

Network Neutrality Bill 2018

No. , 2018

Written by Senator Bsharri

Introduced by JoshyrA MP

A Bill for an Act to implement a framework for the protection of the neutrality of the internet and Australian internet consumers, and for related purposes.

Explanatory Memorandum

This bill puts in place a new legislative framework to defend Network Neutrality, preventing internet service providers from intentionally blocking, slowing down or charging money for specific websites and online content. It will ensure that all internet traffic shall be treated equally by service providers and that Australian internet consumers do not suffer discrimination. The bill also provides for exceptions in the cases of internet security, spam prevention, and law enforcement.

Second Reading Speech

Mr Speaker,

I rise to speak in favour of this most important piece of legislation. While our country has never had laws enshrining the principle of net neutrality, the recent decision by the US Federal Communications Commission to repeal net neutrality protections means that we need our own now more than ever. Whether we like it or not, the American repeal will change the behaviour and norms of carriage service providers here in Australia, increasing instances of arbitrary slow-downs and blocks for Australian internet consumers. The straight-forward regulatory framework created in this bill will act as a deterrent to any company operating in Australia following the disturbing trend away from net neutrality that we have seen in the United States, and ensure the right of Australian consumers to affordable and quality internet access. I urge all members to vote in favour of the bill and help ensure the neutrality of the internet in Australia for future generations.

The Parliament of AustraliaSim enacts the following

PART 1 - PRELIMINARY

1. Short Title

This Act may be cited as the *Net Neutrality Act 2018*.

2. Commencement

This Act is to commence on the day it receives Royal assent.

3. Objects of this Act

- (1) The object of this act is to create a regulatory framework that promotes:
- (a) The long-term interests of end-users of carriage services or of services provided by means of carriage services; and
 - (b) The availability of accessible and affordable carriage services that enhance the welfare of Australians; and
 - (c) The continued neutrality of the internet for current and future generations of Australians.

4. Definitions

In this Act:

carriage service and ***carriage service provider*** have the meaning given by the Telecommunications Act 1997.

end-user means a person who ultimately uses or is intended to ultimately use a product.

penalty unit is as set out in Section 4AA of the Crimes Act 1914.

PART 2 - APPLICATION

5. Obligations of Service Providers

(1) A carriage service provider must not:

- (a) Arbitrarily block, interfere with, slow down, or restrict in any way the right of any end-users to utilize, send, receive, or offer any legal content, application, website, or service through the Internet; or
- (b) Limit the right of any end-users to incorporate or utilize any type of legal instruments, devices, or appliances on the Internet, insofar as they do not damage the network or decrease quality of service.

Penalty: 1000 penalty units.

(2) A carriage service provider must publish on their website accurate information related to the characteristics of the internet access that they offer, including but not limited to its speed, price, and connection quality.

Penalty: 100 penalty units per month.

6. Exemptions

(1) Section 5 of this Act may not necessarily apply when:

- (a) Preserving the integrity and security of the network and service of the provider or the equipment of the end-user, provided that the service provider has notified the end-user first and give them sufficient time to rectify the situation, should the breach of integrity or security be caused by the equipment of the end-user; or
- (b) Blocking the transmission of unwanted communications and spam to an end-user, provided that the end-user has given explicit consent beforehand; or
- (c) Complying with the law or a warrant, given that the end-user affected is the subject of the warrant in question; or
- (d) All reasonable steps have been taken by the provider to prevent damage to a network, and damage still occurs. This would include damage that occurs that is outside the providers control.

(2) Section 5(2) does not necessarily apply when a network error occurs which is seen as outside the providers control.