

[DISCUSSION DRAFT]114TH CONGRESS
1ST SESSION**H. R. _____**

To amend the Communications Act of 1934 to ensure Internet openness, to prohibit blocking lawful content and non-harmful devices, to prohibit throttling data, to prohibit paid prioritization, to require transparency of network management practices, to provide that broadband shall be considered to be an information service, and to prohibit the Commission or a State commission from relying on section 706 of the Telecommunications Act of 1996 as a grant of authority.

IN THE HOUSE OF REPRESENTATIVES

M __. _____ introduced the following bill; which was referred to the
Committee on _____

A BILL

To amend the Communications Act of 1934 to ensure Internet openness, to prohibit blocking lawful content and non-harmful devices, to prohibit throttling data, to prohibit paid prioritization, to require transparency of network management practices, to provide that broadband shall be considered to be an information service, and to prohibit the Commission or a State commission from relying on section 706 of the Telecommunications Act of 1996 as a grant of authority.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. INTERNET OPENNESS.**

4 Title I of the Communications Act of 1934 (47
5 U.S.C. 151 et seq.) is amended by adding at the end the
6 following:

7 **“SEC. 13. INTERNET OPENNESS.**

8 “(a) OBLIGATIONS OF BROADBAND INTERNET AC-
9 CESS SERVICE PROVIDERS.—A person engaged in the pro-
10 vision of broadband Internet access service, insofar as
11 such person is so engaged—

12 “(1) may not block lawful content, applications,
13 or services, subject to reasonable network manage-
14 ment;

15 “(2) may not prohibit the use of non-harmful
16 devices, subject to reasonable network management;

17 “(3) may not throttle lawful traffic by selec-
18 tively slowing, speeding, degrading, or enhancing
19 Internet traffic based on source, destination, or con-
20 tent, subject to reasonable network management;

21 “(4) may not engage in paid prioritization; and

22 “(5) shall publicly disclose accurate and rel-
23 evant information in plain language regarding the
24 network management practices, performance, and
25 commercial terms of its broadband Internet access

1 services sufficient for consumers to make informed
2 choices regarding use of such services and for con-
3 tent, application, service, and device providers to de-
4 velop, market, and maintain Internet offerings, ex-
5 cept that a provider is not required to publicly dis-
6 close competitively sensitive information or informa-
7 tion that could compromise network security or un-
8 dermine the efficacy of reasonable network manage-
9 ment practices.

10 “(b) COMMISSION AUTHORITY.—

11 “(1) IN GENERAL.—The Commission shall en-
12 force the obligations established in subsection (a)
13 through adjudication of complaints alleging viola-
14 tions of such subsection but may not expand the
15 Internet openness obligations for provision of
16 broadband Internet access service beyond the obliga-
17 tions established in such subsection, whether by
18 rulemaking or otherwise.

19 “(2) FORMAL COMPLAINT PROCEDURES.—Not
20 later than 60 days after the date of the enactment
21 of this section, the Commission shall adopt formal
22 complaint procedures to address alleged violations of
23 subsection (a).

24 “(c) OTHER LAWS AND CONSIDERATIONS.—Nothing
25 in this section—

1 “(1) supersedes any obligation or authorization
2 a provider of broadband Internet access service may
3 have to address the needs of emergency communica-
4 tions or law enforcement, public safety, or national
5 security authorities, consistent with or as permitted
6 by applicable law, or limits the provider’s ability to
7 do so; or

8 “(2) prohibits reasonable efforts by a provider
9 of broadband Internet access service to address
10 copyright infringement or other unlawful activity.

11 “(d) CONSUMER CHOICE.—

12 “(1) IN GENERAL.—Nothing in this section
13 shall be construed to limit consumers’ choice of serv-
14 ice plans or consumers’ control over their chosen
15 broadband Internet access service or, except as pro-
16 vided in paragraph (2), the ability of broadband
17 Internet access service providers to offer specialized
18 services.

19 “(2) PROHIBITION ON CERTAIN PRACTICES RE-
20 GARDING SPECIALIZED SERVICES.—Specialized serv-
21 ices may not be offered or provided in ways that
22 threaten the meaningful availability of broadband
23 Internet access service or that have been devised or
24 promoted in a manner designed to evade the pur-
25 poses of this section.

1 “(e) BROADBAND TO BE CONSIDERED INFORMATION
2 SERVICE.—Notwithstanding any other provision of law,
3 the provision of broadband Internet access service or any
4 other mass market retail service providing advanced tele-
5 communications capability (as defined in section 706 of
6 the Telecommunications Act of 1996 (47 U.S.C. 1302))
7 shall be considered to be an information service.

8 “(f) REASONABLE NETWORK MANAGEMENT.—For
9 purposes of subsection (a), a network management prac-
10 tice is reasonable if it is appropriate and tailored to achiev-
11 ing a legitimate network management purpose, taking into
12 account the particular network architecture and any tech-
13 nology and operational limitations of the broadband Inter-
14 net access service provider.

15 “(g) DEFINITIONS.—In this section:

16 “(1) BROADBAND INTERNET ACCESS SERV-
17 ICE.—The term ‘broadband Internet access service’
18 means a mass market retail service by wire or radio
19 that provides the capability to transmit data to and
20 receive data from all or substantially all Internet
21 endpoints, including any capabilities that are inci-
22 dental to and enable the operation of the commu-
23 nications service, but excluding dial-up Internet ac-
24 cess. Such term also encompasses any service that
25 the Commission finds to be providing a functional

1 equivalent of the service described in the previous
2 sentence, or that is used to evade the obligations set
3 forth in subsection (a).

4 “(2) PAID PRIORITIZATION.—The term ‘paid
5 prioritization’ means the speeding up or slowing
6 down of some Internet traffic in relation to other
7 Internet traffic over the consumer’s broadband
8 Internet access service by prioritizing or
9 deprioritizing packets based on compensation or lack
10 thereof by the sender to the broadband Internet ac-
11 cess service provider.

12 “(3) SPECIALIZED SERVICES.—The term ‘spe-
13 cialized services’ means services other than
14 broadband Internet access service that are offered
15 over the same network as, and that may share net-
16 work capacity with, broadband Internet access serv-
17 ice.”.

18 **SEC. 2. AUTHORITY UNDER SECTION 706 OF THE TELE-**
19 **COMMUNICATIONS ACT OF 1996.**

20 (a) IN GENERAL.—Section 706 of the Telecommuni-
21 cations Act of 1996 (47 U.S.C. 1302) is amended—

22 (1) by redesignating subsection (d) as sub-
23 section (e); and

24 (2) by inserting after subsection (c) the fol-
25 lowing:

1 “(d) NO GRANT OF AUTHORITY.—The Commission
2 or a State commission with regulatory jurisdiction over
3 telecommunications services may not rely on this section
4 as a grant of authority.”.

5 (b) TECHNICAL CORRECTIONS.—Section 706 of the
6 Telecommunications Act of 1996 (47 U.S.C. 1302) is fur-
7 ther amended—

8 (1) in subsection (c), by striking “(as defined”
9 and all that follows through “note))”; and

10 (2) in subsection (e), as redesignated, in the
11 matter preceding paragraph (1), by striking “sub-
12 section” and inserting “section”.