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H.11

Introduced by Representative Sibia of Dover

Referred to Committee on

Date:

Subject: Telecommunications; broadband; commerce; competition; unfair or
deceptive acts; VoIP service; consumer protection

Statement of purpose of bill as introduced: This bill proposes to establish
various consumer protection provisions applicable to broadband service and to
Voice over Internet Protocol service.

An act relating to consumer protections applicable to broadband and VoIP
services

It is hereby enacted by the General Assembly of the State of Vermont:

* * * Vermont Broadband Consumer Protection and Competition Act * * *

Sec. 1. 9 V.S.A. chapter 63, subchapter 10A is added to read:

Subchapter 10A. Broadband Consumer Protection and Competition

§ 2490. TITLE

This subchapter shall be known and may be cited as “the Vermont
Broadband Consumer Protection and Competition Act.”

1 § 2490a. PURPOSE

2 The purpose of this subchapter is to promote a thriving broadband market in
3 Vermont free of anticompetitive, unfair, deceptive, or misleading practices in
4 order to protect the public and to encourage fair and honest competition.

5 § 2490b. FINDINGS

6 The General Assembly finds that:

7 (1) Broadband is a critical sector of the overall Vermont economy.

8 (2) Broadband service is essential for supporting economic and
9 educational opportunities; strengthening health and public safety networks; and
10 reinforcing democratic, social, and civic engagement and for allowing
11 Vermonters to benefit from new and innovative internet-based products and
12 services, such as smart home energy-saving technologies.

13 (3) Despite considerable public investments in broadband deployment
14 and service, about 14.95 percent of Vermont locations (47,262 locations) do
15 not have access to high-speed broadband service. Many more do not have
16 access to service from more than one broadband provider.

17 (4) Vermont is a rural state with many geographically remote, sparsely
18 populated locations with no or limited access to public transit systems.

19 (5) Those who live far from a town center or regional commercial hub
20 are particularly disadvantaged by the lack of broadband access. They are
21 burdened with the additional time and expense of traveling great distances to

1 either access a broadband connection, such as a public Wi-Fi hotspot, or to
2 physically carry out activities they are unable to do from home, such as online
3 banking and telehealth appointments.

4 (6) The critical need for broadband service coupled with the lack of
5 competition, particularly in high-cost areas, creates an imbalance of power
6 between the provider and consumer.

7 (7) The Attorney General, as the chief law enforcement officer in the
8 State, must provide a strong presence in the broadband market and protect and
9 advocate for Vermonters when necessary.

10 (8) All policymakers, law enforcement officers, and regulators must
11 work collaboratively to ensure the market is vibrant, efficient, and competitive
12 and serves as an engine of economic growth and innovation in all four corners
13 of the State.

14 (9) No broadband provider should be permitted to exploit its market
15 position to stifle competition and deprive a consumer of a meaningful choice
16 among broadband providers.

17 (10) Monitoring the broadband market through data collection and
18 analysis will enable State government to identify and respond swiftly and
19 appropriately to market failures or misconduct and promote a healthy
20 economy.

1 (11) A well-functioning broadband marketplace will foster competition,
2 higher wages, lower prices, better service, more consumer choices, further
3 investment, and increased innovation and entrepreneurship.

4 § 2490c. DEFINITIONS

5 As used in this subchapter:

6 (1) “Broadband provider” or “provider” means a business that provides
7 broadband service to any person in Vermont.

8 (2) “Broadband service” or “broadband” means a mass-market retail
9 service by wire or radio in Vermont that provides the capability to transmit
10 data to and receive data from all or substantially all internet endpoints,
11 including any capabilities that are incidental to and enable the operation of the
12 communications service, but excluding dial-up service.

13 (3) “Consumer” means a person to whom a broadband provider sells
14 broadband service.

15 § 2490d. NET NEUTRALITY

16 Because the free and open flow of information underpins the free and open
17 flow of commerce, beginning on October 1, 2025, a broadband provider shall
18 not sell, offer, or advertise for sale broadband service without a valid
19 certificate of net neutrality compliance from the Secretary of Administration
20 pursuant to 3 V.S.A. § 348.

1 § 2490e. PROHIBITED PRACTICES

2 (a) It shall be an unfair or deceptive act or practice in commerce in
3 violation of section 2453 of this chapter for a broadband provider to engage in
4 any of the following conduct:

5 (1) failing to provide a consumer with broadband service that meets or
6 exceeds the performance characteristics offered and sold to the consumer's
7 service location;

8 (2) failing to reimburse a consumer any installation costs associated
9 with broadband service that is discontinued by the consumer because the
10 service did not meet or exceed the minimum performance characteristics
11 offered and sold to the consumer's service location;

12 (3) engaging in marketing or promotional practices that misrepresent the
13 actual terms and conditions of a broadband service plan or tend to mislead or
14 deceive an actual or prospective consumer;

15 (4) imposing excessive termination fees or other burdensome conditions
16 that unfairly restrict a consumer's ability to discontinue service or purchase
17 service from another provider;

18 (5) charging equipment or service fees that do not reasonably correlate
19 with the cost of the broadband service or equipment provided to a consumer,
20 excluding any State or federal fees;

1 (6) failing to submit broadband availability data in a form and manner
2 prescribed by the Department of Public Service for the purpose of maintaining
3 the State’s broadband availability maps under 30 V.S.A. § 202e(e);

4 (7) violating privacy, security, or network management practices
5 applicable to its broadband service; or

6 (8) imposing a predatory data cap, as further defined in subsection (b) of
7 this section.

8 (b) A broadband provider shall not impose a data cap except when tailored
9 for the purpose of reasonable network management, such as managing network
10 congestion. For purposes of this section, “data cap” means a limit on the
11 amount of bits or other units of information a broadband consumer may
12 download or upload during a period of time specified by the provider before
13 the consumer:

14 (1) is charged a fee for additional usage;

15 (2) is subject to an increasing cost per bit or other unit of information;

16 (3) is charged for an incremental block of usage;

17 (4) experiences a reduction of access speed; or

18 (5) is otherwise discouraged or prevented from exceeding.

19 § 2490f. CONSUMER COMPLAINTS

20 (a) For the purpose of creating a single location within State government
21 for the receipt and tracking of consumer complaints regarding broadband

1 service, the Attorney General, in consultation with the Commissioner of Public
2 Service, shall establish and implement a protocol for handling complaints. The
3 protocol shall include a process for maintaining a database that aggregates and
4 tracks the number, nature, disposition status, and resolution time of complaints
5 received directly by State government and indirectly from provider records
6 submitted to the Attorney General under subsection (b) of this section.

7 (b) Beginning on January 1, 2026, a broadband provider shall maintain a
8 complete record of any consumer complaints received regarding its broadband
9 service. The record shall include the total number of complaints received, the
10 nature of each complaint, the disposition of each complaint, the time it took to
11 process and resolve each complaint, and any other relevant information
12 requested by the Attorney General. A provider shall submit a copy of the
13 record of complaints for the preceding year to the Office of the Attorney
14 General annually, beginning on January 1, 2027.

15 (c) As used in this section, “complaint” means any communication
16 primarily expressing a grievance.

17 § 2490g. MONITORING COMPETITION AND PRACTICES

18 (a) The Attorney General shall routinely monitor current and emerging
19 market trends and business practices in the broadband sector and assess their
20 effect, positive or negative, on consumers, workers, businesses, and the
21 broader Vermont economy.

1 (b) Factors to be considered by the Attorney General under this section
2 include the number of broadband providers actively engaged in providing
3 broadband service, market share, ease of market entry, industry consolidation,
4 and any other factors the Attorney General deems relevant to a market
5 analysis.

6 (c) The Attorney General shall periodically review and compare a
7 provider’s broadband consumer label for multiple service locations in the
8 provider’s market area. For purposes of this subsection, “broadband consumer
9 label” means the label required to be provided to a consumer at the point of
10 sale, pursuant to the Federal Communications Commission’s *Broadband*
11 *Labels Order*, 37 FCC Rcd 13686, 13687, 13689-90, 13696, paras. 3, 12, 35
12 (2022).

13 (d) The Attorney General shall review provider business practices,
14 including data practices, as appropriate, to determine whether any practices
15 negatively affect marginalized or underserved communities or worsen
16 disparities and inequities in the social and economic fabric of our State.

17 (e)(1) To assist the Attorney General with carrying out the purposes of this
18 section, on or before October 1, 2025, and annually thereafter, each broadband
19 provider shall submit a report to the Attorney General, which includes the
20 following information related to its provision of fixed broadband service to
21 Vermont locations:

1 (A) the total number of active broadband service plans;

2 (B) the total number of active wired broadband service plans,

3 categorized by the technology used to deliver the service: digital subscriber
4 line, coaxial cable, fiber-optic, or hybrid fiber coaxial;

5 (C) the total number of active wireless broadband service plans,

6 categorized by the technology used to deliver the service: terrestrial or satellite
7 (geostationary or low-earth orbit), and whether the service is supported by
8 licensed or unlicensed spectrum, or both;

9 (D) the median and mean price, download speed, and upload speed of
10 its active broadband service plans in Vermont, and within each county, if
11 applicable;

12 (E) the number of years the provider has been actively engaged in
13 providing broadband service in Vermont;

14 (F) the broadband availability data submitted to the Department of
15 Public Service under 30 V.S.A. § 202e(e) and the broadband availability and
16 subscription data submitted to the Federal Communications Commission
17 through the Broadband Data Collection System; and

18 (G) any other information deemed relevant by the Attorney General.

19 (2) The report shall be submitted in a form and manner prescribed by the
20 Attorney General.

1 (3) It is unlawful for a provider to knowingly or recklessly make or
2 cause to be made, in a report submitted under this section, a statement that:

3 (A) at the time and in light of the circumstances under which it is
4 made, is false or misleading in a material respect; or

5 (B) is false or misleading due to the omission of a material fact.

6 (4) The accuracy of the information included in the report shall be
7 verified by oath of two of the provider's executive officers, under penalty of
8 perjury.

9 (5) As used in this section, "recklessly" means consciously disregarding
10 a relevant fact.

11 § 2490h. TRANSPARENCY; INFORMED CHOICES

12 (a) To facilitate informed consumer choices, a broadband provider shall
13 submit to the Attorney General its current policies and practices regarding:

14 (1) network management;

15 (2) security; and

16 (3) privacy.

17 (b) A provider shall submit the information required by this section in a
18 form and manner prescribed by the Attorney General, not less frequently than
19 annually.

1 (c) The Attorney General shall aggregate and disclose the information
2 collected under this section on a publicly available, easily accessible website
3 maintained by the Office of the Attorney General.

4 § 2490i. KEEP VERMONTERS CONNECTED

5 (a) A broadband provider is prohibited from disconnecting any consumer
6 from service, charging unconscionably high prices, or imposing data usage
7 limits during a declared state of emergency under 20 V.S.A. chapter 1,
8 provided that the state of emergency is declared in response to an all-hazards
9 event that will cause financial hardship and the inability of consumers to pay
10 for broadband services.

11 (b) For purposes of this section, a price is unconscionably high if:

12 (1) there is a gross disparity between the price charged during the
13 emergency or seven days prior to the emergency and the price at which the
14 same service was sold or offered for sale in the usual course of business
15 immediately prior to the state of emergency; and

16 (2) the disparity is not substantially attributable to increased prices in the
17 wholesale market or increased costs due to the state of emergency.

18 § 2490j. INVESTIGATIONS; ENFORCEMENT

19 (a) The Attorney General may investigate the business practices of a
20 broadband provider pursuant to the investigatory powers established under this
21 chapter.

1 (b) A person who violates a provision of this subchapter, or a rule adopted
2 pursuant to this subchapter, commits an unlawful act under section 2453 of this
3 chapter.

4 § 2490k. INTERAGENCY COOPERATION

5 (a) The Attorney General, in consultation with the Secretary of
6 Administration, shall develop procedures and best practices for agency
7 cooperation and coordination on matters of overlapping jurisdiction. The
8 primary purpose of this section is to ensure the Attorney General has access to
9 information related to the Attorney General's enforcement authority under this
10 subchapter, including any relevant information maintained by the Department
11 of Public Service, the Vermont Community Broadband Board, the Department
12 of Taxes, and the Agency of Commerce and Community Development.

13 (b) Nothing in this section shall be construed to waive any privilege or
14 protection otherwise afforded information by law due solely to the fact that the
15 information is shared with the Attorney General pursuant to this section.

16 § 2490l. ASSESSMENT

17 To the extent deemed necessary and appropriate by the Attorney General,
18 the costs incurred by the Office of the Attorney General in complying with this
19 subchapter may be assessed against broadband providers on an equitable and
20 practicable basis. The Attorney General shall adopt the assessment rate by
21 rule.

1 § 2490m. CONFIDENTIALITY

2 The Attorney General shall maintain the confidentiality of any information
3 received under this subchapter that the Attorney General determines is exempt
4 from public inspection and copying under the Public Records Act or other
5 applicable law, unless disclosure is ordered by a court.

6 § 2490n. ANNUAL REPORT

7 On or before January 15 of each year, notwithstanding 2 V.S.A. § 20(d), the
8 Attorney General shall submit a report to the General Assembly, which shall
9 include the Attorney General's findings and recommendations related to the
10 current state of competition in the broadband market and whether and to what
11 extent anticompetitive conduct or unfair or deceptive acts or practices in
12 commerce are occurring. The report shall include:

13 (1) a summary of the market-monitoring data collected pursuant to
14 section 2490g of this subchapter;

15 (2) a summary of complaints in the State database established under
16 section 2490f of this subchapter;

17 (3) the total amount collected under section 2490l of this subchapter;

18 (4) a description of any enforcement actions taken pursuant to this
19 subchapter, and any monetary judgments recovered; and

20 (5) recommendations for improving conditions in the broadband market.

1 § 2490o. RULES

2 (a) In addition to the rules otherwise required by this subchapter, the
3 Attorney General may adopt any other rules the Attorney General deems
4 necessary to implement this subchapter, including rules that define in greater
5 detail what constitutes unfair or deceptive conduct under this subchapter.

6 (b) The rules, as well as any finding of unlawful conduct under this
7 subchapter, shall be consistent with the rules, regulations, and decisions of the
8 Federal Trade Commission and the Federal Communications Commission and
9 with federal court interpretations of the Federal Trade Commission Act, as
10 amended, and the Communications Act of 1934, as amended.

11 § 2490p. EFFECT ON OTHER LAWS

12 This subchapter shall not limit other statutory rights of a consumer or
13 statutory obligations of a provider under Vermont law.

14 § 2490q. STATUTORY CONSTRUCTION; SEVERABILITY

15 (a) It is the intent of the General Assembly that the provisions of this
16 subchapter are liberally construed to accomplish its purposes.

17 (b) As provided in 1 V.S.A. § 215, the provisions of this subchapter are
18 severable. If any provision of this subchapter is invalid, or if any application
19 thereof to any person or circumstance is invalid, the invalidity shall not affect
20 other provisions or applications that can be given effect without the invalid
21 provision or application.

1 § 2490r. STATE AUTHORITY

2 Vermont enacts this subchapter pursuant to all inherent State authority
3 under the 10th Amendment to the U.S. Constitution and all relevant authority
4 granted and reserved to the states by Title 15 and Title 47 of the U.S. Code,
5 including the authority to impose requirements necessary to protect public
6 safety and welfare, safeguard the rights of consumers, and enforce antitrust
7 laws.

8 Sec. 2. REPEAL

9 9 V.S.A. § 2466c (concerning the Attorney General’s review of the network
10 management practices of broadband providers) is repealed.

11 * * * VoIP Service; Battery Backup; Compliance; Notice * * *

12 Sec. 3. VOIP SERVICE; CONSUMER PROTECTIONS

13 (a) The Commissioner of Public Service shall establish a program for
14 monitoring the health and public safety risks associated with the use of Voice
15 over Internet Protocol (VoIP) service in Vermont, particularly during
16 originating carrier or electric power outages. As used in this section, VoIP
17 service means a facilities-based, fixed, voice service that is not line powered.

18 (b) As part of the program, the Commissioner shall:

19 (1) Review, quarterly, the outage reports submitted to the E-911 Board
20 pursuant to the Board’s *Rule Governing Outage Reporting Requirements for*
21 *Originating Carriers and Electric Power Companies* to determine if there are

1 areas of the State particularly prone to carrier or power outages and assess
2 whether locations in those areas have access to facilities-based, fixed, voice
3 service that is line powered or to voice service offered by a Commercial
4 Mobile Radio Service provider.

5 (2) Establish a process for receiving an annual statement from each
6 VoIP provider offering service in the State certifying compliance with FCC
7 regulations concerning E-911 service, 47 C.F.R. § 9.5, and battery backup
8 power requirements, 47 C.F.R. § 12.5.

9 (3) Establish, in coordination with the Office of the Attorney General, a
10 mechanism for receiving and tracking any consumer complaints concerning
11 VoIP service quality and including a summary of any data collected in the
12 Department's annual report to the General Assembly.

13 (4) Develop consumer education and community outreach initiatives
14 designed to ensure all consumers are aware of the risks and best practices
15 concerning emergency preparedness in the event of a power outage.

16 (5) Make recommendations to the General Assembly concerning any
17 additional consumer protections the Commissioner determines should be
18 available in Vermont, which may include additional backup power
19 requirements that supplement federal requirements, financial assistance to low-
20 income consumers for backup power equipment and installation costs,

1 enhanced consumer outreach and education initiatives, and any other
2 requirements or initiatives deemed appropriate by the Commissioner.

3 (c) In developing the program required by this section, the Commissioner
4 of Public Service shall have the assistance of the E-911 Board, the Office of
5 the Attorney General, the Department of Public Safety, the Public Safety
6 Communications Task Force, and the Vermont League of Cities and Towns.

7 * * * Effective Date * * *

8 Sec. 4. EFFECTIVE DATE

9 This act shall take effect on passage.