

**AMENDMENT TO THE AMENDMENT IN THE  
NATURE OF A SUBSTITUTE TO H.R. 1644  
OFFERED BY M . \_\_\_\_\_**

Strike section 2 and insert the following:

1 **SEC. 2. OPEN INTERNET REQUIREMENTS.**

2 (a) **TRANSPARENCY.**—Any person providing  
3 broadband internet access service shall publicly disclose  
4 accurate information regarding the network management  
5 practices, performance characteristics, and commercial  
6 terms of its broadband internet access services sufficient  
7 to enable consumers to make informed choices regarding  
8 the purchase and use of such services and entrepreneurs  
9 and other small businesses to develop, market, and main-  
10 tain internet offerings. The disclosure shall be made via  
11 a publicly available, easily accessible website.

12 (b) **PROHIBITION ON BLOCKING, IMPAIRMENT AND**  
13 **DEGRADATION, AND PAID PRIORITIZATION.**—A person  
14 engaged in the provision of broadband internet access  
15 service, insofar as the person is so engaged, may not—

16 (1) block lawful content, applications, services,  
17 or nonharmful devices, subject to reasonable network  
18 management;

1           (2) impair or degrade lawful internet traffic on  
2           the basis of internet content, application, or service,  
3           or use of a nonharmful device, subject to reasonable  
4           network management; or

5           (3) engage in paid prioritization.

6           (c) SAVINGS CLAUSE.—Nothing in this section—

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

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

17          (d) ENFORCEMENT.—The Commission shall imple-  
18          ment and enforce this section as if this section is a part  
19          of the Communications Act of 1934 (47 U.S.C. 151 et  
20          seq.). A violation of this section, or a regulation promul-  
21          gated under this section, shall be considered to be a viola-  
22          tion of the Communications Act of 1934, or a regulation  
23          promulgated under such Act, respectively.

24          (e) DEFINITIONS.—In this section:

25          (1) BROADBAND INTERNET ACCESS SERVICE.—

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

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

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

15 (ii) is used to evade the protections  
16 set forth in this section.

17 (2) COMMISSION.—The term “Commission”  
18 means the Federal Communications Commission.

19 (3) EDGE PROVIDER.—The term “edge pro-  
20 vider” means any individual or entity that provides  
21 any content, application, or service over the internet,  
22 and any individual or entity that provides a device  
23 used for accessing any content, application, or serv-  
24 ice over the internet.

1           (4) END USER.—The term “end user” means  
2           any individual or entity that uses a broadband inter-  
3           net access service.

4           (5) PAID PRIORITIZATION.—The term “paid  
5           prioritization” means the management of a  
6           broadband provider’s network to directly or indi-  
7           rectly favor some traffic over other traffic, including  
8           through the use of techniques such as traffic shap-  
9           ing, prioritization, resource reservation, or other  
10          forms of preferential traffic management, either—

11                   (A) in exchange for consideration, mone-  
12                   tary or otherwise, from a third party; or

13                   (B) to benefit an affiliated entity.

14          (6) REASONABLE NETWORK MANAGEMENT.—  
15          The term “reasonable network management” means  
16          a practice that has a primarily technical network  
17          management justification, but does not include other  
18          business practices. A network management practice  
19          is reasonable if it is primarily used for and tailored  
20          to achieving a legitimate network management pur-  
21          pose, taking into account the particular network ar-  
22          chitecture and technology of the broadband internet  
23          access service.

