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Chairwoman Ruggiero, Vice Chair Handy, Second Vice Chair Carson, and Members of the Committee, I appreciate the opportunity to testify today on behalf of Cox Communications – Northeast Region (Cox) regarding House Bill No. 7187. My name is Matthew Murchison, and I am a partner at the law firm of Latham & Watkins LLP. I have represented Cox and other broadband providers on a wide range of issues, including net neutrality, in proceedings before the Federal Communications Commission (FCC) and in the courts. I also have represented NCTA – The Internet & Television Association, the leading national association for the cable industry, in the FCC's net neutrality proceedings and in the related court appeals.

As discussed below, there is no need for Rhode Island to venture down the dubious legal path of establishing its own net neutrality regime through H.7187. Historically, Rhode Island has adopted a modern, light-touch regulatory regime over the communications marketplace, which has spurred industry competition leading to a convergence of residential and business consumer video, broadband, voice, and wireless offerings from new service providers at lower costs. As a result of this approach, the network quality and diversity of products offered by companies in Rhode Island is virtually unparalleled nationwide. And while Cox disagreed with the Rhode Island Governor's Executive Order 18-02 – Internet Neutrality and State Procurement, Cox made the best of it by working with the Department of Administration in amending the Rhode Island's procurement rules and regulations to include net neutrality requirements as of November 2018. Rhode Island's overall innovation ecosystem is absolutely ready for all the

growth coming forth in advanced manufacturing, health care, and high tech. There is no need to legislate in this area.

Moreover, at the federal level, there is a high likelihood that the FCC will initiate a proceeding in the near future on new federal net neutrality rules—thus counseling strongly against any new effort to establish state-specific net neutrality requirements.

Executive Summary

- Cox is fully committed to maintaining the open Internet. Leading broadband providers have all made binding, legally enforceable commitments to refrain from blocking, throttling, and unfairly discriminating against lawful content, and to remain transparent regarding their network management practices, prices, and service attributes. Cox and other broadband providers that do business with the State of Rhode Island also are already subject to the net neutrality requirements set forth in the revised procurement regulations adopted in November 2018 by the Department of Administration pursuant to Executive Order 18-02.

- The broadband industry also strongly supports federal legislation that will ensure net neutrality is the permanent law of the land, thereby maintaining a free and open Internet for consumers and encouraging broadband providers to continue to invest and innovate. Rhode Island can play a productive role by joining consumers, the industry, and other stakeholders in calling for national legislation. The broadband industry looks forward to reaching a sustainable, nationwide resolution to these issues in the months ahead.

- In the meantime, the federal and state regulators—FCC, FTC, and state consumer protection authorities—have all the tools they need to enforce broadband providers' net neutrality commitments and to protect consumers.

- Broadband Internet access is an inherently interstate service, and federal law preempts regulation of broadband services at the state level, including in particular the imposition of state or local net neutrality obligations, whether through statutes/ordinances, regulations, executive orders, contract procurement conditions, franchise obligations, or other measures.

- State or local net neutrality measures also are entirely unnecessary. The broadband industry is and will remain committed to providing access to a free and open Internet as it has done for decades, with unprecedented investment and innovation. Broadband providers will do so even in the absence of ill-advised Title II regulatory mandates—because of their strong *business* interest in providing consumers with the Internet experience they want, expect, and value.

- Moreover, the FCC with new leadership under the Biden Administration is widely expected to initiate a new proceeding in the coming months on reinstating its 2015 net neutrality conduct rules. The prospect of such new FCC rules further counsels strongly against any new state mandates at this stage.

Introduction

Cox and other leading providers of broadband Internet access service in Rhode Island and throughout New England are united in their commitment to maintaining the open Internet. Regardless of any legal mandates, broadband Internet service providers (ISPs) will not block or throttle lawful Internet traffic or engage in unfair discrimination against lawful content, applications, or devices. ISPs also will remain fully transparent regarding their network management practices and service attributes. These commitments flow from the business imperative to deliver high-quality services in a manner that meets customers' needs, but they also are enforceable as a matter of law.

Cox and other stakeholders across the country strongly support federal legislation to enshrine the principles of Internet openness embodied in these commitments on a uniform basis for all broadband providers nationwide. Congress can ensure that consensus net neutrality safeguards remain in place throughout the nation despite changes in Administration, while preserving strong incentives for investment and innovation.

At the same time, Cox opposes any effort by Rhode Island or other states to establish new state-level net neutrality regimes because state legislation is unnecessary and would be counterproductive and unlawful. It is particularly unnecessary in Rhode Island where, pursuant to the Rhode Island Governor's Executive Order 18-02 – Internet Neutrality and State Procurement, the Department of Administration was instructed to amend its procurement rules and regulations to include net neutrality requirements, and it did so in November 2018 after considering a variety of comments from NECTA and other important telecom/broadband

industry members. Those rules already require that "[s]tate contracts for fixed or mobile broadband internet access service shall be awarded only to service providers that adhere to the internet neutrality principles set forth herein," and include the very same principles set forth in H.7187—prohibitions on blocking, throttling, paid prioritization, and unreasonably interfering with or disadvantaging a customer's access to Internet content or an edge provider's access to consumers. *See* 220-RICR-30-00-1, § 1.9.

At bottom, however, net neutrality regulation should be a federal issue. As Congress, the FCC, and Administrations since President Clinton's in 1996 have long recognized on a bipartisan basis, broadband Internet access is an inherently interstate service that must be regulated at the federal level. Imposing state-specific mandates on broadband providers would inappropriately subject them to a patchwork of different and even conflicting requirements, thereby creating insurmountable operational burdens and significant barriers to investment and innovation, with potentially disastrous effects for the Internet ecosystem. While Cox respects this Committee's work and shares its determination to safeguard the Internet, this issue of paramount national concern must be resolved in the United States Congress rather than in the State House.

Cox Is and Will Remain Committed To Preserving the Open Internet

Cox has always been committed to maintaining an open Internet, and that commitment has not wavered as the FCC's legal regime for promoting Internet openness has changed over time. Opponents of the FCC's 2018 *Restoring Internet Freedom Order* ("*RIF Order*"), which replaced a set of common-carrier-style conduct regulations adopted in 2015 with a lighter-touch transparency-based regime, have used scare tactics in an attempt to convince legislators, regulators, and consumers that broadband providers are likely to engage in nefarious conduct that would undermine their relationships with their own customers. But the sky has not fallen since

the *RIF Order* took effect; to the contrary, broadband services today are more robust and reliable than ever before, and have thrived in the face of unprecedented demands during the COVID-19 pandemic. While some advocates continue to suggest — implausibly, and without any evidentiary basis — that broadband providers remain poised to undermine net neutrality, nothing could be further from the truth. Cox and other broadband providers in Rhode Island do not and will not block, throttle, or unfairly discriminate against lawful Internet content. Doing otherwise not only would be bad for consumers, it would be bad for broadband providers who hope to win and maintain consumers' trust and long-term business. That is why Cox and other broadband providers across the country have made binding, enforceable commitments to uphold net neutrality principles.

In addition to making these commitments, broadband providers today are subject to the FCC's transparency rule, which requires providers to keep customers clearly informed of key information they need to evaluate broadband service offerings. Specifically, the FCC's updated transparency rule requires broadband providers to disclose—publicly and in an easily digestible format—their network management practices, performance attributes, and commercial terms of service, as well as any practices related to blocking, throttling, affiliated or paid prioritization, and related matters, in order to "enable consumers to make informed choices regarding the purchase and use of such services and entrepreneurs and other small businesses to develop, market, and maintain Internet offerings." Moreover, the FCC recently adopted a notice of proposed rulemaking proposing further refinements to ISPs' transparency obligations, including the creation of a standard "broadband nutrition label." In the event any broadband provider runs afoul of the FCC's disclosure obligations, the FCC and the FTC have authority to enforce the

commitments in those disclosures, as do state attorneys general, provided they do not assert positions that conflict with federal policy.

Title II Regulation Caused Needless Harms While Doing Nothing To Protect Consumers

While the FCC's 2018 *RIF Order* preserved critical protections for consumers, it also wisely restored broadband internet access service as an "information service" under Title I of the federal Communications Act. This regulatory classification for broadband service has applied from the earliest days of the Internet through 2015. The rapid development and growth of the Internet is unparalleled in human history, and the light-touch regulatory approach to broadband that was originally adopted by a Democratic Congress and Administration, then embraced on a bipartisan basis for nearly two decades, played a decisive role in spurring the Internet's dynamism.

The FCC's controversial decision in 2015 to break from this bipartisan consensus and to instead apply an antiquated and burdensome "Title II" regulatory framework devised for telephone common carriers in the 1930s to the 21st-century broadband marketplace ushered in a period of debilitating uncertainty. The adoption of a new open-ended general conduct rule, combined with Title II's amorphous and vague conduct standards and the prospect of even more intrusive utility-style rate regulation and related mandates, caused broadband providers to forgo billions of dollars in investments and delay innovative new service offerings. In fact, we now know that in the wake of the 2015 *Title II Order*, the deployment of broadband slowed significantly. The FCC found that new wireline broadband deployments declined by 55 percent, and wireless broadband deployments by 83 percent, compared to the two years preceding the *Title II Order*. The FCC's 2018 *RIF Order* removed the overhang and uncertainty of Title II regulation and appropriately reinstated the light-touch regulatory framework under Title I that

promoted substantial broadband investment, innovation, and deployment for the preceding two decades.

Critically, rescinding the harmful effects of Title II does not mean eliminating net neutrality; Title II regulation and net neutrality are entirely distinct and independent things. The Internet was free and open before the FCC's Title II reclassification decision in 2015, and the same has been true in the four years since the detrimental effects of that reclassification were undone.

Federal Legislation Represents the Best Path Forward

While the broadband industry strongly supports the FCC's decision to undo the harmful Title II classification, ISPs, like many other stakeholders, are frustrated by the continuing regulatory whiplash as Administrations change and policies shift. That is why Cox and other stakeholders across the country are urging Congress to enact bipartisan legislation that will permanently preserve and solidify net neutrality protections for consumers, while providing regulatory certainty to broadband providers. The last decade-plus has witnessed multiple costly and chaotic regulatory proceedings on this issue, each of which has engendered years of litigation and widespread dissatisfaction. This tumult has been needlessly disruptive to America's Internet economy, constraining the growth of new technologies. Fast, reliable, and ever-present broadband is the life-blood of the 21st century economy, and the Internet is too valuable to consumers and businesses to be subject to shifting political winds that come with each change in control of the White House. Congressional leaders on both sides of the aisle have publicly recognized that federal legislation is the best way to cement a durable solution. Rather than remaining mired in years of litigation, Cox urges Members of the Committee and all

stakeholders to support bipartisan federal legislation that will enshrine enduring open Internet protections while providing the flexibility to innovate and preserving incentives to invest.

Effective Federal Enforcement of Net Neutrality Remains in Place

Even in the absence of federal legislation, federal regulators will continue to ensure that broadband providers deliver on their commitments to preserve the open Internet that consumers expect and deserve. As noted earlier, the FCC with new leadership under the Biden Administration is widely expected to initiate a new proceeding in the coming months on reinstating its 2015 net neutrality conduct rules, and the prospect of such new FCC rules counsels strongly against any new state mandates at this stage. Moreover, the FCC's 2018 *RIF Order* already establishes a robust transparency regime that requires broadband providers to keep customers clearly informed of their net neutrality practices. Providers will be held accountable for any failure to abide by these disclosures, as the Communications Act authorizes the FCC to impose substantial fines for any violations.

While the FCC's misguided decision in 2015 to classify broadband providers as Title II common carriers temporarily revoked the FTC's authority over broadband Internet access, the 2018 *RIF Order*'s restoration of the longstanding classification of broadband as an information service enables the FTC to return to its work of policing broadband providers alongside other Internet companies. Section 5 of the FTC Act grants the FTC authority to bring enforcement action against companies that engage in "unfair or deceptive acts or practices" or "unfair methods of competition." Both of these provisions allow the FTC to take action against any broadband providers that fail to deliver an open Internet to their consumers.

The FTC has long exercised authority under Section 5 to enforce a company's public commitments; when a company makes a promise to consumers, the FTC has authority to ensure

that the promise is kept. Thus, if a broadband provider is alleged to have reneged on a commitment to abide by core net neutrality principles of no blocking, no throttling, no unfair discrimination against lawful content, and transparent disclosures, the FTC can investigate and bring an enforcement action to ensure consumers are treated fairly and in accordance with expectations. The FTC likewise has authority to ensure that broadband providers safeguard privacy and ensure data security. The FTC also can use its broad antitrust authority to bring enforcement action against any broadband provider that attempts to harm online competition, including, for example, through practices that unreasonably or unfairly disfavor certain online content. Indeed, the FTC has expressly committed to use its authority to protect consumers online, agreeing to do just that in a Memorandum of Understanding with the FCC. Broadband providers take seriously their obligation to be truthful, reasonable, and fair, and consumers can expect the FTC to hold broadband providers accountable.

As the nation's leading consumer protection agency, the FTC has developed extensive expertise on the inner workings of the Internet, monitoring every corner of the web in order to safeguard consumers. This knowledge, along with its broad jurisdictional reach, makes the FTC well suited to safeguard Internet openness, together with privacy and data security. Importantly, unlike the FCC, the FTC's Section 5 authority extends to *all* participants in the Internet ecosystem—including the world's largest Internet companies, like Amazon, Apple, Facebook, and Google. This ensures that consumers will not be subject to disparate sets of protections depending on the platform they are using or the agency that chooses to take action. Well before the 2015 *Title II Order* was even adopted, the FTC had already taken numerous enforcement actions against broadband providers and Internet edge providers for various unfair, deceptive, or anticompetitive practices, including for violating public commitments.

State authorities also may bring enforcement actions against broadband providers, so long as they act under generally applicable statutes that do not interfere with federal objectives.

State-Level Net Neutrality Measures Would Be Unwise and Unlawful

The enforcement of net neutrality principles by the FCC and FTC underscores the importance of a unified national approach to these issues. The FCC has repeatedly found—under Democratic leadership and Republican leadership alike—that Internet access is a jurisdictionally interstate service, which warrants governance under a uniform set of federal regulations, rather than a patchwork that includes separate state and local requirements. It is simply not possible for broadband providers to distinguish between intrastate and interstate communications over the Internet or to apply different rules in each circumstance. And in any event, H.7187 defines broadband as a service that connects consumers to *all* Internet end points — in every state — and thus does not purport to regulate only intrastate communications. Thus, the very nature of Internet service — which transcends state and even national boundaries — defies efforts to impose different, and potentially conflicting, standards on broadband providers in each state where they operate. Broadband providers, and the Internet as a whole, depend on a uniform set of rules with consistent federal enforcement across the country.

Although H.7187 may be intended to enshrine consensus principles against blocking, throttling, and discriminatory fast lanes, the problem is that, even if various states were to impose identical restrictions (which they have not), different states inevitably will interpret comparable standards in divergent ways. What a particular state considers "throttling," for instance, may well differ from what another state considers to be "throttling" or how an ISP uses the term in making its commitments to end users. Indeed, the term "throttling" is one that can carry a wide range of meanings: Whereas the FCC defines "throttling" as a "practice (other than reasonable

network management elsewhere disclosed) that degrades or impairs access to lawful Internet traffic on the basis of content, application, service, user, or use of a non-harmful device," *RIF Order* ¶ 220, the term also is often used colloquially to describe *any* slowing down of Internet traffic, even when done on a content- or application-neutral basis as part of a data plan that includes clearly disclosed data allowances. ISPs (and their customers) therefore would be harmed to the extent that Rhode Island or other states enforce so-called "bright-line" restrictions in a manner inconsistent with other state interpretations or with ISPs' understanding of the principles and their own commitments.

In addition to protecting consumers, one of the FCC's chief goals — directed by Congress and shared by state policymakers — is to promote the widespread deployment of advanced broadband networks. The FCC has found that state-by-state regulation of broadband would thwart that key objective. If state and local governments were to adopt their own net neutrality regulations, they would significantly disrupt the balance struck by the FCC and impede the provision of broadband facilities and services.

A. State or Local Laws That Are Inconsistent with the Communications Act or the Judicially Affirmed Rulings in the *RIF Order* Are Foreclosed by the Conflict Preemption Doctrine

It is a bedrock tenet of our federalist system — as codified in the Supremacy Clause of the Constitution — that where state and federal laws conflict, the state law must yield. Accordingly, although the D.C. Circuit in *Mozilla* held that the FCC lacked authority to *expressly preempt* all state broadband regulation on a prospective *blanket basis* — i.e., without examining whether and to what extent any individual state law addressing an intrastate service actually conflicts with federal law, regulations, or associated objectives — it recognized that individual state laws may well be invalidated under the *conflict preemption doctrine* if they are

inconsistent with the FCC's light-touch regulatory framework. In fact, the court rejected the notion that conflict preemption was inapplicable as a "straw man." 940 F.3d at 85.

Applying the conflict preemption standard, because the D.C. Circuit upheld (i) the FCC's classification of broadband as an information service, and (ii) the agency's elimination of prohibitions against blocking, throttling, and paid prioritization and the Internet conduct standard (on the ground that such requirements are unnecessary, counterproductive, and even harmful), those binding federal determinations preempt any conflicting state laws. Such a conflict arises where compliance with both state and federal law is impossible or when the state law "stands as an obstacle to the accomplishment and execution of the full purposes and objectives" of federal law. *Capital Cities Cable v. Crisp*, 467 U.S. 691, 699 (1984); *see also id.* (holding that FCC actions "have no less preemptive effect" than acts of Congress (citation omitted)).

The U.S. Supreme Court has repeatedly reaffirmed the validity of the conflict preemption doctrine and has applied it in closely analogous circumstances. For example, in *Capital Cities Cable*, the Court held that FCC regulations encouraging the carriage of out-of-state broadcast signals and cable channels on cable systems preempted an Oklahoma law prohibiting televised advertisements of alcoholic beverages. *Id.* at 705-11. The Court explained that, "when federal officials determine . . . that restrictive regulation of a particular area is not in the federal interest, 'States are not permitted to use their police power to enact such a regulation.'" *Id.* at 708 (quoting *Ray v. Atl. Richfield Co.*, 435 U.S. 151 (1978)). The same principle applies here. The Supreme Court likewise has held that a federal agency's decision not to impose a particular mandate preempts state attempts to establish such a mandate. *See Geier v. Am. Honda Motor Co.*, 529 U.S. 861, 886 (2000) (holding that federal policy that deliberately gave automakers flexibility to utilize different types of passive restraints preempted state tort claims premised on

an alleged duty to install airbags); *see also id.* at 837 (explaining that state laws that conflict with federal policy are "nullified by the Supremacy Clause").

Based on such precedent, a reviewing court likely would conclude that H.7187 is preempted under the conflict preemption doctrine, because it directly conflicts with binding federal directives set forth in the Communications Act and the *RIF Order*. In particular, the D.C. Circuit has previously concluded that categorical bans on blocking, throttling, and paid prioritization — as H.7187 would impose — constitute common carrier mandates, *see Verizon v. FCC*, 740 F.3d 623, 650 (D.C. Cir. 2014), and both the Communications Act and the *RIF Order* leave no doubt that broadband providers — as information service providers — may not be saddled with common carrier regulation. *See* 47 U.S.C. § 153(51) (establishing that common carrier regulation may be imposed only on telecommunications carriers, not on providers of information services); *RIF Order* ¶¶ 26-64 (classifying broadband as an information service and rejecting common carrier regulation).

Independently, the FCC's determination that such conduct rules are unnecessary and counterproductive forecloses states from enacting laws based on a contrary policy judgment. *See, e.g.*, *Capital Cities Cable*, 467 U.S. at 711 (holding that state law was preempted because it "thwart[ed]" FCC policy). By the same token, H.7187 would replicate the Internet conduct standard, which the FCC's *Title II Order* made clear was a common carrier requirement and contrary to the public interest. *RIF Order* ¶¶ 246-52.

Based on these very same preemption principles, the U.S. District Court for the Eastern District of New York recently held that New York's attempt to impose a common carrier mandate on broadband providers — there, an obligation to offer service to low-income customers at a price of $20 or less — violated the Supremacy Clause. *See N.Y. State Telecomms.*

Ass'n v. James, No. 21-2389, 2021 WL 2401338 (E.D.N.Y. June 11, 2021). The New York court granted a preliminary injunction — and later a final judgment — based on its conclusion that the FCC's "affirmative decision not to treat [broadband] as a common carrier [service]" precludes states from imposing common carrier mandates on ISPs. *Id.* at *11. Indeed, the court held that such state mandates "directly contravene[] the FCC's determination that broadband internet 'investment,' 'innovation,' and 'availab[ility]' best obtains in a regulatory environment free of [any] threat of common carrier treatment." *Id.* at *12. The New York court further recognized that the D.C. Circuit's decision in *Mozilla* does not mean that states can enact measures that actually conflict with the FCC's order or the Communications Act. To the contrary, as the New York court noted, *Mozilla* expressly acknowledged that where a "state practice actually undermines the 2018 Order," conflict preemption applies. *Id.* at *13.

The New York court also held that, because the common carrier mandate at issue in New York "regulates within the field of interstate communications, it triggers field preemption." *Id.* at *11. The court explained that the Communications Act's "'broad scheme for the regulation of interstate service by communications carriers indicates an intent on the part of Congress to occupy the field to the exclusion of state law.'" *Id.* (quoting *Ivy Broadcasting Co. v. AT&T Co.*, 391 F.2d 486, 490-91 (2d Cir. 1968)). The court thus held that a state-level mandate requiring broadband providers to offer a particular broadband service and setting the rate for that service impermissibly intruded on a field of regulation occupied by federal law. *See id.* at *11-13.

Although courts in California preliminarily reached a different conclusion regarding that state's net neutrality mandates, those rulings do not mean that states have carte blanche to enact net neutrality requirements that conflict with the FCC's light-touch framework. The rulings in the Eastern District of California and the Ninth Circuit concerned only whether a ***preliminary***

injunction was warranted to prevent enforcement of California's SB-822 while challenges to the law proceed, and addressed only some of the legal challenges raised in that case. There has not been a final judgment on the merits, and Judge Wallace's concurring opinion in the Ninth Circuit emphasized that the case should move forward in the trial court before the federal preemption issues are resolved definitively. The judge in the California trial court also remarked that it is "obvious" that broadband policy issues would be "better resolved by Congress." Moreover, a separate case presenting the same issues is pending in federal court in Vermont, and that court may well disagree with the California courts' analysis. These issues will continue to be litigated for some time, and even if state authority is upheld by some courts, further state mandates would only engender additional uncertainty and litigation expense.

B. States Cannot Avoid the Preemptive Effects of the Communications Act and the *RIF Order* by Regulating Net Neutrality Through the Guise of Contract Procurement or Similar Measures

Judicial precedent also clearly establishes that states cannot regulate *indirectly* what they are preempted from regulating *directly*. In particular, a state may not escape preemption by using its procurement process to impose contractual conditions regulating a broadband provider's provision of broadband service to consumers statewide, as Section 39-19-10.4 of H.7187 apparently would require. Courts have made clear that a state cannot claim that it is merely acting as a "market participant" where the procurement conditions it seeks to impose extend beyond the state's pecuniary interest in the contractual conditions of its purchase. The "market participant" exception to preemption does not apply where the "primary goal" of the procurement requirement is "to encourage a general policy rather than address a specific proprietary problem." *Cardinal Towing & Auto Repair, Inc. v. City of Bedford*, 180 F.3d 686, 693 (5th Cir. 1999). As courts have explained, "[e]xtracontractual effect is an indicator of regulatory rather than proprietary intent." *Bldg. Indus. Elec. Contractors Ass'n v. City of New*

York, 678 F.3d 184, 189 (2d Cir. 2012). And according to the Supreme Court, where a procurement requirement seeks to regulate conduct outside the scope of the state contract, the action, "for all practical purposes, . . . is tantamount to regulation." *Wisconsin Dept. of Indus. v. Gould, Inc.*, 475 U.S. 282, 289 (1986). Therefore, a state law — like H.7187 — that would require state agencies to enter into contracts only with broadband providers that comply with specified net neutrality principles in their provision of broadband service to consumers in the state is subject to preemption to the same degree as a law that imposes such obligations directly.

C. State or Local Net Neutrality Regulation Also Would Violate the Commerce Clause of the U.S. Constitution

Beyond the clear preemption that applies under conflict preemption principles, H.7187 also would violate the Commerce Clause of the U.S. Constitution, which prohibits states from adopting regulations that reach beyond their borders to dictate business conduct in other states. Because of the inherently interstate nature of the Internet and the impossibility of distinguishing between intrastate and interstate Internet communications, any state or local regulation of broadband providers' service offerings or network management practices will have an unavoidable and significant impact on interstate commerce. Indeed, H.7187 defines "broadband Internet access service" as connecting to all Internet end points, making clear that the state law would regulate communications that are overwhelmingly interstate in nature. And it is highly unlikely that a court would disregard that impact on interstate commerce based on a state's asserted interest in establishing protections already ensured through nationwide FCC and FTC enforcement.

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Ultimately, state-level net neutrality measures—and the court challenges they would spur—are entirely unnecessary. The broadband industry is and will remain committed to

providing access to the Internet without blocking, throttling, or unreasonable discrimination. They will be honest and open with consumers, disclosing detailed information about network management and performance. They will be subject to the federal consumer protection and antitrust laws that will ensure that these commitments to Internet openness are maintained and enforced. They will do these things even in the absence of misguided Title II regulatory mandates—because of their strong *business* interest in providing consumers with the Internet experience they want, expect, and value. And federal and state regulators—the FCC, FTC, and state consumer protection authorities—have all the tools they need to enforce broadband providers' net neutrality commitments and to protect U.S. consumers.

The broadband industry will continue to work with Congress in pursuit of bipartisan net neutrality legislation. Rhode Island can play a productive role by joining consumers, the industry, and other stakeholders in calling for national legislation. The broadband industry looks forward to reaching a sustainable, nationwide resolution to these issues in the months ahead.

Thank you for giving me the opportunity to testify today. I look forward to answering your questions.