



City of San Antonio

Agenda Memorandum

File Number:18-5939

Agenda Item Number: 3.

Agenda Date: 10/23/2018

In Control: Innovation and Technology Committee

DEPARTMENT: Information and Technology Services Department

DEPARTMENT HEAD: Craig Hopkins, Chief Information Officer

COUNCIL DISTRICTS IMPACTED: Citywide

SUBJECT:

Report on Council Consideration Request (CCR) from Councilman Pelaez - Request to provide recommendations on the City's net neutrality and open internet access policies.

SUMMARY:

On April 3, 2018, Councilman Manny Pelaez submitted a CCR requesting a discussion of net neutrality and open internet access policies. Net neutrality is the idea, principle, or requirement that internet service providers (ISP) enable access to all content and applications regardless of the source, and without favoring or blocking particular products or websites. The results of the research findings conducted by City staff will be presented at the October 23 Innovation and Technology Committee.

BACKGROUND INFORMATION:

The FCC's most recent order addressing net neutrality was adopted December 14, 2017 and released on January, 4 2018 (2018 Order). As noted below, in the 2018 Order, the FCC repealed the net neutrality rules adopted in 2015, and preempted state and local measures to regulate net neutrality.

a. State Preemption

The FCC specifically preempted any state or local measures that would: a) effectively impose rules or requirements repealed in the order as well as rules the FCC decided to refrain from imposing in the order; or b) impose more stringent requirements for any aspect of broadband service addressed in the order. The FCC also states that the Federal Trade Commission will police ISP privacy practices as well as investigate anticompetitive behavior by ISPs.

b. Net Neutrality Rules Repealed

The 2018 Order 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, however, are subject to minimal FCC regulation.

The FCC also repealed the no blocking, no throttling, and no paid prioritization rules adopted in the FCC’s 2015 Net Neutrality Order. These rules provided that broadband Internet access service providers could not:

- Block lawful content, applications, services, or use of non-harmful devices, subject to reasonable network management.
- Impair or degrade lawful Internet traffic (throttle) on the basis of content, application, service, or use of non-harmful devices, subject to reasonable network management.
- 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

c. Transparency Rule and Network Management Practices

In the 2018 Order, the FCC replaced the repealed rules with a “Transparency Rule,” which provides that ISPs, like AT&T, Spectrum, and Verizon, shall publicly disclose information regarding network management practices sufficient to enable consumers to make informed choices regarding the purchase of services, and enable entrepreneurs and small businesses to develop, market, and maintain Internet offerings.

The 2018 Order also provides ISPs must publicly disclose network management practices, including network congestion management, application-specific behavior, device attachment rules, and security practices. ISPs must also publicly disclose blocking practices; throttling practices; any practice that directly or indirectly favors traffic of an affiliate (affiliated prioritization); and any practice that directly or indirectly favors some traffic over other traffic (paid prioritization).

ISSUE:

This briefing will highlight the results of the City’s research findings and what are available options to the City to address net neutrality and open internet access issues.

ALTERNATIVES:

This item is for briefing purposes only

FISCAL IMPACT:

This item is for briefing purposes only

RECOMMENDATION:

City staff will continue to actively monitor the net neutrality issues, and insure that the City negotiates the best possible internet access terms whenever it contracts for broadband internet access services.