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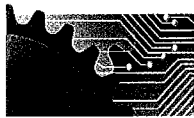
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ECONOMIC PARTNERSHIP



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CALIFORNIA CHAMBER OF COMMERCE

April 11, 2018

TO: The Honorable Scott Wiener

CC: Members of the Senate Energy, Utilities and Communications Committee
Nidia Bautista, Consultant, Senate Energy, Utilities & Communications Committee
Kerry Yoshida, Senate Republican Caucus

RE: SB 822 (Weiner) – OPPOSE

Despite the undersigned's strong opposition to SB 822 we want to express our continued support for an open Internet where companies do not block, throttle, or otherwise interfere with the customers' ability to go where they wish on the Internet. Our reasons for opposition include:

- SB 822 will not promote or protect an open Internet. Instead, it opens the door to a patchwork of unworkable state regulations that will stymie innovation, and potentially undermine the backbone of California's Internet economy. Despite virtually no showing of harms or violations of any rules and despite strong regulatory and enforcement safeguards currently in place, SB 822 goes much further than even the previous Net Neutrality Rules, which were a return to a 1934 framework designed to regulate the telephone monopoly.
- SB 822 will remove the regulatory model that has been the catalyst of development and innovation in California's Internet economy in favor of heavy-handed mandates and oversight by the Attorney General and the California Public Utilities Commission (CPUC).
 - In fact, SB 822 empowers multiple governmental entities to each fashion its own interpretation of the law to decide, at its sole discretion, whether an ISP has violated the law. The uncertainty this would create would stifle the efforts of ISPs to innovate and offer new and attractive services to California consumers.

- SB 822 threatens services that are very popular among many consumers.
 - For example, SB 822 would essentially ban free data programs (“zero rating”) that can be innovative, consumer-friendly options. As the Multicultural Media, Telecom, and Internet Council (MMTC), a civil rights group seeking to close the digital divide, found in its 2016 report on free wireless data, “the digital elite can afford to intellectualize the value of free data, but for communities of color it can mean an affordable digital connection to the future. This is even more true for small, multicultural businesses that rely on mobile connections to reach their audiences.” Consumers stand to lose free data programs if ISPs are prohibited from offering these innovative services that consumers demand. Low and moderate income consumers will especially lose out and face higher costs.

- The CPUC’s overreach in matters over which it has no jurisdiction, experience or knowledge has been a problem in the past and will only be exacerbated by SB 822.
 - In this bill, the CPUC must scrutinize if customers receive “technical treatment” that differs from others. That phrase is undefined.
 - And, virtually every contract between a public entity and an ISP would require the ISP adhere to net neutrality requirements as defined by that particular public entity, which likely has no expertise in the meaning of the phrase. If that entity decides that an ISP has violated any of these “principles,” it would have the staggering remedy to declare the contract to be void and seek reimbursement.

Our commitment to preserve an open Internet has not changed, as it is vital to the success of California’s economy and ensuring consumers can access any legal content they want on whatever device they choose. However, this legislation threatens the many benefits an open Internet provides.