

State of Vermont House of Representatives



Montpelier, Vermont

Joint House Resolution

J.R.H. 8

Joint resolution urging the Federal Communications Commission to retain net neutrality rules for Internet access

Offered by: Representatives Botzow of Pownal, Carr of Brandon, Marcotte of Coventry, and Sibilica of Dover

Whereas, the Internet is the primary telecommunications highway for much of the nation's business transactions, personal communications, and entertainment services, and

Whereas, the continuance of the Internet as a fully accessible and nondiscriminatory telecommunications highway, and not one that favors customers based on the level of fee they pay for the service being transmitted, had been a high priority for the Federal Communications Commission (FCC), and

Whereas, to meet this objective, in 2010, the FCC adopted a regulatory order entitled *Preserving the Open Internet*, 25 F.C.C.R. 17905, also known as the "Open Internet Order," and established a policy referred to as net neutrality, and

Whereas, this order set forth "disclosure, anti-blocking, and anti-discrimination requirements on broadband providers," and

Whereas, in January 2014, the U.S. Circuit Court of Appeals for the District of Columbia ruled in *Verizon v. Federal Communications Commission*, 740 F.3d. 623, that the FCC may not impose requirements that "contravene express statutory mandates," citing Section 706 of the Telecommunications Act that prohibits the FCC from regulating Internet providers as common carriers, and observing that "the Commission has failed to establish that the anti-discrimination and anti-blocking rules do not impose *per se* common carrier obligations," and

Whereas, in response to the court's decision, in February 2015, the FCC issued *Report and Order on Remand, Declaratory Ruling and Order*, 30 FCC Rcd. 5601, that again provided for net neutrality but included supporting language that the new order was grounded "in multiple sources of legal authority- including both section 706 of the Telecommunications Act and Title II of the Communications Act," and

Whereas, once again, the FCC's net neutrality order was challenged, but in June 2016, the same court took note of the FCC's revisions and held in *United States Telecom Association v. Federal Communications Commission*, 825 F.3d. 674, that the new order was statutorily compliant and did not violate either due process or First Amendment constitutional rights, and

Whereas, one of the two FCC commissioners dissenting the 2015 order was Ajit Pai, who, in 2017, the President appointed as the new FCC chairman, and

Whereas, Chairman Pai has already taken actions aimed at weakening the net neutrality order, including halting an FCC investigation into wireless providers zero-rating streaming practices that, for example, enable AT&T to offer free streaming of DirectTV, (a video delivery service it owns) and places similar services at a competitive disadvantage for AT&T customers, and

Whereas, the elimination or significant weakening of the FCC's 2015 net neutrality order will disadvantage less affluent consumers' Internet use and favor customers willing to pay higher access fees and allow Internet providers to offer preferred access to selected services or block others, now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly urges the Federal Communications Commission to retain the 2015 net neutrality order as adopted, and be it further

Resolved: That the Secretary of State be directed to send a copy of this resolution to FCC Commissioner Ajit Pai and to the Vermont Congressional Delegation.