

# THE NATIONAL OPERA CENTER AMERICA

## STATEMENT OF CONCERN NET NEUTRALITY: PRESERVING AN OPEN INTERNET

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Congress should overturn the FCC's "Restoring Internet Freedom" Order and restore net neutrality protections by using the Congressional Review Act (CRA) in order to preserve an open Internet where artists and creative entrepreneurs can reach potential audiences, build businesses, and contribute to culture.

### TALKING POINTS

- The Internet must remain a place where users can learn, engage, express themselves, innovate, and be entrepreneurial. Working artists of all disciplines depend on the Internet to promote and sell their work, cultivate audiences, and make a living. Therefore, it is important that artists and arts organizations not be disadvantaged based on the business practices or other preferences of Internet Service Providers (ISPs).
- Congress has the ability and authority under the Congressional Review Act to quickly repeal the FCC's attempt to kill net neutrality and keep the current protections in place.
- ISPs, must not be allowed to block, throttle, degrade, or otherwise discriminate against lawful online content. If such discrimination were allowed, smaller artists, creative entrepreneurs, and nonprofit organizations would find themselves at a disadvantage against larger commercial enterprises that are able to pay for premium delivery to end users.
- The 2015 network neutrality rules do not impair the ability of ISPs or the federal government to protect copyrighted content openly and transparently.
- The viability of the arts and culture communities in the 21st century depends on our ability to compete on a level online playing field.
- The FCC's rush to action on Dec 14 ignored overwhelming public opinion and Republican and Democratic calls to delay the vote, and a potentially corrupted public comment process that is currently being investigated by State Attorney Generals.

### BACKGROUND

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The open Internet has created unprecedented opportunities for artists, cultural organizations, and creative entrepreneurs to promote their work or to sell their creative products and services. Because of the Internet's level playing field, organizations and individuals can reach Internet users without having to ask permission from an ISP or pay an additional toll to deliver lawful content to ISP subscribers who have already requested it.

ISPs can exert immense control over how Internet users access sites and services. Without clear rules of the road, ISPs could potentially stifle speech that they find objectionable, discriminate against threatening business models, block certain internet applications, slow delivery of online content, or compromise users' privacy.

In December 2010, the FCC approved its Open Internet Order to preserve "net neutrality"—the principle that allows any Internet user to access the lawful content or application of their choosing without interference from an ISP. These rules were made official in September 2011.

On January 14, 2014, the U.S. Court of Appeals for the D.C. Circuit overturned portions of the FCC's Open Internet Order, but affirmed the FCC's authority to regulate broadband networks. Following a public proceeding at the FCC that saw more than 4 million individual comments filed—the vast majority in support of net neutrality—the FCC on February 26, 2015 voted on new net neutrality rules. The rules were again challenged in court and on December 4, 2015, the D.C. Circuit heard oral arguments on the merits of the new rules, and the decision was upheld on June 14, 2016.

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## BACKGROUND (CONTINUED)

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Upon his appointment, current FCC Chairman Ajit Pai vowed to roll back these rules, and despite the broad and bipartisan public support for net neutrality, the FCC voted 3-2 to repeal the Net Neutrality rules on December 14, 2017.

One survey found that 83% of voters supported keeping net neutrality rules, including 75% of Republicans, 89% of Democrats, and 86% of independents.<sup>1</sup>

The Congressional Review Act allows Congress to review a new agency regulation (in this case, the FCC's "Restoring Internet Freedom" Order) and pass a joint resolution of disapproval to overrule it. Effectively this would repeal the FCC's repeal, and leave the existing rules in place.

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<sup>1</sup> <http://thehill.com/policy/technology/364528-poll-83-percent-of-voters-support-keeping-fccs-net-neutrality-rules>