

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

Page 10, after line 3, insert the following (and re-designate the succeeding subsection accordingly):

1 (d) OPEN INTERNET REQUIREMENTS.—

2 (1) IN GENERAL.—In the case of support pro-  
3 vided under the covered regulations that is used to  
4 purchase broadband internet access service, such  
5 support may only be used to purchase such service  
6 from a provider of such service that meets the condi-  
7 tions described in paragraph (2).

8 (2) CONDITIONS DESCRIBED.—The conditions  
9 described in this paragraph are the following:

10 (A) TRANSPARENCY.—The provider pub-  
11 licly discloses (via a publicly available, easily ac-  
12 cessible website) accurate information regarding  
13 the network management practices, perform-  
14 ance characteristics, and commercial terms of  
15 its broadband internet access services sufficient  
16 to enable consumers to make informed choices  
17 regarding the purchase and use of such services  
18 and entrepreneurs and other small businesses to

1 develop, market, and maintain internet offer-  
2 ings.

3 (B) NO BLOCKING, IMPAIRMENT, DEG-  
4 RADATION, OR PAID PRIORITIZATION.—The pro-  
5 vider, insofar as the provider is engaged in the  
6 provision of broadband internet access service,  
7 does not—

8 (i) block lawful content, applications,  
9 services, or nonharmful devices, subject to  
10 reasonable network management;

11 (ii) impair or degrade lawful internet  
12 traffic on the basis of internet content, ap-  
13 plication, or service, or use of a nonharm-  
14 ful device, subject to reasonable network  
15 management; or

16 (iii) engage in paid prioritization.

17 (3) SAVINGS CLAUSE.—A provider may not be  
18 treated as failing to meet the conditions described in  
19 paragraph (2) on the basis of—

20 (A) an action taken under any obligation  
21 or authorization the provider may have to ad-  
22 dress the needs of emergency communications  
23 or law enforcement, public safety, or national  
24 security authorities, consistent with or as per-  
25 mitted by applicable law; or

1 (B) reasonable efforts by the provider to  
2 address copyright infringement or other unlaw-  
3 ful activity.

Page 10, after line 10, insert the following (and re-  
designate the succeeding paragraphs accordingly):

4 (2) BROADBAND INTERNET ACCESS SERVICE.—

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

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

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

19 (ii) is used to evade the conditions de-  
20 scribed in subsection (d)(2).

Page 11, line 24, strike “paragraph (10)” and insert  
“paragraph (13)”.

Page 12, after line 5, insert the following (and re-designate the succeeding paragraphs accordingly):

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

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

10                      (B) to benefit an affiliated entity.

11           (12) REASONABLE NETWORK MANAGEMENT.—

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

