

Date of Hearing: May 10, 2017

ASSEMBLY COMMITTEE ON COMMUNICATIONS AND CONVEYANCE

Miguel Santiago, Chair

AJR 7 (Mullin) – As Amended April 17, 2017

**SUBJECT:** Internet: net neutrality: access

**SUMMARY:** Urges the President of the United States and Members of the United States Congress to continue to protect net neutrality, open Internet access, the federal Lifeline program, and the E-rate program. Specifically, **this resolution** makes the following legislative findings:

- 1) High-speed Internet access service, referred to generically as “broadband advanced communication services,” including both wired and wireless technologies, is essential in the 21st century for economic competitiveness and quality of life.
- 2) Broadband infrastructure is vital to the operation and management of other critical infrastructures, including energy generation systems, the power grid, water supply systems, smart cities, the Internet of Things, public safety and emergency response systems, medical facilities, educational institutions, and libraries.
- 3) Studies confirm that the use of broadband advanced communication services increases economic productivity, public and private organizational operation efficiency, and enhanced business profitability.
- 4) The provision and maintenance of equitable access to technology, broadband Internet access services, digital content, and management tools are necessary for all students, teachers, and school administrators in California, including those in rural and other unserved and underserved areas, in order to provide equal educational resources to all students at all education levels.
- 5) The Federal Communications Commission (FCC) adopted open Internet rules on February 26, 2015, to protect free expression and innovation on the Internet and to promote investment in the nation’s broadband networks.
- 6) The FCC’s open Internet rules ensure that consumers and businesses have access to a fast, fair, and open Internet by imposing three bright-line rules: (1) Broadband providers shall not block access to lawful content, applications, services, or nonharmful devices; (2) Broadband providers shall not impair or degrade lawful Internet traffic on the basis of content, application, or service, or use of a nonharmful device; and (3) Broadband providers shall not favor some lawful Internet traffic over other lawful Internet traffic in exchange for consideration of any kind.
- 7) Because the Internet must be a place in which companies, large and small, as well as individual developers, can compete on a level playing field, the State of California supports net neutrality as a principle that underpins a fast, fair, and open Internet for consumers and businesses to ensure equal access to lawful content by prohibiting paid prioritization, throttling, and blocking.

- 8) The federal Lifeline program provides a discount on telephone service to qualifying low-income consumers in every state, territory, commonwealth, and Tribal land, and ensures that all Americans have the opportunities and security that telephone service provides, including connecting to jobs, family, and emergency services.
- 9) On March 31, 2016, the FCC adopted a comprehensive reform and modernization of the federal Lifeline program by including broadband Internet access service as a support service in the federal Lifeline program and established a federal Lifeline National Eligibility Verifier to make independent subscriber eligibility determinations.
- 10) Established as a part of the federal Telecommunications Act of 1996, the FCC's E-rate program provides discounts on telecommunication and Internet access services to schools and libraries, based on poverty level.
- 11) The Legislature strongly supports each of the specified positions, initiatives, and programs, views them as high priorities for California and the country, and opposes any federal efforts to rescind or block them.
- 12) The Legislature respectfully urges the President of the United States and Members of the United States Congress to continue to protect net neutrality, open Internet access, the federal Lifeline program's discounted telephone service for qualifying low-income consumers, and the E-rate program's discounted telecommunication and Internet access services for schools and libraries.

**EXISTING LAW:**

- 1) Establishes the Moore Universal Telephone Service Act, which requires the California Public Utilities Commission (CPUC) to establish a program to offer high quality basic telephone service at affordable rates to the greatest number of California residents, in order to achieve universal service by making residential service affordable to low-income citizens through the creation of a lifeline class of service. (Public Utilities Code (PUC) Section 871 et seq.)
- 2) Requires CPUC to develop, implement, and administer a program to advance universal service by providing discounted rates to qualifying schools maintaining kindergarten or any of grades 1 to 12, inclusive, community colleges, libraries, hospitals, health clinics, and community organizations. (PUC Section 280)
- 3) Requires CPUC to establish a program to provide a telecommunications device capable of serving the needs of individuals who are deaf or hard of hearing, together with a single party line, at no charge additional to the basic exchange rate, to a subscriber who is certified as an individual who is deaf or hard of hearing by a licensed physician and surgeon, audiologist, or a qualified state or federal agency, as determined by CPUC, and to a subscriber that is an organization representing individuals who are deaf or hard of hearing, as specified. (PUC Section 2881)
- 4) Prohibits CPUC from exercising regulatory jurisdiction or control over Voice over Internet Protocol and Internet Protocol enabled services except as required or expressly delegated by federal law or expressly directed to do so by statute, as specified (PUC Section 710)

**FISCAL EFFECT:** Unknown. This resolution is keyed non-fiscal by the Legislative Counsel.

**COMMENTS:**

- 1) **Authors Statement:** According to the author, “AJR 7 respectfully urges the President of the United States and Members of the United States Congress to protect net neutrality, open Internet access, the federal Lifeline program’s discounted telephone service for qualifying low-income consumers, and the E-Rate program’s discounted telecommunication and Internet access services for schools and libraries. The measure would declare that the Legislature views these as high priorities for California and the country and opposes any federal efforts to rescind or block them.”
- 2) **Background:** The FCC is an independent federal agency overseen by Congress to regulate interstate and international communications by radio, television, wire, satellite and cable in the United States. The agency is directed by five commissioners who are appointed by the President of the United States and confirmed by the United State Senate. The FCC is tasked with promoting the development of competitive networks, as well as ensuring universal service, consumer protection, public safety, and national security. In addition, the Federal Trade Commission (FTC) is an independent federal agency tasked with promoting consumer protection and preventing anticompetitive business practices. In California, CPUC regulates the telecommunications industry by developing and implementing policies to ensure fair, affordable universal access to necessary services, developing rules and regulatory tools, removing barriers that prevent a competitive market, and reducing or eliminating burdensome regulations.
- 3) **Net Neutrality & Open Access:** Net neutrality is the principle that Internet Service providers (ISPs) should not discriminate against legal content and applications, by charging content providers different delivery speeds to deliver their content. Hence, ISPs cannot block, throttle, or create special “fast lanes” for certain content. For example, an ISP would be prohibited from delivering a TV shows being streamed by a competitor video company at a slower speed compared to a TV show it was streaming. In February 2015, the FCC adopted Open Internet rules which established three “bright-line” rules banning certain practices that the FCC considers to harm open access to the Internet. The bright-line rules include:
  - a) **No Block:** Broadband providers may not block access to legal content, applications, services, or non-harmful devices;
  - b) **No Throttling:** Broadband providers may not impair or degrade lawful Internet traffic on the basis of content, applications, services, or non-harmful devices; and
  - c) **No Paid Prioritization:** Broadband providers may not favor some lawful Internet traffic over other lawful traffic in exchange for consideration of any kind.

In 1996, Congress passed the Telecommunications Act of 1996 (the Act) which updated the nations telecommunication law to allow greater entry into the communication market to promote competition. Within the FCC’s 2015 Open Internet rules included provisions to reclassify ISPs from an “information service” under Title I of the Act, to a “telecommunications service” under Title II of the Act. This would allow FCC to regulate ISPs similar to traditional public utilities, which may include rate of return regulation. However, when the FCC adopted the 2015 Open Internet rules it specified that certain

provisions of Title II would not apply to broadband services. Proponents of net neutrality argue that FCC needs to reclassify ISPs as common carriers (e.g. a private company that is required to sell their services to everyone under the same terms) under Title II of the Act, in order to prevent anticompetitive behaviors. While opponents argue that although they are not opposed to the general principles of net neutrality, FTC already has the authority to prevent anticompetitive business practices and that Title II is an archaic provision created to regulate telecommunications services long before the Internet existed. Opponents also argue that regulating ISPs under Title II would have the opposite effect of impeding innovation and investments. As of April 2017, the Chairman of FCC, Ajit Pai, has indicated that the FCC intends to repeal certain provisions of the 2015 Open Internet rules, including the Title II provisions. The FCC is expected to begin the repeal process in May 2017.

- 4) **FCC's Lifeline Program:** The FCC's Lifeline program was created in 1985 to provide discounts on phone service for eligible low-income consumers in the United States. In March 2016, the FCC updated the Lifeline program to allow support for broadband services as well as bundled voice and data services. The FCC set aside a budget of \$2.25 billion to support the program. In addition, the CPUC also implements a California Lifeline program that provide discounted home phone and cell phone services to qualified households, in order to help consumer lower the cost of their phone bills. Eligible consumers include individuals who are enrolled in certain public assistance programs such as, Medicaid/Medi-Cal, Women, Infants and Children Program, and California Work Opportunity and Responsibility to Kids, among others. The California Lifeline program is funded through a surcharge applied to all end-users of telecommunications services. As of December 2016, the surcharge for the California Lifeline program is set at 4.75 percent. Eligible low-income consumers may receive a \$13.75 discount from the California Lifeline program in addition to a \$9.25 discount from the Federal Lifeline program.
- 5) **FCC's E-Rate Program:** The E-rate program was established by the FCC to provide discounts to schools and libraries to help aid in the cost of affording broadband. The discount ranges from 20 percent to 90 percent of the costs of eligible service. The FCC established a cap of \$3.9 billion for the program. The E-rate program is funded by an assessment on interstate and international telephone revenues, which a company may recover from their residential and business customers. In addition, CPUC also established the California Teleconnect Fund, which provides a 25 percent off voice services and a 50 percent discount for broadband on select communications services to schools, libraries, hospitals and other non-profits organizations. The California Teleconnect Fund is funded through a surcharge applied to all end-users of telecommunications services. As of December 2016, the surcharge is set at 1.08 percent.

This resolution urges the President of the United States and Members of the United States Congress to continue to protect net neutrality, open Internet access, the federal Lifeline program, and the E-rate program, and specifies that the Legislature strongly supports each of the specified positions, initiatives, and programs, and views them as high priorities for California and the country, and opposes any federal efforts to rescind or block them.

- 6) **Arguments in Support:** According to the State Educational Technology Directors Association, "Delivering high capacity broadband to all students will require significant federal, state, and local leadership. The E-rate and Lifeline programs are essential federal tools for helping schools and families connect to the digital learning resources students need

to thrive academically, including acquiring the skills demanded by postsecondary institutions and businesses. Federal policy makers should support successful implementation of the recent policy reforms made to the E-rate and Lifeline programs.”

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

Association of California School Administrators  
Consortium for School Networking  
International Society for Technology in Education  
San Mateo County Office of Education  
State Educational Technology Directors Association  
Winters Joint Unified School District

**Opposition**

None on file.

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