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Title: Resolution calling upon the United States Congress to pass and the President to sign S.40/H.R.196, the Online Competition and Consumer Choice Act, and the Federal Communications Commission to formalize a strong network neutrality policy by reclassifying broadband as a Common Carrier under Title II of the Telecommunications Act of 1934

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Res. No. 573

Resolution calling upon the United States Congress to pass and the President to sign S.40/H.R.196, the Online Competition and Consumer Choice Act, and the Federal Communications Commission to formalize a strong network neutrality policy by reclassifying broadband as a Common Carrier under Title II of the Telecommunications Act of 1934

By Council Members Kallos, Constantinides, Johnson, Lander, Chin and Rosenthal (by request of the Manhattan Borough President)

Whereas, Broadband Internet Access is an essential part of daily life for the residents and businesses of New York City, with broadband networks increasingly relied upon as the basic communications platform, just as telephones and radio were relied upon in the past; and

Whereas, “Network/Net Neutrality” or “Open Internet” has been defined as the principle by which all information and content sent over the Internet should have no priority in its delivery, rather the information and content should be allowed to travel freely so that all users have an equal chance to access any content they wish; and

Whereas, Network/Net Neutrality or Open Internet has been the standard by which the Internet has operated since its inception, a standard which has allowed the Internet to foster competition and innovation, and allowed for small companies to enter the market on the same footing as larger, entrenched companies; and

Whereas, In the past, network providers have delivered data on a “best efforts” basis, which has meant that all data is delivered in the same way and at the same rate with only the Internet traffic at the current time controlling the speed at which it is delivered; and

Whereas, If the Internet were not open, network providers would be free to implement a “tiered” system of content delivery, which could block or slow down services and content from providers that are unwilling or unable to pay the network provider’s fees, or who are in competition with services and content produced by or affiliated with the network provider; and

Whereas, A tiered system would be a deterrence to the continued growth of the Internet and the technology companies that use it, because new and innovative services and content could be priced off the Internet by more mature competitors; and

Whereas, A tiered system would affect consumers by forcing them to only choose from a limited supply of services and content; and

Whereas, In 2005, the Federal Communications Commission (FCC) adopted a policy statement that outlines four principles to guide the Internet’s deployment and use; and

Whereas, the FCC statement declared that, consumers are entitled to access lawful Internet content of their choice, to run applications and use services of their choice, subject to law enforcement needs, to connect to their choice of legal devices that don’t harm the network, and to competition among network providers, application and service providers, and content providers; and

Whereas, The FCC did not have any power to enforce these policies, did not provide any direct endorsement of “Net Neutrality/Open Internet” and did not provide any prohibition to the segregation of internet traffic into payable tiers; and

Whereas, In 2010, the FCC released the Open Internet Order whereby they hoped to establish rules dictating the requirements for transparency, and the prohibition of the use of blocking and discrimination in network access; and

Whereas, In 2014, the D.C. Circuit Court of Appeals decided, in *Verizon v. FCC*, that the FCC had the authority, under section 706 of the Telecommunications Act of 1996, to enact measures to encourage deployment of broadband infrastructure, but not to regulate broadband providers as common carriers, such as rules against blocking and discrimination of network access; and

Whereas, Since the early 2000s Congress has introduced multiple bills dealing with the federal regulatory framework for Internet services and content, the powers the FCC has over them and what can be done to ensure the Internet's continued growth and open access; and

Whereas, To date, Congress has not passed legislation establishing Net Neutrality as the standard for how the Internet is to be operated or denying it; and

Whereas, In 2014, President Barack Obama called for the Internet to be reclassified as a Common Carrier under Title II of the Telecommunications Act of 1934, and

Whereas, Reclassifying broadband as a Title II Common Carrier would afford the FCC greater ability to regulate broadband the same way that telephones and radio are currently regulated; and

Whereas, S.40, sponsored by Senator Patrick Leahy, currently pending in the United States Senate, and companion bill H.R.196, sponsored by Rep. Doris Matsui, currently pending in the United States House of Representatives, seek to require the FCC to prohibit paid prioritization agreements between a broadband provider and a content provider; and

Whereas, S.40/H.R.196 would help prevent the creation of a tiered Internet system ensuring entrepreneurs and small businesses access to the marketplace and ensuring consumers have access to all content equally; and

Whereas, Reclassifying broadband as a Common Carrier under Title II of the Telecommunication Act of

1934 would protect the Internet from practices that would stifle its continued growth and its ability to help small businesses and individuals compete with large established companies; and

Whereas, Without network neutrality, smaller companies and individuals will be unable to afford premium network access which will, thus, hurt competition and the innovation that has been the hallmark of the Internet to date; and

Whereas, Open and non-discriminatory access to the Internet for content providers and consumers is essential for the free exchange of ideas, open discussion, open and transparent government, and an informed citizenry; and

Whereas, The future of the Internet remains in jeopardy until Congress passes meaningful, enforceable protections for network neutrality and the FCC reclassifies broadband as a Title II Common Carrier; now, therefore, be it

Resolved, That the Council of the City of New York calls upon the United States Congress to pass and the President to sign S.40/H.R.196, the Online Competition and Consumer Choice Act, and the Federal Communications Commission to classify broadband internet as a Common Carrier under Title II of the Telecommunications Act of 1934.

PM
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