

SUBSTITUTE AMENDMENT OFFERED BY MR. GONZALEZ OF TEXAS FOR THE AMENDMENT OFFERED BY MR. MARKEY OF MASSACHUSETTS TO H.R. 5252, AS REPORTED

Strike section 715 of the Communications Act of 1934, as added by section 201 of the bill, and insert the following:

1 **“SECTION 715. NETWORK NEUTRALITY.**

2 “(a) POLICY.—It is the policy of the United States—

3 “(1) to maintain and enhance the vibrant and
4 competitive free market that presently exists for the
5 Internet and Internet services, upon which Internet
6 commerce relies;

7 “(2) to preserve and promote the open and
8 interconnected nature of the Internet and consumer
9 empowerment and choice;

10 “(3) to foster innovation, investment, and com-
11 petition among network providers, as well as applica-
12 tion, content, and service providers;

13 “(4) to ensure vigorous and prompt enforce-
14 ment of this section’s requirements to safeguard in-



1 novation, consumer protection, and marketplace cer-
2 tainty; and

3 “(5) to preserve the security and reliability of
4 the Internet and the services that enable consumers
5 to access content, applications, and services over the
6 Internet.

7 “(b) IN GENERAL.—It shall be the duty—

8 “(1) of each broadband network provider and
9 content aggregator—

10 “(A) not to block, impair, degrade, dis-
11 criminate against, or interfere with the ability
12 of any person to use a broadband connection to
13 access, use, send, receive, or offer lawful con-
14 tent, applications, or services over the Internet;

15 “(B) to operate its broadband network and
16 content aggregation website in a nondiscrim-
17 inatory manner so that any person can offer or
18 provide content, applications, and services
19 through, or over, such broadband network and
20 content aggregation website with equivalent or
21 better capability than the provider extends to
22 itself or affiliated parties, and without the im-
23 position of a charge for such nondiscriminatory
24 treatment; and



1 “(C) if the provider or aggregator
2 prioritizes or offers enhanced quality of service
3 to data of a particular type, to prioritize or
4 offer enhanced quality of service to all data of
5 that type (regardless of the origin of such data)
6 without imposing a surcharge or other consider-
7 ation for such prioritization or enhanced quality
8 of service;

9 “(2) of each broad band network operator—

10 “(A) to enable a user to attach and use
11 any device to the operator’s network that does
12 not physically damage, make unauthorized use
13 of, or materially degrade other users’ utilization
14 of, the network; and

15 “(B) to clearly and conspicuously disclose
16 to users, in plain language, accurate informa-
17 tion about the speed, nature, and limitations of
18 the broadband connection provided by the
19 broadband network operator.

20 “(c) PRESERVED RIGHTS AND EXCEPTIONS.—Noth-
21 ing in this section shall prevent a broadband network pro-
22 vider or content aggregator from taking reasonable and
23 nondiscriminatory measures to—

24 “(1) manage the functioning of its network or
25 content aggregation website to protect the security



1 of such network and broadband network services and
2 content aggregation websites, provided that such
3 management does not depend upon the affiliation
4 with the broadband network provider or content
5 aggregator of the content, applications, or services
6 on the network;

7 “(2) offer varied service plans to users at de-
8 fined levels of bandwidth and different prices;

9 “(3) offer consumer protection services (includ-
10 ing services for the prevention of unsolicited com-
11 mercial electronic messages, parental controls, or
12 other similar capabilities), or offer cable service, so
13 long as a user may refuse or disable such services;

14 “(4) give priority to emergency communica-
15 tions; or

16 “(5) prevent any violation of Federal or State
17 law, or comply with any court-ordered law enforce-
18 ment directive.

19 “(d) EXPEDITED COMPLAINT PROCESS.—Within 180
20 days after the date of enactment of this section, the Com-
21 mission shall prescribe regulations providing for the expe-
22 dited review of any complaints alleging a violation of this
23 section. Such regulations shall include a requirement that
24 the Commission issue a final order regarding any request



1 for a ruling contained in a complaint not later than 30
2 days after the date of submission of such complaint.

3 “(e) DEFINITIONS.—As used in this section:

4 “(1) BROADBAND NETWORK PROVIDER.—The
5 term ‘broadband network provider’ means a person
6 or entity that owns, controls, operates, or resells and
7 controls any facility used to provide broadband net-
8 work service to the public, by whatever technology
9 and whether provided for a fee, in exchange for an
10 explicit benefit, or for free.

11 “(2) BROADBAND NETWORK SERVICE.—The
12 term ‘broadband network service’ means a two-way
13 transmission service that connects to the Internet
14 and transmits information at an average rate of at
15 least 200 kilobits per second in at least one direc-
16 tion.

17 “(3) CONTENT AGGREGATOR.—The term ‘con-
18 tent aggregator’—

19 “(A) means a person or entity that—

20 “(i) owns, controls, or operates any
21 website that searches for, compiles, or pro-
22 vides links to content from other websites;
23 and

24 “(ii) charges a fee or other consider-
25 ation to either the user or content-pro-



1 viding businesses for providing the services
2 described in clause (i); but

3 “(B) does not include—

4 “(i) a person or entity with respect to
5 a website that is expressly and primarily
6 for purposes of political expression;

7 “(ii) a person or entity that is a uni-
8 versity, school, or library, or a nonprofit
9 organization that is exempt from taxation
10 under section 501(c)(3) of the Internal
11 Revenue Code of 1986; or

12 “(iii) a person or entity with respect
13 to a website the primary purpose of which
14 is to provide general information to the
15 public without consideration for such provi-
16 sion from either the user or other persons
17 or entities.

18 “(4) USER.—The term ‘user’ means any person
19 who takes and uses broadband network service,
20 whether provided for a fee, in exchange for an ex-
21 plicit benefit, or for free.”.

