AN ACT

Providing for disclosure requirements for broadband Internet access service providers, for prohibitions and for contracts, grants and tax credits; and imposing civil penalties.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Short title.

This act shall be known and may be cited as the Open Internet Protection Act.

Section 2. Definitions.

The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Broadband Internet access service." As follows:

(1) The term includes any of the following:

(i) 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 capabilities that are incidental to
and enable the operation of the communications service.

(ii) A service that the Federal Communications Commission determines to provide the functional equivalent of the service described under subparagraph (i) or used to evade the provisions of this act.

(2) The term does not include dial-up Internet access service.

"Commonwealth agency." As defined in 62 Pa.C.S. § 103 (relating to definitions).

"Edge provider." A person or entity that provides any of the following:

(1) Content, application or services over the Internet.

(2) A device used for accessing content, applications or services over the Internet.

"End user." A person or entity that uses a broadband Internet access service.

"Paid prioritization." The management of a provider's network to directly or indirectly favor some Internet traffic over other Internet traffic, including through the use of techniques such as Internet traffic shaping, prioritization, resource reservation or other forms of preferential Internet traffic management, in exchange for economic consideration from a third party or to benefit an affiliated entity.

"Provider." A person or entity that provides broadband Internet access service to end users in this Commonwealth.

"Reasonable network management." A practice that has a primarily technical network management justification and is primarily used for and tailored to achieve a legitimate network management purpose considering the particular network architecture and technology of the broadband Internet access...
service. The term does not include other business practices.

Section 3. Disclosure requirements for providers.

A provider shall publicly disclose accurate information regarding network management practices, performance and commercial terms of the provider's broadband Internet access services to ensure the following:

1. Consumers are able to make informed choices regarding use of the broadband Internet access services.
2. Edge providers are able to develop, market and maintain content, applications and service offerings.

Section 4. Prohibitions on providers.

Except for the purpose of reasonable network management, a provider may not engage in any of the following acts:

1. Blocking lawful content, applications, services or nonharmful devices.
2. Impairing or degrading lawful Internet traffic on the basis of content, applications, services or use of nonharmful devices.
3. Paid prioritization.
4. Unreasonably interfering or disadvantaging the ability of an end user to select, access or use broadband Internet access service or lawful Internet content, applications, services or nonharmful devices of the end user's choice.
5. Unreasonably interfering or disadvantaging the ability of an end provider to make lawful Internet content, applications, services or nonharmful devices available to end users.

Section 5. Contracts, grants and tax credits for providers.

(a) Contracts and grants.—Notwithstanding any other
provision of law, a Commonwealth agency or political subdivision may not contract with or award grants or tax credits to a provider that fails to comply with this act.

(b) Applicability.--This section shall apply to contracts executed and grants and tax credits awarded on or after the effective date of this act.

Section 6. Civil penalties.

A provider that fails to comply with this act shall be in violation of the act of December 17, 1968 (P.L.1224, No.387), known as the Unfair Trade Practices and Consumer Protection Law.

Section 7. Effective date.

This act shall take effect in 60 days.