

# The Loss of Net Neutrality

How Will It Affect Maine and What Can We Do?

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March 21, 2018



# What the OPA does

- Statutory authority:
- “duties and responsibilities of the Public Advocate are to represent the using and consuming public in matters within the jurisdiction of the commission”
- Telecommunications issues – FCC vs. state

# State regulation of telephone

- Largely non-regulated at state level with exceptions:
  - POLR
  - Mergers
  - Pole attachments
  - Universal service funds
- The internet – no direct regulation at the state level
  - Service and pricing issues are still consumer issues



# Net Neutrality

## The FCC order

- The order takes effect April 23
- FCC “restores the light-touch regulatory scheme that fostered the internet’s growth, openness, and freedom”
- Different opinions on the effect it will have
- Consumer advocates support neutrality



# Direct challenge to the rule

- Maine joined 21 states filing challenge to the new FCC rule filed in DC federal court
- OPA is a member of NASUCA, which has intervened in 9<sup>th</sup> Circuit cases in support of challenge of the FCC order
  - Filed pursuant to Federal Rule of Appellate Procedure 15
  - Alleging that the rule is “arbitrary and capricious” change to existing policy



# What States are doing

- State statutes

- Washington: A person engaged in the provision of broadband internet access service in Washington state ... may not:

- Block lawful content, applications, services, or nonharmful devices
    - Impair or degrade lawful traffic on the basis of content
    - Engage in paid prioritization



# State statutes

- Oregon: A **public body** may not contract with a broadband Internet access service or mobile broadband Internet access service that:
  - Engages in paid prioritization
  - Blocks lawful content, apps or services
  - Impairs or degrades lawful Internet traffic
- Are these state laws preempted by federal law?
  - The FCC's preemption power is tied directly to its regulatory power



# State purchasing power

- The following states are using purchasing power
  - Oregon
  - Montana
  - New York
  - New Jersey
  - Hawaii
  - Connecticut
  - New York

Are these actions preempted? State purchasing power not as constrained





# Sample purchasing language

- New Jersey:
  - Shall require that all future contracts for Internet, data, and telecommunications (Internet and broadband) be awarded only to ISPs that adhere to net neutrality principles, such as:
    - blocking lawful content
    - throttling, degrading or impairing traffic
    - paid prioritization
    - interfering in end user's access
- Will Maine join this effort?
  - L.D. 1610

# Monitoring the problem








- How do we recognize the problem?
  - Disclosure requirements – check them out
- How do we track the problem?
  - No service
  - Spotty service
  - Slow service speed
  - Price
  - No competition
- Who do we report these problems to?



# WeHe app

AT&T LTE 9:40 AM 96%

Back Run Tests

	Youtube Time 4.0 s Size 10.4 MB	<input type="checkbox"/>
	Amazon Time 2.2 s Size 8.2 MB	<input type="checkbox"/>
	NBCSports Time 5.2 s Size 12.5 MB	<input type="checkbox"/>
	Netflix Time 20.7 s Size 22 MB	<input type="checkbox"/>
	Skype Time 20.0 s Size 8.7 MB	<input type="checkbox"/>
	Spotify Time 6.1 s Size 16.4 MB	<input type="checkbox"/>
	Vimeo Time 4.0 s	<input type="checkbox"/>

Thank you.

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