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Statement of
LUIS P. SALAVERIA
Director
Department of Business, Economic Development and Tourism
before the

HOUSE COMMITTEE ON INTRASTATE COMMERCE
Wednesday, January 31, 2018
9:00am
State Capitol, Conference Room 429

in consideration of
HB 1995
RELATING TO BROADBAND INTERNET ACCESS.

Chair Ohno, Vice Chair Choy and Members of the Committee.

The Department of Business, Economic Development and Tourism (DBEDT) **opposes** HB1995, which establishes a task force to examine the benefit and feasibility of the State classifying internet service as a public utility and providing internet service to consumers in Hawaii through a State-owned internet service provider company.

While DBEDT believes in the preservation of net neutrality and a free and open Internet, the establishment of a State-owned internet service provider company would be cost prohibitive and would require expertise beyond what is currently available in the State. The process of creating a new government unit to provide internet service, establishing new positions, and hiring employees, even as a task force study, diverts time and resources better spent on fostering the State's technology initiatives. Therefore, DBEDT cannot and does not support this bill.

Thank you for the opportunity to testify.

Written Statement of
Ani Menon
Director of Government & Community Affairs

HOUSE COMMITTEE ON INTRASTATE COMMERCE

January 31, 2018 9:00AM
State Capitol, Conference Room 429

COMMENTS FOR:

H.B. NO. 1995 RELATING TO BROADBAND INTERNET ACCESS

To: Chair Ohno, Vice Chair Choy, and Members of the Committee

Re: **Testimony providing comments on HB1995**

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

Thank you for this opportunity to submit comments on HB1995 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

“requiring providers of broadband internet access services to be transparent with network management practices, performance, and commercial terms of its broadband internet access services, and prohibiting providers of broadband internet access services 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.”

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.

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. The intention for this is to “ensure that consumers in Hawaii have free and open access to the Internet.”

We believe creating a special taskforce for this reason will unnecessarily burden the State. It is our position that 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.



TESTIMONY OF CHARTER COMMUNICATIONS

House Committee on Intrastate Commerce

Hawai'i State Capitol, Conference Room 429

RE: H.B. 1995

Relating to Broadband Internet Access

WEDNESDAY, JANUARY 31, 2018

9:00 AM

Aloha Chair Ohno, Vice Chair Choy 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.

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 we believe that H.B. 1995 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. H.B. 1995 may unnecessarily exacerbate a patchwork of state regulation on an interstate issue.

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.



HAWAII

AMERICANS FOR DEMOCRATIC ACTION

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January 27 , 2018

TO: Honorable Chair Ohno and Members of Interstate Commerce Committee

RE: HB1995 RELATING TO BROADBAND INTERNET ACCESS.

Support for hearing on Jan 31

Americans for Democratic Action is an organization founded in the 1950s by leading supporters of the New Deal and led by Patsy Mink in the 1970s. We are devoted to the promotion of progressive public policies.

We support HB 1995 as it would ensure a free and open Internet. It also establishes a task force to examine the costs and benefits of creating a state-owned public utility company to provide broadband internet service. Given recent federal failures to protect net neutrality, this is a good way for the state to help.

Thank you for your favorable consideration.

Sincerely,

John Bickel
President



January 29, 2018

The Honorable Takashi Ohno, Chair
House Intrastate Commerce Committee
Hawaii State Capitol, Room 332
415 S Beretania Street
Honolulu, Hawaii 96813

RE: HB 1995 (Ing) – Net Neutrality – OPPOSE

Dear Chairman Ohno,

On behalf of the Computing Technology Industry Association (CompTIA), we must respectfully oppose HB 1995 (Ing) which would allow the state to regulate broadband access service.

CompTIA's membership consists of companies across the tech industry, from internet service providers (ISP's) to edge providers to equipment manufacturers and everything in between. We believe that the internet should be a place where all businesses, regardless of size can compete with one another on a level playing field. Consumers, thus, should be able to access whatever legal online content they want.

CompTIA has been supportive of an open internet for many years at the Federal level and believe the internet must remain open to promote innovation and economic growth. That includes vigilant enforcement by federal agencies and enactment of federal legislation. However, we do not believe HB 1995 will achieve the goals to promote or protect an open internet, as this issue should not be governed by differing state laws. In fact, we believe that this bill would be counter-productive and would result in uncertainty and decreased innovation in Hawaii.

We urge the Hawaii State Legislature to wait for the federal process to play out and not open the door to the creation of a 50-state patchwork of regulations. For these reasons, we are opposed to HB 1995. Please contact me at khitt@comptia.org or by phone at (916) 505-9053 if you have any questions or would like to discuss our position in more detail.

Sincerely,

A handwritten signature in black ink that reads "Kelly Hitt". The signature is written in a cursive, flowing style.

Kelly Hitt
Director, State Government Affairs - California & Hawaii
CompTIA (Computing Technology Industry Association)

CC: Members, House Intrastate Commerce Committee



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

Before the Hawaii House of Representatives Intrastate Commerce Committee

January 31, 2018

On behalf of CTIA, the trade association for the wireless communications industry, I submit this testimony in opposition to Hawaii House Bill 1995. 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. Thank you for the opportunity to submit testimony.



Progressive Democrats of Hawai‘i

<http://pd-hawaii.com>

1418 Mokuna Pl, HON HI 96816

email: info@pd-hawaii.com

PO Box 231 Honolulu HI 96809

To: Representative Takashi Ohno, Chair; Representative Isaac Choy, Vice-Chair
House of Representatives Committee on Intrastate Commerce

Re: HB 1995 – Relating to Broadband Internet Access

Hearing: Wednesday, January 31, 2018, 9:00 a.m. Room 429

Position: Support

Progressive Democrats of Hawai‘i thank the Committee for this opportunity to testify on the critical issue of net neutrality protections for the state and its constituents. Assuring a free and open internet assures a fair and equal playing field in education, social development, and economic growth.

The unprecedented groundswell of consumer outcry, in the form of letters, emails, and calls, could not stop the FCC from pushing ahead and repealing net neutrality protections, deregulating the telecom and cable industry, on December 14th, 2017. While Congress has the ability to utilize the Congressional Review Act to reverse regulatory actions such as this one, the deadline of 60 legislative days is approaching fast. Given the current imbalance and destructive nature of the current Congressional body, it seems unlikely that such a reversal would take place.

20 pioneers and leading figures of the internet, including Tim Berners-Lee (inventor of the internet), Brewster Kahle (Internet pioneer, founder, Internet Archive), Theodore Holm Nelson (hypertext pioneer), and Steve Wozniak (founder, Apple Computers) penned an open letter to urge the FCC to cancel the vote on repeal. They cite the flawed and technical inaccuracies contained in the proposed order, the inadequate consideration of consumer outrage, and the unnecessary discrimination and effects on the free market that could result from it.

Progressive Democrats of Hawaii commends this body not only on hearing the millions who stood up against this regulatory action, but for its foresight in seeking a public option for broadband service.

Thank you very much for the opportunity to testify,
Erynn Fernandez, Co-Chair



Bob Bass
*President, Hawaii
External Affairs*

AT&T Services, Inc.
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January 31, 2018

Honorable Takashi Ohno
Chair, House Committee on Intrastate Commerce
Hawaii State Capitol
Room 332
Honolulu, HI 96813

Honorable Isaac Choy
Vice Chair, House Committee on Intrastate Commerce
Hawaii State Capitol
Room 406
Honolulu, HI 96813

RE: Opposition House Bill 1995 – Broadband Internet Access

Committee Chair Ohno and Vice Chair Choy:

On behalf of AT&T, please accept this letter of opposition regarding House Bill 1995 – Broadband Internet Access -- a bill that proposes to regulate internet service providers at the state level to ensure a free and open internet. 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 last week 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 the adoption of basic rules of the road to permanently ensure that the internet remains an open and flourishing platform for all users. However, 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", written over a vertical line.

Bob Bass
AT&T



Bob Bass
President, Hawaii
External Affairs

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LATE

January 31, 2018

Honorable Takashi Ohno
Chair, House Committee on Intrastate Commerce
Hawaii State Capitol
Room 332
Honolulu, HI 96813

Honorable Isaac Choy
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Respectfully submitted,

A handwritten signature in black ink, appearing to read "Bob Bass", written over a vertical line.

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.



Randall Stephenson
AT&T Chairman and CEO

