

Resolution on Open Access to the Internet

WHEREAS, Broadband Internet is profoundly affecting the lives of Americans, through education, communications, health services, and numerous other applications; *and*

WHEREAS, Broadband Internet deployment and investment remains significant even though deployment is a capital-intensive process, which has led to barriers to access, particularly in rural America; *and*

WHEREAS, Over time, limiting, or otherwise degrading broadband access for users of the Internet, such as by blocking 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 found that providers of broadband services or facilities have the technical capability to restrict Internet access to particular sites or content, which could prevent or limit consumers' ability to reach content of their choosing, thereby presenting significant concerns that free and open information exchange in the marketplace of ideas could be hindered; *and*

WHEREAS, 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:

- 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
- Receive meaningful information regarding the technical limitations of their broadband service; *and*

WHEREAS, In 2005, the Federal Communications Commission (FCC) issued a Policy Statement in which it announced as principles on Internet access, subject to reasonable network management, that consumers are entitled to (1) access the lawful Internet content of their choice; (2) run applications and use services of their choice, subject to the needs of law enforcement; (3) connect their choice of legal devices that do not harm the network; and (4) be able to choose among competing network providers, application and service providers, and content providers; *and*

WHEREAS, The FCC Chairman endorsed these principles in September 2009 and added the two following principles that he considers essential to the openness of the Internet: (5) broadband providers cannot discriminate against particular Internet content or applications and (6) providers of broadband Internet access must be transparent about their network management practices; *and*

WHEREAS, Members of Congress have expressed concerns over restricting consumers' open access to the Internet and Congress could act to protect such interests; *and*

WHEREAS, Providers of Internet services have raised concerns that limitations placed upon the manner in which they offer services could stifle legitimate business goals, harm their abilities to earn a reasonable return on investment, and chill their incentive to innovate; *now, therefore be it*

RESOLVED, That the National Association of Regulatory Utility Commissioners, convened at its 2010 Winter Committee Meetings in Washington, D.C., continues to support the right of all Internet users, including broadband wireline, wireless, cable modem, and application-based users, to have access to and the use of the Internet that is unrestricted as to viewpoint and that is provided without unreasonable discrimination as to lawful choice of content; *and be it further*

RESOLVED, That NARUC supports the principles (1) through (4) and (6) and supports principle (5) as adjusted consistent with all the NARUC stated Resolves on Internet access set forth above and encourages the FCC and/or Congress to adopt such principles with deference to the following considerations; *and be it further*

RESOLVED, That NARUC recognizes that there are differences in markets, bandwidth, spectrum resources, and other factors between providers, whether cable, wireless, landline, application-based or otherwise; *and be it further*

RESOLVED, That notwithstanding these differences, NARUC encourages the FCC and/or Congress, when crafting rules and regulations in this area to define what constitutes unreasonable restrictions or unreasonable discrimination, strive to be as technologically neutral as possible, continue to give providers incentive for innovation and a fair return on their investment, without jeopardizing the goals of ensuring that all consumers have access to and use of affordable and reliable broadband services; *and be it further*

RESOLVED, That the NARUC General Counsel should include these principles in NARUC comments filed in all relevant FCC broadband proceedings.

Sponsored by the Committee on Telecommunications
Adopted by the NARUC Board of Directors February 17, 2010