

**Written Testimony of Yosef Getachew,
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Chairs Needleman and Arconti, Vice Chairs Fonfara and Allie-Brennan, and members of the Energy and Technology Committee, my name is Yosef Getachew and I am the Director of the Media and Democracy Program at Common Cause. I am submitting this testimony in support of Senate Bill 6, An Act Concerning Net Neutrality Principles and Internet Privacy.

Common Cause is a nonpartisan grassroots organization dedicated to upholding the core values of American democracy. We work to create an open, honest, and accountable government that serves the public interest, promotes equal rights, opportunity, and representation for all.

The free flow of information and the exchange of ideas and information are vital for a functioning democracy. Today, broadband has become the essential communications platform of the 21st century. Americans rely on the internet for access to news and information, education, employment, healthcare, and a host of other services. This is why maintaining an open internet – or network neutrality – is critical to our democracy. Net neutrality is the principle of open access to the internet. It enables users to access the services they want without interferences from their broadband service provider.

Net neutrality ensures key values of our democracy that Americans expect when going online. Outlined below, these values include innovation, free expression, competition, and consumer choice. Without rules at the federal level, state legislation like Senate Bill 6 is critical to restore some level of net neutrality.

Why Net Neutrality Is Critical to an Open Internet

Permission-less Innovation

Our communications networks were created with the concept that anyone could access them. However, years of consolidation and gatekeeper power exerted by incumbent carriers has made it difficult for entities to gain access to those networks particularly in the traditional media landscape. The value of an open internet is that anyone can access the network without first asking for the carrier's permission. This has led to an explosion of innovation online with the creation of digital apps, video over broadband offerings, e-commerce sites, and other online content. Without an open internet, none of this content may have existed as broadband service providers could have easily adopted a "mother-may-I" approach choosing what content to carry and not carry over their network.

Free Expression and Civic Engagement

The internet is a platform for free expression where Americans can engage in political discourse, exchange cultural experiences, and explore avenues for intellectual thought. The internet also provides a powerful tool for civic engagement, particularly for marginalized communities who have historically

faced discrimination. Without an open internet, a broadband service provider could block any speech or curtail any form of online activism it did not like.

Competition

The internet has grown into what it is today because broadband service providers are required treat all web traffic equally without picking winners or losers. Without an open internet, broadband service providers could favor their own content or enter into pay-to-play agreements with websites to create fast lanes and slow lanes. This would create a two-tiered system on the internet where startups, small businesses, and other entrepreneurs are at competitive disadvantage to reach consumers.

Consumer Choice

An open internet ultimately promises consumer choice. It allows consumers to choose where they want to go, what they want to see, and how they want to interact online without interference from their broadband service provider.

Loss of Net Neutrality at the Federal Level

In 2015, the Federal Communications Commission (“FCC”) codified net neutrality into law by classifying broadband service providers under Title II of the Communications Act. In doing so, the FCC adopted three bright line rules that broadband service providers were required to follow: (1) no blocking, (2) no throttling, and (3) no paid prioritization. Americans overwhelmingly supported the FCC’s 2015 net neutrality rules with the most recent poll showing over 80 percent of people were in favor of keeping the rules. The FCC’s rules were also upheld twice by the D.C. Circuit, surviving legal challenges from broadband service providers.

Unfortunately, in December of 2017, the FCC repealed its 2015 net neutrality rules. Further, the FCC completely abdicated its authority to oversee broadband service providers, leaving consumers without an expert agency to turn to. Under the new standard, broadband service providers can position their own content at an advantage over competitors, block websites or deliberately speed up or slow down traffic from specific websites, or charge customers special fees for improved access. Essentially, access to information will be available to the highest bidder.

Since the FCC’s repeal went into effect, we have seen potential net neutrality violations and related harms. In August 2018, Verizon throttled the Santa Clara fire department during its wildfire response. Because the FCC abdicated its authority over broadband, there was no cop on the beat to investigate and take appropriate action. Researchers from Northeastern University conducted a study earlier this year finding that Verizon, AT&T and T-Mobile have been throttling traffic from popular streaming apps like Youtube and Netflix. The same researchers also found that Sprint has been throttling Skype. This Committee must also take note of the long history of net neutrality violations – whether it’s AT&T blocking Facetime, Sprint blocking Google Wallet, or Comcast throttling BitTorrent – that dictated why we needed strong net neutrality rules in the first place. As long as net neutrality remains repealed, broadband service providers have all of the power and incentive to engage in discriminatory and harmful practices.

States Must Fill the Gap in Consumer Protection Left by the FCC

With the FCC dismantling net neutrality at the federal level, states have a significant role to play to fill the gap in consumer protection. Connecticut's Senate Bill 6 would restore net neutrality by requiring broadband service providers in the state to comply with the bright line principles established by the FCC's 2015 rules. The bill also empowers the Public Utilities Regulatory Authority to enforce compliance with these principles with the ability to impose on fines for net neutrality violations.

In the 2018 legislative session 34 states and the District of Columbia introduced 120 bills and resolutions regarding net neutrality with five states enacting legislation. While state action to restore net neutrality may take different approaches, the message is clear that states can and must play a role to ensure net neutrality if the FCC refuses to carry out its responsibility.

In its repeal of the net neutrality rules, the FCC claimed to preempt states from passing their own net neutrality legislation. However, the FCC's authority to do so is entirely in question. It is important to note that the Communications Act created a dual system of federal and state authority over communications networks where states can exercise their intrastate jurisdiction. States are free to exercise their intrastate authority over communications services and they have done so in the past, particularly when it comes to consumer protection. Further, the FCC abdicated its authority over broadband. Legal precedent explains that an agency cannot preempt in an area where it claims it has no authority to regulate. Simply put, the FCC cannot strip away its own authority over broadband while at the same time preempting states.

Conclusion

The internet belongs to everyone and is vital to a functioning democracy. It is crucial that Connecticut takes steps to restore net neutrality to provide the millions of people who rely on a level online playing field.