



Consumer Federation of America



March 2, 2006

The Honorable Ron Wyden
United States Senate
Washington, D.C. 20510

Dear Senator Wyden:

We are pleased to support the Internet Non-Discrimination Act of 2006 and thank you for your leadership on the important issue of network neutrality. Your legislation will go far in ensuring that the Internet remains a vibrant source of innovative services, applications and information that consumers depend on and a competitive marketplace demands.

Ninety-eight percent of consumers with access to broadband have only two choices of providers: their cable provider or telephone company. And the Federal Communications Commission's decision to categorize broadband as an information service has all but foreclosed future competition in broadband. Without the threat of meaningful competition, cable and telephone companies who own and control broadband networks now have both the incentive and the ability to discriminate against other content, services and applications transmitted over their wires. Not only can these companies prioritize their own content and services over those of their competitors, equally troubling, they can charge Internet-based companies access fees for preferential speeds, creating a fast lane and a slow lane on the Internet. Both tactics are inherently discriminatorily and will foreclose competition and innovation that consumers have come to expect from the Internet. Consumers, not the network operator, should determine winners and losers in the online marketplace.

Contrary to industry claims that network discrimination is purely hypothetical, recent media reports describing operators' plans to create access "tiers" of premium broadband service demonstrate the reality of the threat and necessitate enactment of strong, enforceable laws to prohibit network discrimination. The fees charged to content and service providers would inevitably find their way down to consumers' wallets – in effect, requiring consumers to pay twice for the same service. Not only will consumers

lose, but entrepreneurs and technological innovators who cannot afford to pay steep fees to reach customers will be cut out of the market. Only companies that can buy – rather than innovate – their way onto the Internet will have the opportunity to succeed. Access tiers are inherently discriminatory and are unacceptable at any price and under any terms.

The Internet Non-Discrimination Act would not only prevent broadband network owners from blocking and impairing consumer access to content, services and applications on the Internet, but also appropriately prohibit access tiering – a badly disguised form of discrimination. Importantly, the bill creates a meaningful enforcement mechanism that requires network owners to halt their discriminatory practices while complaints of noncompliance are resolved. And by placing on the network owner the burden of demonstrating that the practice was within the law, the bill ensures that telephone and cable companies can't discriminate under the guise of "network management."

The Internet offers one of the few remaining opportunities for meaningful competition for telecommunications services. The advent of telephone and video service over the Internet has injected new competition into the marketplace, bringing with it greater consumer choice and lower prices. The technological innovation that has produced those benefits will be stifled when only dominant cable and telephone companies and large, established Internet companies are able to reach consumers with their services. Your legislation would ensure that telephone and cable companies are not allowed to transform the Internet from an open, innovative source of competition to one in which they control what consumers can buy, see, and use on the Internet.

Thank you for your leadership on this important issue. We look forward to working with you toward enactment of strong, meaningful and enforceable network neutrality legislation.

Sincerely

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