

HOUSE No. 4151

The Commonwealth of Massachusetts

PRESENTED BY:

Andres X. Vargas

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act protecting consumers by prohibiting blocking, throttling, or paid prioritization in the provision of Internet service.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Andres X. Vargas</i>	<i>3rd Essex</i>
<i>Jonathan Hecht</i>	<i>29th Middlesex</i>
<i>Brian M. Ashe</i>	<i>2nd Hampden</i>
<i>Cory Atkins</i>	<i>14th Middlesex</i>
<i>Ruth B. Balsler</i>	<i>12th Middlesex</i>
<i>Christine P. Barber</i>	<i>34th Middlesex</i>
<i>John Barrett</i>	<i>1st Berkshire</i>
<i>Jennifer E. Benson</i>	<i>37th Middlesex</i>
<i>James M. Cantwell</i>	<i>4th Plymouth</i>
<i>Evandro C. Carvalho</i>	<i>5th Suffolk</i>
<i>Sonia Chang-Diaz</i>	<i>Second Suffolk</i>
<i>Mike Connolly</i>	<i>26th Middlesex</i>
<i>Michael S. Day</i>	<i>31st Middlesex</i>
<i>Diana DiZoglio</i>	<i>14th Essex</i>
<i>William Driscoll</i>	<i>7th Norfolk</i>
<i>Tricia Farley-Bouvier</i>	<i>3rd Berkshire</i>
<i>Dylan Fernandes</i>	<i>Barnstable, Dukes and Nantucket</i>

<i>Sean Garballey</i>	<i>23rd Middlesex</i>
<i>Denise C. Garlick</i>	<i>13th Norfolk</i>
<i>Colleen M. Garry</i>	<i>36th Middlesex</i>
<i>Carmine L. Gentile</i>	<i>13th Middlesex</i>
<i>Solomon Goldstein-Rose</i>	<i>3rd Hampshire</i>
<i>Patricia A. Haddad</i>	<i>5th Bristol</i>
<i>Natalie Higgins</i>	<i>4th Worcester</i>
<i>Russell E. Holmes</i>	<i>6th Suffolk</i>
<i>Patricia D. Jehlen</i>	<i>Second Middlesex</i>
<i>Louis L. Kafka</i>	<i>8th Norfolk</i>
<i>Kay Khan</i>	<i>11th Middlesex</i>
<i>Peter V. Kocot</i>	<i>1st Hampshire</i>
<i>Robert M. Koczera</i>	<i>11th Bristol</i>
<i>Stephen Kulik</i>	<i>1st Franklin</i>
<i>Barbara A. L'Italien</i>	<i>Second Essex and Middlesex</i>
<i>Jack Lewis</i>	<i>7th Middlesex</i>
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>
<i>David Paul Linsky</i>	<i>5th Middlesex</i>
<i>Adrian Madaro</i>	<i>1st Suffolk</i>
<i>Elizabeth A. Malia</i>	<i>11th Suffolk</i>
<i>Paul W. Mark</i>	<i>2nd Berkshire</i>
<i>Juana Matias</i>	<i>16th Essex</i>
<i>Paul McMurtry</i>	<i>11th Norfolk</i>
<i>James R. Miceli</i>	<i>19th Middlesex</i>
<i>Frank A. Moran</i>	<i>17th Essex</i>
<i>Mathew Muratore</i>	<i>1st Plymouth</i>
<i>Brian Murray</i>	<i>10th Worcester</i>
<i>Harold P. Naughton, Jr.</i>	<i>12th Worcester</i>
<i>Patrick M. O'Connor</i>	<i>Plymouth and Norfolk</i>
<i>James J. O'Day</i>	<i>14th Worcester</i>
<i>Sarah K. Peake</i>	<i>4th Barnstable</i>
<i>Smitty Pignatelli</i>	<i>4th Berkshire</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>
<i>David M. Rogers</i>	<i>24th Middlesex</i>
<i>Jeffrey N. Roy</i>	<i>10th Norfolk</i>
<i>Byron Rushing</i>	<i>9th Suffolk</i>
<i>Thomas M. Stanley</i>	<i>9th Middlesex</i>
<i>William M. Straus</i>	<i>10th Bristol</i>
<i>Steven Ultrino</i>	<i>33rd Middlesex</i>

<i>Aaron Vega</i>	<i>5th Hampden</i>
<i>RoseLee Vincent</i>	<i>16th Suffolk</i>
<i>Chris Walsh</i>	<i>6th Middlesex</i>
<i>Thomas P. Walsh</i>	<i>12th Essex</i>

HOUSE No. 4151

By Mr. Vargas of Haverhill, a petition (subject to Joint Rule 12) of Andres X. Vargas and others for legislation to assure net neutrality by Internet service providers and the equal treatment of data on the Internet, and to prohibit discrimination or charge disparity of user, content, website, platform, application, type of attached equipment or method of communication. Telecommunications, Utilities and Energy.

The Commonwealth of Massachusetts

**In the One Hundred and Ninetieth General Court
(2017-2018)**

An Act protecting consumers by prohibiting blocking, throttling, or paid prioritization in the provision of Internet service.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to preserve forthwith and uphold the open foundation of the internet by adhering to certain principles, including: free flow of information over the internet; no blocking of lawful websites; no unreasonable discrimination of lawful network traffic; no paid prioritization; and clear commitment to transparency, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 25C of the General Laws is hereby amended by adding the
2 following section:—

3 Section 9. Protecting consumers by prohibiting blocking, throttling, or paid prioritization
4 in the provision of internet service

5 (1) A person engaged in the provision of broadband internet access service in
6 Commonwealth of Massachusetts, insofar as the person is so engaged, may not:

7 (a) Block lawful content, applications, services, or nonharmful devices, subject to
8 reasonable network management;

9 (b) Impair or degrade lawful internet traffic on the basis of internet content, application,
10 or service, or use of a nonharmful device, subject to reasonable network management; or

11 (c) Engage in paid prioritization.

12 (2) The Department of Telecommunications and Cable may waive the prohibition on paid
13 prioritization in subsection (1)(c) of this section only if the petitioner demonstrates that the
14 practice would provide some significant public interest benefit and would not harm the open
15 nature of the internet in the Commonwealth of Massachusetts.

16 (3) The definitions in this subsection apply throughout this section unless the context
17 clearly requires otherwise.

18 (a)(i) "Broadband internet access service" means a mass-market retail service by wire or
19 radio that provides the capability to transmit data to and receive data from all or substantially all
20 internet endpoints, including any capabilities that are incidental to and enable the operation of
21 the communications service, but excluding dial-up internet access service.

22 (ii) "Broadband internet access service" also encompasses any service that the federal
23 communications commission finds to be providing a functional equivalent of the service
24 described in (a)(i) of this subsection, or that is used to evade the protections set forth in this
25 section.

26 (b) "Paid prioritization" means the management of a broadband provider's network to
27 directly or indirectly favor some traffic over other traffic, including through the use of techniques

28 such as traffic shaping, prioritization, resource reservation, or other forms of preferential traffic
29 management, either:

30 (i) In exchange for consideration (monetary or otherwise) from a third party; or

31 (ii) To benefit an affiliated entity.

32 (c) "Reasonable network management" means a practice that has a primarily technical
33 network management justification, but does not include other business practices. A network
34 management practice is reasonable if it is primarily used for and tailored to achieving a
35 legitimate network management purpose, taking into account the particular network architecture
36 and technology of the broadband internet access service.

37 SECTION 2. Chapter 93 of the General Laws is hereby amended by adding the following
38 section:

39 Section 115: Violations, penalties

40 (1) The legislature finds that the practices covered by this chapter are matters vitally
41 affecting the public interest for the purpose of applying the Massachusetts Antitrust Act, MGL
42 93 Section 1. A violation of this chapter is not reasonable in relation to the development and
43 preservation of business and is an unfair or deceptive act in trade or commerce and an unfair
44 method of competition for the purpose of applying the Massachusetts Antitrust Act, MGL 93
45 Section 1.

46 (2) This chapter may be enforced solely by the attorney general under Massachusetts
47 Antitrust Act, MGL 93 Section 2.

48 SECTION 3. Chapter 10 of the General Laws is hereby amended by adding the following
49 section:

50 Section 78: Receipt of funds internet consumer access account

51 (1) The internet consumer access account is created in the state treasury and overseen by
52 the Department of the State Treasurer. All receipts from recoveries by the office of the attorney
53 general for lawsuits related to the Massachusetts Antitrust Act under the provisions of this
54 chapter, or otherwise designated to this account, must be deposited into the account.

55 (2) Moneys in the account may be spent only after appropriation. Expenditures from the
56 account may be used only for costs incurred by the office of the attorney general in the
57 administration and enforcement of this chapter.