

EXECUTIVE ORDER NO. 9

WHEREAS, a free and open Internet is essential for a stronger and fairer economy, and is the bedrock of a vibrant and modern commercial, social, and civic life in today's technology-driven world; and

WHEREAS, New Jerseyans rely on a free and open Internet to communicate with family and friends, engage with their communities, participate in the democratic process, research important personal decisions, expand their knowledge, and enjoy a vast array of entertainment options; and

WHEREAS, New Jerseyans appropriately expect and depend upon the free exchange of information that is protected by net neutrality principles; and

WHEREAS, New Jersey's educational institutions require a free and open Internet to educate their students, promote their social and intellectual growth, and to prepare them to succeed in the global economy; and

WHEREAS, New Jersey students rely on a free and open Internet to take full advantage of the vast amount of information, services, and communications opportunities available through online sources, and to develop into well-rounded citizens engaged in the world beyond their geographic limits; and

WHEREAS, New Jersey businesses need a free and open Internet to reach new markets, compete in the global economy, and attract new, diverse talent; and

WHEREAS, New Jersey has been at the forefront of scientific research, development, and technological advances, and a free and open Internet is necessary for the State to continue to serve as an incubator for innovation; and

WHEREAS, access to a free and open Internet should not be limited only to the economically advantaged; and

WHEREAS, the Trump administration's Federal Communications Commission ("FCC") recently illustrated that a free and open Internet is not guaranteed by eliminating net neutrality principles in a way that favors corporate interests over the interests of New Jerseyans and our fellow Americans; and

WHEREAS, many of the Internet Service Providers ("ISPs") serving New Jerseyans have publicly pledged to continue to abide by the principles protecting a free and open Internet despite the FCC's actions; and

WHEREAS, the State of New Jersey is a significant purchaser of Internet and broadband services; and

WHEREAS, this administration, in its stewardship of taxpayer money, bears the ongoing responsibility to ensure the efficient procurement of goods and services for State entities, and the principles of net neutrality are inherently tied to the provision of reliable, high-quality broadband Internet service for the State; and

WHEREAS, New Jersey state employees use the Internet every day to conduct the business of the State and to serve its citizens, and throttling or paid prioritization could adversely impact these employees' ability to work for and on behalf of New Jerseyans; and

WHEREAS, many New Jersey government services are offered exclusively online, and throttling or paid prioritization could limit New Jerseyans' ready access to these important and often critical government services and inhibit citizens in need from accessing important government services;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The Division of Purchase and Property, within the Department of the Treasury, and all other contracting units or officials of any State entity, 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.

2. For purposes of this Order, adherence to "net neutrality" principles means that an ISP shall not, with respect to any consumers in New Jersey (including but not limited to State entities):

a. Block lawful content, applications, services, or nonharmful devices, subject to reasonable network management that is disclosed to the consumer; or

b. Throttle, impair or degrade lawful Internet traffic based on Internet content, application, or service, or use of a nonharmful device, subject to reasonable network management that is disclosed to the consumer; or

c. Engage in paid prioritization; or

d. Unreasonably interfere with or unreasonably disadvantage:

i. An end user's ability to select, access, and use broadband Internet access service or the lawful Internet content, applications, services, or devices of their choice; or

ii. An edge provider's ability to make lawful content, applications, services, or devices available to end users.

3. For purposes of this order, adherence to "net neutrality" principles also means that an ISP shall provide to all of its customers in the State of New Jersey (including but not limited to State entities): accurate information regarding the network and transport management practices (including cellular

data and wireless broadband transport), and performance and commercial terms of its broadband Internet access services sufficient for consumers to make informed choices regarding use of such services and for content, application, service, and device providers to develop, market, and maintain Internet offerings.

4. Additionally, for purposes of this Order, "future contracts" refers to contracts awarded or renewed by any State entity on or after July 1, 2018.

5. For purposes of this Order, "State entity" shall mean any of the principal departments in the Executive Branch of State government and any agency, authority, board, bureau, commission, division, institution, office, or other instrumentality within or created by any such department, and any independent State authority, commission, instrumentality, or agency over which the Governor exercises executive authority, as determined by the Attorney General.

6. By March 1, 2018, the Division of Purchase and Property, in consultation with input from the Department of Law and Public Safety, shall prepare such policies and other guidance, and take such other steps as are determined to be necessary and appropriate, to ensure that this Order is appropriately implemented and enforced. The Division of Consumer Affairs, within the Department of Law and Public Safety, shall prepare such policies and other guidance, and take such other steps as it determines to be necessary and appropriate to carry out its responsibilities under this Order.

7. The Division of Purchase and Property shall cooperate with the Division of Consumer Affairs in implementing this Order. The Division of Consumer Affairs shall issue guidance with respect to any dispute over the definition of terminology used in this Order.

8. Nothing in this Order shall be construed to supersede any federal, state, or local law.

9. This Order shall take effect immediately.

GIVEN, under my hand and seal this
5th day of February,
Two Thousand and Eighteen, and
of the Independence of the
United States, the Two Hundred
and Forty-Second.

[seal]

/s/ Philip D. Murphy

Governor

Attest:

/s/ Matthew J. Platkin

Chief Counsel to the Governor