a pro-choice Board of Directors decides that it doesn't like a pro-life organization using its high speed network to encourage pro-life activities? Under the new rules, this could happen - **and it would be legal!**
- Allowing Internet service providers to control what people see and do online would fundamentally undermine the principles that have made the Internet such a success. But such things have already begun to happen. For Example:
 - In 2004, North Carolina ISP Madison River blocked their DSL customers from using any rival web-based phone service (like Vonage, Skype, etc.).
 - In 2005, Canada's telephone giant Telus blocked customers from visiting a website sympathetic to the Telecommunications Workers Union during a labor dispute.
 - In April, Time Warner's AOL blocked all emails that mentioned **www.dearaol.com** ^[1] - and advocacy campaign opposing the company's pay-to-send email plan.
- In a time when there is an increasing need to connect citizens with their political system, the Internet has begun to play this role in a big way. Now Congress is on the verge of allowing that newfound energy to be diminished.
- Given that most Americans have just one (or at most, two) companies through which they can get broadband access, the free market principle of competition for consumer dollars doesn't enter the picture, just like the old "Ma-Bell" monopoly. Much like the trade-off involved in allowing a telephone monopoly was that the company had to provide equality of service, so too should it be with the Internet duopoly.
- Consumers that are already paying monthly fees for broadband access will soon find out they don't actually have what they thought they were paying for. **Americans won't have broadband access to the entire Internet, just the part that the cable and phone companies allow them to see.**
- Politicians that are sitting idle and empowering cable and phone monopolies to have power over what consumers can see on the Internet are some of the same politicians that would criticize countries such as China for not allowing its citizens to be exposed to the free market of ideas represented on the web.
- Congress has wisely decided many times in the past to avoid stunting the growth of the Internet via new taxation. **They should follow the same logic in this case and not allow the cable and phone companies to stunt its growth with new fees and content based discrimination.** In the end, the losers will be consumers, businesses and those who use the Internet for political expression.

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[1] <http://www.dearaol.com/>