

PRESERVING A FREE AND OPEN INTERNET

WHEREAS, Since its inception, the Internet has existed based on principles of freedom and openness, core values that have made it the most powerful communication medium ever known; and

WHEREAS, The FCC is currently debating how to enshrine these Open Internet Principles into 21st century regulation; and

WHEREAS, the U.S. Court of Appeals in Washington, D.C. in 2010 determined that the long-observed Open Internet Principles of nondiscrimination, nonblocking, and transparency, described below, should not be declared in an FCC Policy Statement, but instead should be enshrined in a formal rulemaking seeking to reinstate those principles; and

WHEREAS, the FCC issued its Open Internet Order, reinstating these rules for preserving a free and open internet, on December 23, 2010, formalizing the three basic protections: transparency, no blocking of lawful content and no unreasonable discrimination of network traffic; and these rules were made effective November 20, 2011; and

WHEREAS, these rules enshrine the values of what is commonly referred to as net neutrality; and

WHEREAS, the first principle of the Open Internet Order states that fixed and mobile broadband providers must publicly disclose accurate information regarding network management practices, performance characteristics, and commercial terms of their broadband services; and

WHEREAS, the second principle states that fixed broadband providers may not block lawful content, applications, services, or non-harmful devices; mobile broadband providers may not block lawful websites, or block applications that compete with their voice or video telephony services; and

WHEREAS, the third principle states that unreasonable discrimination shall not be permitted, that fixed broadband providers may not unreasonably discriminate in transmitting lawful network traffic; and

WHEREAS, these principles, applied with the complementary principle of reasonable network management, guarantee that the freedom and openness that previously enabled the internet to flourish as an engine for creativity and commerce under the protection of the original policy statement will continue, providing greater certainty and predictability to citizens, consumers, innovators, investors, and broadband providers, while retaining the flexibility providers need to effectively manage their networks; and

WHEREAS, since the beginning of the internet, broadband internet access services have continued to invest in a single infrastructure which has increased average speeds for all users across our nation, without resorting to the practice of prioritization for users who can afford to pay the most; and

WHEREAS, online companies, or edge providers, have also invested in new innovative products and services that have driven economic growth and consumer demand for improved internet services and faster speeds from broadband internet access providers; and

WHEREAS, the dual investment of broadband Internet access service providers and edge providers has fostered a virtuous cycle of investment and innovation online; and

WHEREAS, two key rules of the three rules comprising the Open Internet Order, one pertaining to no blocking and another pertaining to no unreasonable discrimination, were again vacated on January 14, 2014 by the U.S. Court of Appeals in Washington, D.C. in the Verizon Communications Inc. v. Federal Communications Commission (2014), ruling that the FCC has no authority to enforce these rules; and

WHEREAS, the FCC on May 15, 2014, voted 3-2 to open the process of public comment on their proposed net neutrality rules that could in some circumstances allow paid prioritization of internet traffic based on a commercially reasonable standard; and

WHEREAS, paid prioritization under a commercially reasonable standard allows paid prioritization that has heretofore been understood to be unjust and unreasonable; and

WHEREAS, unreasonable paid prioritization is antithetical to a neutral Internet, and nondiscrimination is an inherent and indivisible characteristic of net neutrality; and

WHEREAS, all data on the Internet should be treated equally, not discriminating or charging differentially by user, content, site, platform, application, type of attached equipment, and modes of communication; and

WHEREAS, innovation relies on a free and open Internet that does not allow individual arrangements for priority treatment over broadband Internet access service; and

WHEREAS, preventing access to any lawful websites, slowing speeds for services, or redirecting users from one website to a competing website creates asymmetrical access which is antithetical to an Open Internet; and

WHEREAS, startups are the engine of an innovation economy, yet may not have the cash flow to pay for paid prioritization, and will therefore be unable to compete with large companies to deliver content to customers, impeding startup growth, thus limiting economic development and the creation of jobs; now

THEREFORE, BE IT RESOLVED, that the US Conference of Mayors supports a free and open internet as outlined in the FCC's original Open Internet Order; and

BE IT FURTHER RESOLVED, that the US Conference of Mayors supports comprehensive nondiscrimination as a key principle for any FCC rulemaking; and

BE IT FURTHER RESOLVED, that the US Conference of Mayors supports securing a commitment to transparency and the free flow of information over the internet, including no blocking of lawful websites and no unreasonable discrimination of lawful network traffic; and

BE IT FURTHER RESOLVED, that the US Conference of Mayors calls on the White House to offer their support of these principles; and

BE IT FURTHER RESOLVED, that the US Conference of Mayors calls on Congress to offer their support of these principles and if necessary use their lawmaking power to enshrine access to a free and open Internet and give the FCC a clear mandate.

BE IT FURTHER RESOLVED, that the US Conference of Mayors recommends that the FCC preempt state barriers to municipal broadband service as a significant limitation to competition in the provision of Internet access.