

be open, much as telephone company transport platforms are open today.

I am pleased to be participating on a bipartisan basis with Representative GOODLATTE in offering this legislation, the enactment of which will assure that the Internet more rapidly achieves its potential to be the multimedia platform of choice for the delivery of voice, video and data.

THE INTRODUCTION OF THE
INTERNET FREEDOM ACT OF 1999

HON. BOB GOODLATTE

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 5, 1999

Mr. GOODLATTE. Mr. Speaker, I rise today to announce the introduction of the Internet Freedom Act of 1999. This bipartisan legislative initiative, which I am introducing along with Congressman BOUCHER of Virginia, addresses the challenge that face the Internet by building on the strengths that have made the Internet the major engine of growth and development in the new Information Age. The legislation ensures that the qualities that have provided the explosive growth of the Internet in recent years will continue into the new millennium. The initiative addresses the crucial challenges currently facing the Internet and its future: providing freedom from burdensome government regulation, ensuring consumer choice through open competition, and protecting consumer-friendly open access to the Internet.

The Internet is currently at a crossroads. One path continues to encourage the principles mentioned above: freedom, competition, and consumer choice. The other path, which is looming on the horizon, is characterized by heavy government regulation, limited competition, higher prices and less choice for consumers. Following this path could mean that any company with market power can restrict the ability of businesses to compete on the Internet, and the ability of consumers to access the Internet provider and content of their choice could be subject to the control of a single company. The Internet as we know it—open, competitive, and easily available to consumers—will cease to exist. That path, unfortunately, is the one we are following now.

Congress must act now to ensure that the qualities that made the Internet a revolutionary tool for both business and users—deregulation, competition, and easy consumer access—remain fundamental components of the Internet for future generations. The Internet Freedom Act accomplishes this by achieving three goals.

The first goal of the Internet Freedom Act is deregulation: the bill gets the FCC out of the business of regulating the Internet. It accomplishes this by eliminating existing FCC regulations that are inhibiting the development and rollout of certain types of broadband Internet service in non-urban and rural areas.

Broadband technology is up to twenty times faster than the old modems used for Internet access, and can be compared to the old "T-1" telephone lines offered for \$1,000 a month, but at a fraction of the cost. In some areas, it is now possible to obtain broadband Internet

service, in a variety of forms, for as low as \$40 a month. The development of broadband technology has the potential to not only make fast Internet access available to consumers and small businesses, but to make it affordable as well.

The FCC is currently ignoring its responsibility under the Telecommunications Act of 1996 to provide regulatory relief to incumbent phone companies by removing existing regulations on data traffic that were originally intended to encourage competition in voice traffic. The FCC regulations currently prohibit the incumbent phone companies from competing in the Internet backbone market. The "backbone" is the very high speed, high capacity lines that crisscross the country linking major cities. Existing suppliers of Internet backbone are simply unable to keep up with the demand for high speed, high capacity backbone bandwidth. They also have little incentives to invest in many parts of the country that are far away from the main backbone routes. Our legislation would allow local phone companies into the backbone market, increasing competition and lowering prices for businesses and consumers.

In addition, many areas of the country are located far from these backbone pipes (often but not exclusively in rural areas). Traffic from these areas must be hauled to the closest backbone connection point (often miles away) and the connections used for this are of much smaller capacity than those on the backbone. More backbone investment will mean that more facilities will eventually become available in more places than ever before. Local phone companies and others may be able to justify building major connection points to the Internet in more locations, allowing traffic to be aggregated by ISPs and encouraging the build-out of more connections closer to customers. This will make it possible for more customers to be able to access the Internet without being required to make a long distance call.

The second goal the Internet Freedom Act accomplishes is freedom of competition: One of the main goals of the Telecommunications Act was to open the local phone markets to competition to ensure non-discriminatory access and safeguard against anti-competitive behavior. However, certain networks unaffected by the Act remain closed to competitors and other closed networks could be just around the corner. Under this scenario, a consumer who wants high-speed broadband service, whether by cable, satellite, or copper wire, would be forced to buy it from their access provider's ISP. If they wanted service from AOL or another ISP, they would either not be able to receive it or would essentially have to pay twice.

A closed network also provides undue leverage over Internet content, since one company would possess the ability to give content providers preferential access to their "hostage" customers. This ability to leverage its monopoly vertically can curtail competition and innovation in the content market and raise prices for such information or programs. It could also limit the variety and availability of content that has made the Internet so successful.

This legislation preserves competition among broadband Internet providers without involving the heavy-handed bureaucracy of the

FCC. The bill achieves this goal by giving a private right of action to ISPs who have been unable to compete fairly against other ISPs by broadband transport providers. For example, if a company limits the ability of an ISP to offer its services over their facilities on the same terms and conditions that the cable company offers to another ISP, the first ISP would be able to seek relief in the courts.

The section also preserves competition among ISPs by using existing antitrust law. Under this section, evidence in a civil action that a broadband access transport provider with market power has limited the ability of an Internet service provider to compete in the ISP marketplace would be presumed to have violated the Sherman Act. This section recognizes that each type of broadband transport provider technology is unique, whether two-way cable, copper wire, sport-beam satellite or wireless transmission. Each technology is recognized under this bill as a separate type of broadband market, and therefore providers cannot under current antitrust law abuse that power to limit the competitive marketplace of Internet service providers.

The second section would also ensure openness and competition among broadband Internet transport providers by ensuring that the same rules apply to the incumbent phone companies, which are already required to open their networks to ISPs. In return for removing rate and price regulations on data traffic for local phone companies after meeting certain rollout requirements, this section would presume a Sherman Act violation if the phone company failed to make its "local loop" available to other carriers who wanted to compete in the provision of DSL broadband technology.

Finally, the Internet Freedom Act encourages open consumer access for consumers by making the Internet a more user-friendly environment. The third section addresses the problem of illegal mass e-mail, also known as "spamming." This section would make it a federal crime for a person to knowingly use another person's Internet e-mail address, or "domain name," to send unsolicited mass e-mails. The penalty for violating the section would be the actual monetary loss and damages of \$15,000 per violation or up to \$10 per message, whichever is greater.

The principles of free-market competition, low government regulation, and open consumer access have guided the growth of the Internet. If this growth is to continue, we must ensure that public policy reflects the best interests of the consumer. The environment that has nurtured the early growth of the Internet must be preserved and strengthened to spur continued innovation and ensure that the Internet and information-based economy continue to flourish. But, there are several inefficiencies currently in the marketplace that could stifle the continued development and innovation of the Internet and the growth of our economy. We must fix these problems now, before they require heavy-handed regulations that slow down the Internet, drive up costs, hinder consumer access to information, and cause this engine of potential economic growth and future prosperity to sputter and fail.