AMENDMENT TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE TO H.R. 1644

OFFERED BY M_.

Strike section 2 and insert the following:

SEC. 2. INTERNET OPENNESS.

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

1. may not block lawful content, applications, or services, subject to reasonable network management;

2. may not prohibit the use of non-harmful devices, subject to reasonable network management;

3. may not throttle lawful traffic by selectively slowing, speeding, degrading, or enhancing internet traffic based on source, destination, or content, subject to reasonable network management;

4. may not engage in paid prioritization; and

5. shall publicly disclose accurate and relevant information in plain language regarding the network management practices, performance, and commercial terms of its broadband internet access services suffi-
cient for consumers to make informed choices re-

garding use of such services and for content, appli-
cation, service, and device providers to develop, mar-
ket, and maintain internet offerings, except that a
provider is not required to publicly disclose competi-
tively sensitive information or information that could
compromise network security or undermine the effi-
cacy of reasonable network management practices.

(b) COMMISSION AUTHORITY.—

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

(2) FORMAL COMPLAINT PROCEDURES.—Not
later than 60 days after the date of the enactment
of this Act, the Commission shall adopt formal com-
plaint procedures to address alleged violations of
subsection (a).

(3) ENFORCEMENT.—Except as provided in
paragraph (1), the Commission shall implement and
enforce this section as if this section is a part of the
Communications Act of 1934 (47 U.S.C. 151 et seq.). A violation of this section, or a regulation promulgated under this section, shall be considered to be a violation of the Communications Act of 1934, or a regulation promulgated under such Act, respectively.

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

(1) supersedes any obligation or authorization a provider of broadband internet access service may have to address the needs of emergency communications or law enforcement, public safety, or national security authorities, consistent with or as permitted by applicable law, or limits the provider’s ability to do so; or

(2) prohibits reasonable efforts by a provider of broadband internet access service to address copyright infringement or other unlawful activity.

(d) CONSUMER CHOICE.—

(1) IN GENERAL.—Nothing in this section shall be construed to limit consumers’ choice of service plans or consumers’ control over their chosen broadband internet access service or, except as provided in paragraph (2), the ability of broadband
internet access service providers to offer specialized services.

(2) Prohibition on certain practices regarding specialized services.—Specialized services may not be offered or provided in ways that threaten the meaningful availability of broadband internet access service or that have been devised or promoted in a manner designed to evade the purposes of this section.

(e) Broadband to be considered information service.—Notwithstanding any other provision of law, the provision of broadband internet access service or any other mass-market retail service providing advanced telecommunications capability (as defined in section 706 of the Telecommunications Act of 1996 (47 U.S.C. 1302)) shall be considered to be an information service (as defined in section 3 of the Communications Act of 1934 (47 U.S.C. 153)).

(f) Reasonable network management.—For purposes of subsection (a), a network management practice is reasonable if it is appropriate and tailored to achieving a legitimate network management purpose, taking into account the particular network architecture and any technology and operational limitations of the broadband internet access service provider.
(g) **DEFINITIONS.**—In this section:

1. **BROADBAND INTERNET ACCESS SERVICE.**—

   (A) **IN GENERAL.**—The term "broadband internet access service" means a mass-market retail service by wire or radio that provides the capability to transmit data to and receive data from all or 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.

   (B) **FUNCTIONAL EQUIVALENT; EVASION.**—The term includes any service that—

   (i) the Commission finds to be providing a functional equivalent of the service described in subparagraph (A); or

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

2. **COMMISSION.**—The term "Commission" means the Federal Communications Commission.

3. **PAID PRIORITIZATION.**—The term "paid prioritization" means the speeding up or slowing down of some internet traffic in relation to other internet traffic over the consumer’s broadband internet access service by prioritizing or deprioritizing...
packets based on compensation or lack thereof by
the sender to the broadband internet access service
provider.

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

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

(a) NO GRANT OF AUTHORITY.—The Federal Com-
munications Commission or a State commission with regu-
latory jurisdiction over telecommunications services may
not rely on section 706 of the Telecommunications Act of

(b) STATE COMMISSION DEFINED.—In this section,
the term “State commission” has the meaning given such
term in section 3 of the Communications Act of 1934 (47

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