

**AMENDMENT TO H.R. 1644**  
**OFFERED BY M**\_\_ . \_\_\_\_\_

Page 1, beginning on line 6, strike “**SEC. 2. RESTORATION**” and all that follows through the end of the bill and insert the following:

1 **SEC. 2. INTERNET OPENNESS.**

2 (a) OBLIGATIONS OF BROADBAND INTERNET ACCESS  
3 SERVICE PROVIDERS.—A person engaged in the provision  
4 of broadband internet access service, insofar as such per-  
5 son is so engaged—

6 (1) may not block lawful content, applications,  
7 or services, subject to reasonable network manage-  
8 ment;

9 (2) may not prohibit the use of non-harmful de-  
10 vices, subject to reasonable network management;

11 (3) may not throttle lawful traffic by selectively  
12 slowing, speeding, degrading, or enhancing internet  
13 traffic based on source, destination, or content, sub-  
14 ject to reasonable network management;

15 (4) may not engage in paid prioritization; and

16 (5) shall publicly disclose accurate and relevant  
17 information in plain language regarding the network  
18 management practices, performance, and commercial

1 terms of its broadband internet access services suffi-  
2 cient for consumers to make informed choices re-  
3 garding use of such services and for content, appli-  
4 cation, service, and device providers to develop, mar-  
5 ket, and maintain internet offerings, except that a  
6 provider is not required to publicly disclose competi-  
7 tively sensitive information or information that could  
8 compromise network security or undermine the effi-  
9 cacy of reasonable network management 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 Act, the Commission shall adopt formal com-  
22 plaint procedures to address alleged violations of  
23 subsection (a).

24 (3) ENFORCEMENT.—Except as provided in  
25 paragraph (1), the Commission shall implement and

1 enforce this section as if this section is a part of the  
2 Communications Act of 1934 (47 U.S.C. 151 et  
3 seq.). A violation of this section, or a regulation pro-  
4 mulgated under this section, shall be considered to  
5 be a violation of the Communications Act of 1934,  
6 or a regulation promulgated under such Act, respec-  
7 tively.

8 (c) OTHER LAWS AND CONSIDERATIONS.—Nothing  
9 in this section—

10 (1) supersedes any obligation or authorization a  
11 provider of broadband internet access service may  
12 have to address the needs of emergency communica-  
13 tions or law enforcement, public safety, or national  
14 security authorities, consistent with or as permitted  
15 by applicable law, or limits the provider's ability to  
16 do so; or

17 (2) prohibits reasonable efforts by a provider of  
18 broadband internet access service to address copy-  
19 right infringement or other unlawful activity.

20 (d) CONSUMER CHOICE.—

21 (1) IN GENERAL.—Nothing in this section shall  
22 be construed to limit consumers' choice of service  
23 plans or consumers' control over their chosen  
24 broadband internet access service or, except as pro-  
25 vided in paragraph (2), the ability of broadband

1 internet access service providers to offer specialized  
2 services.

3 (2) PROHIBITION ON CERTAIN PRACTICES RE-  
4 GARDING SPECIALIZED SERVICES.—Specialized serv-  
5 ices may not be offered or provided in ways that  
6 threaten the meaningful availability of broadband  
7 internet access service or that have been devised or  
8 promoted in a manner designed to evade the pur-  
9 poses of this section.

10 (e) BROADBAND TO BE CONSIDERED INFORMATION  
11 SERVICE.—Notwithstanding any other provision of law,  
12 the provision of broadband internet access service or any  
13 other mass-market retail service providing advanced tele-  
14 communications capability (as defined in section 706 of  
15 the Telecommunications Act of 1996 (47 U.S.C. 1302))  
16 shall be considered to be an information service (as de-  
17 fined in section 3 of the Communications Act of 1934 (47  
18 U.S.C. 153)).

19 (f) REASONABLE NETWORK MANAGEMENT.—For  
20 purposes of subsection (a), a network management prac-  
21 tice is reasonable if it is appropriate and tailored to achiev-  
22 ing a legitimate network management purpose, taking into  
23 account the particular network architecture and any tech-  
24 nology and operational limitations of the broadband inter-  
25 net access service provider.

1 (g) DEFINITIONS.—In this section:

2 (1) BROADBAND INTERNET ACCESS SERVICE.—

3 (A) IN GENERAL.—The term “broadband  
4 internet access service” means a mass-market  
5 retail service by wire or radio that provides the  
6 capability to transmit data to and receive data  
7 from all or substantially all internet endpoints,  
8 including any capabilities that are incidental to  
9 and enable the operation of the communications  
10 service, but excluding dial-up internet access  
11 service.

12 (B) FUNCTIONAL EQUIVALENT; EVA-  
13 SION.—The term includes any service that—

14 (i) the Commission finds to be pro-  
15 viding a functional equivalent of the service  
16 described in subparagraph (A); or

17 (ii) is used to evade the protections  
18 set forth in subsection (a).

19 (2) COMMISSION.—The term “Commission”  
20 means the Federal Communications Commission.

21 (3) PAID PRIORITIZATION.—The term “paid  
22 prioritization” means the speeding up or slowing  
23 down of some internet traffic in relation to other  
24 internet traffic over the consumer’s broadband inter-  
25 net access service by prioritizing or deprioritizing

1 packets based on compensation or lack thereof by  
2 the sender to the broadband internet access service  
3 provider.

4 (4) SPECIALIZED SERVICES.—The term “spe-  
5 cialized services” means services other than  
6 broadband internet access service that are offered  
7 over the same network as, and that may share net-  
8 work capacity with, broadband internet access serv-  
9 ice.

10 **SEC. 3. AUTHORITY UNDER SECTION 706 OF THE TELE-**  
11 **COMMUNICATIONS ACT OF 1996.**

12 (a) NO GRANT OF AUTHORITY.—The Federal Com-  
13 munications Commission or a State commission with regu-  
14 latory jurisdiction over telecommunications services may  
15 not rely on section 706 of the Telecommunications Act of  
16 1996 (47 U.S.C. 1302) as a grant of authority.

17 (b) STATE COMMISSION DEFINED.—In this section,  
18 the term “State commission” has the meaning given such  
19 term in section 3 of the Communications Act of 1934 (47  
20 U.S.C. 153).

Amend the title so as to read: “A bill 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 Federal Communications Commission or a State commission from relying on section 706 of the Telecommunications Act of 1996 as a grant of authority.”.

