



**Testimony for the Senate Education, Health, and Environmental Affairs
Committee
March 1, 2017**

**SB 287 - State Funds - Procurement of Services From Internet Service Providers -
Restriction**

SUPPORT

The American Civil Liberties Union (ACLU) supports SB 287, which will protect net neutrality in Maryland.

Information and communication are the life blood of democracy. When they are permitted to flow freely, our democracy grows and strengthens; when they are blocked or inhibited, our democracy slowly dies. The Federal Communications Commission's (FCC) December 2017 decision to grant internet service providers, or ISPs, the ability to decide what online content is permitted to travel on the information superhighway's HOV lanes, what information is relegated to the slow lane, and what information is prohibited from even accessing its on-ramps presents a significant threat to the freedom of all Americans and certainly to the people of Maryland. Arguments by the FCC and some ISPs that the end of net neutrality will foster greater internet freedom and innovation are not only patently false, they are absurd. Eliminating net neutrality does one thing, and one thing only: it allows those who provide internet access to engage in content-based discrimination.

The threats posed by the end of net neutrality are not hypothetical. In the absence of net neutrality in the United States and elsewhere, we have seen content slowed and blocked based upon the political views and business interests of ISP companies. For example:

- AT&T censored a live Pearl Jam concert stream in response to criticisms of President George W. Bush by the band's lead singer, Eddie Vedder;
- Verizon blocked text messages from the pro-choice advocacy group NARAL because Verizon deemed them to be "controversial";
- Telus, a Canadian Telecom company, blocked the website of a union with which it was engaged in a labor dispute;

Chad A. Marlow
Advocacy & Policy Counsel
American Civil Liberties Union
125 Broad Street, New York, NY 10004
212-549-2529



- AT&T limited its customers' use of FaceTime to coerce them into buying more expensive data plans; and
- AT&T, Sprint, T-Mobile, and Verizon all blocked mobile wallet applications, like Google Wallet, that competed with their own mobile wallet application.

The Internet provides methods of discovering and communicating information that were inconceivable a few generations ago, but today are central and indispensable to how the people of this state learn about their world and communicate their ideas with family, friends, and even strangers. The idea that ISP companies are now going to be empowered to decide what information and ideas receive preferential or disfavored treatment on the internet has outraged Americans from coast to coast. In taking up this bill – SB 287 – to protect net neutrality in Maryland, this legislature finds itself in excellent company. As of today, 26 other states have also introduced net neutrality legislation, and 6 additional states are expected to introduce their own bills in the coming weeks. Further, the governors of Montana, New York, New Jersey, Hawaii, and Vermont have all issued executive orders to preserve net neutrality. While the approaches taken by these various bills and executive orders may differ, collectively they demonstrate that an overwhelming number of American states are united in their view that the FCC's elimination of net neutrality is unacceptable.

And it is not just the states that are united. The American people are too. According to a December poll by the University of Maryland's Program for Public Consultation, 83 percent of Americans are in favor of preserving the net neutrality rules the FCC abandoned in December. And to be very clear, those supporting net neutrality include 75 percent of Republicans, 89 percent of Democrats, and 86 percent of independents. The bi-partisan support for net neutrality where it truly matters – among the people – is overwhelming.

SB 287 is focused on ensuring that all internet access services purchased or funded by the State of Maryland, including any of its subdivisions or instrumentalities, are net neutral. This would include internet access purchased for state or local government agencies, public schools from the elementary to the university level, or public libraries. This is a very logical line to draw because perhaps the most critical purpose behind the state's purchase of internet services is to provide its users with unbiased access to information.

Chad A. Marlow
Advocacy & Policy Counsel
American Civil Liberties Union
125 Broad Street, New York, NY 10004
212-549-2529



One needs only to look to this hearing itself to understand why. The State of Maryland purchases the internet access this committee, its members, and their staff relied on to prepare for this hearing. Without net neutrality, the ISP company that provides your internet access has the ability to block any web content that favors net neutrality. Furthermore, they could slow internet access to pro-net neutrality internet videos, such as the “Net Neutrality II” video produced by Last Week Tonight with John Oliver, which I highly recommend every member of this committee watch. The result of such throttling would be that your attempts to view the video would be constantly interrupted as the content struggles to load. Eventually, those trying to view the video, be they members of this body, students at the University of Maryland, or local activists gathered at a public library, will abandon their effort to watch it. And as for anti-net neutrality videos: well, those would do better than run fine. Access to them could be sped up and they could even be exempted from counting against your cell phone’s data plan limits.

Bear in mind that net neutrality is not gone quite yet. It has just under 60 days before it is formally eliminated, so none of these things could have happened today; but SB 287 is about protecting us from risks that lay just over the horizon, and without it, is it pretty clear to see how democracy itself is under threat in Maryland. Whether a member of this legislature, or the public at large, wants to read content from the New York Times or Breitbart, or to just watch videos of celebrities eating spicy chicken wings on “Hot Ones”, when the State of Maryland is spending its tax dollars to purchase or fund internet access, it should be able to demand that access is unbiased, equal, and fair. That is what SB 287 is seeking to do, and that is why the ACLU supports its adoption.

Thank you for your consideration of this legislation and we urge a favorable report on SB 287.

Chad A. Marlow
Advocacy & Policy Counsel
American Civil Liberties Union
125 Broad Street, New York, NY 10004
212-549-2529