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113TH CONGRESS
2D SESSION

H. R. 4752

To amend the Communications Act of 1934 to limit the authority of the Federal Communications Commission over providers of broadband Internet access service.

IN THE HOUSE OF REPRESENTATIVES

MAY 28, 2014

Mr. LATTA introduced the following bill; which was referred to the Committee on Energy and Commerce

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A BILL

To amend the Communications Act of 1934 to limit the authority of the Federal Communications Commission over providers of broadband Internet access service.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

Congress finds the following:

(1) The Internet is a powerful engine for economic growth that has remained open, free, and accessible without government regulation since its entrance into the public sphere.

(2) Title II of the Communications Act of 1934 was designed for the monopoly telephone system in 1934 and has its origins in 19th century shipping regulations.

(3) Imposing the obligations and requirements of title II of such Act on broadband Internet access service would severely harm broadband investment and create myriad negative unintended consequences.

(4) The Federal Communications Commission has consistently taken actions that classify broadband Internet access service, even in different forms, as an information service. Such actions include the following:

(A) In 1998, Chairman Bill Kennard issued a Report to Congress finding that Internet access is an information service with a telecommunications component.

(B) In 2002, the Commission issued a Declaratory Ruling (17 FCC Rcd 4798) classifying cable modem broadband Internet access service as an information service. In the 2005 case of National Cable & Telecommunications Association v. Brand X Internet Services (545 U.S. 967), the Supreme Court of the

United States affirmed this determination that such service is not a common carrier service and is appropriately classified as an information service.

(C) In 2005, the Commission issued a Report and Order (20 FCC Rcd 14853) affirming the classification of wireline broadband Internet access service as an information service.

(D) In 2007, the Commission issued a Declaratory Ruling (22 FCC Rcd 5901) affirming the classification of wireless broadband Internet access service as an information service.

(5) These Commission rulings unleashed tens of billions of dollars of investment in the Nation's broadband networks, investment that would not have been made if broadband services were subject to common carrier requirements.

SEC. 2. LIMITATION ON AUTHORITY OF FCC.

(a) IN GENERAL.—Section 3 of the Communications Act of 1934 (47 U.S.C. 153) is amended as follows:

(1) COMMON CARRIER.—Paragraph (11) is amended by adding at the end the following: ''Such term does not include a provider of an information service or of advanced telecommunications capability (as defined in section 706 of the Telecommuni-

cations Act of 1996 (47 U.S.C. 1302)) when engaged in the provision of such service or capability.''.

(2) INFORMATION SERVICE.—Paragraph (24) is amended to read as follows:

''(24) INFORMATION SERVICE.—The term 'information service' means the offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information via telecommunications, and includes electronic publishing, but does not include—

''(A) a telecommunications service; or

''(B) any use of any such capability for the management, control, or operation of a telecommunications system or the management of a telecommunications service.

Such term includes broadband Internet access service. A provider of an information service may not be treated as a telecommunications carrier under this Act when engaged in the provision of an information service, and may not be required to offer such service or any component of such service as a telecommunications service.''.

(3) TELECOMMUNICATIONS CARRIER.—Paragraph (51) is amended by adding at the end the following: ''Such term does not include a provider of an

information service or of advanced telecommunications capability (as defined in section 706 of the Telecommunications Act of 1996 (47 U.S.C. 1302)) when engaged in the provision of such service or capability.''.

(4) TELECOMMUNICATIONS SERVICE.—Paragraph (53) is amended by adding at the end the following: ''Such term does not include any service that is an information service, any component of an information service, or advanced telecommunications capability (as defined in section 706 of the Telecommunications Act of 1996 (47 U.S.C. 1302)).''.

(b) BROADBAND INTERNET ACCESS SERVICE DEFINED.—Section 3 of the Communications Act of 1934 is further amended—

(1) by redesignating paragraphs (6) through (59) as paragraphs (7) through (60), respectively; and

(2) by inserting after paragraph (5) the following:

''(6) BROADBAND INTERNET ACCESS SERVICE.—The term 'broadband Internet access service' means a mass-market retail service by wire or radio that provides the capability to transmit data to and receive data from all or substantially all Internet

endpoints, including any capabilities that are incidental to and enable the operation of the communications service, but excluding dial-up Internet access service. Broadband Internet access service is an information service, and includes a service utilizing advanced telecommunications capability (as defined in section 706 of the Telecommunications Act of 1996 (47 U.S.C. 1302)).''.

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