



## Senator Scott Wiener, 11<sup>th</sup> Senate District

### SB 822 – Restoring Net Neutrality in California

#### SUMMARY

Senate Bill 822 establishes a strong Net Neutrality policy in California by banning practices by Internet Services Providers (ISPs) that block or slow access to websites or that discriminates among websites or applications. The bill empowers the California Attorney General to enforce and hold ISPs responsible for violations. Additionally, consumers may bring an action under the Consumer Legal Remedies Act to protect their right to an open internet. SB 822 ensures that consumers who pay for internet access decide whether, when, and for what purpose to access the internet.

#### BACKGROUND

On December 14, 2017, the Federal Communications Commission (FCC) voted to abolish Net Neutrality protections, reversing years of careful, bi-partisan work to keep the internet open for free speech, entrepreneurship and innovation. Net Neutrality refers to the principle that consumers, not ISPs, get to decide what applications, content and services, we use and access, and that the open internet thrives when consumers, not ISPs, decide what companies are winners and losers online. Under the new FCC order, ISPs are now free to charge “access fees” to sites and services simply to load for users, create fast and slow lanes that advantage deep-pocketed incumbents and ISPs’ own content, and even block legal content that ISPs find objectionable.

For more than 15 years – dating back to Republican Chair Michael Powell, the FCC has worked to prevent broadband providers from interfering with consumers rights to use the sites, services, applications and devices of their choosing, which led to a series of new applications that drove demand for faster access, giving ISPs the incentive and revenue to build out their networks. But in 2017, the FCC threw out that model, leaving all Americans, including Californians, without the Net Neutrality protections that allowed us to collectively build the most democratic and entrepreneurial communication network in human framework exists within California law.

Now that the FCC has abolished Net Neutrality protections and abdicated its responsibility to protect an open internet, ISPs are free to levy taxes on the free markets that depend on the internet and to interfere with consumer choice.

Similarly, under the FCC’s new regime, ISPs could choose to speed up or slow down services like online video or calling, or even block all online calling services, except for the one service that paid that ISP. Such practices would extinguish the vital startup economy made possible by an open internet, hurt small businesses in California and keep vital information and communications services out of the hands of those without the means to pay.

Additionally, California’s vital services and utilities have become increasingly integrated with a free and open internet in order to manage energy and water resources. Maintaining public safety and the public health of our citizens is more and more dependent on free communication between emergency responders, law enforcement, and residents.

Furthermore, allowing ISPs to block specific websites and applications for any reason, including on the basis of their content, which opens the door for more direct forms of censorship. This could allow politicians and the federal government to pressure ISPs to block sites and services that are considered unpalatable or a threat to them. In a time of stark political polarization and contention, giving ISPs the power to decide what information citizens can access is innately dangerous and removes their shield from government interference. Legislation is now needed to bring Net Neutrality protections back to California.

#### THIS BILL

SB 822 reinstates Net Neutrality protections in California and prevents ISPs from engaging in practices that are inconsistent with a free and fair internet—Net Neutrality.

Provisions of SB 822 include:

- Declares, that given the dependency of this state and its residents on a free and open access to the Internet, there is a compelling justification for the state to exercise its inherent police powers to preserve Net Neutrality in protecting the health, safety, and well-being of all Californians.
- Ensures that consumers can choose which Internet content, applications, and services they can access and use through their broadband Internet access provider.
- Clearly defines the following in line with the 2015 FCC Order: "Application agnostic," "Broadband Internet access service," "Edge provider," "Internet service provider," "paid prioritization," "network management practice," and "reasonable network management practice"
- Prohibits ISPs from engaging in blocking, speeding up or slowing down applications or classes of applications, or charging websites a fee for access to the ISPs' subscribers or a fast lane to those subscribers.
- Enacts strong policy preventing deceptive communication with consumers regarding the nature of the broadband service being provided.
- Grants the Attorney General power to bring enforcement action against ISPs found to violate those terms.
- Allows consumers may bring an action under the Consumer Legal Remedies Act to protect their right to an open internet.
- Prohibits the State of California from contracting with any ISP who violates Net Neutrality principles.

All these steps in tandem will give California the ability to keep ISPs from engaging in practices that threaten Net Neutrality, and maintain the free flow of online information and discourse that is vital to a robust democracy. Upholding Net Neutrality is essential to our abilities as citizens to petition the government for change, to engage with our fellow citizens, and even to find new information that changes our minds and leads to social change. This bill will preserve the open and unrestricted internet that we have always known thanks to longstanding

Net Neutrality protections which have become so vital to our country and state's economy and communities.

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#### FOR MORE INFORMATION

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#### SUPPORT

**Attorney General Xavier Becerra**

**Insurance Commissioner Dave Jones**

**Former FCC Commissioners:**

- Tom Wheeler, Chairman of the FCC under President Obama
- Gloria Tristani, FCC Commissioner
- Michael Copps, FCC Commissioner

**Mayor and Local Governments:**

- Mayor Eric Garcetti - Los Angeles
- Mayor Darrell Steinberg - Sacramento
- Mayor Mark Farrell - San Francisco
- Mayor Libby Schaff - Oakland
- Mayor Sam Liccardo - San Jose
- Mayor John Bauters - Emeryville
- Mayor Gabriel Quinto - El Cerrito
- Santa Clara County
- San Mateo County

**Major Public Interest and Labor Groups:**

- ACLU
- California Association of Realtors
- California Common Cause
- California Faculty Association
- CALPIRG
- California Nonprofits Association
- CHIRLA
- Color Of Change
- Consumer Attorneys of California
- Consumer Federation
- Electronic Frontier Foundation
- Los Angeles County Democratic Party
- NARAL Pro-Choice California
- National Hispanic Media Coalition
- NextGen California

- PolicyLink
- Public Knowledge
- The Greenlining Institute
- TURN - The Utility Reform Network
- Voices for Progress, California
- Western Center on Law and Poverty
- Writers Guild of America West

#### **Prominent Labor Groups:**

- California Labor Federation
- California Teamsters Public Affairs Council
- Engineers and Scientists of California, LOCAL 20
- Jockeys' Guild
- SEIU California
- Professional and Technical Engineers, Local 21
- Unite Here International Union
- United Auto Workers Local 5810
- United Food and Commercial Workers (UFCW)
- Utility Workers Union of America, Local 132

#### **Editorial Boards:**

- San Francisco Chronicle
- San Jose Mercury News
- East Bay Times

#### **Internet Service Providers:**

- California Association of Competitive Telecommunications Companies (if amended)
- Cogent Communications
- Cruzio Internet
- Sonic
- Spiral
- Unwired

#### **Companies:**

- ADT Security Systems
- Daily Kos
- Medium.com
- Reddit
- Sonos
- Twilio

#### **Public Interest Groups:**

- 18MillionRising.org
- Access Humboldt

- Asian American Alliance for Justice
- Brightline Defense
- Califa
- California Alarm Association
- California Freedom Coalition
- California State Students Association (CSSA)
- CCTV Center for Media & Democracy
- Center for Democracy and Technology
- Center for Media Justice
- Center for Rural Strategies
- Computer-Using Educators (CUE)
- Consumer Action
- Consumers Union
- Courage Campaign
- CreaTV San Jose
- CREDO Action
- Demand Progress Action
- Democracy for America
- Disability Rights Education & Defense Fund
- Equal Rights Advocates
- EveryLibrary
- Faithful Internet
- Fight for the Future
- Flip the Fourth
- FreePress
- Friends of the Millbrae Public Library
- Greenpeace USA
- Indivisible CA: StateStrong
- Indivisible Sacramento
- Indivisible SF
- Indivisible San Diego Central
- Indivisible Santa Cruz
- Indivisible Sonoma County
- Latino Coalition for a Healthy California (LCHC)
- May First/People Link
- Mechanics' Institute Library
- Media Alliance
- Media Mobilizing Project
- National Consumer Law Center, on behalf of its low-income clients
- National Digital Inclusion Alliance
- New America's Open Technology Institute
- Nonprofit Technology Network
- Oakland Privacy
- Office of Ratepayer Advocates

- OpenMedia
- Oregon Citizens' Utility Board
- PEN America
- People Demanding Action
- Progressive Technology Project
- RootsAction.org
- SumOfUs
- Small Business Majority
- World Wide Web Foundation

#### **Start-Ups:**

- 3scan
- 8 Circuit Studios
- Ad Hoc Labs
- AdRoll
- Angel Investment Capital
- appliedVR
- Chute
- Climate Solutions Net
- Contextly
- Creative Action Network
- Degreed
- DLT Education
- DroneTV.com
- Evensi
- Founder Academy
- Girl Groove
- GitHub
- GoGo Technologies
- Golden
- Gusto
- Hackers/Founders
- Heartwood Studios
- HelloSign
- High Fidelity
- Homebrew
- iFixit
- Inflect
- Kaizena
- Karma+
- Libib, Inc.
- LoungeBuddy
- Mallonee&Associates
- Manargy
- Milo Magnus
- Mindhive
- MinOps
- Onfleet
- Pactio
- Patreon
- Pilotly
- Point.com

- REELY
- Starsky Robotics
- SV Angel
- Tesorio
- The Butcher Shop
- The Monger
- The Run Experience
- Tostie Productions
- Underdog Media
- Upgraded
- Venntive
- Woopie Media

#### **Brick and Mortar Small Business:**

- Agribody Technologies, Inc.
- Aixa Fielder, Inc.
- Alameda Motor
- Analysis of Motion
- Barnes Insurance
- BentonWebs
- bioeconomy partners
- Brian Boortz Public Relations
- C, Wolfe Software Engineering AND Pony
- Cartoonland
- Cheryl Elkins Jewelry
- Chris Garcia Studio
- Community Tech Network
- Compelling Animations
- Coordinating
- Corporate Host Services
- David's Amusement Co ,
- Digital Deployment
- Dragon's Treasure
- FREE GEEK
- Gold Business & IP Law
- Goodlight Natural Candles
- Grass Fed Bakery
- Grocery Outlet of Lompoc
- Horticultrist
- iHomefinder, Inc.
- inNative
- Intex Solutions, Inc.
- IR Meyers Photography
- Johnson properties
- Kahl Consultants
- Keller Williams Los Feliz
- Langlers WebWorks
- Lat13
- Leatherback Canvas
- Leet Sauce Studios, LLC
- Leverata, Inc

- Lisa LaPlaca Interior Design
- Logical Computer Solutions
- Magical Moments Event Planning & Massage  
Serene Spa
- Melbees
- Merriman Properties LLC
- Mixt Media Art
- Mobile Citizen
- Mogin Associates
- Named Bill Tack
- Narrow Bridge Candles
- Nobody Cares Media
- Obscure Engineering
- Orthogonal, LLC
- Paper Pastiche
- Personhood Press
- Pretty Me Store
- Prosenenergy
- Proxy Technologies, Inc.
- Reid Case Management
- RI Lopez Interpreter Services
- San Diego Vacation Rentals & Sales
- Silicon Harlem
- SNAP Cats
- spamedfit.com
- Stauter Flight Instruction
- Sternidae Industries
- Suzi Squishies
- Tarragon Consulting Corporation
- Tech Goes Home
- The Radio Doctor
- Trader Ann's Attic
- Tribd Publishing Co
- TWB & Associates, INC.
- UHF
- UX Consulting
- Valencia Studio Suites
- Ventura Chiropractic
- Vic DeAngelo IT Consulting
- Wallin Mental Medical
- Wonderlandstudios
- Words 2 Wow Life Science Marketing
- XPromos Marketing Mastery, LLC