

106TH CONGRESS
1ST SESSION

H. R. 2637

To protect consumer and community choice in access to Internet providers,
and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 29, 1999

Mr. BLUMENAUER (for himself and Mr. DEFazio) introduced the following
bill; which was referred to the Committee on Commerce

A BILL

To protect consumer and community choice in access to
Internet providers, and for other purposes.

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 “Consumer and Com-
5 munity Choice in Access Act of 1999”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds the following:

8 (1) As cable, telecommunications and Internet
9 lines of business merge, cable operators are upgrad-
10 ing their cable systems to offer 2-way communica-

1 tions on their cable networks, including high-speed
2 broadband access to the Internet.

3 (2) Upgraded cable systems are now offering
4 Internet access up to 1,000 times faster than tradi-
5 tional phone lines, and up to 100 times faster than
6 integrated services digital network (“ISDN”) lines.

7 (3) Some cable operators are requiring their
8 customers to obtain broadband access only through
9 their affiliated Internet service provider (“ISP”).

10 (4) Citizens who need or desire Internet access
11 through the significantly faster cable network, but
12 who choose not to use the cable operators’ affiliated
13 ISP must pay twice (once to the cable operator’s
14 ISP, once to their own ISP), in order to access the
15 ISP of their choice.

16 (5) Some in the cable industry, utilizing both
17 their affiliated ISP and considerable market power,
18 will not allow open and direct access to unaffiliated
19 ISPs and their customers via the broadband cable
20 platform.

21 (6) The initial design of broadband cable
22 modem Internet access has also created technological
23 barriers to open access that need to be addressed.

24 (7) In their federally recognized roles as local
25 cable franchising authorities, local communities

1 across the country are now confronted with the
2 question of whether to allow their cable operators to
3 restrict unaffiliated ISP from gaining direct, open
4 access to their customers on the regulated cable net-
5 work. In Oregon, the city of Portland and Mult-
6 nomah County have already faced this situation, and
7 decided that the public interest requires open access.
8 This decision has been upheld by a Federal court.

9 (8) However, some have expressed concern that
10 allowing localities the ability to promote competition
11 by requiring open access will delay the deployment
12 of cable broadband Internet access services.

13 (9) Local jurisdictions that choose to impose a
14 procompetitive open access requirement serve the
15 important public purpose of serving as “labora-
16 tories” for field trials to develop true competition on
17 the cable Internet gateway.

18 (10) Clearly, the possible development of a mo-
19 nopoly bottleneck to high-speed Internet access is a
20 critical public policy issue that Congress, the Federal
21 Communications Commission, and local franchising
22 authorities need to address.

1 **SEC. 3. NONDISCRIMINATORY REQUIREMENTS FOR INTER-**
2 **CONNECTION TO THE INTERNET.**

3 (a) REALLOCATION OF AUTHORITY.—Section 624 of
4 the Communications Act of 1934 (47 U.S.C. 544) is
5 amended—

6 (1) in subsection (b)(1), by striking “or other
7 information services”; and

8 (2) by adding at the end the following new sub-
9 section:

10 “(j) INTERNET ACCESS.—The Commission may re-
11 quire cable operators that provide interconnection, using
12 cable system facilities, with the Internet to offer such
13 interconnection on terms and conditions that are fair, rea-
14 sonable, and nondiscriminatory. Such requirements shall
15 include the obligation to provide direct or indirect inter-
16 connection with the facilities and equipment of any Inter-
17 net service provider on terms and conditions that are func-
18 tionally and economically equivalent to the interconnection
19 provided to any other Internet service provider, whether
20 or not affiliated with the cable operator. If the Commis-
21 sion determines, after notice and comment, that a cable
22 operator is not complying with such obligation, the Com-
23 mission may establish the terms and conditions of such
24 interconnection.”.

1 **SEC. 4. LEASED ACCESS AMENDMENT.**

2 Section 612 of the Communications Act of 1934 (47
3 U.S.C. 532) is amended—

4 (1) in subsection (b)(5), by inserting “or other
5 cable service” after “provision of video program-
6 ming”;

7 (2) in subsection (c)(2), by inserting “or other
8 cable service” after “over any video programming”;
9 and

10 (3) by adding at the end the following new sub-
11 section:

12 “(k) TREATMENT OF HIGH-SPEED DATA SERV-
13 ICES.—Until the Commission establishes open access or
14 interconnection standards and obligations under section
15 624(j), a service that provides high-speed data service (as
16 such term is defined in regulations of the Commission)
17 and that seeks to obtain channel capacity under this sec-
18 tion may, notwithstanding subsection (b)(5), be treated as
19 seeking channel capacity for a commercial use.”.

20 **SEC. 5. CLARIFICATION OF LIMITATION ON COMMON CAR-**
21 **RIER REGULATION.**

22 Section 621(c) of the Communications Act of 1934
23 (47 U.S.C. 541(c)) is amended by adding at the end the
24 following new sentence: “A telecommunications service
25 that is provided by a cable system is subject to regulation
26 as a common carrier service.”.

1 **SEC. 6. RULES OF CONSTRUCTION.**

2 Nothing in this Act—

3 (1) restricts or limits the authority of a State
4 or franchising authority; or

5 (2) shall be construed to affect any civil action
6 that is pending in any Federal or State court on the
7 date of enactment of this Act.

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