

REPORT OF THE CHIEF LEGISLATIVE ANALYST

DATE: December 1, 2017

TO: Honorable Members of the Rules, Elections, and Intergovernmental Relations Committee

FROM: Sharon M. Tso 
Chief Legislative Analyst

Council File No: 17-0002-S131
Assignment No: 17-11-1097

SUBJECT: Resolution (Blumenfield-Rodriguez-Wesson) to OPPOSE any administrative action that would eliminate the net neutrality rules established in 2015.

CLA RECOMMENDATION: Adopt Resolution (Blumenfield-Rodriguez-Wesson) to include in the City's 2017 – 2018 Federal Legislative Program, opposition to any administrative action, including the proposed “Restoring Internet Freedom” plan that is anticipated to be voted on by the Federal Communications Commission on December 14, 2017, that would eliminate the “net neutrality” rules that prohibit Internet service providers from: (1) blocking access to lawful content, applications, services or non-harmful devices (“blocking”); (2) deliberately targeting some lawful Internet traffic to be delivered to users more slowly than other traffic (“throttling”); and (3) favoring some Internet traffic in exchange for consideration of any kind and prioritizing the content and services of their affiliates (“paid prioritization”).

SUMMARY

Resolution (Blumenfield-Rodriguez-Wesson), introduced on November 28, 2017, concerns the Declaratory Ruling, Report and Order, and Order, also known as the “Restoring Internet Freedom” (WC Docket No. 17-108) (Proposed Order), that will be voted on by the Federal Communications Commission (FCC) on December 14, 2017. This Proposed Order would dismantle the net neutrality regulations that currently help to protect and maintain open, uninhibited access to lawful content online. The Resolution states that the FCC established rules in 2015 to protect net neutrality by preventing Internet Service Providers (ISPs) from engaging in practices that harm Internet openness, such as: (1) blocking access to lawful content, applications, services or non-harmful devices (“blocking”); (2) deliberately targeting some lawful Internet traffic to be delivered to users more slowly than other traffic (“throttling”); and (3) favoring some Internet traffic in exchange for consideration of any kind and prioritizing the content and services of their affiliates (“paid prioritization”). Therefore, the Resolution recommends that the City oppose any administrative action, including the Proposed Order, which would eliminate the 2015 net neutrality rules.

BACKGROUND

In 2015, the FCC adopted the “net neutrality” rules to protect Internet openness and combat practices by ISPs that may hinder having an open Internet. When the 2015 rules were created, the FCC indicated that Internet openness drives a “virtuous cycle” in which innovations at the edges of the network enhance consumer demand, leading to expanded investment in broadband infrastructure. The key provisions within the existing rules¹ prohibit ISPs from:

¹ The rules are applicable to fixed and mobile broadband Internet access service.

- **Blocking** - ISPs cannot block lawful content, applications, services, or non-harmful devices, subject to reasonable network management;
- **Throttling** - ISPs cannot impair or degrade lawful Internet traffic on the basis of Internet content, application, or service, or use of a non-harmful device, subject to reasonable network; and
- **Paid Prioritization** - ISPs cannot engage in paid prioritization, which means that ISPs cannot accept payment (monetary or otherwise) to manage its network in a way that benefits particular, content, applications, services or devices.

The rules also include reporting requirements for ISPs to enhance transparency for end users. This includes disclosing information regarding all fees and/or surcharges and any network practices that are likely to significantly affect a consumer's use of the service. The rules allow the FCC to enforce these rules through investigation and the process of filing complaints (both formal and informal). Additionally, the rules allow the FCC to provide guidance through enforcement advisories and advisory opinions. The rules also reclassified ISPs as "common carriers" under Title II of the Communications Act of 1934 instead of an "information service" under Section 706 of the Telecommunications Act of 1996. This reclassification meant that the FCC could impose stricter regulations and allowed them to enforce the net neutrality rules.

On December 14, 2017, the FCC will be voting on the Proposed Order, which would significantly roll back some of the 2015 net neutrality provisions. Some of the proposed changes proposed include:

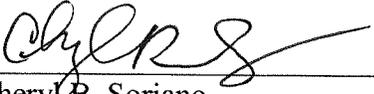
- Adopting transparency requirements that ISPs disclose information about their practices to consumers, entrepreneurs, and the FCC, including their practices related to blocking, throttling and paid prioritization, but would not explicitly prohibit these practices;
- Restoring the classification of broadband Internet access service as an "information service;"
- Reinstating the private mobile service classification of mobile broadband Internet access service;
- Restoring the Federal Trade Commission's ability to protect consumers online from any unfair, deceptive, and anticompetitive practices without burdensome regulations, achieving comparable benefits at lower cost and thus eliminating the FCC's ability to regulate ISPs.

Those in support of the Proposed Order indicate that it would boost broadband network investment, expansion and upgrades. However, those opposed to these changes believe that the existing rules protect a "virtuous cycle" of innovation that helps the broader U.S. economy. Furthermore, the proposed changes could be detrimental to Internet openness since ISPs could block or slow traffic to websites or services of their choosing and therefore control what users can and cannot access. There is also concern that ISPs would give preferential treatment to their own content or website, which is contrary to Internet openness. Additionally, those opposed to these changes believe that it could lead to higher consumer prices for existing Internet access and speeds.

Opposition to any administrative action, including the Proposed Order, is consistent with existing City policies regarding the protection of Internet openness and net neutrality.

DEPARTMENTS NOTIFIED

None


Cheryl B. Soriano
Analyst

SMT:cbs

Attachment: 1. Resolution (Blumenfield-Rodriguez-Wesson)

RESOLUTION

WHEREAS, any official position of the City of Los Angeles with respect to legislation, rules, regulations or policies proposed to or pending before a local, state, or federal governmental body or agency must have first been adopted in the form of a Resolution by the City Council with the concurrence of the Mayor; and

WHEREAS, "net neutrality," also known as "Internet freedom" or "open Internet," is the principle that all traffic on the Internet should be treated equally and that Internet service providers (ISPs) cannot favor their own content over a competitor's; and

WHEREAS, the Federal Communications Commission (FCC) established rules in 2015 to protect net neutrality and the public's ability to go where you want when you want online; and

WHEREAS, the net neutrality rules prevent ISPs from engaging in practices that harm Internet openness, such as: (1) blocking access to lawful content, applications, services or non-harmful devices ("blocking"); (2) deliberately targeting some lawful Internet traffic to be delivered to users more slowly than other traffic ("throttling"); and (3) favoring some Internet traffic in exchange for consideration of any kind and prioritizing the content and services of their affiliates ("paid prioritization"); and

WHEREAS, on December 14, 2017, the FCC is expected to vote on a plan titled "Restoring Internet Freedom" (Plan), which would dismantle the net neutrality regulations that currently help to protect and maintain open, uninhibited access to lawful content online; and

WHEREAS, the Plan would only require that ISPs notify the public when it has blocked legal sites, throttled content, or collected fees to prioritize content, instead of clearly prohibiting these activities; and

WHEREAS, the Plan would restore the classification of broadband Internet service as an "information service" rather than as a "utility," which would make it subject to less regulation and reporting requirements; and

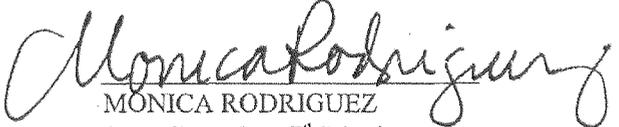
WHEREAS, the Federal Trade Commission, not the FCC, would be tasked with "policing" ISPs to protect consumers and promote competition, but those opposed to Plan indicate that this would not be sufficient; and

WHEREAS, the FCC established the current rules to allow for investment and innovation to continue to flourish on the Internet and prevent practices that are harmful to its openness; and

WHEREAS, the City should oppose any plan that would completely dismantle the net neutrality rules and put in jeopardy the regulations that seek to protect the equality of all content on the Internet;

NOW, THEREFORE, BE IT RESOVLED, with the concurrence of the Mayor, that by adoption of this Resolution, the City of Los Angeles hereby includes in its 2017-2018 Federal Legislative Program opposition to any administrative action, including the proposed "Restoring Internet Freedom" plan that is anticipated to be voted on by the Federal Communications Commission on December 14, 2017, that would eliminate the "net neutrality" rules that prohibit Internet service providers from: (1) blocking access to lawful content, applications, services or non-harmful devices ("blocking"); (2) deliberately targeting some lawful Internet traffic to be delivered to users more slowly than other traffic ("throttling"); and (3) favoring some Internet traffic in exchange for consideration of any kind and prioritizing the content and services of their affiliates ("paid prioritization").

PRESENTED BY: 
BOB BLUMENFIELD
Councilmember, 3rd District


MONICA RODRIGUEZ
Councilmember, 7th District

NOV 28 2017

SECONDED BY: 

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