

Testimony of Jonathan Banks
Sr. Vice President, Law & Policy, USTelecom – The Broadband Association
Before the Committee on Government Operations
on
Net Neutrality
&
PR22-0691 - Sense of the Council Opposing the Repeal of Net Neutrality
Rules Resolution of 2017
Wednesday, January 24, 2018

Good Morning Chairman Brandon Todd and members of the Committee on Government Operations. Thank you for the opportunity to participate in this roundtable event. My name is Jonathan Banks and I am pleased to provide remarks on behalf of USTelecom. US Telecom is located in DC. And I have lived in DC for over twenty years and currently reside in Ward 6.

USTelecom is an association of broadband providers that shared a heritage of providing voice telephone service, but are now investing billions of dollars a year to deliver broadband service to connect businesses and consumers to the internet. Our members range from very large providers like Verizon, to companies like Blackfoot Telephone, a co-operative serving rural Montana. Many of our members are small businesses.

The often passionate debate we have been having for the last several years over the internet is not one about goals. All of our members support an open internet or net neutrality. As the Council's proposed resolution defines it, net neutrality is the principle that Internet service providers should enable access to all content and applications, regardless of the source, without favoring or blocking particular products or websites.

Let me emphasize once more that USTelecom and our members, large and small, support an open internet and our members have been delivering that to their customers for years.

The current debate over the internet is, again, not over goals or openness, but over what is the best legal framework for achieving those goals and keeping the internet open. From the communications industry perspective, a basic legal framework was put into place by the Communications Act of 1934 for voice telephone service. Fortunately, under the leadership of Bill Clinton and Al Gore, Congress passed an update in 1996. The internet was in its infancy then, but there was a strong bi-partisan consensus that it should not be regulated under the existing 1934 public utility framework. Congress declared that "it is the policy of the United States ... to preserve the vibrant and competitive free market that presently exists for the Internet ... unfettered by State or Federal regulations." 47 U.S.C. §230(b)(2).

A wise Federal Communications Commission chairman noted that "the best decision government ever made with respect to the internet was ... not to impose regulation on it." That Chairman was Bill Kennard, appointed by President Clinton. Kennard's future-focused and pro-consumer philosophy became the lodestar for internet policy, allowing the internet to grow up outside of the set of 1934 voice telephone rules.

This view of the internet, that it should be allowed to grow and innovate outside of the old framework was a bi-partisan success for two decades. Broadband providers invested over 1.5 trillion dollars in

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building broadband networks, innovation thrived and new internet content, applications and business models became part of our daily lives.

In 2015, the FCC undertook a major change of course. Breaking with years of successful experience, and the forward looking, pro-innovation lighter touch policy approach supported by President Obama and his FCC Chair for the first 6 years of his Administration, and put in place under Bill Clinton, the FCC put broadband under the restrictions of the 1934 Act.

Our concern was that this would inevitably reduce investment and innovation and it did, with investment in broadband infrastructure declining by about \$2 billion dollars from its recent peak in 2014 of roughly \$78 billion. (USTelecom analysis available at: <https://www.ustelecom.org/broadband-industry-stats/investment/historical-broadband-provider-capex>)

That is why we support the recent action by the FCC. Without high and rising levels of broadband investment and innovation, we will never be able to connect all of rural America to the internet, and we will not be able to reduce the barriers to adopting and using the internet that keep too many people from reaping the benefits of connecting to the internet. Similarly, without rising investment and innovation, broadband networks will not be able to meet the skyrocketing demand from already connected consumers for more and faster access to higher quality content and services delivered 24/7.

When it comes to internet regulation, If past is prologue, and I believe it is, then the only thing inevitable about the FCC's recent action will be the internet's continued growth and openness.

The FCC's recent action restores a framework that supports more investment and innovation, which will be necessary to meet the growing needs of consumers and small businesses, while putting in place a strong consumer protection framework. The FCC requires providers to be transparent with their customers about the services they provide and how they run their networks. If they are not, the FCC has pledged to take action. Further, the FCC's recent decision puts the Federal Trade Commission firmly back in the driver's seat when it comes to consumers and their expectations about their broadband service.

The two agencies have signed an agreement to work together in this area. The FTC is the nation's leading consumer protection agency – committed to preventing unfair and deceptive acts and practices -- and shares authority with the Department of Justice over preventing anti-competitive actions that threaten harm to consumers or competition. The FTC's vast experience with enforcing consumer protections, coupled with strong coordination with the FCC puts two agencies on the consumer protection beat.

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Finally, broadband providers support Congress putting into place permanent, enforceable net neutrality rules that reflect a modern pro-consumer approach to broadband and the internet. These rules should guarantee consumers a clear, single set of protections that will be in force as they use the internet. A permanent legislative framework will provide consumers with protections as they use the internet and broadband providers with the clarity they need to keep investing billions to deliver internet service across the country.

Hopefully you will come across in the media today a statement from AT&T's CEO Randall Stephenson. The statement represents the sentiments of our membership generally. It says:

"AT&T is committed to an open internet. We don't block websites. We don't censor online content. And we don't throttle, discriminate, or degrade network performance based on content. Period.

We have publicly committed to these principles for over 10 years. And we will continue to abide by them in providing our customers the open internet experience they have come to expect.

But the commitment of one company is not enough. Congressional action is needed to establish an "Internet Bill of Rights" that applies to all internet companies and guarantees neutrality, transparency, openness, non-discrimination and privacy protection for all internet users."

Thank you for the opportunity to present our views.