

House Bill 437

By: Representatives Davis of the 87th, Trammell of the 132nd, Boddie of the 62nd, Jones of the 91st, Jackson of the 64th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 1 of Title 10 of the Official Code of Georgia Annotated, relating to selling
2 and other trade practices, so as to provide for regulation of certain practices by providers of
3 broadband services; to provide for related matters; to repeal conflicting laws; and for other
4 purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 **SECTION 1.**

7 Chapter 1 of Title 10 of the Official Code of Georgia Annotated, relating to selling and other
8 trade practices, is amended by adding a new article to read as follows:

9 "ARTICLE 35

10 10-1-920.

11 (a) As used in this Code section, the term:

12 (1) 'Broadband internet access service' means a mass-market retail service by wire or
13 radio that provides the capability to transmit data to and receive data from all or
14 substantially all internet endpoints, including any capabilities that are incidental to and
15 enable the operation of the communications service, but excluding dial-up internet access
16 service. The term also encompasses any service that the Federal Communications
17 Commission finds to be providing a functional equivalent of the service described in this
18 paragraph or that is used to evade the protections set forth in this Code section.

19 (2) 'End user' means any individual or entity that uses a broadband internet access
20 service.

21 (3) 'Paid prioritization' means the management of a broadband provider's network to
22 directly or indirectly favor some traffic over other traffic, including through the use of
23 techniques such as traffic shaping, prioritization, resource reservation, or other forms of
24 preferential traffic management, either:

25 (A) In exchange for consideration, monetary or otherwise, from a third party; or

26 (B) To benefit an affiliated entity.

27 The term does not include the provision of tiered internet access service or offerings to
 28 a retail end user.

29 (4) 'Reasonable network management' means a practice that has a primarily technical
 30 network management justification, but does not include other business practices. A
 31 network management practice is reasonable if it is primarily used for and tailored to
 32 achieving a legitimate network management purpose, taking into account the particular
 33 network architecture and technology of the broadband internet access service.

34 (5) 'Tiered internet access service' means offering end users a choice between different
 35 packages of service with clearly advertised speeds, prices, terms, and conditions; for
 36 example, a 10 megabit service for one price and a 50 megabit service for a different price.

37 (b) Any person providing broadband internet access service in this state shall publicly
 38 disclose accurate information regarding the network management practices, performance
 39 characteristics, and commercial terms of its broadband internet access service sufficient to
 40 enable consumers to make informed choices regarding the purchase and use of such service
 41 and entrepreneurs and other small businesses to develop, market, and maintain internet
 42 offerings. The disclosure must be made via a publicly available, easily accessible website.

43 (c) A person engaged in the provision of broadband internet access service in this state,
 44 insofar as the person is so engaged, may not:

45 (1) Block lawful content, applications, services, or nonharmful devices, subject to
 46 reasonable network management;

47 (2) Impair or degrade lawful internet traffic on the basis of internet content, application,
 48 or service, or use of a nonharmful device, subject to reasonable network management; or

49 (3) Engage in paid prioritization.

50 (d) Nothing in this Code section:

51 (1) Supersedes any obligation or authorization a provider of broadband internet access
 52 service may have to address the needs of emergency communications or law
 53 enforcement, public safety, or national security authorities, consistent with or as
 54 permitted by applicable law, or limits the provider's ability to do so; or

55 (2) Prohibits reasonable efforts by a provider of broadband internet access service to
 56 address copyright infringement or other unlawful activity."

57 **SECTION 2.**

58 All laws and parts of laws in conflict with this Act are repealed.