



**TESTIMONY OF  
THE DEPARTMENT OF THE ATTORNEY GENERAL  
TWENTY-NINTH LEGISLATURE, 2018**

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**ON THE FOLLOWING MEASURE:**

H.B. NO. 1995, H.D. 1, RELATING TO BROADBAND INTERNET ACCESS.

**BEFORE THE:**

HOUSE COMMITTEE ON CONSUMER PROTECTION AND COMMERCE

**DATE:** Tuesday, February 13, 2018                      **TIME:** 2:00 p.m.

**LOCATION:** State Capitol, Room 329

**TESTIFIER(S):** Russell A. Suzuki, Acting Attorney General, or  
Gregg J. Kinkley, Deputy Attorney General

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Chair Takumi and Members of the Committee:

The Department of the Attorney General provides the following comments.

The purpose of this bill is to mitigate the adverse effect on the State of Hawaii of the Federal Communications Commission's ruling against net neutrality by (1) regulating providers of broadband internet access; and (2) establishing a task force to examine the benefit and feasibility of the State's classifying internet service as a public utility and providing internet service to consumers in Hawaii through a state-owned internet service provider company.

We want to ensure that the Legislature understands that the prohibitions on blocking, impairment, paid prioritization, and interference may be subject to a preemption challenge. In the new chapter being added to the Hawaii Revised Statutes by section 3 of the bill, section -2 on page 7, line 5, to page 8, line 10, attempts to regulate broadband internet access service in the State by prohibiting these practices. These prohibitions are inconsistent, however, with the declaratory order recently issued by the Federal Communications Commission that purports to establish a federal deregulatory regime for broadband internet access providers. *Restoring Internet Freedom*, Declaratory Ruling, Report and Order, WC Docket No. 17-108, FCC 17-166 (released on Jan. 4, 2018) ("Order").

The FCC considered and expressly disapproved of regulations prohibiting blocking (§263), throttling (§263), paid prioritization (§253), and interference (§246). The prohibitions on blocking, impairment, paid prioritization, and interference in this bill are inconsistent with these provisions of the Order. Therefore, portions of this bill may be subject to a preemption challenge.

We note that this area of the law is developing rapidly and future developments may affect the risk of a legal challenge to this bill. The Order itself will not take effect until publication in the Federal Register, which is anticipated to occur within a short time. Moreover, the Order is subject to judicial review and has already been challenged in court; Hawai'i is one of twenty-one states that filed a petition for review of the Order in the United States Court of Appeals for the District of Columbia Circuit. *Petition for Protective Review, New York, et al., Petitioners v. Federal Communications Commission, et al., Respondents*, Case No. 18-1013. The federal courts could ultimately overturn the Order; however, there are no guarantees in litigation and any judicial ruling may occur years from now.

We are not recommending that this bill be held on legal grounds, and simply want to ensure that the Committee is informed of the possible legal risk.

Thank you for the opportunity to comment.



**DEPARTMENT OF BUSINESS,  
ECONOMIC DEVELOPMENT & TOURISM**

DAVID Y. IGE  
GOVERNOR

LUIS P. SALAVERIA  
DIRECTOR

MARY ALICE EVANS  
DEPUTY DIRECTOR

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Statement of  
**LUIS P. SALAVERIA**  
Director  
Department of Business, Economic Development and Tourism  
before the  
**HOUSE COMMITTEE ON CONSUMER PROTECTION AND COMMERCE**  
Tuesday, February 13, 2018  
2:00 PM  
State Capitol, Conference Room 329

in consideration of  
**HB 1995, HD1**  
**RELATING TO BROADBAND SERVICE.**

Chair Takumi, Vice Chair Ichiyama and Members of the Committee.

The Department of Business, Economic Development and Tourism (DBEDT) supports the intent of Part II of HB1995, HD1, to ensure that the Internet remains free and open in the State. While DBEDT believes strongly in the preservation of the principles of net neutrality and a free and open Internet, we recognize that the Federal Communication Commission's recent repeal of the Obama-era net neutrality rulings may result in Congressional action and/or States' legal challenges.

In Part III of HB1995, HD1, DBEDT has reservations in the creation of a task force to study the feasibility of a public utility Internet service provider. This effort diverts time and resources better spent on fostering the State's technology initiatives.

Thank you for the opportunity to offer testimony on HB1995, HD1.



Bob Bass  
*President of External and  
Legislative Affairs, Hawaii*

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February 13, 2018

Honorable Roy M. Takumi  
Chair, House Committee on Consumer Protection and Commerce  
Hawaii State Capitol  
Room 320  
Honolulu, HI 96813

Honorable Linda Ichiyama  
Vice-Chair, House Committee on Consumer Protection and Commerce  
Hawaii State Capitol  
Room 327  
Honolulu, HI 96813

RE: Opposition House Bill 1995 – Relating to Broadband Internet Access

Committee Chair Takumi and Vice-Chair Ichiyama:

On behalf of AT&T, please accept this letter of opposition regarding House Bill 1995 – Relating to Broadband Internet Access -- a bill that proposes to regulate internet service providers at the state level to ensure a free and open internet. While AT&T supports a free and open internet, these concerns are best addressed by federal legislation that will create nationwide consistency and not by a patchwork of likely inconsistent state legislation.

While history has shown that the internet will remain free and open even without regulation, AT&T supports appropriately tailored federal legislation to ensure internet openness and to end the uncertainty from over a decade of FCC rule changes. The nature of the internet is inherently interstate, a web of interconnected networks that spans across state, and even national borders. Accordingly, any such legislation must



be adopted by Congress to ensure a consistent approach across all states. Hawaii should urge its congressional delegation to craft federal open internet legislation.

For more than a decade, under both Republican and Democratic administrations, AT&T has consistently made clear that we provide broadband service in an open and transparent way.

- We do not block websites.
- We do not censor online content.
- We do not throttle or degrade internet traffic based on content.
- We do not unfairly discriminate in our transmission of internet traffic.

These are legally enforceable commitments that are published on our website and readily available for consumers to review.

In addition to making these longstanding enforceable commitments, AT&T has long supported and continues to support a legislative solution in Congress that would make these core consumer protections permanent, while preserving incentives to invest and innovate. Congressional action ensures uniformity of the rules that regulate the internet. Attempts by individual states to pass disparate legislation can result in a patchwork of possibly inconsistent state laws that would be virtually impossible to implement. Instead, we need strong and permanent rules across the internet



ecosystem to help create a stable regulatory environment that encourages investment in next generation technologies and the delivery of innovative services.

I have included an open letter from AT&T Chairman and CEO Randall Stephenson published recently in the New York Times, the Los Angeles Times, USA Today, and the Wall Street Journal. As expressed in Mr. Stephenson's letter, AT&T is calling on Congress to end the debate once and for all by writing new laws that govern the internet and protect consumers across all states.

The internet has thrived, and Hawaiians have benefitted from all of the great innovations and technological advancements that were made under balanced framework first established by the Clinton Administrations and that remained in place for all but two years over the last two decades. AT&T fully supports Congress adopting basic rules of the road to permanently ensure that the internet remains an open and flourishing platform for all users. That action needs to be taken by Congress, so that consumers can expect and rely on rules that will stand up to the changes of political winds and elections of new administrations.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Bob Bass", enclosed in a thin black rectangular border.

Bob Bass

AT&T



# Consumers Need an Internet Bill of Rights

Government rules for the internet have been debated for nearly as long as the internet has existed, even before a professor coined the term "net neutrality" 15 years ago.

The internet has changed our lives and grown beyond what anyone could have imagined. And it's done so, for the most part, with very few—but often changing—rules. Regulators under four different presidents have taken four different approaches. Courts have overturned regulatory decisions. Regulators have reversed their predecessors. And because the internet is so critical to everyone, it's understandably confusing and a bit concerning when you hear the rules have recently changed, yet again.

It is time for Congress to end the debate once and for all, by writing new laws that govern the internet and protect consumers.

Until they do, I want to make clear what you can expect from AT&T.

AT&T is committed to an open internet. We don't block websites. We don't censor online content. And we don't throttle, discriminate, or degrade network performance based on content. Period.

We have publicly committed to these principles for over 10 years. And we will continue to abide by them in providing our customers the open internet experience they have come to expect.

But the commitment of one company is not enough. Congressional action is needed to establish an "Internet Bill of Rights" that applies to all internet companies and guarantees neutrality, transparency, openness, non-discrimination and privacy protection for all internet users.

Legislation would not only ensure consumers' rights are protected, but it would provide consistent rules of the road for all internet companies across all websites, content, devices and applications. In the very near future, technological advances like self-driving cars, remote surgery and augmented reality will demand even greater performance from the internet. Without predictable rules for how the internet works, it will be difficult to meet the demands of these new technology advances.

That's why we intend to work with Congress, other internet companies and consumer groups in the coming months to push for an "Internet Bill of Rights" that permanently protects the open internet for all users and encourages continued investment for the next generation of internet innovation.

A handwritten signature in blue ink that reads "Randall Stephenson".

Randall Stephenson  
AT&T Chairman and CEO

Written Statement of  
**Ani Menon**  
**Director of Government & Community Affairs**

**HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE**

February 13, 2018 2:00PM  
State Capitol, Conference Room 329

**COMMENTS FOR:**

**H.B. NO. 1995 H.D. 1 RELATING TO BROADBAND INTERNET ACCESS**

**To:** Chair Takumi, Vice Chair Ichiyama, and Members of the Committee  
**Re:** **Testimony providing comments on HB1995 HD1**

Aloha Honorable Chair, Vice-Chair, and Committee Members:

Thank you for this opportunity to submit comments on HB1995 HD1 that aims to regulate internet service providers to ensure a free and open internet, and in turn establishes a taskforce to examine the costs and benefits of creating a state-owned public utility company to provide broadband internet service.

The first part of this measure (referred to as Part II) is to ensure that the Internet remains free and open in the State by prohibiting providers of broadband internet access from: blocking lawful websites; impairing or degrading lawful internet traffic; engaging in paid prioritization; or unreasonably interfering with or unreasonably disadvantaging users of broadband internet access services.

The concerns that may have inspired the proposed requirements listed within this measure are understandable in light of the Federal Communication Commission's recent decision to repeal net neutrality rules. Hawaiian Telcom maintains its publicized position that we do not interfere with the lawful online practices of our customers. It has never been our intention to have the capability to interfere with our customers' access – we do not engage in paid prioritization, block lawful websites, throttle internet speed, or otherwise interfere with our customers' lawful internet use. We have never managed traffic across our networks, and instead focus our attention on delivering high speed internet access as Hawaii's Technology Leader. Our full terms and conditions are accessible online at [hawaiiantel.com](http://hawaiiantel.com).

The second part of this bill (referred to as Part III) discusses the creation of a special taskforce to study the viability of creating a state-owned public utility company to provide broadband internet service. We believe creating a special taskforce for this reason will unnecessarily burden the State. Providing broadband internet service is best left to the competitive market, which is well-positioned to drive innovation and investment.

Thank you for the opportunity to provide these comments.



Written Statement of  
**Ani Menon**  
**Director of Government & Community Affairs**

**HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE**

February 13, 2018 2:00PM  
State Capitol, Conference Room 329

**COMMENTS FOR:**

**H.B. NO. 2296 H.D. 1 RELATING TO INTERNET PRIVACY**

**To:** Chair Takumi, Vice Chair Ichiyama, and Members of the Committee  
**Re:** **Testimony providing comments on HB2296 HD1**

Aloha Honorable Chair, Vice-Chair, and Committee Members:

Thank you for this opportunity to submit comments on HB2296 prohibiting internet service providers from using the personal information of customers for specific purposes without the prior written consent of customers.

Current and existing federal and State statutory laws provide layers of protection for consumer information, and cover issues relating to privacy, consent, data security, and necessary notifications. When State and federal laws differ in their treatment of customer information, Hawaiian Telcom follows whichever law is stricter on a particular point.

Protecting our customers' privacy is extremely important for Hawaiian Telcom. We take our responsibility as guardians of sensitive information seriously, and take proactive measures to protect information that we have obtained by virtue of provisioning services to customers.

An excerpt from our terms of service summarizes our position on this topic:

“Hawaiian Telcom does not sell or disclose individually- identifiable information obtained online, or information about you or your account or service, to anyone outside of Hawaiian Telcom Services Company, Inc. or its authorized vendors, contractors, affiliates and agents unless you specifically authorize it, disclosure is required or permitted by law, required by court order, warrant or subpoena; requested by government officials with reasonable grounds to believe that the information is a communication of a computer trespasser; or deemed necessary by Hawaiian Telcom in its sole discretion to protect the safety, rights or property of Hawaiian Telcom or any other person or entity.”

Our full terms of service describing how we protect consumer data may be found online at [hawaiiantel.com](http://hawaiiantel.com). Thank you for this opportunity to provide comments on HB2296 HD1.

**HB-1995-HD-1**

Submitted on: 2/12/2018 3:02:19 PM

Testimony for CPC on 2/13/2018 2:00:00 PM

| <b>Submitted By</b> | <b>Organization</b>              | <b>Testifier Position</b> | <b>Present at Hearing</b> |
|---------------------|----------------------------------|---------------------------|---------------------------|
| Brett Kulbis        | Honolulu County Republican Party | Oppose                    | No                        |

Comments:



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COMMITTEE ON CONSUMER PROTECTION & COMMERCE

Rep. Roy M. Takumi, Chair  
Rep. Linda Ichiyama, Vice Chair

Tuesday, February 13, 2018  
2:00 P.M.  
Conference Room 329

HB 1995, HD1 RELATING TO BROADBAND INTERNET ACCESS

SUPPORT

Aloha Chair Takumi, Vice Chair Ichiyama, and Members of the Committee

Life of the Land is Hawai`i's own energy, environmental and community action group advocating for the people and `aina for 47 years. Our mission is to preserve and protect the life of the land through sound energy and land use policies and to promote open government through research, education, advocacy and, when necessary, litigation.

**It is unfortunate that the federal government supports an undemocratic biased internet.**

Life of the Land strongly favors a free and open Internet.

Mahalo,

Henry Curtis  
Executive Director

**HB-1995-HD-1**

Submitted on: 2/12/2018 1:46:06 PM

Testimony for CPC on 2/13/2018 2:00:00 PM

| <b>Submitted By</b> | <b>Organization</b>                     | <b>Testifier Position</b> | <b>Present at Hearing</b> |
|---------------------|---|---------------------------|---------------------------|
| Melodie Aduja       | OCC Legislative<br>Priorities Committee | Support                   | No                        |

Comments:



**TESTIMONY OF CHARTER COMMUNICATIONS**

**House Committee on Consumer Protection and Commerce**

**Hawai'i State Capitol, Conference Room 329**

**RE: H.B. 1995, H.D.1**

**Relating to Broadband Internet Access**

**TUESDAY, FEBRUARY 13, 2018**

**2:00 PM**

Aloha Chair Takumi, Vice Chair Ichiyama and Members of the Committee,

I am Myoung Oh, Director of State Government Affairs, here on behalf of Charter Communications in **opposition** to H.B. 1995, H.D.1.

Charter Communications is a dedicated community partner in Hawai'i. We currently have over 3,500 Wi-Fi hotspots deployed throughout the islands with a commitment to provide hundreds more in 2018. We employ 1,400 Hawai'i residents and contribute to Hawai'i's economy with over \$50 million in taxes.

We have also raised our base-level broadband speed to 200 Mbps for new customers and have launched Spectrum Internet Assist, our low-cost broadband program, for low-income families and seniors, which at 30 Mbps, will be the fastest program of its kind offered by any broadband provider, and we believe will have a tremendous positive impact on the communities we serve in Hawai'i.

Charter supports an Open Internet and believe H.B. 1995, H.D.1 is unnecessary. Charter does not slow down, block, or discriminate against lawful content. Instead, we extend customer-friendly practices of "no data caps or usage-based billing." We do not interfere with the online activities of our customers and have no plans to change our practice.

We believe legislation, if any, should be guided by Congress and be nationally uniform, flexible and technology-neutral, while also providing clear rules of the road for companies. Regulatory regime should apply to all sectors of the internet ecosystem. This includes national legislation that better defines the roles of the FTC and the Federal Communications Commission (FCC) that is consistent and comprehensive.

With respect to Part III of H.B. 1995, we would note that the benefits arising from the creation of a state-owned fiber-optic network would require substantial public investment where competitive forces already incentivize private commercial enterprises to invest in providing broadband as efficiently and effectively as possible. A state-owned fiber-optic network may raise the possibility that, over time, the significant public costs of building a network might outweigh the benefits that it generates. As a community partner, Charter already provides many network-related benefits to schools, libraries, universities, and others.

Mahalo for the opportunity to testify.

**HB-1995-HD-1**

Submitted on: 2/11/2018 12:30:43 AM

Testimony for CPC on 2/13/2018 2:00:00 PM

| <b>Submitted By</b> | <b>Organization</b>                          | <b>Testifier Position</b> | <b>Present at Hearing</b> |
|---------------------|--|---------------------------|---------------------------|
| Jun Shin            | Young Progressives Demanding Action - Hawaii | Support                   | No                        |

Comments:

Aloha Chair Takumi, Vice Chair Ichiyama, Members of the Committee on Consumer Protection & Commerce,

My name is Jun Shin and I am a board member at-large for Young Progressives Demanding Action – Hawaii (YPDA Hawaii). I am testifying in support of HB1995

With the federal government's recent failings in protecting net neutrality, it has become the responsibility of the individual states to protect a free and open internet and I applaud the efforts being made through this legislation to not only take a stand for net neutrality, but to also create a taskforce to investigate the cost and benefits of creating a state-owned public utility company to provide broadband services.

Democracy succeeds when the internet is accesible to all citizens looking to be informed and our providers should not have the power to stifle the voices they don't want us to hear.

Thank you for your hard work and deliberation on this issue,

Jun Shin,

Board Member At-Large

Young Progressives Demanding Action – Hawaii

1561 Kanunu St. #2106 Honolulu, HI 96814

Cell: 808-255-6663

Email: junshinbusiness729@gmail.com

**HB-1995-HD-1**

Submitted on: 2/11/2018 10:01:24 PM

Testimony for CPC on 2/13/2018 2:00:00 PM

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Present at Hearing</b> |
|---------------------|---------------------|---------------------------|---------------------------|
| Cory Harden         | Individual          | Support                   | No                        |

Comments:

Aloha legislators,

Please support a free and open Internet, for a society where everyone has a voice.

mahalo,

Cory Harden



**Testimony of  
Gerard Keegan  
In Opposition to Hawaii House Bill 1995 HD1**

**Before the Hawaii House of Representatives Committee on Consumer Protection &  
Commerce**

**February 13, 2018**

On behalf of CTIA, the trade association for the wireless communications industry, I submit this testimony in opposition to Hawaii House Bill 1995 HD1. CTIA and its member companies support a free and open internet. To further that goal, we believe that a light-touch, national regulatory framework with generally applicable competition and consumer protections at the federal and state levels is a proven path for ensuring a free and open internet while enabling innovation and investment throughout the internet ecosystem.

The mobile wireless broadband marketplace is competitive and continuously changing. It is an engine of innovation, attracting billions of dollars in network investment each year, and generating intense competition to the benefit of consumers—especially in Hawaii. From the beginning of the Internet Age in the 1990s, the Federal Communications Commission (FCC) applied a light-touch regulatory framework to internet service that allowed providers to invest, experiment and innovate. In that time, an entire internet-based economy grew. But in 2015, the FCC took a much different approach, applying 80-year-old common-carrier mandates meant for traditional public utilities and reign in the then unchecked practices of huge monopolies, despite the fact that internet services are nothing like public utility offerings such as water or electricity or even landline telephone service.





In 2017, the FCC's *Restoring Internet Freedom Order* reversed that 2015 decision, finding that application of those 1930s utility-style rules to the internet services of today actually harms American consumers. The FCC cited extensive evidence showing a decline in broadband infrastructure investment – an unprecedented occurrence during an era of economic expansion. In the mobile broadband market alone, annual capital expenditures fell from \$32.1 billion in 2014 to \$26.4 billion in 2016. This slowdown affected mobile providers of all sizes and serving all markets. For example, small rural wireless providers noted that the 2015 decision burdened them with unnecessary and costly obligations and inhibited their ability to build and operate networks in rural America.

The FCC's overbroad prohibitions on broadband providers harmed consumers in other ways, too—particularly with respect to innovation. After the 2015 Order, the FCC launched a yearlong investigation of wireless providers' free data offerings, which allow subscribers to consume more data from certain services and content without incurring additional costs. The risk of FCC enforcement cast a dark shadow on mobile carriers' ability to innovate, compete and deliver the services that consumers demanded. In addition, the inflexible ban on paid prioritization precluded broadband providers from offering one level of service quality to highly sensitive real-time medical applications and a differentiated quality of service to email messages. The FCC's 2017 *Restoring Internet Freedom Order* takes a different path – one that will benefit consumers and enable new offerings that support untold varieties of technological innovations in health care, commerce, education, and entertainment.



Based on the way some people have talked about the *Restoring Internet Freedom Order*, you might think that the FCC eliminated federal rules that had always applied to internet services and that the federal government has left consumers without any protections. But that is just not the case. The internet was not broken before 2015, and it will not break because of the FCC's most recent decision.

The FCC has simply restored the same national regulatory framework that applied before 2015, which is credited with facilitating the Internet-based economy we have today. Under that national regulatory framework, mobile wireless broadband providers have every incentive to invest in and deliver the internet services that consumers demand. In fact, there have been virtually no instances in which U.S. mobile broadband providers blocked traffic or prevented consumers from going where they wanted to on the internet. The truth is that, in a competitive market like wireless, mobile broadband providers have no incentive to block access to internet services, for if they did, their customers would simply switch providers.

Further, the FCC's *Restoring Internet Freedom* clearly provides consumers with legal protections that complement the competitive forces in play. First, the FCC retained the "transparency" rule that was adopted under President Obama's first FCC Chairman in 2010 and maintained in the 2015 decision, which requires broadband providers to publicly disclose extensive information about their network management practices to consumers and internet entrepreneurs. If a broadband provider fails to make the required disclosures, or does not live up to its commitments, it will be subject to enforcement by the FCC.



Second, by restoring to the FCC's pre-2015 view that broadband internet access is an information service and not a utility-style common carrier service like landline telephone service, the FCC restored the Federal Trade Commission's jurisdiction over broadband offerings. The FTC is the nation's lead consumer protection agency, but the 2015 decision had stripped away its authority over broadband providers. The FTC has broad authority to take action against any business whose actions are deceptive or unfair. The nation's leading broadband providers have told consumers that they will not block or throttle traffic in an anticompetitive manner, and the FTC will be there to make sure they live up to those promises.

Third, the Department of Justice and FTC enforce federal antitrust laws, which, as the *Restoring Internet Freedom Order* emphasizes, preclude anticompetitive network management practices. For example, a broadband provider may not anticompetitively favor its own online content or services over the content or services of third parties, or enter into an agreement with other broadband providers to unfairly block, throttle, or discriminate against specific internet content.

Finally, the FCC made clear in the 2017 *Restoring Internet Freedom Order* that generally applicable state laws relating to fraud, taxation, and general commercial dealings apply to broadband providers just as they would to any other entity doing business in a state, so long as such laws do not regulate broadband providers in a way that conflicts with the national regulatory framework to broadband internet access services. This ruling reaffirmed the FCC's 2015 decision that states and localities may not impose requirements that conflict with federal law or policy, but may otherwise enforce



generally applicable laws. Thus, Hawaii remains empowered to act under its UDAP statute.

In short, Hawaii consumers are well protected against anti-competitive or anti-consumer practices. They enjoy protections provided by the FCC, the FTC, federal antitrust law, and – importantly – existing Hawaii state law. On the other hand, state-specific net neutrality rules imposed on broadband providers would harm consumers, and would – along with other state and local mandates – create a complex “patchwork quilt” of requirements that would be unlawful.

The FCC's 2017 *Restoring Internet Freedom Order* explains that broadband internet access is an inherently interstate and global offering. Internet communications delivered through broadband services almost invariably cross state lines, and users pull content from around the country and around the world – often from multiple jurisdictions in one internet session. Any attempt to apply multiple states' requirements would therefore be harmful to consumers for the same reasons the FCC's 2015 rules were harmful, in addition to the fact that those requirements will be at best different and at worst contradictory.

These problems multiply in the case of mobile broadband: Questions will arise over whether a mobile wireless broadband transmission is subject to the laws of the state where users purchased service, where they are presently located, or even where the antenna transmitting the signal is located. State-by-state regulation even raises the prospect that different laws will apply as the user moves between states. For example, a mobile broadband user could travel through multiple states during a long train ride, even



the morning commute, subjecting that rider's service to multiple different legal regimes even if the rider spent that trip watching a single movie. Such a patchwork quilt of disparate regulation is untenable for the future success of the internet economy.

Moreover, the FCC found broadband-specific state laws would be unlawful. The *Restoring Internet Freedom Order* exercised the agency's preemption powers under the U.S. Constitution and federal law. It held that state or local laws that impose net neutrality mandates, or that interfere with the federal preference for light-touch, national regulation of broadband internet access, are impermissible.

Ultimately, Congress may decide to modify the existing federal regulatory framework for broadband internet access, and some members of Congress have already introduced legislation addressing these matters. CTIA stands ready to work with Congress should it choose to adopt rules for the internet ecosystem that promote a free and open internet while enabling the innovation and investment we need for tomorrow. Nevertheless, today, state-by-state regulation of broadband internet access services would harm consumers and conflict with federal law.

In closing, it would be premature and unnecessary to pass any state net neutrality bill in light of mobile broadband provider commitments, as well as state Attorneys General legal action. Accordingly, we ask that you not move HB 1995 HD1. Thank you for the opportunity to submit testimony.

**HB-1995-HD-1**

Submitted on: 2/12/2018 9:24:44 AM

Testimony for CPC on 2/13/2018 2:00:00 PM

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Present at Hearing</b> |
|---------------------|---------------------|---------------------------|---------------------------|
| John Zwiebel        | Individual          | Support                   | No                        |

Comments:

The FCC's ruling to abandon Net Neutrality rules will be extremely disruptive to every individual and business that accesses the Internet, save for the Internet Service Providers. At the minimum, our access to "non-approved" content providers (ie Netflix, HBO, The Guardian, The Garden Island, any provider you might imagine) will be subject to a "use tax" imposed by each and every ISP that content travels. Likewise, Hawaii entities (including individuals) will be subject to that same "use tax" should they try to place anything on the internet (email for instance).

This "use tax" will come in the form of payments made to the ISP to be designated an "approved provider" to obtain preferred handling of packets so they travel faster through the Internet. If you are not an "approved provider" there is the potential that your content could be subject to a speed of "0" (zero) meaning your customers, business acquaintances and friends will be unable to access your content.

One group of Internet Users sure to take advantage of priority handling is described in Michael Lewis' book, "Flash Boys". While these "banksters" currently use their own private network to skim a few cents on every financial transaction (mostly on stocks, but they are imaginative -- remember Collateralized Debt Obligations that plunged the US economy into the 2008 recession?), it will be worth their time to buy faster service from ISPs to increase their octopus reach and steal even more from Hawaii Citizens.

I currently have only one choice as my ISP, Spectrum. Since Oceanic Time-Warner was bought out by Charter (and is now called Spectrum here in Hawaii), I have been receiving unsolicited mail, email, phone calls offering me a "deal" that includes Internet, TV cable, and Phone for "only" \$30/service, or almost \$100/month (when taxes and other fees are added). I now pay \$67/month for Internet and Phone. I have absolutely no use for TV cable. Here's the kicker though. My Internet service now is 300Mbps, Spectrum's "deal" is only 100Mbps. In other words, the "deal" they are offering gives me service I do not want, at a reduced performance, for a 30% increase in costs!

This same predatory practice will happen for every piece of content I receive. Spectrum will "charge what the market will bear" forcing me to decide if I really need Internet Access at all. Any claims by the ISPs that they will be able to provide better service are phoney baloney, unless you limit that 'better service' to those who already own everything.

This is just one more attempt by American Oligarchs to squeeze even more out of the Middle Class, to destroy the Middle Class, so they can pursue their desire of American Empire. It is shameful.

I strongly urge Hawaii to stand against this theft of our common wealth.