



City of San Antonio

Agenda Memorandum

File Number:18-3406

Agenda Item Number: 5.

Agenda Date: 5/16/2018

In Control: Governance Committee

DEPARTMENT: Information and Technology Services Department (ITSD)

DEPARTMENT HEAD: Craig Hopkins (ITSD); Chief Information Officer

COUNCIL DISTRICTS IMPACTED: City Wide

SUBJECT:

Council Consideration Request (CCR) from Councilmember Pelaez - Request discussion of net neutrality and open internet access policies due to the recent repeal of the Federal Communications Commission (FCC) Net Neutrality Order.

SUMMARY:

On March 13, 2018, Councilmember Pelaez submitted a CCR requesting that City staff provide recommendations on policies that would ensure San Antonio residents have access to an open Internet and online city services, free of blocking, throttling, and paid prioritization, regardless of income or zip code. Those recommendations could include changes to contracting policies and language for city services, systematic monitoring of Internet service providers (ISPs) for blocking or throttling, new notices to protect and inform residents and consumers, and possible enforceable penalties for violations. Staff from ITSD, Procurement, and City Attorney's office have met to better understand the changes to the recently released (January 4, 2018) Net Neutrality order from the FCC.

BACKGROUND INFORMATION:

Net Neutrality Defined

The idea, principle, or requirement that Internet service providers should enable access to all content and applications regardless of the source, and without favoring or blocking particular products or websites.

FCC's Recent Net Neutrality Order (adopted December 14, 2017, & released January 4, 2018)

Reversed the FCC's 2015 decision to classify broadband Internet access service as a "telecommunications service," and restored the "information service" classification that had been in effect for almost 20 years.

- Telecommunications services are regulated as common carrier services and are subject to utility-style regulation; e.g., regulation of prices, and terms and conditions of service offerings to consumers.
- Information services are subject to minimal FCC regulation.

Repealed the no blocking, no throttling, and no paid prioritization rules adopted in the FCC's 2015 Net Neutrality Order (and could only be adopted to regulate "telecommunications services"). These rules provide for the following:

- No blocking: block lawful content, applications, services, or use of non-harmful devices, subject to reasonable network management.
- No throttling: impair or degrade lawful Internet traffic on the basis of content, application, service, or use of non-harmful devices, subject to reasonable network management.
- No paid prioritization: could not engage in paid prioritization, which referred to the management of a broadband provider's network to directly or indirectly favor some traffic over other traffic, either:
 - In exchange for consideration (monetary or otherwise) from a third party, or
 - To benefit an affiliated entity.

According to the FCC, the Federal Trade Commission will police the privacy practices of Internet Service Providers (ISPs) as well as investigate anticompetitive behavior by ISPs.

The FCC preempted any state or local measures that would:

- Effectively impose rules or requirements repealed in the order as well as rules the FCC decided to refrain from imposing in the order; or
- Impose more stringent requirements for any aspect of broadband service addressed in the order.

ISSUE:

Discuss net neutrality and open internet access policies that could impact procured city services with ISPs as well as impact residents and consumers in San Antonio.

FISCAL IMPACT:

There is no fiscal impact at this time.

RECOMMENDATION:

The Chief Information Officer recommends moving this CCR to the Innovation and Technology Committee (ITC).