

February 22, 2021

The Honorable Dereck E. Davis  
Chair, Economic Matters Committee  
231 House Office Building  
Annapolis, MD 21401

The Honorable Kathleen M. Dumais  
Vice Chair, Economic Matters Committee  
231 House Office Building  
Annapolis, MD 21401

Dear Chair Davis and Vice Chair Dumais:

USTelecom and our members support an open internet for everyone. While we appreciate the goal of HB 1064, we oppose its adoption because it is unnecessary to achieve its objective and state action to regulate broadband service is preempted by federal law.

There is no debate about the importance of an open internet. Rather, the debate is over how such networks should be regulated, and by whom. For decades, there has been bipartisan agreement that a national framework should govern the internet – not a state-by-state approach. This is true for statutory and legal reasons given the interstate nature of broadband internet access service, but also because consumers expect and deserve their online experience to be governed by the same set of rules regardless of where they connect.

In addition to being bad policy, state-by-state regulation of an inherently interstate information service conflicts with the federal law governing broadband internet access service, and is therefore preempted. In fact, California and Vermont laws similar to HB 1064 are already being challenged in federal court. The Vermont lawsuit involves a state procurement decision similar to HB 1064 that is explicitly designed as an end around to the federal policy.

USTelecom firmly supports a federal framework that requires transparency and prohibits blocking, throttling and unreasonable discrimination. However, as a matter of policy and law, such an action should be taken by Congress, not the Maryland legislature or any 49 other state legislatures. A permanent federal legislative framework will provide consumers with strong protections as they use the internet and broadband providers with the clarity they need to continue investing and innovating. In the meantime, all major Internet Service Providers (ISPs) have publicly committed to open internet principles. Rather than advancing conflicting state legislation, our collective efforts should be focused on working together to adopt federal legislation that will enshrine into law strong consumer protections and regulatory certainty for all.

Sincerely,

*/s/ Patrick Halley*

Patrick Halley  
Senior Vice President, Policy & Advocacy and General Counsel  
USTelecom – The Broadband Association