



POSITION STATEMENT

TESTIMONY PRESENTED TO THE HOUSE ECONOMIC MATTERS COMMITTEE HOUSE BILL 957 -- COMMERCIAL LAW – MARYLAND NET NEUTRALITY OF 2020

February 26, 2020

**DONALD C. FRY
PRESIDENT & CEO
GREATER BALTIMORE COMMITTEE**

Position: Oppose

The Greater Baltimore Committee (GBC) opposes House Bill 957, which among other provisions, requires that State funds may only be used to procure services from an Internet Service Provider that does not: (1) block lawful content, applications, services, or nonharmful devices, subject to reasonable network management; (2) impair or degrade lawful internet traffic on the basis of internet content, application, or service, or use of a nonharmful device; and (3) engage in commercial traffic preferencing, including traffic shaping, prioritization, resource reservation, or other forms of preferential traffic management, either in exchange for consideration from a third party, or to benefit an affiliated entity.

If Maryland moves forward with regulating the Internet, the GBC would be concerned about reduced investments, curbed employment growth, impaired innovation-related economic development and a weakened climate for competitiveness. The GBC supports and encourages innovative companies to continue substantial investments in Maryland's technology infrastructure, including the building out of broadband networks and deployment of state-of-the-art telecommunications services.

The GBC contends that regulation of the Internet should be the exclusive domain of the federal government, including the implementation of legal or regulatory changes regarding net neutrality. It is the U.S. Congress that should make laws regarding the issue of net neutrality instead of a competing regulatory framework created on a state-by-state basis. House Bill 957 encroaches on the purview of the federal government and is at odds with existing federal law.

Further, State net neutrality continue to face court challenges as attempts to regulate the Internet on a state-by-state basis are not on solid legal ground and inevitably lead to expensive and time-consuming litigation. In 2019, in *Mozilla v. FCC*, the U.S. Court of Appeals for the District of Columbia Circuit issued a ruling that individual state laws may be invalid under the conflict preemption doctrine (Supremacy Clause of the U.S. Constitution). Prior to that in Vermont and California, lawsuits were filed in federal court by groups representing major telecommunications providers. In Vermont, the lawsuit contended that states cannot regulate "indirectly through their spending, procurement, or other commercial powers what they are forbidden from regulating directly." In California, the U.S. Justice Department filed a lawsuit to block that state's net neutrality law. Following that action, California's Attorney General agreed to delay the implementation of the legislation.

This bill is also inconsistent with one of the key tenets in *Gaining the Competitive Edge: Keys to Economic Growth and Job Creation in Maryland*, a report published by the GBC that identifies eight core pillars for a competitive business environment and job growth. The pillar provides:

Regulatory policies that are streamlined, stable and predictable. Maryland must project to businesses within and outside the State that its government regulatory policies are reasonable, relevant, free of surprises or redundancy and considerate of businesses' sense of urgency.

For these reasons, the Greater Baltimore Committee urges an unfavorable report on House Bill 957.

The Greater Baltimore Committee (GBC) is a non-partisan, independent, regional business advocacy organization comprised of hundreds of businesses -- large, medium and small -- educational institutions, nonprofit organizations and foundations located in Anne Arundel, Baltimore, Carroll, Harford, and Howard counties as well as Baltimore City. The GBC is a 65-year-old, private-sector membership organization with a rich legacy of working with government to find solutions to problems that negatively affect our competitiveness and viability.

GREATER BALTIMORE COMMITTEE

111 South Calvert Street • Suite 1700 • Baltimore, Maryland • 21202-6180

(410) 727-2820 • www.gbc.org