

RESOLUTION No. 37303

Support retaining federal policies protecting Net Neutrality (Resolution)

WHEREAS, in today's society, high-speed, accessible and affordable internet is essential infrastructure for job creation, education, health care, the enhancement of safe and connected communities, civic engagement, government transparency and responsiveness, reduced carbon emissions, and emergency preparedness; and

WHEREAS, access to the internet has become an essential component of full participation in society; and

WHEREAS, established City policies, such as the Portland Plan, the Broadband Strategic Plan, the Digital Equity Access Plan, and the Smart Cities Initiatives require affordable, accessible and open access to the internet for the betterment of Portland's citizens and civic life; and

WHEREAS, the City of Portland has a long-established position of supporting non-discriminatory access to the Internet. This position can be traced back to 1998 in the Council's consideration of the Mt Hood Cable Regulatory Commission's recommendation that the transfer of the cable franchise from TCI to AT&T reflect a condition of non-discriminatory, open access. Ordinance No. 172955, adopted December 17, 1998. This position led to the Wall Street Journal referring to the MHCRC as the "mouse that roared". Inclusion of this policy condition in the franchise transfer was ultimately determined by the Ninth Circuit in the case of *AT & T Corp. v. Portland*, 216 F.3d 871 (9th Cir 2000) (holding that cable modem services were within the regulatory classification of "telecommunications"), *reversed sub nom, Nat'l Cable & Telecommunications Ass'n v. Brand X Internet Servs.*, 545 U.S. 967 (2005) (affirming FCC's classification of cable modem services as an "information service" as a reasonable administrative statutory interpretation.); and

WHEREAS, in 2010, the City adopted a federal legislative agenda urging "Congress to support open access as a guiding principle in broadband policy in order to ensure a competitive marketplace with consumer choice and lower prices. Open access will spur economic development, entrepreneurial opportunity and innovation."

WHEREAS, starting in 2011, the City's federal legislative agenda has included "support[ing] net neutrality and [opposing] efforts that prevent the right of everyone to use Internet data without regard to content, destination or source."

WHEREAS, in July, 2014, the mayors of San Francisco, New York City and Portland joined together in filing a letter to the Chair of the Federal Communications Commission in support of "promulgating effective transparency rules and adopting the strongest possible protections against blocking, prioritization and other discriminatory practices."; and

WHEREAS, in November, 2014, the mayors of Seattle, San Francisco, New York City and Portland wrote a letter to their congressional delegations urging that they support the Commission in adopting "clear, legally defensible rules that: support transparency so that

consumers can evaluate service offerings; prohibit blocking of lawful content; bar discrimination and ban paid prioritization.”

WHEREAS, the Federal Communications Commission adopted Net Neutrality rules in 2015 to provide for the free and unfettered exchange of information between people and organizations, with no bandwidth preferences based on the nature of content, authorship, or affiliation. *In the Matter of Protecting and Promoting the Open Internet*, WC Docket No. 14-28, Report and Order on Remand, Declaratory Ruling, and Order, 30 FCC Rcd 5601 (2015) (*Open Internet*). In particular, the FCC adopted no-blocking, no-throttling, and no-paid-prioritization rules, as well as a general Internet conduct standard and “enhancements” to the transparency rule. *Open Internet*, at 5607-09, paras. 15–24. In 2016 the D.C. Circuit upheld the *Open Internet* rules; Petitions for rehearing of the case were denied by the D.C. Circuit in 2017. *United States Telecom Ass’n v. FCC*, 825 F.3d 674 (DC Cir 2016), *reh’g en banc denied*, No. 15-1063, 2017 WL 1541517 (DC Cir May 1, 2017); and

WHEREAS, this Net Neutrality standard has allowed the Internet to foster competition and innovation, and allowed for small companies to enter the market on the same footing as larger companies; and

WHEREAS, in May, 2017, the Federal Communications Commission published notice that it was contemplating repealing its administrative rules supporting Net Neutrality. Comments on the FCC’s proposed administrative reversal are due July 17, 2017. *In the Matter of Restoring Internet Freedom*, WC Docket No. 17-108; and

WHEREAS, the City vision for fostering innovation, inclusion, equity, economic growth, and well-being requires ensuring that all residents, businesses, non-profit agencies, and public agencies continue to have the opportunity to be fully engaged using digital and communications technology on the equal footing provided by Net Neutrality principles so that all may flourish; and

WHEREAS, the City supports Net Neutrality as it currently exists without diminishment; and

WHEREAS, on June 19, 2017, the Mt. Hood Cable Regulatory Commission voted to submit a letter to the FCC supporting non-discriminatory internet access, accessible to and affordable by all persons, recognizing the established contributions to community well-being, economic development and educational opportunities; and;

WHEREAS, the Office for Community Technology has a well-established history of facilitating and coordinating policy and regulatory leadership on the Council’s behalf in the area of broadband and community communications;

NOW THEREFORE BE IT RESOLVED, that the Office for Community Technology is directed to coordinate with the City Attorney’s Office in submitting timely comments to the Federal Communications Commission in its proceeding reconsidering Net Neutrality regulations, including transmitting this Resolution to the Federal Communications Commission in Docket NO. 17-108 in support of continuing the current Net Neutrality principles and policies; and such

subsequent proceedings as may occur, to present the City's views and protect its interests and the interests of its citizens as may be necessary.

Adopted by the Council: JUL 12 2017

Commissioner Dan Saltzman
Prepared by: Ann Goldenberg
Date Prepared: June 20, 2017

Mary Hull Caballero
Auditor of the City of Portland


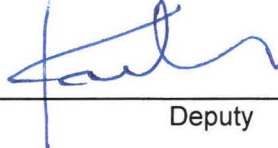
By *Gayla Jennings*
Deputy

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Agenda No.
RESOLUTION NO. 37303
 Title

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<p>INTRODUCED BY Commissioner/Auditor: Mayor Ted Wheeler & Commissioner Dan Saltzman</p>	<p>CLERK USE: DATE FILED <u>JUL 03 2017</u></p>
<p>COMMISSIONER APPROVAL</p> <p>Mayor—Finance and Administration - Wheeler</p> <p>Position 1/Utilities - Fritz</p> <p>Position 2/Works - Fish</p> <p>Position 3/Affairs - Saltzman </p> <p>Position 4/Safety - Eudaly</p>	<p>Mary Hull Caballero Auditor of the City of Portland</p> <p>By:  Deputy</p>
<p>BUREAU APPROVAL</p> <p>Bureau: Office of Community Technology</p> <p>Prepared by: B. Finn</p> <p>Date Prepared: June 30, 2016</p> <p>Impact Statement Completed <input checked="" type="checkbox"/> Amends Budget <input type="checkbox"/></p> <p>Portland Policy Document If "Yes" requires City Policy paragraph stated in document. Yes <input type="checkbox"/> No <input type="checkbox"/></p>	<p>ACTION TAKEN:</p>
<p>City Auditor Office Approval:</p>	
<p>City Attorney Approval:</p>	
<p>Council Meeting Date July 12, 2017</p>	

AGENDA
<p>TIME CERTAIN <input checked="" type="checkbox"/></p> <p>Start time: 2:00</p> <p>Total amount of time needed: 1 hour (for presentation, testimony and discussion)</p>
<p>CONSENT <input type="checkbox"/></p>
<p>REGULAR <input type="checkbox"/></p> <p>Total amount of time needed: _____ (for presentation, testimony and discussion)</p>

FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS:	
	YEAS	NAYS
1. Fritz	1. Fritz	
2. Fish	2. Fish	
3. Saltzman	3. Saltzman	
4. Eudaly	4. Eudaly	
Wheeler	Wheeler	