

110TH CONGRESS  
1ST SESSION

# S. 215

To amend the Communications Act of 1934 to ensure net neutrality.

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## IN THE SENATE OF THE UNITED STATES

JANUARY 9, 2007

Mr. DORGAN (for himself, Ms. SNOWE, Mr. KERRY, Mrs. BOXER, Mr. HARKIN, Mr. LEAHY, Mrs. CLINTON, Mr. OBAMA, and Mr. WYDEN) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

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## A BILL

To amend the Communications Act of 1934 to ensure net neutrality.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Internet Freedom  
5 Preservation Act”.

6 **SEC. 2. INTERNET NEUTRALITY.**

7 Title I of the Communications Act of 1934 (47  
8 U.S.C. 151 et seq.) is amended by adding at the end the  
9 following:

1 **“SEC. 12. INTERNET NEUTRALITY.**

2 “(a) DUTY OF BROADBAND SERVICE PROVIDERS.—

3 With respect to any broadband service offered to the pub-  
4 lic, each broadband service provider shall—

5 “(1) not block, interfere with, discriminate  
6 against, impair, or degrade the ability of any person  
7 to use a broadband service to access, use, send, post,  
8 receive, or offer any lawful content, application, or  
9 service made available via the Internet;

10 “(2) not prevent or obstruct a user from at-  
11 taching or using any device to the network of such  
12 broadband service provider, only if such device does  
13 not physically damage or substantially degrade the  
14 use of such network by other subscribers;

15 “(3) provide and make available to each user  
16 information about such user’s access to the Internet,  
17 and the speed, nature, and limitations of such user’s  
18 broadband service;

19 “(4) enable any content, application, or service  
20 made available via the Internet to be offered, pro-  
21 vided, or posted on a basis that—

22 “(A) is reasonable and nondiscriminatory,  
23 including with respect to quality of service, ac-  
24 cess, speed, and bandwidth;

25 “(B) is at least equivalent to the access,  
26 speed, quality of service, and bandwidth that

1 such broadband service provider offers to affili-  
2 ated content, applications, or services made  
3 available via the public Internet into the net-  
4 work of such broadband service provider; and

5 “(C) does not impose a charge on the basis  
6 of the type of content, applications, or services  
7 made available via the Internet into the network  
8 of such broadband service provider;

9 “(5) only prioritize content, applications, or  
10 services accessed by a user that is made available via  
11 the Internet within the network of such broadband  
12 service provider based on the type of content, appli-  
13 cations, or services and the level of service purchased  
14 by the user, without charge for such prioritization;  
15 and

16 “(6) not install or utilize network features,  
17 functions, or capabilities that impede or hinder com-  
18 pliance with this section.

19 “(b) CERTAIN MANAGEMENT AND BUSINESS-RE-  
20 LATED PRACTICES.—Nothing in this section shall be con-  
21 strued to prohibit a broadband service provider from en-  
22 gaging in any activity, provided that such activity is not  
23 inconsistent with the requirements of subsection (a), in-  
24 cluding—

1           “(1) protecting the security of a user’s com-  
2           puter on the network of such broadband service pro-  
3           vider, or managing such network in a manner that  
4           does not distinguish based on the source or owner-  
5           ship of content, application, or service;

6           “(2) offering directly to each user broadband  
7           service that does not distinguish based on the source  
8           or ownership of content, application, or service, at  
9           different prices based on defined levels of bandwidth  
10          or the actual quantity of data flow over a user’s con-  
11          nection;

12          “(3) offering consumer protection services (in-  
13          cluding parental controls for indecency or unwanted  
14          content, software for the prevention of unsolicited  
15          commercial electronic messages, or other similar ca-  
16          pabilities), if each user is provided clear and accu-  
17          rate advance notice of the ability of such user to  
18          refuse or disable individually provided consumer pro-  
19          tection capabilities;

20          “(4) handling breaches of the terms of service  
21          offered by such broadband service provider by a sub-  
22          scriber, provided that such terms of service are not  
23          inconsistent with the requirements of subsection (a);  
24          or

1           “(5) where otherwise required by law, to pre-  
2           vent any violation of Federal or State law.

3           “(c) EXCEPTION.—Nothing in this section shall apply  
4 to any service regulated under title VI, regardless of the  
5 physical transmission facilities used to provide or transmit  
6 such service.

7           “(d) STAND-ALONE BROADBAND SERVICE.—A  
8 broadband service provider shall not require a subscriber,  
9 as a condition on the purchase of any broadband service  
10 offered by such broadband service provider, to purchase  
11 any cable service, telecommunications service, or IP-en-  
12 abled voice service.

13           “(e) IMPLEMENTATION.—Not later than 180 days  
14 after the date of enactment of the Internet Freedom Pres-  
15 ervation Act, the Commission shall prescribe rules to im-  
16 plement this section that—

17           “(1) permit any aggrieved person to file a com-  
18 plaint with the Commission concerning any violation  
19 of this section; and

20           “(2) establish enforcement and expedited adju-  
21 dicatory review procedures consistent with the objec-  
22 tives of this section, including the resolution of any  
23 complaint described in paragraph (1) not later than  
24 90 days after such complaint was filed, except for  
25 good cause shown.

1 “(f) ENFORCEMENT.—

2 “(1) IN GENERAL.—The Commission shall en-  
3 force compliance with this section under title V, ex-  
4 cept that—

5 “(A) no forfeiture liability shall be deter-  
6 mined under section 503(b) against any person  
7 unless such person receives the notice required  
8 by section 503(b)(3) or section 503(b)(4); and

9 “(B) the provisions of section 503(b)(5)  
10 shall not apply.

11 “(2) SPECIAL ORDERS.—In addition to any  
12 other remedy provided under this Act, the Commis-  
13 sion may issue any appropriate order, including an  
14 order directing a broadband service provider—

15 “(A) to pay damages to a complaining  
16 party for a violation of this section or the regu-  
17 lations hereunder; or

18 “(B) to enforce the provisions of this sec-  
19 tion.

20 “(g) DEFINITIONS.—In this section, the following  
21 definitions shall apply:

22 “(1) AFFILIATED.—The term ‘affiliated’ in-  
23 cludes—

24 “(A) a person that (directly or indirectly)  
25 owns or controls, is owned or controlled by, or

1 is under common ownership or control with, an-  
2 other person; or

3 “(B) a person that has a contract or other  
4 arrangement with a content, applications, or  
5 service provider relating to access to or dis-  
6 tribution of such content, applications, or serv-  
7 ice.

8 “(2) BROADBAND SERVICE.—The term  
9 ‘broadband service’ means a 2-way transmission  
10 that—

11 “(A) connects to the Internet regardless of  
12 the physical transmission facilities used; and

13 “(B) transmits information at an average  
14 rate of at least 200 kilobits per second in at  
15 least 1 direction.

16 “(3) BROADBAND SERVICE PROVIDER.—The  
17 term ‘broadband service provider’ means a person or  
18 entity that controls, operates, or resells and controls  
19 any facility used to provide broadband service to the  
20 public, whether provided for a fee or for free.

21 “(4) IP-ENABLED VOICE SERVICE.—The term  
22 ‘IP-enabled voice service’ means the provision of  
23 real-time 2-way voice communications offered to the  
24 public, or such classes of users as to be effectively  
25 available to the public, transmitted through cus-

1        tomer premises equipment using TCP/IP protocol,  
 2        or a successor protocol, for a fee (whether part of  
 3        a bundle of services or separately) with interconnec-  
 4        tion capability such that service can originate traffic  
 5        to, and terminate traffic from, the public switched  
 6        telephone network.

7            “(5) USER.—The term ‘user’ means any resi-  
 8        dential or business subscriber who, by way of a  
 9        broadband service, takes and utilizes Internet serv-  
 10       ices, whether provided for a fee, in exchange for an  
 11       explicit benefit, or for free.”.

12 **SEC. 3. REPORT ON DELIVERY OF CONTENT, APPLICA-**  
 13 **TIONS, AND SERVICES.**

14        Not later than 270 days after the date of enactment  
 15 of this Act, and annually thereafter, the Federal Commu-  
 16 nications Commission shall transmit a report to the Com-  
 17 mittee on Commerce, Science, and Transportation of the  
 18 Senate and the Committee on Energy and Commerce of  
 19 the House of Representatives on the—

20            (1) ability of providers of content, applications,  
 21        or services to transmit and send such information  
 22        into and over broadband networks;

23            (2) ability of competing providers of trans-  
 24        mission capability to transmit and send such infor-  
 25        mation into and over broadband networks;

1           (3) price, terms, and conditions for transmit-  
2           ting and sending such information into and over  
3           broadband networks;

4           (4) number of entities that transmit and send  
5           information into and over broadband networks; and

6           (5) state of competition among those entities  
7           that transmit and send information into and over  
8           broadband networks.

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