



Public Knowledge

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In Support of
H.11, Vermont Broadband Consumer Protection and Competition Act
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Thank you for the opportunity to submit testimony in support of H.11, the Vermont Broadband Consumer Protection and Competition Act. My name is John Bergmayer, and I am Legal Director at Public Knowledge, a nonprofit public interest organization dedicated to promoting broadband affordability and availability, and robust consumer protections for broadband subscribers, including net neutrality and protection against unfair practices. Public Knowledge has long advocated for reliable, affordable internet access for everyone, recognizing that connectivity is fundamental to participation in modern economic, educational, and civic life.

The need for H.11 arises from the current lack of clear and effective federal oversight of broadband providers. The Federal Communications Commission (FCC) currently does not have explicit statutory authority to regulate broadband services directly, leaving Vermont consumers exposed to risks from anti-competitive, unfair, and deceptive provider practices. Even in the scenario where the FCC might regain direct authority over broadband service, past experience suggests that the agency may not prioritize consumer needs, especially those of Vermonters living in rural or underserved areas.

Unfortunately the current spate of reckless federal government cuts, including the closure of Social Security field offices and even some forms of telephone-based support, further heightens the importance of legislation like H.11. To the extent that they are available at all, some vital government services and support might only be accessible via broadband.

Fortunately, states possess the authority and ability to protect their residents. Courts have consistently supported states' ability to implement consumer protections for broadband, rejecting previous attempts by the Trump-era FCC, the Department of Justice, and broadband companies to find that state action was preempted. Vermont, therefore, is well-positioned to step forward and address the vulnerabilities in consumer protection and competition with legislation like H.11.

Additionally, the bill identifies and explicitly prohibits several unfair and deceptive practices that harm Vermont broadband consumers. It addresses the common issue of providers failing to deliver advertised speeds and performance levels, and ensuring accountability to consumers who rely on accurate information to make informed choices. Here it is worth noting that the bill specifies that ISPs must "provide a consumer with broadband service that meets or exceeds the performance characteristics offered and sold to the consumer's service location." This should be understood to include not just the theoretical maximum speed to a service location but to include consumer-premises equipment that the ISP provides. For example, if an ISP advertises that it offers a gigabit connection, then any home WiFi equipment provided by the ISP must be capable of gigabit speeds. While this is the natural reading of the bill as written, experience with ISP practices suggests that the Attorney General may wish to adopt rules specifying this under section 2490o.

Moreover, H.11 recognizes that data caps—arbitrary limits placed on internet usage—are frequently unjustified by genuine network management needs. Data caps rarely correlate directly with actual network congestion or usage patterns and often serve primarily as profit-maximizing mechanisms for broadband providers. Such caps can disproportionately harm consumers by restricting access to essential online services, including remote work, education, and healthcare. Providers may abuse data caps to unfairly charge consumers unexpected fees, discourage the use

of competing streaming services, or extract additional revenues through overage fees. Eliminating or strictly limiting data caps is an important part of ensuring equitable internet access for all Vermonters.

One of the key components of H.11 is its codification of net neutrality. Net neutrality principles ensure providers treat all internet traffic equally, without discrimination or prioritization, preserving an open and equitable internet. The importance of H.11 has been heightened following the Sixth Circuit Court of Appeals' recent decision striking down the FCC's attempt to classify broadband under Title II of the Communications Act, and to put into place nationwide net neutrality rules. In the absence of clear federal safeguards, state-level net neutrality protections, such as those proposed in H.11, are needed to fill in this gap.

Net neutrality exists in Vermont law today (3 V.S.A. § 348) as a condition for ISPs to receive state government contracts. This is also the source of the existing certification process. To be clear, this approach is a good one, and one that is particularly insulated from federal interference. Even a new federal broadband statute could not preempt the ability of Vermont to use its purchasing power to promote the public interest as it sees fit.

However, in this context the cross-referencing to an existing certification process managed by the Secretary of Administration may introduce unnecessary complexity. Requiring broadband providers to obtain certification might inadvertently weaken enforcement by shifting emphasis from the substantive compliance requirements to procedural aspects. A simpler approach, directly imposing clear substantive net neutrality requirements on broadband providers, might be more straightforward.

H.11 also promotes transparency, requiring broadband providers to disclose clear and understandable policies on network management, security, and privacy. Transparency empowers consumers to choose providers that align best with their needs and expectations, further encouraging healthy competition and responsible business practices.

“Junk fees,” where businesses find ways to charge users more, sometimes through mandatory fees that are not disclosed until the moment the customer is about to pay, while claiming that these fees are not simply part of the basic cost of service, have become increasingly widespread throughout the economy. Along with airlines, telecommunications companies have unfortunately been a model for businesses of all kinds that want to raise their prices while hiding this fact from consumers. The Federal Television Viewer Protection Act of 2019 provides some oversight of these practices for cable TV subscribers, but needs to be complemented by oversight in other areas, as well.

The bill begins to address this issue by targeting excessive termination fees and unjustified equipment and service charges. Public Knowledge believes that any fee that could have been included in the advertised price of broadband service, but is instead charged separately, is unreasonable and deceptive, and does not “reasonably correlate with the cost of the broadband service or equipment.” For example, a mandatory equipment fee—one for a piece of equipment that an ISP cannot provide service without (for example, an Optical Network Terminal that bridges a fiber-optic network to a consumer's home)—should be included in the

basic cost of service. By contrast, optional equipment fees, such as home WiFi equipment (where consumers can use third-party alternatives), “reasonably correlate” with costs if they are comparable to the costs of third-party equipment, and if subscribers can avoid the equipment fee by providing their own equipment. Similarly, any other “below-the-line” fees charged by an ISP that a subscriber cannot avoid are unreasonable and do not correlate with the cost of providing services. ISPs who wish to raise their prices should do so transparently, instead of deceiving Vermonters with miscellaneous, unavoidable fees. The Attorney General may wish to specify these points by adopting specific rules under section 2490o.

The Attorney General’s enhanced role under this legislation in actively overseeing market practices and competition dynamics is essential to maintain fairness and competitive health in Vermont’s broadband market. The Attorney General’s ongoing monitoring would provide early identification of problematic practices and enable prompt action to protect consumers, particularly in rural areas, from monopolistic or anti-competitive behavior.

The legislation devotes attention to consumer complaints, centralizing them through the Office of the Attorney General to enable more effective tracking and enforcement. We support these provisions, recognizing that an accessible complaint process can empower consumers to raise concerns without undue barriers. Additionally, there may be real value in ensuring the Public Utility Commission (PUC) holds public hearings concerning the issues addressed by H.11. Such hearings would provide a forum for Vermonters to speak directly about their experiences with broadband providers, highlight local or systemic challenges, and inform regulators and enforcement agencies about emerging trends or unaddressed violations.

A robust consumer outreach plan may also complement these formal measures. By proactively educating Vermonters about their rights under H.11—particularly around deceptive practices, net neutrality protections, and data caps—the state can ensure that people do not just have protections on paper, but that they know how to use them in practice. Public hearings, targeted advertising, public service announcements, and community-based outreach programs can all help residents understand where to file complaints, what standards providers must meet, and how to get help if they encounter problems.

H.11 recognizes that broadband must remain reliable and affordable under the most stressful circumstances. During disasters or declared states of emergency, internet access becomes a lifeline for critical communication, public safety alerts, telehealth appointments, and more. In these moments, connectivity is not optional; it is a key element of resilience. The bill rightly ensures that providers cannot exploit crises through unjustified price hikes or abrupt disconnections that would leave people vulnerable when they need service the most. Strengthening this provision, for instance by incentivizing or requiring networks to build out backup power systems, could further enhance Vermont’s disaster readiness. By aligning broadband infrastructure improvements with preparedness goals, the state can safeguard residents who must rely on internet access to stay informed and connected during floods, severe storms, and other emergencies.

Broadband affordability is also important to the broader public interest objectives of this legislation. Even the most robust consumer protections mean little if many Vermonters remain

priced out of the broadband market. H.11 takes the necessary step of imposing transparency and accountability on broadband providers, which indirectly affects pricing. However, Vermont might consider additional affordability measures that require or incentivize providers to offer low-cost tiers or targeted discounts for lower-income households. Ensuring that pricing is neither inflated nor hidden beneath tiers of fees is fundamental to bridging the digital divide. If broadband is to be treated as an essential service, it must be priced in a manner that all families, regardless of income, can afford.

Finally, we support the bill's increased oversight of Voice over Internet Protocol (VOIP) services. While the interaction between state and federal authority over VOIP is complex, the data collection and other processes H.11 puts in place should help the legislation consider further reforms. VOIP users deserve the same reliability and consumer protections as other telephone users.

Public Knowledge strongly supports H.11. It is essential legislation that proactively fills a regulatory gap, protecting Vermont consumers and fostering a vibrant, fair broadband market. The General Assembly has a critical opportunity to protect the rights and interests of Vermonters and set a positive example for other states by passing this legislation.

Thank you for considering our testimony. Public Knowledge is committed to working with Vermont to promote a broadband market that prioritizes consumers, competition, reliability, and basic fairness.