

116TH CONGRESS  
1ST SESSION

# H. R. 1096

To amend the Communications Act of 1934 to provide for open internet requirements for providers of broadband internet access service.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 7, 2019

Mrs. RODGERS of Washington introduced the following bill; which was referred to the Committee on Energy and Commerce

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## A BILL

To amend the Communications Act of 1934 to provide for open internet requirements for providers of broadband internet access service.

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 “Promoting Internet  
5 Freedom and Innovation Act of 2019”.

6 **SEC. 2. OPEN INTERNET REQUIREMENTS.**

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. 14. 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;

19               “(2) impair or degrade lawful internet traffic  
20               on the basis of internet content, application, or serv-  
21               ice, or use of a nonharmful device, subject to reason-  
22               able network management; or

23               “(3) engage in paid prioritization.

24       “(c) **SAVINGS CLAUSE.**—Nothing in this section—

25               “(1) supersedes any obligation or authorization  
26               a provider of broadband internet access service may

1 have to address the needs of emergency communica-  
2 tions or law enforcement, public safety, or national  
3 security authorities, consistent with or as permitted  
4 by applicable law, or limits the provider’s ability to  
5 do so; or

6 “(2) prohibits reasonable efforts by a provider  
7 of broadband internet access service to address copy-  
8 right infringement or other unlawful activity.

9 “(d) DEFINITIONS.—In this section:

10 “(1) BROADBAND INTERNET ACCESS SERV-  
11 ICE.—

12 “(A) IN GENERAL.—The term ‘broadband  
13 internet access service’ means a mass-market  
14 retail service by wire or radio that provides the  
15 capability to transmit data to and receive data  
16 from all or substantially all internet endpoints,  
17 including any capabilities that are incidental to  
18 and enable the operation of the communications  
19 service, but excluding dial-up internet access  
20 service.

21 “(B) FUNCTIONAL EQUIVALENT; EVA-  
22 SION.—The term includes any service that—

23 “(i) the Commission finds to be pro-  
24 viding a functional equivalent of the service  
25 described in subparagraph (A); or

1                   “(ii) is used to evade the protections  
2                   set forth in this section.

3                   “(2) EDGE PROVIDER.—The term ‘edge pro-  
4                   vider’ means any individual or entity that provides  
5                   any content, application, or service over the internet,  
6                   and any individual or entity that provides a device  
7                   used for accessing any content, application, or serv-  
8                   ice over the internet.

9                   “(3) END USER.—The term ‘end user’ means  
10                  any individual or entity that uses a broadband inter-  
11                  net access service.

12                  “(4) PAID PRIORITIZATION.—The term ‘paid  
13                  prioritization’ means the management of a  
14                  broadband provider’s network to directly or indi-  
15                  rectly favor some traffic over other traffic, including  
16                  through the use of techniques such as traffic shap-  
17                  ing, prioritization, resource reservation, or other  
18                  forms of preferential traffic management, either—

19                         “(A) in exchange for consideration, mone-  
20                         etary or otherwise, from a third party; or

21                         “(B) to benefit an affiliated entity.

22                  “(5) REASONABLE NETWORK MANAGEMENT.—  
23                  The term ‘reasonable network management’ means a  
24                  practice that has a primarily technical network man-  
25                  agement justification, but does not include other

1 business practices. A network management practice  
2 is reasonable if it is primarily used for and tailored  
3 to achieving a legitimate network management pur-  
4 pose, taking into account the particular network ar-  
5 chitecture and technology of the broadband internet  
6 access service.”.

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