

Keeping the Net Neutral

Net neutrality is the notion that the internet should be equally accessible to all. That no entity should be treated differently in terms of hosting and accessing information on the internet.

The alternative is disconcerting. It is a world where large internet service providers can pay to have faster access to the internet – a proverbial “fast lane.” The implications of this are many, namely that the big players can have more say in what sort of information (and opinions, products, etc.) consumers see online.

Net neutrality is undoubtedly the better of these two worlds. It represents an internet open to all voices and all enterprise. In short, it keeps the playing field even. It represents the democratization of information that has been the hallmark of the internet age.

Now, the Federal Communications Commission (FCC), at the urging of President Donald Trump, has repealed the federal rules that made net neutrality the law of the land. This move has effectively killed net neutrality, jeopardizing free and open access to the internet. Under this new framework, big corporations and political groups will be able to pay to “skip the line” and obtain faster access to the internet. This move is devastating and will drastically alter the way things are done online.

So what can be done? How can we in New York State counter this disgraceful move by the FCC? At the outset, it must be made clear that net neutrality is heavily federally pre-empted. This is a bright line rule and there is no true way around it.

That being said, New York State *can* do a good amount at the state level to mitigate the impact of the federal action. In that vein, Senator David Carlucci is introducing a package of six bills aimed at protecting New Yorkers and keeping the net free and open in the Empire State.

1. Requiring that state contracts with internet service providers have a net neutrality clause.

Senator Carlucci’s bill will require the State of New York to only enter into contracts with internet service providers that adhere to the principles of net neutrality. It will also authorize the state to enter into interstate agreements to only do business with out of state companies that do the same.

2. Directing the Public Service Commission to create a process for certifying net neutral friendly businesses.

This bill will direct the New York State Public Service Commission (PSC) to create a certification process to determine which companies practice net neutrality. Those companies would receive what is effectively a “seal of approval” from the state, to identify them as such. This will make it easier for businesses and consumers to choose to support net neutrality.

3. Requiring companies doing business with the state to disclose their net neutrality practices to the Department of State, Division of Consumer Affairs.

This legislation would require companies doing business or seeking to enter into business with the state to disclose what practices they use to maintain net neutrality. This will allow the state to ensure all its suppliers and service providers are net neutral.

4. Prohibiting any franchise agreement between an internet service provider and a municipality from engaging in non-net neutral practices.

Senator Carlucci will introduce legislation that will require any franchise agreement with internet service providers to maintain net neutrality. This will ensure that government is practicing what it preaches and doing its part to keep the internet open to all.

5. Requiring any companies using state right-of-ways in the form of internet cables adopt net neutrality.

The state grants easements to telecom firms to run their cables and other infrastructure across state land. This bill would require any companies using a state right-of-way to practice net neutrality.

6. Revoking the state and local tax breaks of any carriers not practicing net neutrality.

Perhaps the state's greatest power is its power to tax and, conversely, to grant tax exemptions and credits. This bill would allow the New York Department of Taxation and Finance to revoke the state and local tax breaks of any company not practicing net neutrality.

This bill package will protect New Yorkers from Washington's reckless actions. We in the Empire State will stand up for a free and open internet, accessible to all.

Since it was enacted in 2015, net neutrality has worked to ensure a fair and open internet through which the marketplace for ideas can truly flourish. The FCC's reckless decision to repeal net neutrality sets the stage for a few giant telecom companies to decide at their whim what websites consumers can see, how much they cost, and how fast they operate. We have a duty to fight back. This legislative package will go a long way to mitigate the negative impact this repeal will have on New Yorkers by incentivizing net neutrality based practices. We also call on members of congress to overturn the FCC's decision by passing legislation to reinstate net neutrality, thereby ensuring continued open access to the internet for all.