

July 28, 2022

**Re: ACLU Urges Cosponsorship of the Net Neutrality and Broadband Justice Act of 2022**

Dear Senator:

The American Civil Liberties Union strongly urges you to cosponsor the Net Neutrality and Broadband Justice Act, introduced by Senator Edward Markey, which would classify broadband as a telecommunications service under Title II of the Communications Act of 1934.



**National Political  
Advocacy Department**  
915 15<sup>th</sup> Street, NW, 6<sup>th</sup> Floor  
Washington, DC 20005-2112  
[aclu.org](http://aclu.org)

**Kary Moss**  
Acting National  
Political Director

**Anthony D. Romero**  
Executive Director

**Deborah N. Archer**  
President

Americans in the 21<sup>st</sup> century rely on broadband to efficiently communicate and receive opinions, information, and ideas on the internet as heavily as they relied on the telephone and post office to share oral and written communications in the 20<sup>th</sup> century. In fact, according to the Pew Research Center, as of February 2021, 77% of American adults rely on broadband to access the internet.<sup>1</sup> As such, regulations that prohibit broadband providers – who have immense and often monopolistic power over internet access<sup>2</sup> – from manipulating and censoring their customers’ internet experience are as essential to protecting free speech in America as those that prohibit the manipulation and censorship of our phone calls and mail. And as the ACLU is acutely aware, when freedom of speech and communication are not diligently and steadfastly protected, the resulting harms to free speech, while problematic for us all, are likely to disproportionately impact those who have historically been the targets of such deprivations, including communities of color, poorer communities, the LGBTQIA+ community, indigenous communities, and communities whose members hold politically unpopular views.

Classifying broadband as a Title I “information service” under the Communications Act of 1934 not only minimizes the important role broadband plays in enabling efficient communication across the internet,<sup>3</sup> it also limits the ability of the FCC to adopt regulations that

---

<sup>1</sup> Pew Research Center, “Internet/Broadband Fact Sheet” (April 7, 2021). <https://www.pewresearch.org/internet/fact-sheet/internet-broadband/> (last visited July 22, 2022).

<sup>2</sup> Christopher Mitchell & Katie Kienbaum, “Report: Most Americans Have No Real Choice in Internet Providers,” Institute For Local Self-Reliance (Aug. 12, 2020) (“at least 83.3 million Americans can only access broadband through a single provider.”) <https://ilsr.org/report-most-americans-have-no-real-choice-in-internet-providers/> (last visited July 22, 2022).

<sup>3</sup> See *Mozilla v. FCC*, No. 18-1051 (D.C. Cir. 2019) (Millet, C.J., concurring) (classification of broadband as information service “is unhinged from the realities of modern broadband service.”).

ensure a free and open internet for everyone. The “light touch” regulatory approach that is required for Title I services is simply inadequate to the task. Americans do not want their government to proceed lightly when it comes to protecting their freedom of speech online; they want a government that will adopt whatever measures are necessary to ensure their preferred 21st century means of communication and learning are free from bias and censorship.<sup>4</sup> But as the courts have made clear,<sup>5</sup> such net neutrality protections are not permissible unless broadband is classified as the Title II telecommunications service that it rightly is.

Adopting the Net Neutrality and Broadband Justice Act is an important step towards ensuring that free speech is as vigorously protected online as it is offline. To cosponsor the Net Neutrality and Broadband Justice Act, please contact Bennett Butler at [bennett\\_butler@markey.senate.gov](mailto:bennett_butler@markey.senate.gov). If you have questions about the ACLU’s endorsement of the Act, please contact Chad Marlow at [cmarlow@aclu.org](mailto:cmarlow@aclu.org).

Sincerely,



Christopher E. Anders  
Federal Policy Director



Chad Marlow  
Senior Policy Counsel

---

<sup>4</sup> See Univ. of Maryland, School of Pub. Policy, Program for Pub. Consultation, “Net Neutrality Questionnaire” (Feb. 2022), [https://publicconsultation.org/wp-content/uploads/2022/05/NetNeutrality\\_Quaire\\_0322.pdf](https://publicconsultation.org/wp-content/uploads/2022/05/NetNeutrality_Quaire_0322.pdf) (last visited July 22, 2022).

<sup>5</sup> Verizon Comms. Inc. v. FCC, 740 F.3d 623 (D.C. Cir. 2014).