
**SENATE COMMITTEE ON ENERGY, UTILITIES AND
COMMUNICATIONS**
Senator Ben Hueso, Chair
2017 - 2018 Regular

Bill No: SB 822 **Hearing Date:** 4/17/2018
Author: Wiener
Version: 3/13/2018 As Amended
Urgency: No **Fiscal:** Yes
Consultant: Sarah Smith

SUBJECT: Communications: broadband Internet access service

DIGEST: This bill establishes net neutrality requirements by prohibiting internet service providers (ISPs) and cable franchises that provide broadband internet services from taking certain actions that interfere with consumers' ability to lawfully access internet content, including intentional content blocking, speeding up or slowing down traffic, and paid-prioritization. This bill prohibits public entities from funding or contracting for services with an ISP that violates this bill's provisions. This bill also requires ISPs to provide certain consumer disclosures regarding their compliance with net neutrality requirements and authorizes city attorneys, district attorneys, and the Attorney General to bring an action against an ISP that engages in prohibited activities.

ANALYSIS:

Existing law:

- 1) Defines "Information Service" as the offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information through telecommunications. This definition includes electronic publishing; however, it does not include any use of any such capability for the management, control, or operation of a telecommunications system or the management of a telecommunications service. (47 United States Code §153/ *Communications Act of 1934*, Title I)
- 2) Prohibits unjust or unreasonable charges, practices, classifications, and regulations for or regarding common carrier interstate communications services by wire or radio. The Federal Communications Commission (FCC) is authorized to establish rules and regulations to enforce these requirements. (47 United States Code §201/ *Communications Act of 1934*, Title II)
- 3) Prohibits common carriers from making unjust or unreasonable discrimination in charges, practices, classifications, regulations, facilities, or services for or

regarding communication services, directly or indirectly, by any means or device. Common carriers may not give any undue or unreasonable preference or advantage to any person, class of persons, or locality. Additionally, they may not subject any particular person, class of persons, or locality to any undue or unreasonable prejudice or disadvantage. (47 United States Code §202/ *Communications Act of 1934*, Title II)

- 4) Requires the FCC and state agencies with telecommunications regulatory authority to encourage the deployment of advanced telecommunications capability to all Americans in a reasonable and timely manner. These agencies must exercise this authority in a manner consistent with the public interest, convenience, necessity, price cap regulation, regulatory forbearance, methods for encouraging local telecommunications market competition, or other regulatory methods for removing barriers to infrastructure investment. Advanced telecommunications capability is defined as high-speed, switched, broadband telecommunications capability that enables users to originate and receive high-quality voice, data, graphics, and video telecommunications using any technology. (47 United States Code §1302/ *Telecommunications Act of 1996* §706)
- 5) Authorizes the California Public Utilities Commission (CPUC) to fix rates, establish rules, examine records, issue subpoenas, administer oaths, take testimony, punish for contempt, and prescribe a uniform system of accounts for all public utilities subject to its jurisdiction. (California Constitution, Article XII, §6)
- 6) Gives the CPUC the authority to supervise and regulate every public utility in the state and do all things necessary and convenient in the exercise of such power and jurisdiction. (Public Utilities Code §701)
- 7) Defines the term “public utility” and includes common carriers in the definition of a public utility. (Public Utilities Code §216)
- 8) Limits the CPUC from applying provisions of the Public Utilities Act to interstate commerce unless permitted by federal law. (Public Utilities Code §202)
- 9) States California’s telecommunications policy, including affirming the State’s commitment to universal service by assuring the continued affordability and widespread availability of high-quality telecommunications services to all Californians; encouraging expanded access to state-of-the-art technologies for rural, inner-city, low-income, and disabled Californians; promoting lower

prices, broader consumer choice, and avoidance of anticompetitive conduct; and encouraging fair treatment of consumers through the provision of sufficient information for making informed choices, establishment of reasonable service quality standards, and establishment of processes for equitable resolution of billing and service problems. (Public Utilities Code §709)

- 10) Gives the CPUC sole franchising authority for state cable franchises. The CPUC, local franchise entities, and other local entities in California are prohibited from requiring the holder of a state franchise to obtain a separate franchise or otherwise impose any requirement on any holder of a state franchise except as expressly stated in law. (Public Utilities Code §5840)

This bill:

- 1) Prohibits ISPs and cable franchises that provide broadband internet services from engaging in certain activities that impact a consumer's ability to lawfully access content on the internet, including, but not limited to the following:
 - a) Intentionally blocking lawful content, slowing or speeding traffic, or otherwise interfering with access to lawful content on the basis of source, destination, internet content, application, or service, or use of a non-harmful device.
 - b) Requiring consideration or payment from edge providers in exchange for ensuring their consumers' access to content, applications, and services at appropriate traffic speeds.
 - c) Engaging in third-party paid prioritization.
 - d) Selectively zero-rating some internet content, applications, services, or devices or zero-rating in exchange for consideration or payment.
 - e) Engaging in deceptive or misleading marketing practices that misrepresent the treatment of internet traffic, content, applications, services, or devices.
 - f) Failing to publicly disclose accurate information about the network management practices, performance, and commercial terms of its broadband internet access services to enable consumers to make informed choices about those services.
 - g) Providing services other than broadband internet access service delivered over the same last-mile connection as the broadband internet access service if those other services can be used as an equivalent of broadband internet, circumvent or undermine the other prohibitions for ISPs, or negatively impact the performance of broadband internet services.
- 2) Establishes the criteria by which an ISP may offer different types of technical treatment to end users as part of its broadband Internet access service, without violating the bill's provisions. This bill requires the CPUC to monitor the

quality of an ISP's basic service if the ISP offers different technical treatment and the basic service degrades.

- 3) Specifies that nothing in this bill limits any obligation, authorization, or ability of an ISP to address the needs of emergency communications, law enforcement, public safety, or national security authorities.
- 4) Authorizes the Attorney General, district attorneys and city attorneys to bring an action against an ISP engaging in prohibited activities.
- 5) Prohibits public entities from purchasing services from or providing funding to ISPs that engage in prohibited activities. This bill authorizes a public entity that enters into a contract with an ISP later found to be in violation of this bill's requirements to declare the contract void.
- 6) Requires an ISP with a contract or funding from a public entity to provide sufficient information about its network management practices, performance, and commercial terms of its broadband Internet access service to enable end users and public entities to ensure the ISP's compliance with this bill's requirements.
- 7) Requires a cable franchise applicant to submit a statement with the franchise application affirming that the applicant will comply with this bill's net neutrality requirements.
- 8) Requires the CPUC to work with the California Energy Commission (CEC) and the California Independent System Operator (CAISO) to evaluate the role that broad band internet and tools will play in California's smart grid. This evaluation must consider the following: the extent to which the CAISO and electrical corporations rely on consumers broadband services to manage energy resources; the impact that intentional slowing, content blocking and paid prioritization of broad band internet would have on grid reliability; and the future cost to state agencies if they must enter into long-term paid prioritization contracts if the net neutrality provisions of the bill are not enacted.
- 9) Defines various terms regarding net neutrality requirements.

Background

Net neutrality is the principle that ISPs should enable access to all websites and content without intentionally thwarting or favoring certain content or applications. In the absence of net neutrality, ISPs may slow down, speed up, block, or require

payment to access certain internet websites or content. In 2015, the Obama Administration FCC enacted specific net neutrality rules prohibiting ISPs from engaging in technical discrimination. However, the Trump Administration FCC reversed these rules in December 2017, and the existing net neutrality requirements are expected to become ineffective during the summer of 2018.

Title I or Title II? Existing federal law distinguishes between “information services” and “common carriers.” The FCC’s authority to regulate information services is commonly referred to as Title I authority, and its authority to regulate common carriers is referred to as Title II authority. Generally, Title II provides the FCC with more stringent regulatory authority over telecommunications as utilities. As broadband internet technology and usage has evolved, net neutrality debates at the federal level have focused on the degree to which ISPs should be treated as public utilities.

While concerns about the internet’s openness have existed since its inception, the FCC has not always regulated ISPs as utilities. Between 2002 and 2005, the FCC classified cable modem internet service, wireline broadband, and wireless broadband as information services, limiting the degree to which ISPs were subject to regulatory action. Between 2005 and 2010, the FCC sought to establish a number of policies supporting net neutrality. However, concerns regarding ISPs’ compliance with these policies persisted. In 2010, the FCC approved the Open Internet Order, which established basic net neutrality requirements for ISPs. The FCC relied on its Title I authority to establish the 2010 order. In 2014, the United States Court of Appeals determined that the FCC did not have sufficient authority under Title I to enforce the order’s net neutrality requirements because ISPs were not classified as common carriers. After the court’s ruling, the FCC adopted the 2015 net neutrality requirements and re-classified ISPs as common carriers under Title II. Following the most recent change in the federal administration, the FCC reversed the net neutrality requirements in 2017. As part of the reversal, the FCC moved to reclassify ISPs as information services under Title I.

Potential benefits of net neutrality. The continuation of federal net neutrality requirements could provide consumers with significant benefits. Prohibitions against intentionally blocking content, slowing traffic, and prioritizing content based on payment limits the degree to which ISPs can interfere with consumers’ access to content over the internet. Net neutrality also has the potential to support greater competition between content providers by limiting the degree to which better resourced companies can pay to ensure their content is prioritized and distributed to consumers at optimal speeds. Enhanced competition between content providers could give consumers a greater number of choices for certain

high demand online services like streaming video. Competition also has the potential to reduce costs or contain costs as new services enter the market.

Beyond the last mile: interconnection. The point at which end user services intersect with an ISP's network connection to edge providers like Netflix is generally known as the point of "interconnection." This point is a gateway between the ISP's backend services and the "last mile" of service to an end user. The last mile of service is generally where consumer-oriented services are targeted because it is the portion of where disruptions are most visible to the consumer.

During the FCC's 2015 Open Internet proceeding, the FCC acknowledged that activities beyond the last mile can impact the consumer's internet access. The order specifically references disputes over "peering agreements" between edge providers and ISPs. Peering agreements are arrangements between edge providers and ISPs in which edge providers usually pay ISPs for costs that ISPs incur to upgrade their networks to prevent congestion problems. Edge providers supply content to consumers over ISP networks. While edge providers supply data accessed by consumers, they do not generally maintain networks. Instead, they rely upon the ISPs to maintain internet networks. These networks require upgrades to support internet traffic. As more devices become connected to the internet and consumers increase their data demands, upgrades will be needed. Congestion can impact a consumer's access to content and generally occurs when consumers demand a large quantity of data in a short time frame. For example, in the evenings, demand for video streaming content from providers such as Netflix and Hulu significantly increases. According to the FCC's 2015 order, disputes between edge providers and ISPs over peering agreements led to consumer service disruptions between 2013 and 2014.

Despite acknowledging the potential impact of peering agreement disputes on consumers, the FCC's 2015 Open Internet order limited its scope and explicitly did not apply open internet rules to interconnection. The FCC's order stated the following:

"While we have more than a decade's worth of experience with last-mile practices, we lack a similar depth of background in the Internet traffic exchange context. Thus, we find that the best approach is to watch, learn, and act as required, but not intervene now, especially not with prescriptive rules. This Order – for the first time – provides authority to consider claims involving interconnection, a process that is sure to bring greater understanding to the Commission."

While the FCC found that peering agreements were within the FCC's regulatory scope, it also determined that oversight should be administered on a case-by-case basis instead of establishing a flat prohibition or prescriptive rules. The order describes the case-by-case approach as more appropriate for disputes over commercial terms involving very large corporations.

Who pays? In the 2015 Open Internet Order, the FCC found that internet traffic challenged traditional arrangements for maintaining networks. The order notes that large consumer demand for video streaming contributes a significant amount of internet traffic and peering agreements are one mechanism for paying for services that limit congestion. This bill would prohibit peering agreements. In the absence of peering agreements, costs for network upgrades could either be absorbed by ISPs or passed to consumers. In the short-term, consumers may not experience significant cost impacts. However, a long-term absence of other mechanisms to pay for infrastructure upgrades could increase cost pressures for consumers. In the event that consumers are required to pay for network upgrades to prevent congestion, the cost impact is unclear; however, it is likely that cost increases for consumers would disproportionately impact lower-income Californians and increase needs for universal service programs that supply broadband access at affordable rates.

Prohibiting zero-rating may also have the unintended consequence of increasing some consumers' costs. Zero-rating is the process by which an ISP exempts certain applications, content or traffic from data caps. Currently, ISPs and wireless carriers can offer sponsored data plans that selectively exempt certain applications from a consumer's data limit. This exemption enables the consumer to use this application without its data use counting towards the consumer's data limit. Selective zero-rating can also enable ISPs and carriers to favor certain applications and content over others. This favoritism could limit competition within the content provider market. This bill prohibits selective zero-rating but permits zero-rating when it is applied without favoritism. For example, it would enable a carrier or ISP to zero-rate all data during a specific time frame. It would also permit carriers to exempt entire types of applications but not a specific application. For example, a carrier could exempt all video streaming applications from the data limit but not a specific video streaming application. In the 2015 order, the FCC explored the possibility of addressing zero-rating in the proceeding and determined that it would instead continue to address sponsored data plans on a case-by-case basis instead of establishing specific rules. The FCC stated the following about these plans in the order:

“We are mindful of the concerns raised in the record that sponsored data plans have the potential to distort competition by allowing

service providers to pick and choose among content and application providers to feature on different service plans. At the same time, new service offerings, depending on how they are structured, could benefit consumers and competition. Accordingly, we will look at and assess such practices under the no-unreasonable interference/disadvantage standard, based on the facts of each individual case, and take action as necessary.”

To the extent that sponsored data plans provide consumers with more access to data at a lower cost, prohibiting beneficial forms of zero-rating could increase consumers’ data costs in the long-term. Low-income Californians who more heavily rely on mobile devices in lieu of fixed services could be disproportionately impacted.

Application to Universal Service Programs. This bill would require telecommunications companies participating in universal service programs to comply with its net neutrality requirements as a pre-requisite for receiving public funding. Applying net neutrality requirements to these companies may support enforcement of net neutrality requirements across the state; however, it may also provide a disincentive to companies that participate in these programs by increasing their administrative burdens. For example, the CPUC administers the California Advanced Services Fund (CASF) to expand broadband deployment in underserved areas that currently lack broadband by providing grants to telephone corporations for projects in specific geographic areas. It is unclear how a company participating in a CASF project would demonstrate compliance with the net neutrality requirements to ensure continued funding for broadband deployment. To the extent that these additional requirements slow the CASF grant process, it may slow broadband deployment in communities that currently lack broadband. Slowing broadband infrastructure deployment could undermine state and federal universal service goals. If this bill’s requirements provide a disincentive to companies participating in other universal service programs like the Lifeline program, it may reduce the number of carriers participating in the program and discourage eligible consumers from enrolling in the service.

CPUC enforcement: This bill establishes multiple mechanisms for enforcement. Under this bill, attorneys at the municipal, county, and state level may bring an action against an ISP that potentially violates this bill’s provisions. This bill also establishes oversight requirements for the CPUC that would require the CPUC to monitor the quality of internet services. Specifically, this bill permits ISPs to offer different classes of service to consumers as long as the ISPs comply with specific criteria. If an ISP offers different classes of service and the quality of the ISP’s basic service declines, this bill requires the CPUC to monitor the quality of the

basic service and establish minimum quality standards for basic internet service. While this bill requires the CPUC to create basic quality standards for the internet, it explicitly states that it does not authorize the CPUC to regulate an ISP as a public utility. It is unclear how the CPUC could monitor and enforce internet quality of service without establishing regulations defining quality internet service and regulating an ISP providing access to different classes of service. It is also likely that the CPUC would need significantly greater resources to acquire quality of service monitoring tools and effectively monitor and enforce internet quality of service.

The CPUC's enforcement duties may also be limited by interstate commerce restrictions. Existing state law prohibits the CPUC from applying powers provided by the Public Utilities Act to interstate commerce unless authorized by federal law. To the extent that internet service is classified as a means of interstate commerce, the CPUC's ability to regulate internet service may be limited.

Application to video franchises. In addition to requiring compliance with net neutrality as a pre-requisite for public funding and contracting, this bill would also require California video franchise applicants to affirm that they will comply with the net neutrality requirements. Requiring compliance at franchise application may be an additional mechanism to support compliance; however, it is not clear that requiring video franchisees to demonstrate compliance is necessary to ensure that ISPs comply with the provisions regarding broadband. Video franchise applicants that also provide broadband internet access service would be subject to the enforcement and consumer disclosure provisions of this bill applied to all ISPs.

Smart-Grid impacts. This bill requires the CPUC to work with the CEC and the CAISO to determine the extent to which broadband tools will support a smart grid and analyze how net neutrality limitations would impact the management of these resources. It is unclear to which resources this requirement would apply. Currently, the CAISO uses a virtual private network called the Energy Communication Network, which is managed by AT&T. On the distribution side of the electrical system, broadband is a more heavily used resource because both residential and non-residential customers may use broadband to connect smart appliances and other distributed resources. While additional evaluation of interconnected distributed resources could be beneficial, it is not clear that it is needed to effectively implement net neutrality.

Need for amendments. This bill contains a number of provisions that are not necessary for establishing net neutrality requirements, could be challenging for the CPUC to implement, and could impact universal service efforts. *The author and committee may wish to consider removing provisions regarding video franchise*

application requirements, technical treatment, and smart-grid impacts. These amendments would limit the degree to which retaining the public contracting prohibitions would impact universal service programs. This bill also contains provisions that are outside the scope of the FCC's 2015 Open Internet order. *To the degree that the author and committee wish to conform this bill's scope to that of the FCC's 2015 Open Internet order, they may wish to consider removing provisions prohibiting zero-rating and peering agreements.*

Double referral. Should this bill be approved by this committee, it will be re-referred to the Senate Committees on Judiciary for their consideration.

Prior/Related Legislation

AB 375 (Chau, 2017) would enact the California Broadband Internet Privacy Act in an effort to reinstate the consumer privacy protections afforded by rules finalized by the FCC in October 2016. The bill is currently on the Senate Inactive File.

SB 460 (De León, 2017) would adopt the main components of the federal net neutrality rules prohibiting ISPs from intentionally interfering with consumers' ability access internet content. The bill would also prohibit state agencies from contracting with providers unless they commit to not engage in practices that violate the net neutrality provisions. The bill is currently in the Assembly, pending referral to a policy committee.

SB 1161 (Padilla, Chapter 733, Statutes of 2012) prohibits the CPUC from regulating Voice over Internet Protocol (VoIP) and Internet Protocol enabled service (IP enabled service), except as required or authorized by federal law or expressly specified in statute.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

SUPPORT:

18MillionRising.org
Access Humboldt
Agribody Technologies, Inc
Aixa Fielder, Inc
Alameda Motor
American Civil Liberties Union of California
American Sustainable Business
Analysis of Motion
Barnes Insurance
BentonWebs
Bioeconomy Partners
Brian Boortz Public Relations

Johnson Properties
Judith Glickman Zevin, Psy.D.
Kahl Consultants
Langlers WebWorks
Lat13
Leatherback Canvas
Leet Sauce Studios, LLC
Leverata, Inc
Lisa LaPlaca Interior Design
Logical Computer Solutions
Magical Moments Event Planning & Coordinating
May First/People Link

Brightline Defense Project
C, Wolfe Software Engineering
Califa
California Alarm Association
California Association of Competitive
Telecommunications Companies
California Association of Realtors
California Common Cause
California Freedom Coalition
California Public Interest Research Group
Cartoonland
CCTV Center for Media & Democracy
Center for Democracy & Technology
Center for Media Justice
Center for Rural Strategies
Cheryl Elkins Jewelry
Chris Garcia Studio
City and County of San Francisco
City of Emeryville
City of Los Angeles
City of Oakland
City of Sacramento
City of San Jose
Cogent Communications
Color Of Change
Common Cause
Computer-Using Educators
Corporate Host Services
Constituent Records
Consumer Action
Consumers Union
County of Santa Clara
Courage Campaign
CREDO Action
CreaTV San Jose
Daily Kos
David's Amusement Company
Demand Progress Action
Democracy for America
Digital Deployment
Disability Rights Education & Defense Fund
Dragon's Treasure
dsherman design
Electronic Frontier Foundation
Engine
EveryLibrary
Faithful Internet
Federal Communications Commission Commissioners
& Chairs (Former): Michael Copps, Gloria Tristani,
Tom Wheeler
Fight for the Future
FREE GEEK
Free Press
Friends of the Millbrae Public Library
Gold Business & IP Law
Goodlight Natural Candles
Grass Fed Bakery
Greenpeace USA
Grocery Outlet of Lompoc
Mechanics' Institute Library
Media Alliance
Media Mobilizing Project
Melbees
Merriman Properties LLC
MGCC
Milked Media
Mixt Media Art
MM Photo
Mobile Citizen
Mogin Associates
Narrow Bridge Candles
National Consumer Law Center
National Digital Inclusion Alliance
National Hispanic Media Coalition
New American's Open Technology Institute
New Media Rights
Nobody Cares Media
Nonprofit Technology Network
Oakland Privacy
Obscure Engineering
Office of Ratepayer Advocates
OpenMedia
Oregon Citizens' Utility Board
Orthogonal, LLC
Pacific Community Solutions, Inc
Paper Pastiche
Patty's Cakes and Desserts
PEN America
People Demanding Action
Personhood Press
Pony Named Bill Tack
Pretty Me Store
Progressive Technology Project
Prosenenergy
Public Knowledge
Reid Case Management
RI Lopez Interpreter Services
RootsAction.org
Silicon Harlem
Silver Lining Unlimited
SNAP Cats
Sonic.net, LLC
spamedfit.com
Stauter Flight Instruction
Sternidae Industries
SumOfUs
Suzi Squishies
Tarragon Consulting Corporation
Tech Goes Home
The Greenlining Institute
The Radio Doctor
The Utility Reform Network
Thinkshift Communications
Trader Ann's Attic
Tribd Publishing Co.
TWB & Associates
Twilio
UHF

Horticulturist
 Iam Bloom
 iHomefinder, Inc
 Indivisible CA: StateStrong
 Indivisible Sacramento
 Indivisible SF
 Indivisible Sonoma County
 inNative
 Intex Solutions, Inc
 IR Meyers Photography

UX Consulting
 Vic DeAngelo IT Consulting
 Voices for Progress
 Wallin Mental Medical
 Wonderlandstudios
 Words 2 Wow Life Science Marketing
 World Wide Web Foundation
 Writers Guild of America West
 XPromos Marketing Mastery, LLC
 A petition with several individuals

OPPOSITION:

2-1-1 Humboldt Information and Resource Center
 Asian Pacific Islander American Public Affairs
 Association of:
 Bay Area
 Central Valley Region
 Community Education Foundation
 Solano County
 Southern California Region
 AT&T
 Athletes and Entertainers For Change
 Benefit Tomorrow Foundation
 Black Business Association
 Black Chamber of Orange County
 Black Women Organized for Political Action
 Boys and Girls Club of El Dorado County
 Brotherhood Crusade
 California Cable & Telecommunications Association
 California Communications Association
 California State Conference of the National Association
 for the Advancement of Colored People
 Camp Fire Inland Southern California
 Chamber of Commerce:
 Alhambra
 California Asian Pacific Islander
 California Black
 California Hispanic
 El Dorado County
 Escondido
 Fresno
 Fresno Metro Black
 Greater Coachella Valley
 Greater Los Angeles African American
 InBiz Latino/North County Hispanic
 Korean American Central
 Mariposa County
 Oceanside
 Orange County Hispanic
 Sacramento Asian Pacific Islander
 Sacramento Black
 Sacramento Hispanic
 Sacramento Metropolitan
 Slavic American
 Community Women Vital Voices
 Computing Technology Industry Association
 Concerned Black Men of Los Angeles

Concerned Citizens Community Involvement
 Congress of California Seniors
 CONNECT
 Consolidated Board of Realtists
 DeBar Consulting
 Entrepreneurs of Tomorrow Foundation
 Eskaton
 Fresno Area Hispanic Foundation
 Fresno County Economic Development Corp.
 Frontier Communications
 Guardians of Love
 Hacker Lab
 Hispanic 100
 Inland Empire Economic Partnership
 International Leadership Foundation
 International Leadership Foundation Orange County
 Chapter
 KoBE Government Contracting Alliance
 Krimson and Kreme
 Latin Business Association
 Latino Service Providers
 LightHouse Counseling & Family Resource Center
 LIME Foundation
 Mandarin Business Association
 Merced Lao Family Community, Inc.
 National Association for the Advancement of Colored
 People, Ventura County
 North Bay Leadership Council
 North Orange County Chamber
 OCA East Bay Chapter
 OCA Sacramento Chapter
 OCA Silicon Valley
 OCA National
 Orange County Business Council
 Puertas Abiertas Community Resources Center
 RightWay Foundation
 San Gabriel Valley Economic Partnership
 Sierra College Foundation
 Society for the Blind
 TechNet
 The Fresno Center
 UFCW Local 648
 USTelecom
 Valley Industry and Commerce Association
 Young Visionaries Youth Leadership Academy

ARGUMENTS IN SUPPORT: According to the author:

“Senate Bill 822 puts California at the national forefront of ensuring an open internet. It establishes comprehensive and enforceable net neutrality standards to ensure that all California residents have the right to choose whether, when, and for what purpose they use the internet.

SB 822 stands for the basic proposition that the role of internet service providers (ISPs) is to provide neutral access to the internet, not to pick winners and losers by deciding (based on financial payments or otherwise) which websites or applications will be easy or hard to access, which will have fast or slow access, and which will be blocked entirely.

Under the state’s police power, SB 822 prohibits any practice that hinders or manipulates consumer access to the Internet to favor certain types of content, services, or devices over others. This includes prohibiting all of the following: blocking or speeding up or slowing down of favored data, paid prioritization, charging services (whether businesses, nonprofits, government agencies, advocacy organizations, etc.) access fees to reach certain consumers, and economic discrimination practices that distort consumer choice.

SB 822 also prohibits misleading marketing practices and enacts strong disclosure requirements to better inform consumers. The bill further requires that any ISP that contracts with the State of California, receives public infrastructure grants to build out broadband service, or applies for or holds a state franchise for video service must comply with these standards.

Without net neutrality, ISPs have the power to manipulate which business, media, nonprofit, or political websites are accessible and by whom. SB 822 contains strong, comprehensive, and enforceable policies that will position California as a leader in the fight for net neutrality.

ARGUMENTS IN OPPOSITION: Opponents claim that this bill is more restrictive than the rules adopted in the FCC’s Open Internet order, and they oppose establishing state-level net neutrality requirements. The California Cable and Telecommunications Association says, “...state level policies regulating the

Internet are pre-empted by federal regulations and are inappropriate for an inherently interstate service. It would most likely result in unnecessary and costly litigation.” Opponents specifically oppose the provisions of this bill that prohibit peering agreements, sponsored data plans, and those that direct the CPUC to regulate internet quality of service. Opponents also argue that this bill would increase compliance costs to participate in universal service programs and could slow broadband deployment in rural and underserved communities. The California State Conference of the National Association for the Advancement of Colored People (NAACP) opposes the provisions of this bill that prohibit selective zero-rating and state, “Ending free Internet data is particularly harmful to younger, low-income, and minority Californians who are more dependent on their mobile devices to access the Internet.”

-- END --