109TH CONGRESS
2d Session
HOUSE OF REPRESENTATIVES
REPORT
109–491

PROVIDING FOR CONSIDERATION OF H.R. 5252, COMMUNICATIONS OPPORTUNITY, PROMOTION, AND ENHANCEMENT ACT OF 2006

JUNE 7, 2006.—Referred to the House Calendar and ordered to be printed

Mr. LINCOLN DIAZ-BALART of Florida, from the Committee on Rules, submitted the following

R E P O R T

[To accompany H. Res. 850]

The Committee on Rules, having had under consideration House Resolution 850, by a nonrecord vote, report the same to the House with the recommendation that the resolution be adopted.

SUMMARY OF PROVISIONS OF THE RESOLUTION

The resolution provides for consideration of H.R. 5252, the Communications Opportunity, Promotion, and Enhancement Act of 2006, under a structured rule. The rule provides one hour of general debate equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce. The rule waives all points of order against consideration of the bill. The rule provides that the bill shall be considered as read.

The rule makes in order only those amendments printed in this report, and provides that those amendments may be offered only in the order printed in this report, may be offered only by a Member designated in this report, shall be considered as read, shall be debatable for the time specified in this report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for a division of the question in the House or in the Committee of the Whole. The rule waives all points of order against the amendments printed in this report. Finally, the rule provides one motion to recommit with or without instructions.

EXPLANATION OF WAIVERS

The waiver of all points of order against consideration of the bill includes a waiver of clause 2(h) of rule XI (requiring that a quorum

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is actually present when a measure is reported by a committee), because the Committee on Energy and Commerce ordered reported a "committee print" rather than a bill properly introduced and referred to the committee.

COMMITTEE VOTES

Pursuant to clause 3(b) of House rule XIII the results of each record vote on an amendment or motion to report, together with the names of those voting for and against, are printed below:

Rules Committee Record Vote No. 214

Date: June 7, 2006.
Measure: H.R. 5252, Communications Opportunity, Promotion, and Enhancement Act of 2006.
Motion by: Mr. McGovern.
Summary of Motion: To report an open rule.
Results: Defeated 3 to 7.
Vote by Members: Diaz-Balart—Nay; Hastings (WA)—Nay; Sessions—Nay; Capito—Nay; Cole—Nay; Bishop—Nay; McGovern—Yea; Hastings (FL)—Yea; Matsui—Yea; Dreier—Nay.

Rules Committee Record Vote No. 215

Date: June 7, 2006.
Measure: H.R. 5252, Communications Opportunity, Promotion, and Enhancement Act of 2006.
Motion by: Mr. McGovern.
Summary of Motion: To make in order and provide the appropriate waivers for the amendment offered by Representative Doyle, which requires a national franchisee to certify compliance with municipal rights-of-way requirements. Clarifies that the FCC will not resolve rights-of-way disputes. Provides for local enforcement, with an appeal to the FCC, of the requirements on national franchisees. Clarifies the gross revenues definition. Establishes fee dispute resolution procedures to encourage parties to settle their differences. Requires the FCC to consult with franchising authorities in establishing rules to implement the Act.
Results: Defeated 3 to 8.
Vote by Members: Diaz-Balart—Nay; Hastings (WA)—Nay; Sessions—Nay; Capito—Nay; Cole—Nay; Bishop—Nay; Gingrey—Nay; McGovern—Yea; Hastings (FL)—Yea; Matsui—Yea; Dreier—Nay.

Rules Committee Record Vote No. 216

Date: June 7, 2006.
Measure: H.R. 5252, Communications Opportunity, Promotion, and Enhancement Act of 2006.
Motion by: Mr. McGovern.
Summary of Motion: To make in order and provide the appropriate waivers for the amendment offered by Representative Solis, which establishes market-based incremental service requirements for a national franchisee's access and use of the public rights-of-way within a franchise area so that the operator must eventually be capable of providing cable service to all households in the franchise area, as is required of cable operators under existing law.
Results: Defeated 3 to 8.

Vote by Members: Diaz-Balart—Nay; Hastings (WA)—Nay; Sessions—Nay; Capito—Nay; Cole—Nay; Bishop—Nay; Gingrey—Nay; McGovern—Yea; Hastings (FL)—Yea; Matsui—Yea; Dreier—Nay.

Rules Committee Record Vote No. 217

Date: June 7, 2006.

Measure: H.R. 5252, Communications Opportunity, Promotion, and Enhancement Act of 2006.

Motion by: Mr. Hastings of Florida.

Summary of Motion: To make in order and provide the appropriate waivers for the amendment offered by Representative Sensenbrenner, which establishes an antitrust remedy under the Clayton Act for anticompetitive and discriminatory practices by broadband service providers. Expressly permits a broadband network provider to take steps to manage the functioning and security of its network, to give priority to emergency communications, and to take steps to prevent violations of Federal and State law, or to comply with a court order. Also allows for an expedited administrative process to resolve complaints alleging violations of new Section 28 of the Clayton Act. Also clarifies that both the FCC and FTC have authority to enforce Section 28 via administrative proceedings and specify which agency has lead jurisdiction over various types of complaints.

Results: Defeated 3 to 8.

Vote by Members: Diaz-Balart—Nay; Hastings (WA)—Nay; Sessions—Nay; Capito—Nay; Cole—Nay; Bishop—Nay; Gingrey—Nay; McGovern—Yea; Hastings (FL)—Yea; Matsui—Yea; Dreier—Nay.

Rules Committee Record Vote No. 218

Date: June 7, 2006.

Measure: H.R. 5252, Communications Opportunity, Promotion, and Enhancement Act of 2006.

Motion by: Mr. Hastings of Florida.

Summary of Motion: To make in order and provide the appropriate waivers for the amendment offered by Representative Hinchey, which allows national franchise providers the option of not carrying local channels that fail to conform with the fairness doctrine. This doctrine, which was in effect at the FCC from 1949 to 1987, requires broadcast channels to provide balanced coverage of controversial or political topics.

Results: Defeated 3 to 8.

Vote by Members: Diaz-Balart—Nay; Hastings (WA)—Nay; Sessions—Nay; Capito—Nay; Cole—Nay; Bishop—Nay; Gingrey—Nay; McGovern—Yea; Hastings (FL)—Yea; Matsui—Yea; Dreier—Nay.

Rules Committee Record Vote No. 219

Date: June 7, 2006.

Measure: H.R. 5252, Communications Opportunity, Promotion, and Enhancement Act of 2006.

Motion by: Mrs. Matsui.

Summary of Motion: To make in order and provide the appropriate waivers for the amendment offered by Representative Solis, which strengthens the anti-discrimination provision by: (1) prohibiting discrimination not just on the basis of income but also on the basis of race, color, religion, national origin, or sex; (2) forbidding

not just the denial of service but also the offering of inferior access to such service in a manner that has the purpose or effect of discriminating; and (3) allowing local enforcement of the provisions with an appeal to the FCC.

Results: Defeated 3 to 8.

Vote by Members: Diaz-Balart—Nay; Hastings (WA)—Nay; Sessions—Nay; Capito—Nay; Cole—Nay; Bishop—Nay; Gingrey—Nay; McGovern—Yea; Hastings (FL)—Yea; Matsui—Yea; Dreier—Nay.

Rules Committee Record Vote No. 220

Date: June 7, 2006.

Measure: H.R. 5252, Communications Opportunity, Promotion, and Enhancement Act of 2006.

Motion by: Mrs. Matsui.

Summary of Motion: To make in order and provide the appropriate waivers for the amendment offered by Representative Bean, which creates a new Office of Internet Safety and Public Awareness within the FTC to coordinate national strategy with existing Internet safety initiatives. Also authorizes grants to qualifying entities to promote Internet safety and launches a national public awareness campaign.

Results: Defeated 3 to 8.

Vote by Members: Diaz-Balart—Nay; Hastings (WA)—Nay; Sessions—Nay; Capito—Nay; Cole—Nay; Bishop—Nay; Gingrey—Nay; McGovern—Yea; Hastings (FL)—Yea; Matsui—Yea; Dreier—Nay.

Rules Committee Record Vote No. 221

Date: June 7, 2006.

Measure: H.R. 5252, Communications Opportunity, Promotion, and Enhancement Act of 2006.

Motion by: Mr. Lincoln Diaz-Balart.

Summary of Motion: To report the rule.

Results: Agreed to 8 to 3.

Vote by Members: Diaz-Balart—Yea; Hastings (WA)—Yea; Sessions—Yea; Capito—Yea; Cole—Yea; Bishop—Yea; Gingrey—Yea; McGovern—Nay; Hastings (FL)—Nay; Matsui—Nay; Dreier—Yea.

SUMMARY OF AMENDMENTS MADE IN ORDER

1. Barton (TX): Manager's Amendment. Clarifies the following: (1) what constitutes a franchise area; (2) that a person or group seeking authority to provide service under a national franchise must agree to comply with all requirements the FCC promulgates pursuant to the consumer protection and customer service provisions in the bill; (3) that anyone with a national franchise shall be subject to all the cable operator provisions of Title VI of the Communications Act except for the ones specifically excepted in the bill; and (4) that nothing in the legislation affects existing pole attachment law. (10 minutes)

2. Jackson-Lee (TX): Reduces the fee paid to local franchise authorities for PEG/iNet support by women-owned, small businesses, and socially and economically disadvantaged firms from 1% to 0.5%. (10 minutes)

3. Wynn (MD): Allows a franchising authority to issue an order requiring compliance with FCC revised consumer protection rules. (10 minutes)

4. Johnson, Eddie Bernice (TX): Increases discrimination penalty from $500,000 to $750,000 for a cable operator that denies access to cable service to residents because of the income of that group. (10 minutes)

5. Rush (IL): Sets forth a complaint process to resolve fee disputes between a local franchise authority and a cable operator. A franchise authority or a cable operator must provide written notice to each other if there is a dispute regarding franchise fees or PEG/iNet support. Both parties must meet within 30 days of notification. If the local franchise authority and the cable operator have not resolved the dispute within 90 days then both parties can petition the FCC to resolve the complaint. The FCC has 90 days to resolve any fee disputes. Provides a 3-year limitation in bringing a complaint to the FCC regarding fee disputes. (10 minutes)

6. Smith, Lamar (TX): Clarifies that the language in section 201 (i.e. the new section 7l5(b)(3) of the Communications Act) that gives exclusive authority to the FCC to adjudicate complaints concerning network neutrality does not affect the applicability of the antitrust laws to cases involving network neutrality or the jurisdiction of the courts to hear such cases. (10 minutes)

7. Markey (MA)/Eshoo (CA)/Boucher (VA)/Inslee (WA): Seeks to restore important non-discrimination requirements enforced by the Federal Communications Commission that from the inception of the Internet until August of 2005 were binding on telecommunications carriers. This amendment essentially has 3 parts: provides a policy statement in addition to the general duties of broadband network providers; provides for preserved rights and exceptions to the general statutory duties in the first part; and provides an expedited complaint process and an antitrust savings clause. (20 minutes)

8. Gutknecht (MN)/Boyd (FL)/Skelton (MO)/Herseth (SD)/Stupak (MI)/Peterson, John (PA): Preserves FCC authority to require VOIP providers to: (1) Contribute to the Federal universal service fund when they interconnect, either directly or indirectly, with incumbent local exchange carrier networks; and (2) Properly compensate network owners for the use of their network just as incumbent and competitive carriers do today. (10 minutes)

TEXT OF AMENDMENTS MADE IN ORDER

1. An Amendment To Be Offered by Representative Barton of Texas, or His Designee, Debatable for 10 Minutes

Page 5, line 4, strike "intends" and insert "seeks authority".

Page 5, lines 13 and 23, and page 6, line 4, strike "contiguous".

Page 5, beginning on line 17, strike "within the jurisdiction of such unit of general local government contains" and insert "overlaps with".

Page 6, lines 1 and 2, strike "area contained in the franchise area of such cable operator" and insert "overlapping area".

Page 6, line 15, after "certification" insert "for authority".

Page 6, line 20, strike "under" and insert "in accordance with".

Page 7, line 1, strike "and subsection (g) of this section" and insert "(including the rules adopted under section 632(b) pursuant to subsection (g) of this section)".

Page 8, line 4, strike "that files" and insert "with".

Page 9, line 19, after the period insert the following: "The Commission shall by rule specify the methods by which a franchising authority shall notify a cable operator of the hearing for which its participation is required under this subparagraph.".

Page 12, line 24, strike "definition of gross revenues" and insert "definitions of gross revenues and franchise fee".

Page 15, line 25, after "to provide" insert "on the day before its national franchise became effective".

Page 16, beginning on line 20, strike subparagraph (A) and insert the following:

> "(A) A cable operator franchised under this section shall ensure that any public, educational, or governmental programming carried by the cable operator under this section within a franchise area is available to all of its subscribers in such franchise area.

Page 17, line 16, after "cable operators shall" insert ", if at least one of the operators is providing cable service in the franchise area pursuant to a franchise under this section,".

Page 19, line 16, strike "Act" and insert "section".

Page 22, line 7, strike "Congress" and insert "Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate".

Page 27, beginning on line 24, strike "The following sections" and insert "The provisions of this title that apply to a cable operator shall apply in a franchise area to a person or group with a national franchise under this section to provide cable service in such franchise area, except that the following sections".

Page 28, line 3, before the colon insert "in such franchise area".

Page 28, line 7, strike "Act" and insert "section".

Page 29, line 22, strike "subsections (c)(1) and (e)(2)" and insert "subsection (c)(1) or (e)(2)".

Page 30, line 22, after "cable operator" insert "with a national franchise".

Page 38, line 5, strike "and"; on page 39, line 2, strike the period at the end of the line and insert a semicolon; and after such line insert the following:

> (4) in paragraph (7)(D), by inserting after "section 653 of this title" the following; "except in a franchise area in which such system is used to provide cable service under a national franchise pursuant to section 630";
>
> (5) in paragraph (9)—
>
> (A) by inserting "(A)" after "means"; and
>
> (B) by inserting before the semicolon at the end the following: "; and (B) a national franchise that is effective under section 630 on the basis of a certification with the Commission"; and
>
> (6) in paragraph (10), by inserting before the semicolon at the end the following: ", but does not include the Commission with respect to a national franchise under section 630".

Page 39, line 8, before the period insert the following: "pursuant to the amendments made by this title".

Page 41, after line 20, insert the following new section:

SEC. 104. RULE OF CONSTRUCTION.

Nothing in this Act or the amendments made by this Act shall affect the application or interpretation of section 224 of the Communications Act of 1934 (47 U.S.C. 224).

Page 53, line 24, after "for a fee" insert "or without a fee".

Page 54, beginning on line 11, strike paragraph (3) and insert the following:

"(3) NECESSARY E–911 INFRASTRUCTURE.—The term 'necessary E–911 infrastructure' means the originating trucks to the selective routers, selective routers, databases (including automatic location information databases and master street address guides), trunks, or other related facilities necessary for the delivery and completion of 911 and E–911 calls, or other 911 and E–911 equipment, facilities, databases, interfaces, and related capabilities specified by the Commission.

Page 57, line 18, and page 60, line 13, strike "716(j)" and insert "716(l)".

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2. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE JACKSON-LEE OF TEXAS, OR HER DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 15, line 16, before the period insert ", except that such amount shall be equal to 0.5 percent of such revenues in the case of a cable operator that is a small business concern owned and controlled by socially and economically disadvantaged individuals or a small business concern owned and controlled by women (as such terms are defined in section 8(d)(3) of the Small Business Act)".

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3. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE WYNN OF MARYLAND, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 21, strike line 17 and all that follows through page 23, line 22, and insert the following:

"(B) The Commission's revised consumer protection rules shall provide for forfeiture penalties, or customer rebates, refunds or credits, or both, and shall establish forfeiture, rebate, refund, and credit guidelines with respect to violations of such rules. Such guidelines shall—

"(i) provide for increased forfeiture penalties for repeated violations of the standards in such rules; and

"(ii) establish procedures by which any forfeiture penalty assessed by the Commission under this subsection shall be paid by the cable operator directly to the franchising authority affected by the violation.

"(4) COMPLAINTS.—

"(A) IN GENERAL.—Any person may file a complaint with respect to an alleged violation of the Commission's revised consumer protection rules in a franchise area by a cable operator franchised under this section—

"(i) with the franchising authority in such area; or

"(ii) with the Commission.

"(B) LOCAL FRANCHISING AUTHORITY PROCEDURE.—On its own motion or at the request of any person, a franchising authority for a franchise area may—

"(i) initiate its own complaint proceeding with respect to such an alleged violation; or

"(ii) file a complaint with the Commission regarding such an alleged violation.

"(C) TIMING.—The Commission or the franchising authority conducting a proceeding under this paragraph shall render a decision on any complaint filed under this paragraph within 90 days of its filing.

"(5) LOCAL FRANCHISING ORDERS.—

"(A) REQUIRING COMPLIANCE.—In a proceeding commenced by a franchising authority, a franchising authority may issue an order requiring compliance with the Commission's revised consumer protection rules, but a franchising authority may not create any new standard or regulation, or expand upon or modify the Commission's revised consumer protection rules.

"(B) ACCESS TO RECORDS.—In such a proceeding, the franchising authority may issue an order requiring the filing of any data, documents, or records (including any contract, agreement, or arrangement between the subscriber and the cable operator) that are directly related to the alleged violation.

"(C) COST OF FRANCHISING AUTHORITY ORDERS.—A franchising authority may charge a cable operator franchised under this section a nominal fee to cover the costs of issuing orders under this paragraph.

"(6) COMMISSION REMEDIES; APPEALS.—

"(A) REMEDIES.—An order of a franchising authority under this subsection shall be enforced by the Commission under this Act if—

"(i) the order is not appealed to the Commission;

"(ii) the Commission does not agree to grant review during the 30-day period described in subparagraph (B); or

"(iii) the order is sustained on appeal by the Commission.

"(B) APPEALS.—Any party may file a notice of appeal of an order of a franchising authority under this subsection with the Commission, and shall transmit a copy of such notice to the other parties to the franchising authority proceeding. Such appeal shall be deemed denied at the end of the 30-day period beginning on the date of the filing unless the Commission agrees within such period to grant review of the appeal.

"(C) TIMING.—After the filing of a notice of appeal under subparagraph (B), if such notice is not denied by operation of such subparagraph, the Commission shall render a decision within 90 days of such filing.

"(7) ANNUAL REPORT.—

"(A) IN GENERAL.—Not later than 1 year after the date of enactment of this section, and annually thereafter, the Commission shall submit a report to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation

of the Senate on the implementation of this subsection, including the following:

"(i) The number of complaints filed with franchising authorities under clause (4)(A)(i).

"(ii) Any trends concerning complaints, such as increases in the number of particular types of complaints or in new types of complaints.

"(iii) The timeliness of the response of such franchising authorities and the results of the complaints filed with such franchising authorities, if not appealed to the Commission.

"(iv) The number of complaints filed with the Commission under clause (4)(A)(ii).

"(v) The number of appeals filed with the Commission under paragraph (6)(B) and the number of such appeals which the Commission agreed to hear.

"(vi) The timeliness of the Commission's responses to such complaints and appeals.

"(vii) The results of such complaints and appeals filed with the Commission.

"(B) SUBMISSION OF INFORMATION BY FRANCHISING AUTHORITIES.—The Commission may request franchising authorities to submit information about the complaints filed with the franchising authorities under subparagraph (4)(A)(i), including the number of such complaints and the timeliness of the response and the results of such complaints.

"(8) DEFINITION.—For purposes of this subsection, the term 'Commission's revised consumer protection rules' means the national consumer protection and customer service rules under section 632(b) as revised by the Commission pursuant to paragraph (2) of this subsection.

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4. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE EDDIE BERNICE JOHNSON OF TEXAS, OR HER DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 27, line 5, strike "$500,000" and insert "$750,000".

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5. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE RUSH OF ILLINOIS, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 30, after line 15, insert the following new paragraph:

"(6) FEE DISPUTE RESOLUTION.—

"(A) COMPLAINT.—A franchising authority or a cable operator may file a complaint at the Commission to resolve a dispute between such authority and operator with respect to the amount of any fee required under subsection (c)(1) or (e)(2) if—

"(i) the franchising authority or the cable operator provides the other entity written notice of such dispute; and

"(ii) the franchising authority and the cable operator have not resolved the dispute within 90 calendar days after receipt of such notice.

"(B) MEETINGS.—Within 30 calendar days after receipt of notice of a dispute provided pursuant to subparagraph (A)(i), representatives of the franchising authority and the cable operator, with authority to resolve the dispute, shall meet to attempt to resolve the dispute.

"(C) LIMITATION.—A complaint under subparagraph (A) shall be filed not later than 3 years after the end of the period to which the disputed amount relates, unless such time is extended by written agreement between the franchising authority and cable operator.

"(D) RESOLUTION.—The Commission shall issue an order resolving any complaint filed under subparagraph (A) within 90 days of filing.

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6. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE LAMAR SMITH OF TEXAS, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 44, after line 12, insert the following (and make such technical and conforming changes as may be appropriate):

"(d)(1) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to modify, impair, or supersede the applicability of the antitrust laws or the jurisdiction of the district courts of the United States to hear claims arising under the antitrust laws.

"(2) DEFINITION OF ANTITRUST LAWS.—The term 'antitrust laws' has the meaning given it in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12(a)), except that such term includes section 5 of the Federal Trade Commission Act (15 U.S.C. 45) to the extent that such section 5 applies to unfair methods of competition."

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7. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE MARKEY OF MASSACHUSETTS, OR HIS DESIGNEE, DEBATABLE FOR 20 MINUTES

Strike section 201 of the bill and insert the following:

SECTION 201. NETWORK NEUTRALITY.

(a) AMENDMENT.—Title VII of the Communications Act of 1934 (47 U.S.C. 601 et seq.) is amended by adding at the end the following new section:

"SEC. 715. NETWORK NEUTRALITY.

"(a) POLICY.—It is the policy of the United States—

"(1) to maintain and enhance the vibrant and competitive free market that presently exists for the Internet and Internet services, upon which Internet commerce relies;

"(2) to preserve and promote the open and interconnected nature of the Internet and consumer empowerment and choice;

"(3) to foster innovation, investment, and competition among network providers, as well as application, content, and service providers;

"(4) to ensure vigorous and prompt enforcement of this section's requirements to safeguard innovation, consumer protection, and marketplace certainty; and

"(5) to preserve the security and reliability of the Internet and the services that enable consumers to access content, applications, and services over the Internet.

"(b) IN GENERAL.—Each broadband network provider has the duty—

"(1) not to block, impair, degrade, discriminate against, or interfere with the ability of any person to use a broadband connection to access, use, send, receive, or offer lawful content, applications, or services over the Internet;

"(2) to operate its broadband network in a nondiscriminatory manner so that any person can offer or provide content, applications, and services through, or over, such broadband network with equivalent or better capability than the provider extends to itself or affiliated parties, and without the imposition of a charge for such nondiscriminatory network operation;

"(3) if the provider prioritizes or offers enhanced quality of service to data of a particular type, to prioritize or offer enhanced quality of service to all data of that type (regardless of the origin of such data) without imposing a surcharge or other consideration for such prioritization or enhanced quality of service;

"(4) to enable a user to attach and use any device to the operator's network that does not physically damage, make unauthorized use of, or materially degrade other users' utilization of, the network; and

"(5) to clearly and conspicuously disclose to users, in plain language, accurate information about the speed, nature, and limitations of their broadband connection.

"(c) PRESERVED RIGHTS AND EXCEPTIONS.—Nothing in this section shall prevent a broadband network provider from taking reasonable and nondiscriminatory measures to—

"(1) manage the functioning of its network to protect the security of such network and broadband network services, provided that such management does not depend upon the affiliation with the broadband network provider of the content, applications, or services on the network;

"(2) offer varied service plans to users at defined levels of bandwidth and different prices;

"(3) offer consumer protection services (including services for the prevention of unsolicited commercial electronic messages, parental controls, or other similar capabilities), or offer cable service, so long as a user may refuse or disable such services;

"(4) give priority to emergency communications and telemedicine services; or

"(5) prevent any violation of Federal or State law, or comply with any court-ordered law enforcement directive.

"(d) EXPEDITED COMPLAINT PROCESS.—Within 180 days after the date of enactment of this section, the Commission shall prescribe regulations providing for the expedited review of any complaints alleging a violation of this section. Such regulations shall include a requirement that the Commission issue a final order regarding any request for a ruling contained in a complaint not later than 30 days after the date of submission of such complaint.

"(e) DEFINITIONS.—As used in this section:

"(1) BROADBAND NETWORK PROVIDER.—The term 'broadband network provider' means a person or entity that owns, controls, operates, or resells and controls any facility used to provide broadband network service to the public, by whatever technology and whether provided for a fee, in exchange for an explicit benefit, or for free.

"(2) BROADBAND NETWORK SERVICE.—The term 'broadband network service' means a two-way transmission service that connects to the Internet and transmits information at an average rate of at least 200 kilobits per second in at least one direction.

"(3) USER.—The term 'user' means any person who takes and uses broadband network service, whether provided for a fee, in exchange for an explicit benefit, or for free.".

(b) SAVINGS PROVISION.—Nothing in this section shall be construed to modify, impair, or supersede the applicability of the antitrust laws, as such term is defined in section 602(e)(4) of the Telecommunications Act of 1996.

In the heading of title II of the bill, strike "**ENFORCEMENT OF BROADBAND POLICY STATEMENT**" and insert "**NETWORK NEUTRALITY**".

Conform the table of contents accordingly.

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8. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE GUTKNECHT OF MINNESOTA, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

At the end of title III of the bill, add the following new section:

SEC. 302. COMPENSATION AND CONTRIBUTION.

(a) RULE OF CONSTRUCTION.—Nothing in this Act (including the amendments made by this Act) shall be construed to exempt a VOIP service provider from requirements imposed by the Federal Communications Commission or a State commission on all VOIP service providers to—

(1) pay appropriate compensation for the transmission of a VOIP service over the facilities and equipment of another provider; or

(2) contribute on an equitable and non-discriminatory basis to the preservation and advancement of universal service.

(b) DEFINITIONS.—As used in this section—

(1) the terms "VOIP service provider" and "VOIP service" have the meanings given such terms in section 716(h) of the Communications Act of 1934, as added by section 301 of this Act; and

(2) the term "State commission" has the meaning given such term in section 3 of the Communications Act of 1934 (47 U.S.C. 153).

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