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H. CON. RES. 173

Expressing the sense of the Congress that the Federal Communications Commission should exercise its authority under the Communications Act of 1934 to ensure that unaffiliated service providers have open, non-discriminatory access to broadband facilities that enable access to the Internet over cable systems.

IN THE HOUSE OF REPRESENTATIVES

AUGUST 5, 1999

Mr. MARKEY (for himself, Mr. CAMPBELL, Mrs. TAUSCHER, Mr. GEORGE MILLER of California, Mr. DEFazio, Mr. STARK, Mr. GEJDENSON, and Mr. LARSON) submitted the following concurrent resolution; which was referred to the Committee on Commerce

CONCURRENT RESOLUTION

Expressing the sense of the Congress that the Federal Communications Commission should exercise its authority under the Communications Act of 1934 to ensure that unaffiliated service providers have open, nondiscriminatory access to broadband facilities that enable access to the Internet over cable systems.

Whereas the Internet revolution now occurring affects all telecommunications providers and users and has the promise to drive economic growth into the next millennium;

Whereas the Internet is the focus of an extraordinary amount of entrepreneurial commercial activity because it is a free

and open medium that allows businesses, whether large or small, easy access to a global platform for electronic commerce and communication;

Whereas consumer use of the Internet has been spurred by the seemingly limitless amount of information available and by the openness and ease of accessing such information and providing information to others;

Whereas it is precisely this openness that has made the Internet a global platform for innovation, creativity, and economic growth, enabling people in all regions of the United States to participate in electronic commerce at relatively low cost;

Whereas the Congress, in approving the landmark Telecommunications Act of 1996, endorsed in bipartisan fashion a national policy of opening to consumer choice markets that historically operated as monopolies, by choosing competition, rather than monopoly-delivered, regulated services, as the preferred means of promoting consumer choice, creating jobs, and fostering innovation;

Whereas the Telecommunications Act of 1996 anticipated, and further fueled, the growth of converging digital technology and services by treating competitive service offerings on the basis of the services provided, in a technology-neutral way, and without regard to the historical, regulatory antecedents of the provider of that service;

Whereas traditional telecommunications companies, cable operators, and others have begun to upgrade facilities (or build wholly new facilities) in order to bring broadband Internet access to homes and businesses to better compete in the marketplace;

Whereas consumer demand is driving this investment in broadband Internet facilities;

Whereas impediments to competition, innovation, and consumer choice in the provision of telecommunications services retard the deployment of competitive broadband access to the Internet and threaten the expansion of entrepreneurial opportunity and economic growth;

Whereas incipient bottlenecks to competition for broadband access to the Internet provided over cable systems will stifle consumer choice and threaten innovation and expansion of entrepreneurial opportunity and economic growth;

Whereas the continued failure of the Federal Communications Commission appropriately to adopt rules requiring open, nondiscriminatory access to broadband cable networks will lead to the development of unfair competition between two of the wires entering American homes—the cable wire and the phone wire;

Whereas such a regulatory dichotomy plainly disregards the intent of the Congress to rely not on the historical antecedents of the providers of telecommunications services or cable services, or the facilities utilized to deliver a service, but rather on the nature of the service itself in determining its regulatory treatment;

Whereas the failure of the FCC to exercise its appropriate jurisdiction under the Communications Act of 1934 will also force hundreds of local authorities to regulate such services as cable services, undermining the goal of the Congress to create a national framework for the competitive delivery of telecommunications services, and inconsistent with the largely interstate nature of the Internet;

Whereas local authorities insisting upon and ensuring greater competition in their cable franchise areas is highly preferable to a national policy that fails to ensure a competitive, nondiscriminatory environment for broadband access to the Internet;

Whereas attempts to distort an open Internet platform into a more closed system create a discriminatory corporate filter for cyberspace that is also inconsistent with the goals articulated by the Congress in the Telecommunications Act of 1996;

Whereas a departure from the open-architecture roots of the Internet will adversely affect the prospects for electronic commerce for both large and small businesses, for computer hardware and software companies, and for electronic entrepreneurs;

Whereas a departure from the open-architecture roots of the Internet will adversely affect the prospects for education, civic engagement, health care delivery, and more in the digital age; and

Whereas allowing cable operators to offer proprietary and discriminatory access to the Internet only through affiliated Internet service providers deprives consumers of the full benefits of competition: Now, therefore, be it

- 1 *Resolved by the House of Representatives (the Senate*
- 2 *concurring)*, That it is the sense of the Congress that—
- 3 (1) maintaining the Internet as a free and open
- 4 global platform for electronic commerce is integral to
- 5 the continued economic growth of the United States,
- 6 to promoting innovation, and to fostering further en-
- 7 trepreneurial activity;

1 (2) the development of discriminatory access to
2 the Internet by telecommunications carriers is an
3 anathema to the telecommunications policy goals of
4 the United States;

5 (3) the open infrastructure that currently
6 underlies the Internet should be safeguarded;

7 (4) consistent with provisions of the Commu-
8 nications Act of 1934, as amended by the Tele-
9 communications Act of 1996, the Federal Commu-
10 nications Commission should, within 180 days after
11 the approval of this resolution, exercise its jurisdic-
12 tion by completing a proceeding to ensure a competi-
13 tive, nondiscriminatory environment for broadband
14 access to the Internet over cable systems; and

15 (5) the Federal Communications Commission
16 should continue to seek to ensure a competitive, non-
17 discriminatory telecommunications environment that
18 ultimately benefits consumers, creates jobs, and
19 drives economic growth in the United States.

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