

Resolution to Ensure Jurisdictional Bases for Open Internet Rules

WHEREAS, In a Resolution adopted at its 2010 Winter Meeting in Washington, D.C., the National Association of Regulatory Utility Commissioners (NARUC) stated that broadband access to the Internet profoundly affects the lives of Americans and that limiting, or otherwise degrading broadband access for users of the Internet, such as by blocking Voice-over-Internet-Protocol (VoIP) applications, denying access to political content, or implementing technical measures that degrade the performance of peer-to-peer software distributing lawful content has become widely agreed upon as an unfair practice and may reduce the Internet's value to consumers; *and*

WHEREAS, In a Resolution adopted at its 2002 Annual Convention in Chicago, Illinois, NARUC concluded that the restriction of user access to the Internet and its effect on an informed public is an issue of real significance to Americans; *and*

WHEREAS, In the 2002 Resolution, NARUC endorsed the right of all Internet users, including broadband, Wireline, and cable modem users to (1) have access to the Internet that is unrestricted as to viewpoint and that is provided without unreasonable discrimination as to lawful choice of content (including software applications); and (2) receive meaningful information regarding the technical limitations of their broadband service; *and*

WHEREAS, On May 15, 2014, the Federal Communications Commission (Commission) released a "Notice of Proposed Rulemaking" (NPRM) (*In the Matter of Protecting and Promoting the Open Internet*, GN Docket No. 14-28, Rel. May 15, 2014, FCC 14-61, ¶¶ 1, 3, at 3), in which the Commission commented that these benefits of the Internet "flow, in large part, from the open, end-to-end architecture of the Internet, which is characterized by low barriers to entry for developers of new content, applications, services, and devices and a consumer-demand-driven marketplace for their products," but also stating that "there are no legally enforceable rules by which the Commission can stop broadband providers from limiting Internet openness;" *and*

WHEREAS, In the NPRM, the Commission proposed rules that it states are intended to preserve an open Internet; *and*

WHEREAS, The Commission also proposed to enhance transparency rules that require providers of broadband Internet access service to publicly disclose accurate information regarding network management practices, performance, and commercial terms of the service, which would include information related to blocking, throttling, and pay-for-priority arrangements; *and*

WHEREAS, In the NPRM, the Commission solicited comments upon the nature and extent of the Commission's authority to adopt open Internet rules, including the scope of the jurisdiction under Title II of the Communications Act and Section 706 of the Telecommunications Act of 1996, 47 U.S.C. § 1301 *et seq.*; *and*

WHEREAS, The Commission previously found that Title II provides the Commission express authority to implement, for telecommunications services, rules furthering universal service, privacy, access for persons with disabilities, and basic consumer protection (Framework for Broadband Internet Service, GN Docket No. 10-127, Notice of Inquiry at ¶52); *now, therefore be it*

RESOLVED, That the Board of Directors of the National Association of Regulatory Utility Commissioners, convened at its 2014 Summer Committee Meetings in Dallas, Texas, continues to support adoption of rules that protect an open Internet, consistent with NARUC's 2002 and 2010 Resolutions, particularly since business and residential consumers, public safety, and government are relying more heavily on access to the Internet today and such access to an open Internet supports more competitive choices for those consumers; *and be it further*

RESOLVED, That NARUC supports the expansion of the transparency rules proposed by the Federal Communications Commission as full disclosure of accurate information to the public and providers of Internet access service is necessary to enable all consumers to make informed choices and to enable all market participants to understand service limitations; *and be it further*

RESOLVED, That NARUC encourages the Commission to rely strongly upon the authority conveyed by Section 706 of the Telecommunications Act of 1996 to support the adoption of open Internet rules that promote enhanced competition for broadband Internet access service and address potential market abuses, supplemented by authority provided by Titles I, II and III of the Communications Act, subject to reasonable forbearance where conditions warrant.

Passed by the Committee on Telecommunications.

Adopted by the NARUC Board of Directors, July 16, 2014.