

**[DISCUSSION DRAFT]**

116TH CONGRESS  
1ST SESSION

**H. R.** \_\_\_\_\_

To amend title I of the Communications Act of 1934 to provide for internet  
openness, and for other purposes.

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**IN THE HOUSE OF REPRESENTATIVES**

M. \_\_\_\_\_ introduced the following bill; which was referred to the  
Committee on \_\_\_\_\_

\_\_\_\_\_  
**A BILL**

To amend title I of the Communications Act of 1934 to  
provide for internet openness, 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 “Open Internet Act of  
5 2019”.

6 **SEC. 2. INTERNET OPENNESS.**

7 Title I of the Communications Act of 1934 (47  
8 U.S.C. 151 et seq.) is amended by adding at the end the  
9 following new section:

1 **“SEC. 14. INTERNET OPENNESS.**

2 “(a) DUTIES OF BROADBAND INTERNET ACCESS  
3 SERVICE PROVIDERS.—

4 “(1) IN GENERAL.—To the extent that a person  
5 is engaged in the provision of broadband internet ac-  
6 cess service, such person—

7 “(A) shall not block lawful content, appli-  
8 cations, or services, or prohibit the use of non-  
9 harmful devices, subject to reasonable network  
10 management;

11 “(B) shall not unjustly or unreasonably  
12 discriminate in transmitting lawful traffic over  
13 a consumer’s broadband internet access service;  
14 and

15 “(C) shall disclose accurate and relevant  
16 information in plain language regarding the  
17 price, performance, and network management  
18 practices of such person’s broadband internet  
19 access service sufficient—

20 “(i) for consumers to make informed  
21 choices regarding use of such service; and

22 “(ii) for content, application, service,  
23 and device providers to develop and market  
24 new internet offerings.

1           “(2) COMMISSION REQUIREMENTS.—The Com-  
2 mission may promulgate rules to implement para-  
3 graph (1)(C). Any such rules—

4           “(A) shall require, at a minimum, such  
5 person to display or provide links to the re-  
6 quired information on an internet website and  
7 to update such information in a timely fashion  
8 to reflect material changes in the information  
9 subject to such paragraph; and

10           “(B) shall not require public disclosure  
11 of—

12           “(i) competitively sensitive informa-  
13 tion;

14           “(ii) information that would com-  
15 promise network security; or

16           “(iii) information that would under-  
17 mine the efficacy of reasonable network  
18 management practices.

19           “(3) RULE OF CONSTRUCTION.—For purposes  
20 of paragraph (1)(B), reasonable network manage-  
21 ment shall not be construed to be unjustly or unrea-  
22 sonably discriminatory.

23           “(b) ENFORCEMENT.—

24           “(1) COMMISSION AUTHORITY.—The Commis-  
25 sion shall enforce the duties established in sub-

1 sections (a)(1)(A) and (a)(1)(B) through adjudica-  
2 tion of a complaint alleging that a service violates  
3 one or more of such duties. Nothing in this section  
4 limits the Commission’s authority to adopt proce-  
5 dures for the adjudication of a complaint, to adopt  
6 an order requiring compliance from an entity subject  
7 to a complaint, to initiate an enforcement action, or  
8 to issue a declaratory ruling or guidance.

9 “(2) INJUNCTIVE RELIEF AND PENALTIES.—If  
10 the Commission finds that a provider of broadband  
11 internet access service has violated any provision of  
12 subsection (a), the Commission may issue an order  
13 enjoining such violation, including interim injunctive  
14 relief. If the Commission finds that a provider of  
15 broadband internet access service has engaged in a  
16 willful and knowing violation of such subsection, the  
17 Commission may issue a fine or forfeiture of no  
18 more than \$2,000,000 for any practice found to vio-  
19 late such subsection, consistent with the procedures  
20 in section 503. The Commission may not order the  
21 payment of damages for any violation of such sub-  
22 section.

23 “(3) NO ADDITIONAL PRIVATE RIGHTS AU-  
24 THORIZED.—Nothing in this section shall be con-

1       strued to authorize any private right of action in  
2       court.

3       “(c) RELATIONSHIP TO OTHER TITLES AND LAWS.—

4             “(1) THE COMMISSION.—The Commission may  
5       not impose regulations on broadband internet access  
6       service or any component thereof under title II, ex-  
7       cept in the event that a provider of broadband inter-  
8       net access service elects to provide the transmission  
9       component of such service as a telecommunications  
10      service under such title. Except as expressly pro-  
11     vided in this section, nothing in this section shall in-  
12     crease, reduce, or otherwise alter the Commission’s  
13     authority.

14            “(2) PROVIDERS.—Nothing in this section shall  
15      supersede any obligation or authorization a provider  
16      of broadband internet access service may have, or  
17      limit the provider’s ability, to address the needs of  
18      emergency communications, law enforcement, public  
19      safety, or national security, consistent with applica-  
20      ble law. Nothing in this section shall prohibit reason-  
21      able efforts by a provider of broadband internet ac-  
22      cess service to address copyright infringement or  
23      other unlawful activity.

24            “(3) SAVINGS CLAUSE.—Nothing in this section  
25      shall increase, reduce, or otherwise alter the anti-

1 trust or other authorities of the Department of Jus-  
2 tice or the Federal Trade Commission.

3 “(d) DEFINITIONS.—For purposes of this section:

4 “(1) BROADBAND INTERNET ACCESS SERV-  
5 ICE.—

6 “(A) IN GENERAL.—The term ‘broadband  
7 internet access service’ means a mass-market  
8 retail service by wire or radio that provides the  
9 capability to transmit data to and receive data  
10 from all or substantially all internet endpoints,  
11 including any capabilities that are incidental to  
12 and enable the operation of the communications  
13 service, but excluding dial-up internet access  
14 service.

15 “(B) FUNCTIONAL EQUIVALENT; EVA-  
16 SION.—The term includes any service that—

17 “(i) the Commission finds to be pro-  
18 viding a functional equivalent of the service  
19 described in subparagraph (A); or

20 “(ii) is used to evade the protections  
21 set forth in this section.

22 “(2) REASONABLE NETWORK MANAGEMENT.—

23 “(A) IN GENERAL.—The term ‘reasonable  
24 network management’ means a network man-  
25 agement practice that is appropriate and tai-

1           lored to achieving a legitimate network manage-  
2           ment function, taking into account the par-  
3           ticular network architecture or technology of  
4           the provider.

5           “(B) INCLUSIONS.—The term includes ap-  
6           propriate and tailored practices—

7                   “(i) to reduce or mitigate the effects  
8                   of congestion on a broadband internet ac-  
9                   cess service provider’s network;

10                   “(ii) to ensure network security or in-  
11                   tegrity;

12                   “(iii) to address traffic that is harm-  
13                   ful to or unwanted by—

14                           “(I) users, including premises op-  
15                           erators;

16                           “(II) the provider’s network; or

17                           “(III) the internet;

18                   “(iv) to meet the needs of public safe-  
19                   ty; and

20                   “(v) to provide services or capabilities  
21                   consistent with a consumer’s choices re-  
22                   garding parental control or security capa-  
23                   bilities.

24           “(C) CONSIDERATIONS.—In determining  
25           whether a network management practice is rea-

1           sonable, the Commission shall consider tech-  
2           nical requirements, standards, or best practices  
3           adopted by one or more independent, widely-  
4           recognized internet community governance ini-  
5           tiatives or standard-setting organizations.”.