



Tracking Net Neutrality— Pathways to an Open Internet

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Background– In the Matter of Restoring Internet Freedom

2004– FCC Chair Michael Powell outlined “Four Internet Freedoms”

2005– Madison River Telephone blocked Vonage; fined by the FCC; ordered to stop blocking

2010– FCC issues (first) Open Internet Order

-*Verizon Communications Inc. v. FCC* (2014) vacated the “no blocking” and “no unreasonable discrimination” rules; upheld “transparency” rule; found that the FCC had no enforcement authority over under Title I

2015– FCC under Chair Tom Wheeler strengthened net neutrality rules using the broader authority of Title II of the Telecommunications Act (*Open Internet Order*, 80 FR 19737)

2016– DC Circuit Court of Appeals upheld Title II rules (*United States Telecom Association, et al., petitioners v. FCC*)

December 2017– FCC under Chair Ajit Pai issues Restoring Internet Freedom, Declaratory Ruling, Report and Order, WC Docket 17-108 (effective June 11, 2018)

February 2018– NY Attorney General Schneiderman and 21 states + DC petition for review of the order of the FCC captioned *Restoring Internet Freedom*, Case No. 18-1055



Net Neutrality Principles Explained

The FCC's 2015 Open Internet Order establishes 3 rules:

- 1. No blocking access to legal content, applications, services, or non-harmful devices;**
- 2. No throttling lawful traffic on the basis of content, applications, services, or non-harmful devices;**
- 3. No paid prioritization that would create “fast lanes” by favoring traffic from some sources (including content and services of affiliates of broadband Internet access service providers)**



Tracker Methodology

- NRRI started the State Actions Net Neutrality Tracker in February 2018
- Tracking
 - Legislation
 - Executive orders
 - Resolutions
 - Lawsuits
 - Net Neutrality Cities
 - Impacts on State Utility Commissions, and relevant Dockets
- Tracking legislation using Legiscan, news, reports from states



How have the States responded?

- **Executive Orders**

- Establish standards for contracting with state entities
- State contractors must not block, throttle, engage in paid prioritization, or unreasonably interfere with services or applications

- **Laws (several strategies)**

- Reestablish 2015 FCC rules against blocking & throttling for ISPs operating within the state
- Require that ISPs certify compliance with consumer protection and net neutrality standards
- Require ISPs to publicly disclose accurate information regarding network management practices sufficient to enable consumers to make informed choices
- Establish standards for state entities contracting with ISPs

- **Resolutions**

- Urge FCC to reinstate 2015 Open Internet Order
- Urge the U.S. Congress to intervene to protect net neutrality and codify its principles in statute

- **Legal Challenges**

- Argue that under the Administrative Procedure Act, the FCC cannot make “arbitrary and capricious” changes to existing policies
- Misinterprets critical record evidence on industry practices and harm to consumers and businesses



Actions Passed

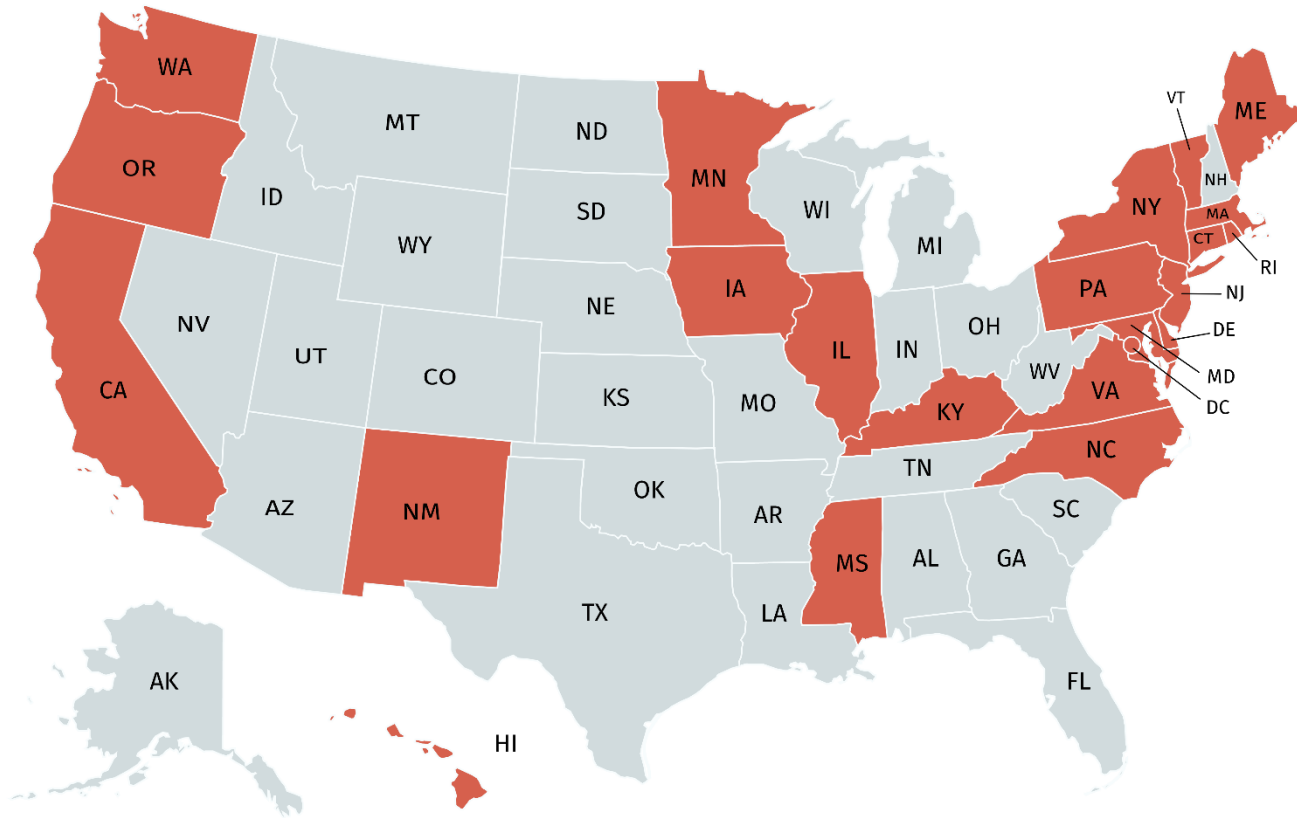
	Passed	Pending	Did not pass
Executive Order	HI, MT, NJ, NY, RI, VT (6)		
Bill	OR, VT, WA (3)	CA, IL, MA, NJ, NY, NC, PA, RI (8)	AK, CO, CT, HI, GA, ID, IA, KA, KY, MD, MN, NE, NM, SC, SD, TN, VT, VA, WA, WV, WI (21)
Resolution	CA (1)	DE, DC, IL, MI, OH (5)	AK, GA, MO, NM (4)
	Total successful actions: 10 actions, by 9 states	Another 12 states have actions still pending	22 state actions have not passed
36 States have proposed OR passed a resolution, bill, or executive order: AK, CA, CO, CT, DE, DC, GA, HI, ID, IL, IA, KS, KY, MD, MA, MI, MN, MO, MT, NE, NJ, NM, NY, NC, OH, OR, PA, RI, SC, SD, TN, VT, VA, WA, WV, WI			
Net Neutrality law suit	CA, CT, DE, HI, IL, IA, KY, ME, MD, MA, MN, MS, NJ, NM, NY, NC, OR, PA, RI, VT, VA, WA, DC (22 states + DC)		
Net Neutrality Cities	123 Mayors have committed to an Open Internet Pledge		

¹ Illinois has both a bill and resolution pending, and was only counted once towards number of states

² AK, GA, and NM were each only counted once towards state action totals



States Suing the FCC



22 States + DC have joined a petition for review of the FCC's *Restoring Internet Freedom* Order, Case No. 18-1055



Free Press— Cities Open Internet Pledge

1. Procure applicable internet services from companies that do not block, throttle, or provide paid prioritization of content on sites that cities run to provide critical services and information to their residents.
2. Ensure an open internet connection with any free or subsidized service we offer to our residents.
3. Not block, throttle or engage in paid prioritization when providing internet service directly to our residents, such as through free public Wi-Fi or municipal broadband.
4. To the extent permitted, require clear and accessible notices of filtering, blocking and prioritization policies with enforceable penalties for violations to protect consumers from deceptive practices.
5. Monitor the practices of internet service providers so consumers and regulators can know when a company is violating open internet principles or commitments.
6. Encourage consumer use of ISPs, including municipal options, that abide by open internet policies.



Net Neutrality Cities

Mayor Bill de Blasio — New York, NY
Mayor Steve Adler — Austin, TX
Mayor Ted Wheeler — Portland, OR
Mayor Ron Nirenberg — San Antonio, TX
Mayor Sly James — Kansas City, MO
Mayor Mark Farrell — San Francisco, CA
Mayor Catherine E. Pugh — Baltimore, MD
County Board of Supervisors Chair Zach Friend — Santa Cruz County, CA
Mayor Barney Seney — Putnam, CT
Mayor Paul Soglin — Madison, WI
Mayor Sam Liccardo — San Jose, CA
Mayor Jacob Frey — Minneapolis, MN
Mayor Ethan Strimling — Portland, ME
Mayor Don Boeder — Gaylord, MN
Mayor Tom Feldkamp — Bow Mar, CO
Mayor Pauline Cutter — San Leandro, CA
Mayor Lucy Vinis — Eugene, OR
Mayor Lisa Swain — Fair Lawn, NJ
Mayor Laura Keegan — Edgewater, CO
Mayor Michael Tubbs — Stockton, CA
Mayor Steve Schewel — Durham, NC
Mayor Ras Baraka — Newark, NJ
Mayor Steve Fulop — Jersey City, NJ
Mayor Andrew Ginther — Columbus, OH
Mayor Kim McMillan — Clarksville, TN
Mayor David Terrazas — Santa Cruz, CA
Mayor Frank Ortis — Pembroke Pines, FL
Mayor Lowell Hurst — Watsonville, CA
Mayor Shari Cantor — West Hartford, CT
Mayor Rick Davis — City of Tonawanda, NY
Mayor Sal Panto Jr — Easton, PA
Mayor Alex Morse — Holyoke, MA
Mayor Michelle Distler — Shawnee, KS

Mayor G. David Gillock — North Ridgeville, OH
Mayor Michael M Vargas — Perris, CA
Mayor Lyda Krewson — Saint Louis, MO
Mayor Bob Scott — Sioux City, IA
Mayor David Martin — Stamford, CT
Mayor Walt Maddox — Tuscaloosa, AL
Mayor Paul Heroux — Attleboro, MA
Mayor Jean (John) Mordo — Los Altos, CA
Mayor Debra S. Lewis — Ashland, WI
Mayor Heidi Harmon — San Luis Obispo, CA
Mayor Miro Weinberger — Burlington, VT
Mayor Zachary Vruwink — Wisconsin Rapids, WI
Mayor Kim Driscoll — Salem, MA
Mayor Trish Herrera Spence — Alamada, CA
Mayor Marc McGovern — Cambridge, MA
Mayor David M. DelVecchio — Lambertville, NJ
Mayor Adrian O. Mapp — Plainfield, NJ
Mayor Patrick Wojahn — College Park, MD
Mayor Francis M. Womack III — North Brunswick, NJ
Mayor Tom Butt — Richmond, CA
Mayor Dominic Persampiere — Oviedo, FL
Mayor Dan Horrigan — Akron, OH
Mayor Charles Lamb — Edmond, OK
Mayor Catherine Blakespear — Encinitas, CA
Mayor Peter d’Errico — Leverett, MA
Mayor Heilman — West Hollywood, CA
Mayor Lydia E. Lavelle — Carrboro, NC
Mayor Lovely Warren — Rochester, NY
Mayor Robert D. Parisi — West Orange, NJ
Mayor Michael P. Summers — Lakewood, OH

Mayor Debbie Brinkman — Littleton, CO
Mayor James Brainard — Carmel, IN
Mayor Svante Myrick — Ithaca, NY
Mayor Pam Hemminger — Chapel Hill NC
Mayor Jake Spano — St. Louis Park, MN
Mayor Ken Kreutzer — Brighton, CO
Mayor Suzzette Cavadas — Union, NJ
Mayor Yxstian Gutierrez — Moreno Valley, CA
Mayor Gail Johnson — Oswego, IL
Mayor Pete Buttigieg — South Bend, IN
Mayor Robert Donchez — Bethlehem, PA
Mayor Chris Koos — Normal, IL
Mayor Bob Kelly — Great Falls, MT
Mayor David H. Bieter — Boise, ID
Mayor Ravinder S. Bhalla — Hoboken, NJ
Mayor Tim Mahoney — Fargo, ND
Mayor Rich Tran — Milpitas, CA
Mayor Randy Rhoads — Lee’s Summit, MO
Mayor Michael J. Venezia — Bloomfield, NJ
Mayor Denny Doyle — Beaverton, OR
Mayor Emmett V. Jordan — Greenbelt, MD
Mayor Nikuyah Walker — Charlottesville, VA
Mayor Deirdre Waterman — Pontiac, MI
Mayor Karen Weston — Dover, NH
Mayor Milissa Holland — Palm Coast, FL
Mayor Levar Stoney — Richmond, VA
Mayor David J. Narkewicz — Northampton, MA
Mayor Chuck Bennett — Salem, OR
Mayor Nora Slawik — Maplewood, MN
Mayor David O. Earling — Edmonds, WA
Mayor Arlene R. Schwartz — Margate, FL
Mayor Tim Keller — Albuquerque, NM

Mayor Liz Lempert — Princeton, NJ
Mayor Ellen Zoppo-Sassu — Bristol, CT
Mayor Mark Meadows — East Lansing, MI
Mayor Randall L. Woodfin — Birmingham, AL
Mayor Mike Vandersteen — Sheboygan, WI
William A. Kawecki — Morgantown, WV
Mayor Brenda Gunter — San Angelo, TX
Mayor Robert Garcia — Long Beach, CA
Mayor Ted Winterer — Santa Monica, CA
Mayor Joseph C. Sullivan — Braintree, MA
Mayor Shelley Brophy — Nacogdoches, TX
Mayor Paula Zelenko — Burton, MI
Mayor Bobby Kilgore — Monroe, NC
Mayor Tim Willson — Brooklyn Center, MN
Mayor Wynn Butler — Manhattan, KS
Mayor Donald M. Hahn — State College, PA
Mayor Carolyn Goodman — Las Vegas, NV
Mayor Raymond Rogina — St. Charles, IL
Mayor Jim Gardner — Lake Forest, CA
Mayor Deborah Frank Feinen — Champaign, IL
Mayor Christopher Taylor — Ann Arbor, MI
Mayor Amy Howorth — Manhattan Beach, CA
Mayor Lioneld Jordan — Fayetteville, AR
Mayor Jesse Arreguin — Berkeley, CA
Mayor Nancy Tyra-Lukens — Eden Prairie, MN
Mayor Jeffrey Zane Slavin — Somerset, MD
Mayor John Hamilton — Bloomington, IN
Mayor Liza Normandy — South San Francisco