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U.S. GOVERNMENT
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114TH CONGRESS
1ST SESSION

S. 40

To direct the Federal Communications Commission to promulgate regulations that prohibit certain preferential treatment or prioritization of Internet traffic.

IN THE SENATE OF THE UNITED STATES

JANUARY 7, 2015

Mr. LEAHY (for himself, Mr. FRANKEN, Mr. SANDERS, Mr. WHITEHOUSE, and Mr. HEINRICH) 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 direct the Federal Communications Commission to promulgate regulations that prohibit certain preferential treatment or prioritization of Internet traffic.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Online Competition and Consumer Choice Act of 2015''.

SEC. 2. FCC REGULATIONS PROHIBITING CERTAIN PREFERENTIAL TREATMENT OR PRIORITIZATION OF INTERNET TRAFFIC.

(a) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Commission shall promulgate regulations that—

(1) prohibit a broadband provider from entering into an agreement with an edge provider under which the broadband provider agrees, for consideration, in transmitting network traffic over the broadband Internet access service of an end user, to give preferential treatment or priority to the traffic of such edge provider over the traffic of other edge providers; and

(2) prohibit a broadband provider, in transmitting network traffic over the broadband Internet access service of an end user, from giving preferential treatment or priority to the traffic of content, applications, services, or devices that are provided or operated by such broadband provider, or an affiliate of such broadband provider, over the traffic of other content, applications, services, or devices.

(b) RULES OF CONSTRUCTION.—

(1) CERTAIN TRAFFIC NOT AFFECTED.—Nothing in this section shall be construed as superseding any obligation or authorization a broadband provider

may have to address the needs of emergency communications or law enforcement, public safety, or national security authorities, consistent with or as permitted by applicable law, or as limiting the ability of the provider to do so.

(2) CLARIFICATION OF AUTHORITY.—Nothing in this section shall be construed as limiting the authority of the Commission under any other provision of law, including the authority to promulgate regulations prohibiting or limiting preferential treatment or prioritization of the traffic of an edge provider by a broadband provider under GN Docket No. 14–28 (relating to the matter of protecting and promoting the open Internet).

(c) ENFORCEMENT.—For purposes of sections 503(b) and 504 of the Communications Act of 1934 (47 U.S.C. 503(b); 504), this section shall be considered to be a part of such Act. With respect to enforcement under this section only, the following modifications of such section 503(b) shall apply:

(1) Paragraph (5) shall not apply.

(2) Paragraph (6) shall be applied by substituting the following: ''No forfeiture penalty shall be determined or imposed against any person under this subsection if the violation charged occurred

more than 3 years prior to the date of issuance of the required notice or notice of apparent liability.''.

(d) DEFINITIONS.—In this section:

(1) AFFILIATE.—The term ''affiliate'' has the meaning given such term in section 3 of the Communications Act of 1934 (47 U.S.C. 153).

(2) BROADBAND INTERNET ACCESS SERVICE.—The term ''broadband Internet access service'' has the meaning given such term in section 8.11 of title 47, Code of Federal Regulations.

(3) BROADBAND PROVIDER.—The term ''broadband provider'' means a provider of broadband Internet access service.

(4) COMMISSION.—The term ''Commission'' means the Federal Communications Commission.

(5) EDGE PROVIDER.—The term ''edge provider'' means an individual, institution, or other entity that provides—

(A) any content, application, or service over the Internet; or

(B) a device used for accessing any content, application, or service over the Internet.

(6) END USER.—The term ''end user'' means an individual, institution, or other entity that uses a broadband Internet access service.

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