

ONE HUNDRED FIFTEENTH CONGRESS
Congress of the United States
House of Representatives
COMMITTEE ON ENERGY AND COMMERCE
2125 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6115

Majority (202) 225-2927
Minority (202) 225-3641

MEMORANDUM

April 15, 2018

To: Subcommittee on Communications and Technology Democratic Members and Staff
Fr: Committee on Energy and Commerce Democratic Staff
Re: Hearing on “From Core to Edge: Perspective on Internet Prioritization”

On **Tuesday, April 17, 2018 at 10:15 a.m. in room 2322 of the Rayburn House Office Building**, the Subcommittee on Communications and Technology will hold a hearing titled “From Core to Edge: Perspective on Internet Prioritization.”

I. BACKGROUND

The Federal Communications Commission (FCC) adopted network neutrality protections in 2015 that were applicable to wired and wireless consumer broadband services. The Commission’s rules, adopted in its order *Protecting and Promoting the Open Internet* (2015 Order), were designed to protect consumers, free speech, and innovation online.¹ In the 2015 Order, the FCC adopted three “bright-line” consumer safeguards—prohibitions on (1) blocking; (2) throttling; and (3) paid prioritization. The Commission also adopted a general conduct standard to ensure that broadband providers could not evade the spirit of these bright line protections. These protections made certain that broadband service providers could not discriminate against or impede Americans’ access to content, or their broadband connection as a whole.

“Paid prioritization” occurs when an Internet Service Provider (ISP) charges a website or other online service to deliver their content faster than other services. The FCC found that allowing ISPs to charge extra for these types of “fast lanes” would put small businesses at a

¹ Federal Communications Commission, *Protecting and Promoting the Open Internet*, Report and Order on Remand, Declaratory Ruling, and Order, GN Docket No. 14-28, FCC 15-24.

disadvantage and ultimately harm innovation and speech online.² At the same time, the FCC allowed ISPs to engage in “reasonable network management” for activity that was “primarily technical network management justification.”³

The 2015 Order also made clear that certain “specialized services” were not subject to the general ban on paid prioritization. Examples of specialized services include heart monitors, energy consumption sensors, automobile telematics, e-reader connectivity, facilities-based Voice over Internet Protocol, and Internet Protocol-video offerings. Finally, the 2015 Order set forth a waiver process allowing ISPs to obtain permission from the Commission for practices that might otherwise violate the prohibition on paid prioritization, where such practice would “provide some significant public interest benefit and would not harm the open nature of the Internet.”⁴ The 2015 Order suggested that in addition to being structured as a specialized service, telemedicine services could also meet this waiver standard.⁵

The FCC adopted an Order in December 2017 that effectively eliminated the net neutrality rules, including the prohibition on paid prioritization.⁶

II. WITNESSES

Mr. Richard Bennett

Founder

High Tech Forum

Mr. Peter Rysavy

President

Rysavy Research, LLC

Mr. Paul Schroeder

Director, Public Policy and Strategic Alliances

Aira Tech Corporation

Matt Wood

Policy Director

Free Press

² *Id.* at ¶ 127.

³ *Id.* at ¶¶ 215-217.

⁴ *Id.* at ¶¶ 30-132.

⁵ *Id.* at n. 315 at ¶ 132.

⁶ *See* Federal Communication Commission, *Restoring Internet Freedom*, WC Docket No. 17-106, FCC 17-166.