H. R. 

To amend the Communications Act of 1934 to provide for internet openness requirements for broadband internet access service providers, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. COFFMAN introduced the following bill; which was referred to the Committee on 

A BILL

To amend the Communications Act of 1934 to provide for internet openness requirements for broadband internet access service providers, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “21st Century Internet Act”.

SEC. 2. BROADBAND INTERNET ACCESS SERVICE.

The Communications Act of 1934 (47 U.S.C. 151 et seq.) is amended by adding at the end the following:
"TITLE VIII—BROADBAND
INTERNET ACCESS SERVICE

"SEC. 801. INTERNET OPENNESS.

"(a) No Blocking.—A broadband internet access service provider may not—

"(1) block lawful content, applications, or services, subject to reasonable network management;

"(2) charge an edge provider a fee to avoid blocking of the content, applications, or services provided by the edge provider; or

"(3) prohibit, restrict, or penalize the use of non-harmful devices on the network of the broadband internet access service provider, subject to reasonable network management.

"(b) No Throttling.—A broadband internet access service provider may not—

"(1) impair, degrade, slow down, speed up, or enhance lawful internet traffic on the basis of internet content, application, source, destination, service, or use of a non-harmful device, or any particular class of content, application, source, destination, service, or non-harmful device, subject to reasonable network management; or

"(2) charge an edge provider a fee to avoid the impairment, degradation, or slowing down of inter-
net traffic of the edge provider, or for the speeding
up or enhancement of such traffic, on the basis of
internet content, application, source, destination,
service, or use of a non-harmful device, or any par-
ticular class of content, application, source, destina-
tion, service, or non-harmful device.

“(c) No Paid Preferential Treatment.—A
broadband internet access service provider may not engage
in paid preferential treatment.

“(d) No Unreasonable Interference or Dis-
advantage Standard for Internet Conduct.—

“(1) In general.—A broadband internet ac-
cess service provider may not unreasonably interfere
with or disadvantage—

“(A) the ability of end users to select, ac-
cess, and use broadband internet access service
or the lawful content, applications, services, or
devices chosen by such end users, including any
particular class of content, application, service,
or device; or

“(B) the ability of edge providers to make
available to end users lawful content, applica-
tions, services, or devices, including any par-
ticular class of content, application, service, or
device.
“(2) Reasonable network management.— Reasonable network management shall not be considered a violation of this subsection.

“(e) Transparency.—

“(1) Disclosures required.—A broadband internet access service provider shall publicly disclose accurate and relevant information regarding the network management practices, performance (including speed, latency, and packet loss), and commercial terms of the broadband internet access services of such provider sufficient for consumers to make informed choices regarding use of such services and for edge providers to develop, market, and maintain internet offerings.

“(2) Form and manner of disclosures.— The disclosures required by paragraph (1) shall be—

“(A) made on a timely basis;

“(B) made prominently and in plain language; and

“(C) accessible to current and prospective end users and edge providers, the Commission, and third parties who wish to monitor network management practices.

“(3) Exceptions.—
“(A) In general.—Paragraph (1) does not require a broadband internet access service provider to publicly disclose information that—

“(i) is competitively sensitive;

“(ii) could compromise network security; or

“(iii) could undermine the efficacy of reasonable network management practices.

“(B) Redacted and unredacted versions of disclosure.—A broadband internet access service provider that withholds information under subparagraph (A) from any public disclosure made to comply with paragraph (1) shall—

“(i) submit to the Commission an unredacted version of such disclosure that contains the information withheld; and

“(ii) indicate in the public version of such disclosure that information has been redacted from such disclosure under subparagraph (A).

“(C) Evaluation by Commission.—

“(i) In general.—Not later than 14 days after the Commission receives an unredacted version of a disclosure under
subparagraph (B)(i), the Commission shall
review such disclosure to determine if the
information withheld from the public
version of such disclosure meets the re-
quirements for an exception under sub-
paragraph (A).

“(ii) DEADLINE FOR DISCLOSURE.—If
the Commission determines under clause
(i) that the information withheld from the
public version of the disclosure does not
meet the requirements for an exception
under subparagraph (A), the broadband
internet access service provider shall pub-
licly disclose such information not later
than 30 days after the date of the deter-
mination of the Commission. The running
of the time period specified in the pre-
ceding sentence shall be tolled during the
pendency of any petition for reconsider-
atation of the determination under section
405, application for review of the deter-
mination under section 5(c) (in the case of
a determination made under authority del-
egated under such section), or civil action
seeking judicial review of the determination.

“SEC. 802. TRAFFIC EXCHANGE.

“(a) DUTY TO INTERCONNECT AND EXCHANGE Internet Protocol Traffic.—A broadband internet access service provider shall have the duty to interconnect and exchange Internet Protocol traffic on a settlement-free basis with any person (including an edge provider or other internet service provider) seeking to exchange Internet Protocol traffic with such broadband internet access service provider, if the traffic exchange arrangement proposed by such person provides for the exchange of—

“(1) Internet Protocol traffic with such broadband internet access service provider on a reasonably localized basis; and

“(2) at least a reasonable minimum amount of Internet Protocol traffic with such broadband internet access service provider, except that the proportion of traffic sent and received between the person seeking to exchange traffic and the provider shall not be a factor in determining what is a reasonable minimum amount for purposes of this paragraph.

“(b) INDIRECT INTERCONNECTION.—A broadband internet access service provider may satisfy the duty of such provider under subsection (a) by interconnecting in-
directly with any person requesting interconnection under such subsection, if—

“(1) as of the date of the enactment of this title, such broadband internet access service provider relies primarily on indirect interconnection for the exchange of all of the Internet Protocol traffic of such provider with other persons (including edge providers and other internet service providers); and

“(2) the entity through which Internet Protocol traffic will be exchanged with such provider offers settlement-free interconnection for the purpose of exchanging Internet Protocol traffic with such provider on terms that are at least as favorable to persons requesting interconnection as those required under subsection (a).

“(c) UNREASONABLE DISCRIMINATION PROHIBITED.—A broadband internet access service provider may not unreasonably discriminate when entering into traffic exchange arrangements under subsection (a) or complying with the duty of such provider under such subsection through indirect interconnection in accordance with subsection (b).

“(d) OTHER TRAFFIC EXCHANGE ARRANGEMENTS.—Any broadband internet access service provider traffic exchange arrangement other than an arrangement
described in subsection (a) shall be made on a commercially reasonable basis.

“(e) Prohibition on Evasion of Internet Openness Obligations.—A broadband internet access service provider may not engage in practices related to or in connection with Internet Protocol traffic exchange, or enter into traffic exchange arrangements, that are designed or intended to evade the obligations set forth in section 801.

“SEC. 803. OTHER LAWS AND CONSIDERATIONS.

“(a) Emergency Communications, Law Enforcement, and Related Matters.—Nothing in this title supersedes any obligation or authorization a broadband internet access service provider may have to address the needs of emergency communications or law enforcement, public safety, or national security authorities, consistent with or as permitted by applicable law, or limits the ability of the provider to do so.

“(b) Copyright Infringement and Other Unlawful Activity.—Nothing in this title prohibits reasonable efforts by a broadband internet access service provider to address copyright infringement or other unlawful activity.

“(c) End-user Choice; Specialized Services.—

“(1) In general.—Nothing in this title shall be construed to limit—
“(A) the ability of end users to choose service plans or to exercise control over the broadband internet access service chosen by the user; or

“(B) except as provided in paragraph (2), the ability of broadband internet access service providers to offer specialized services.

“(2) SPECIALIZED SERVICES.—Specialized services may not be—

“(A) offered or provided in ways that constitute a functional equivalent of broadband internet access service; or

“(B) otherwise designed or intended to evade the obligations set forth in section 801 or 802.

“SEC. 804. ACCESS BY PERSONS WITH DISABILITIES.

“(a) MANUFACTURING.—A manufacturer of broadband equipment or broadband customer premises equipment shall ensure that the equipment is designed, developed, and fabricated to be accessible to and usable by individuals with disabilities, if readily achievable.

“(b) BROADBAND INTERNET ACCESS SERVICE.—A broadband internet access service provider shall ensure that the service is accessible to and usable by individuals with disabilities, if readily achievable.
“(c) COMPATIBILITY.—Whenever the requirements of subsections (a) and (b) are not readily achievable, such a manufacturer or provider shall ensure that the equipment or service is compatible with existing peripheral devices or specialized broadband customer premises equipment commonly used by individuals with disabilities to achieve access, if readily achievable.

“(d) GUIDELINES.—Not later than 6 months after the date of the enactment of this title, the Architectural and Transportation Barriers Compliance Board shall develop guidelines for accessibility of broadband equipment and broadband customer premises equipment in conjunction with the Commission. The Board shall review and update the guidelines periodically.

“(e) NO ADDITIONAL PRIVATE RIGHTS AUTHORIZED.—Nothing in this section shall be construed to authorize any private right of action to enforce any requirement of this section or any regulation thereunder. The Commission shall have exclusive jurisdiction with respect to any complaint under this section.

“(f) DEFINITIONS.—In this section:

“(1) BROADBAND CUSTOMER PREMISES EQUIPMENT.—The term ‘broadband customer premises equipment’ means equipment employed on the premises of a person (other than a broadband internet ac-
cess service provider) to originate, route, or terminate broadband internet access services.

“(2) BROADBAND EQUIPMENT.—The term ‘broadband equipment’ means equipment, other than broadband customer premises equipment, used by a broadband internet access service provider to provide broadband internet access service, and includes software integral to such equipment (including upgrades).

“(3) DISABILITY.—The term ‘disability’ has the meaning given such term in section 3(1)(A) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102(1)(A)).

“(4) READILY ACHIEVABLE.—The term ‘readily achievable’ has the meaning given such term in section 301(9) of such Act (42 U.S.C. 12181(9)).

“SEC. 805. COMMISSION AUTHORITY.

“(a) UNFAIR OR DECEPTIVE ACTS OR PRACTICES.—It shall be unlawful for a broadband internet access service provider to engage in unfair or deceptive acts or practices.

“(b) GENERAL ENFORCEMENT AND IMPLEMENTATION AUTHORITY.—In addition to the authority with respect to complaints under subsection (e), the Commission shall have the authority to initiate investigations, bring enforcement actions, issue declaratory rulings, conduct
rulemakings, and take such other actions consistent with
sections 4(i) and 403 as are necessary to implement the
requirements of this title. Nothing in this title shall alter
the power of the Commission to impose forfeitures under
title V.

“(c) Complaints.—

“(1) Formal Complaints.—The Commission
shall enforce the obligations established in this title
through adjudication of complaints, under existing
Commission complaint protocol.

“(2) Informal Complaints.—The Commission
may investigate informal complaints. Any such
complaint shall set forth clearly and concisely the
facts relied upon, the relief sought, the statutory or
regulatory provisions (if any) pursuant to which the
complaint is filed and under which relief is sought,
and the interest of the person submitting the com-
plaint.

“(d) Forbearance Authority Inapplicable.—
The authority of the Commission under section 10 shall
not apply to this title or a regulation promulgated under
this title.

“SEC. 806. Prescriptive Rate Regulation.

“Nothing in this title shall be construed to grant au-
thority to the Commission to prescribe the rate that a
broadband internet access service provider may charge for such service in advance of the provision of such service.

“SEC. 807. DEFINITIONS.

“In this title:

“(1) BROADBAND INTERNET ACCESS SERVICE.—

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

“(B) FUNCTIONAL EQUIVALENT; EVASION.—Such term includes any service that—

“(i) the Commission finds to be providing a functional equivalent of the service described in subparagraph (A); or

“(ii) is used to evade the obligations set forth in this title.

“(2) BROADBAND INTERNET ACCESS SERVICE PROVIDER.—The term ‘broadband internet access service provider’ means a person engaged in the pro-
vision of broadband internet access service, insofar
as such person is so engaged.

“(3) Edge provider.—The term ‘edge pro-
vider’ means any person who provides—

“(A) any content, application, or service
over the internet; or

“(B) a device used for accessing any con-
tent, application, or service over the internet.

“(4) End user.—The term ‘end user’ means
any person who uses a broadband internet access
service.

“(5) Network management practice.—The
term ‘network management practice’ means a prac-
tice that has an exclusively technical network man-
agement justification, but such term does not in-
clude other business practices.

“(6) Paid preferential treatment.—The
term ‘paid preferential treatment’ means the man-
agement of the network of a broadband internet ac-
cess service provider to directly or indirectly favor
some internet traffic in relation to other internet
traffic, including through the use of techniques such
as traffic shaping, prioritization, resource reserva-
tion, or other forms of preferential traffic manage-
ment, either—
“(A) in exchange for consideration (monetary or otherwise) from a third party; or

“(B) to benefit an affiliated entity

“(7) Reasonable network management.—

The term ‘reasonable network management’ means the use of a network management practice exclusively for, and tailored to achieving, a legitimate technical network management purpose, taking into account the particular network architecture and technology of the broadband internet access service.

“(8) Specialized services.—The term ‘specialized services’ means services accessed by means other than through broadband internet access service and that are offered or delivered over the same network as, and that may share network capacity with, broadband internet access services.

“(9) Traffic exchange.—The term ‘traffic exchange’, and the term ‘exchange’ when used with respect to Internet Protocol traffic, mean the exchange of Internet Protocol traffic between networks.

“(10) Traffic exchange arrangement.—

The term ‘traffic exchange arrangement’ means an arrangement that determines which networks ex-
change Internet Protocol traffic and the destinations
to which such networks will deliver such traffic.”.

SEC. 3. ELIGIBILITY OF BROADBAND INTERNET ACCESS
SERVICES FOR UNIVERSAL SERVICE FUNDS.

Section 254 of the Communications Act of 1934 (47
U.S.C. 254) is amended—

(1) in subsection (c), by adding at the end the
following:

“(4) BROADBAND INTERNET ACCESS SERV-
ICES.—Broadband internet access services (as de-
defined in section 807) shall be eligible to receive fund-
ing from Federal universal service support mecha-
nisms authorized by this section.”;

(2) in the last sentence of subsection (d), by in-
serting “(including a broadband internet access serv-
vice provider (as defined in section 807))” after “tele-
communications”; and

(3) in subsection (e)—

(A) in the first sentence, by inserting “or
a broadband internet access service provider (as
defined in section 807)” after “section 214(e)”;

and

(B) in the second sentence, by inserting
“or provider” after “carrier”.

SEC. 4. EFFECTIVE DATE.

The amendments made by this Act shall apply with respect to broadband internet access service that is provided after the date that is 30 days after the date of the enactment of this Act.