To amend the Communications Act of 1934 to ensure net neutrality.

IN THE SENATE OF THE UNITED STATES

May 19, 2006

Ms. SNOWE (for herself, Mr. DORGAN, Mr. INOUYE, Mr. WYDEN, Mr. LEAHY, Mrs. BOXER, Mr. OBAMA, and Mrs. CLINTON) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To amend the Communications Act of 1934 to ensure net neutrality.

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 `Internet Freedom Preservation Act'.

SEC. 2. INTERNET NEUTRALITY.

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

`SEC. 12. INTERNET NEUTRALITY.

(a) Duty of Broadband Service Providers- With respect to any broadband service offered to the public, each broadband service provider shall--

(1) not block, interfere with, discriminate against, impair, or degrade the ability of any person to use a broadband service to access, use, send, post, receive, or offer any
lawful content, application, or service made available via the Internet;
`(2) not prevent or obstruct a user from attaching or using any device to the network of such broadband service provider, only if such device does not physically damage or substantially degrade the use of such network by other subscribers;
`(3) provide and make available to each user information about such user's access to the Internet, and the speed, nature, and limitations of such user's broadband service;
`(4) enable any content, application, or service made available via the Internet to be offered, provided, or posted on a basis that--
  `(A) is reasonable and nondiscriminatory, including with respect to quality of service, access, speed, and bandwidth;
  `(B) is at least equivalent to the access, speed, quality of service, and bandwidth that such broadband service provider offers to affiliated content, applications, or services made available via the public Internet into the network of such broadband service provider; and
  `(C) does not impose a charge on the basis of the type of content, applications, or services made available via the Internet into the network of such broadband service provider;
`(5) only prioritize content, applications, or services accessed by a user that is made available via the Internet within the network of such broadband service provider based on the type of content, applications, or services and the level of service purchased by the user, without charge for such prioritization; and
`(6) not install or utilize network features, functions, or capabilities that impede or hinder compliance with this section.
`(b) Certain Management and Business-Related Practices-
Nothing in this section shall be construed to prohibit a broadband service provider from engaging in any activity, provided that such activity is not inconsistent with the requirements of subsection (a), including--
  `(1) protecting the security of a user's computer on the network of such broadband service provider, or managing such network in a manner that does not distinguish based
on the source or ownership of content, application, or service;
(2) offering directly to each user broadband service that does not distinguish based on the source or ownership of content, application, or service, at different prices based on defined levels of bandwidth or the actual quantity of data flow over a user's connection;
(3) offering consumer protection services (including parental controls for indecency or unwanted content, software for the prevention of unsolicited commercial electronic messages, or other similar capabilities), if each user is provided clear and accurate advance notice of the ability of such user to refuse or disable individually provided consumer protection capabilities;
(4) handling breaches of the terms of service offered by such broadband service provider by a subscriber, provided that such terms of service are not inconsistent with the requirements of subsection (a); or
(5) where otherwise required by law, to prevent any violation of Federal or State law.
(c) Exception- Nothing in this section shall apply to any service regulated under title VI, regardless of the physical transmission facilities used to provide or transmit such service.
(d) Stand-Alone Broadband Service- A broadband service provider shall not require a subscriber, as a condition on the purchase of any broadband service offered by such broadband service provider, to purchase any cable service, telecommunications service, or IP-enabled voice service.
(e) Implementation- Not later than 180 days after the date of enactment of the Internet Freedom Preservation Act, the Commission shall prescribe rules to implement this section that—
(1) permit any aggrieved person to file a complaint with the Commission concerning any violation of this section; and
(2) establish enforcement and expedited adjudicatory review procedures consistent with the objectives of this section, including the resolution of any complaint described in paragraph (1) not later than 90 days after such complaint was filed, except for good cause shown.
(f) Enforcement-
(1) IN GENERAL- The Commission shall enforce compliance with this section under title V, except that—
(A) no forfeiture liability shall be determined under section 503(b) against any person unless such
person receives the notice required by section 503(b)(3) or section 503(b)(4); and
  ` (B) the provisions of section 503(b)(5) shall not apply.

  (2) SPECIAL ORDERS- In addition to any other remedy provided under this Act, the Commission may issue any appropriate order, including an order directing a broadband service provider--
    ` (A) to pay damages to a complaining party for a violation of this section or the regulations hereunder; or
    ` (B) to enforce the provisions of this section.

  (g) Definitions- In this section, the following definitions shall apply:
    ` (1) AFFILIATED- The term `affiliated' includes--
      ` (A) a person that (directly or indirectly) owns or controls, is owned or controlled by, or is under common ownership or control with, another person; or
      ` (B) a person that has a contract or other arrangement with a content, applications, or service provider relating to access to or distribution of such content, applications, or service.
    ` (2) BROADBAND SERVICE- The term `broadband service' means a 2-way transmission that--
      ` (A) connects to the Internet regardless of the physical transmission facilities used; and
      ` (B) transmits information at an average rate of at least 200 kilobits per second in at least 1 direction.
    ` (3) BROADBAND SERVICE PROVIDER- The term `broadband service provider' means a person or entity that controls, operates, or resells and controls any facility used to provide broadband service to the public, whether provided for a fee or for free.
    ` (4) IP-ENABLED VOICE SERVICE- The term `IP-enabled voice service' means the provision of real-time 2-way voice communications offered to the public, or such classes of users as to be effectively available to the public, transmitted through customer premises equipment using TCP/IP protocol, or a successor protocol, for a fee (whether part of a bundle of services or separately) with interconnection capability such that service can originate traffic to, and terminate traffic from, the public switched telephone network
(5) USER- The term `user' means any residential or business subscriber who, by way of a broadband service, takes and utilizes Internet services, whether provided for a fee, in exchange for an explicit benefit, or for free.'.

SEC. 3. REPORT ON DELIVERY OF CONTENT, APPLICATIONS, AND SERVICES.

Not later than 270 days after the date of enactment of this Act, and annually thereafter, the Federal Communications Commission shall transmit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives on the--

(1) ability of providers of content, applications, or services to transmit and send such information into and over broadband networks;
(2) ability of competing providers of transmission capability to transmit and send such information into and over broadband networks;
(3) price, terms, and conditions for transmitting and sending such information into and over broadband networks;
(4) number of entities that transmit and send information into and over broadband networks; and
(5) state of competition among those entities that transmit and send information into and over broadband networks.

END