115th Congress 1st Session

H. R. _____

To amend the Communications Act of 1934 to ensure internet openness, to prohibit blocking of lawful content, applications, services, and non-harmful devices, to prohibit impairment or degradation of lawful internet traffic, to limit the authority of the Federal Communications Commission and to preempt State law with respect to internet openness obligations, to provide that broadband internet access service shall be considered to be an information service, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mrs. BLACKBURN introduced the following bill; which was referred to the Committee on ________________

A BILL

To amend the Communications Act of 1934 to ensure internet openness, to prohibit blocking of lawful content, applications, services, and non-harmful devices, to prohibit impairment or degradation of lawful internet traffic, to limit the authority of the Federal Communications Commission and to preempt State law with respect to internet openness obligations, to provide that broadband internet access service shall be considered to be an information service, and for other purposes.
Be it enacted by the Senate and House of Representa-
tives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Open Internet Preser-
vation Act”.

SEC. 2. INTERNET OPENNESS.

Title I of the Communications Act of 1934 (47
U.S.C. 151 et seq.) is amended by adding at the end the
following:

“SEC. 13. INTERNET OPENNESS.

“(a) Obligations of Broadband Internet Ac-
cess Service Providers.—A person engaged in the pro-
vision of broadband internet access service, insofar as such
person is so engaged—

“(1) may not block lawful content, applications,
services, or non-harmful devices, subject to reason-
able network management; and

“(2) may not impair or degrade lawful internet
traffic on the basis of internet content, application,
or service, or use of a non-harmful device, subject to
reasonable network management.

“(b) Commission Authority.—

“(1) In general.—The Commission shall en-
force the obligations established in subsection (a)
and the obligations established in subsection (e)(2)
through adjudication of complaints alleging violations of such respective subsection but may not, under any provision of law, whether by rulemaking or otherwise—

“(A) expand the internet openness obligations for provision of broadband internet access service beyond the obligations established in subsection (a); or

“(B) expand the internet openness obligations for the offering or provision of specialized services beyond the obligations established in subsection (e)(2).

“(2) FORMAL COMPLAINT PROCEDURES.—Not later than 60 days after the date of the enactment of this section, the Commission shall adopt formal complaint procedures to address alleged violations of subsection (a) and alleged violations of subsection (e)(2). Such procedures shall include a deadline (relative to the date of filing of a complaint under such procedures) for the disposition of such complaint.

“(c) PREEMPTION OF STATE LAW.—No State or political subdivision of a State shall adopt, maintain, enforce, or impose or continue in effect any law, rule, regulation, duty, requirement, standard, or other provision having the force and effect of law relating to or with respect to inter
net openness obligations for provision of broadband inter-
net access service.

“(d) OTHER LAWS AND CONSIDERATIONS.—Nothing
in this section—

“(1) supersedes any obligation or authorization
a provider of broadband internet access service may
have to address the needs of emergency communica-
tions or law enforcement, public safety, or national
security authorities, consistent with or as permitted
by applicable law, or limits the provider’s ability to
do so; or

“(2) prohibits reasonable efforts by a provider
of broadband internet access service to address copy-
right infringement or other unlawful activity.

“(e) SPECIALIZED SERVICES.—

“(1) IN GENERAL.—Except as provided in para-
graph (2), nothing in this section shall be construed
to limit the ability of broadband internet access serv-
ice providers to offer specialized services.

“(2) PROHIBITION ON CERTAIN PRACTICES.—
Specialized services may not be offered or provided
in ways that threaten the meaningful availability of
broadband internet access service or that have been
devised or promoted in a manner designed to evade
the purposes of this section.
“(f) Broadband to Be Considered Information Service.—Notwithstanding any other provision of law, the provision of broadband internet access service or any other mass-market retail service providing advanced telecommunications capability (as defined in section 706 of the Telecommunications Act of 1996 (47 U.S.C. 1302)) shall be considered to be an information service.

“(g) Reasonable Network Management.—For purposes of subsection (a), a network management practice is reasonable if it is primarily used for and tailored to achieving a legitimate network management purpose, taking into account the particular network architecture and technology of the broadband internet access service.

“(h) Definitions.—In this section:

“(1) Broadband Internet Access Service.—

“(A) In general.—The term ‘broadband internet access service’ means a mass-market retail service by wire or radio that provides the capability to transmit data to and receive data from all or substantially all internet endpoints, including any capabilities that are incidental to and enable the operation of the communications service, but excluding dial-up internet access service.
“(B) FUNCTIONAL EQUIVALENT; EVASION.—Such term includes any service that—

“(i) the Commission finds to be providing a functional equivalent of the service described in subparagraph (A); or

“(ii) is used to evade the obligations set forth in subsection (a).

“(2) NETWORK MANAGEMENT PRACTICE.—The term ‘network management practice’ means a practice that has a primarily technical network management justification. Such term does not include other business practices.

“(3) SPECIALIZED SERVICES.—The term ‘specialized services’ means services other than broadband internet access service that are offered over the same network as, and that may share network capacity with, broadband internet access service.”.

SEC. 3. ELIGIBILITY OF BROADBAND INTERNET ACCESS SERVICES FOR UNIVERSAL SERVICE FUNDS.

Section 254 of the Communications Act of 1934 (47 U.S.C. 254) is amended—

(1) in subsection (e), by adding at the end the following:
“(4) Broadband internet access services.—Broadband internet access services (as defined in section 13) shall be eligible to receive funding from Federal universal service support mechanisms authorized by this section.”; and

(2) in subsection (e)—

(A) in the first sentence, by inserting “or a provider of broadband internet access service (as defined in section 13)” after “section 214(e)”;

and

(B) in the second sentence, by inserting “or provider” after “carrier”.
