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## [H.R. 2666, No Rate Regulation of Broadband Internet Access Act](#)

### FLOOR SITUATION

On Friday, April 15, 2016, the House will begin consideration of [H.R. 2666](#), the No Rate Regulation of Broadband Internet Access Act, under a rule. H.R. 2666 was introduced on June 4, 2015 by Rep. Adam Kinzinger (R-IL), and was referred to the Committee on Energy and Commerce, which ordered the bill reported, as amended, by a vote of 29-19 on March 15, 2016.

### SUMMARY

H.R. 2666 would prohibit the Federal Communications Commission (FCC) from regulating the rates charged for broadband Internet access service. The legislation exempts the following from this prohibition:

- The FCC's existing authority to enforce its Truth-in-Billing rules;
- The enforcement of the paid prioritization rule from the Open Internet Order; and
- The administration of the Universal Service Fund.

### BACKGROUND

As the public use of the Internet has increased over the past decades, the U.S. Government has faced numerous public policy challenges associated with applying a communications statute that doesn't contemplate the Internet. Since President Bill Clinton's Administration, the Internet has been excluded from the utility-style common carrier regulations under Title II of the Communications Act of 1934 that were designed to regulate the telephone monopoly.

However, in February 2015, the FCC approved the Open Internet Order which reclassified broadband Internet access as a telecommunications service regulated under Title II.<sup>1</sup> This order, more commonly referred to as "Net Neutrality" rules, prohibits the blocking or degrading of legal content traveling over the Internet and the paid prioritization of that content. This order is currently under appeal in the U.S. Court of Appeals for the D.C. Circuit.

As a result of the FCC's action, it has the authority to regulate the rates charged for broadband both before-the-fact through rulemaking and after-the-fact through enforcement authority. Under Title II, all telecommunications services are required to be offered on a non-discriminatory basis, and on terms

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<sup>1</sup> See [H-Rept. 114-478](#).

that are not unjust or unreasonable. Additionally, Title II gives the FCC the authority to affirmatively regulate the rates charged for broadband services. Under those provisions, the FCC could require broadband service providers to file schedules of charges that would be binding upon the providers. The FCC could also set reasonable rates, or a reasonable range of rates, that service providers could charge for broadband service, depriving providers of the ability to set their own rates.<sup>2</sup>

In the Open Internet Order, the FCC refrained from setting rates through tariffing. A future Chairman, however, may choose to exercise this latent authority. Moreover, the FCC may continue to use its enforcement authority to second-guess Internet Service Provider rates and service plans after-the-fact – essentially, de facto rate regulation.

According to the bill's sponsor, "While Chairman Wheeler has stated that the FCC does not intend to regulate broadband internet access rates under his leadership, future Commissions still have the authority to insert their own mandates on rates. If we are to ensure that the government is not setting the rates we pay to use the internet, we must once and for all take that option off the table."<sup>3</sup>

### **COST**

The Congressional Budget Office (CBO) [estimates](#) that implementing H.R. 2666 would have no significant effect on the agency's workload and spending relative to current policies. In addition, the FCC is authorized to collect fees sufficient to offset costs of regulatory actions each year. Enacting H.R. 2666 would not affect direct spending levels or revenues, therefore pay-as-you-go procedures do not apply.

### **STAFF CONTACT**

For questions or further information please contact [Molly Newell](#) with the House Republican Policy Committee by email or at 2-1374.

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<sup>2</sup> See CRS Legal Sidebar, "[Net Neutrality: H.R. 2666 and Broadband Rate Regulation](#)," March 3, 2016.

<sup>3</sup> See Rep. Kinzinger Press Release, "[Kinzinger Introduces Legislation to Prohibit Government Interference in Broadband Intent Service Act](#)," June 4, 2015.