## The Loss of Net Neutrality How Will It Affect Maine and What Can We Do?

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#### What the OPA does

- Statutory authority:
- "duties and responsibilities of the Public Advocate are to represent the using and consuming public in matters within the jurisdiction of the commission"
- Telecommunications issues FCC vs. state

## State regulation of telephone

- Largely non-regulated at state level with exceptions:
  - POLR
  - Mergers
  - Pole attachments
  - Universal service funds
- The internet no direct regulation at the state level
  - Service and pricing issues are still consumer issues



# Net Neutrality The FCC order

- The order takes effect April 23
- FCC "restores the light-touch regulatory scheme that fostered the internet's growth, openness, and freedom"
- Different opinions on the effect it will have
- Consumer advocates support neutrality



### Direct challenge to the rule

- Maine joined 21 states filing challenge to the new FCC rule filed in DC federal court
- OPA is a member of NASUCA, which has intervened in 9<sup>th</sup> Circuit cases in support of challenge of the FCC order
  - Filed pursuant to Federal Rule of Appellate Procedure 15
  - Alleging that the rule is "arbitrary and capricious" change to existing policy



## What States are doing

#### State statutes

- Washington: A person engaged in the provision of broadband internet access service in Washington state ... may not:
  - Block lawful content, applications, services, or nonharmful devices
  - Impair or degrade lawful traffic on the basis of content
  - Engage in paid prioritization



#### State statutes

- Oregon: A *public body* may not contract with a broadband Internet access service or mobile broadband Internet access service that:
  - Engages in paid prioritization
  - Blocks lawful content, apps or services
  - Impairs or degrades lawful Internet traffic
- Are these state laws preempted by federal law?
  - The FCC's preemption power is tied directly to its regulatory power



## State purchasing power

- The following states are using purchasing power
  - Oregon
  - Montana
  - New York
  - New Jersey
  - Hawaii
  - Connecticut
  - New York

Are these actions preempted? State purchasing power not as constrained



## Sample purchasing language

#### New Jersey:

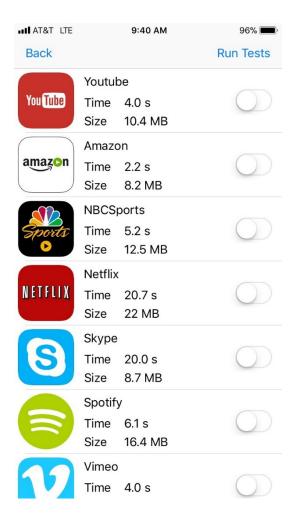
- Shall require that all future contracts for Internet, data, and telecommunications (Internet and broadband) be awarded only to ISPs that adhere to net neutrality principles, such as:
- blocking lawful content
- throttling, degrading or impairing traffic
- paid prioritization
- interfering in end user's access
- Will Maine join this effort?
  - L.D. 1610

## Monitoring the problem

- How do we recognize the problem?
  - Disclosure requirements check them out
- How do we track the problem?
  - No service
  - Spotty service
  - Slow service speed
  - Price
  - No competition
- Who do we report these problems to?



## WeHe app



Thank you.

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