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SECRETARY OF STATE

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State of Rhode Island and Providence Plantations

Gina M. Raimondo  
Governor

EXECUTIVE ORDER

18-02

April 24, 2018

INTERNET NEUTRALITY AND STATE PROCUREMENT

WHEREAS, the free and open internet is an essential service that should be available to all Rhode Islanders; and

WHEREAS, Rhode Islanders rely on the free exchange of information on the internet including the ability to access the content of their choosing, including content provided by state government; and

WHEREAS, Rhode Island state employees use the internet every day to serve our citizens and to conduct state business, and the loss of net neutrality could fundamentally impact their ability to do so; and

WHEREAS, many important and often critical government services are offered online to facilitate easy and efficient access by Rhode Islanders and throttling or paid prioritization of internet services could limit Rhode Islanders' ready access to these services and inhibit citizens, particularly those in need, from accessing important government services; and

WHEREAS, Rhode Island's educational institutions and libraries require a free and open internet to educate students, promote social and intellectual growth, and to prepare them to succeed in the global economy; and

WHEREAS, Rhode Island's students rely on a free and open internet to learn, broaden their horizons, and develop into well-rounded citizens engaged in the world beyond their geographic limits; and

WHEREAS, Rhode Island businesses rely on the internet to reach new markets, conduct business – including business with the State of Rhode Island – and attract new talent through a free and open internet; and

WHEREAS, Rhode Islanders rely on a free and open internet to communicate with family and friends, participate in the democratic process, and conduct many daily activities; and

WHEREAS, blocking, throttling, or paid prioritization of internet services could adversely impact these institutions and the economic and social advancement of Rhode Islanders; and

WHEREAS, the Federal Communications Commission (FCC) recently issued its order, "Restoring Internet Freedom," which eliminated net neutrality principles; and

WHEREAS, the FCC has argued that violations of internet neutrality principles may violate state competition and fair-trade practices laws, which may be enforced by state governments; and

WHEREAS, many of the broadband internet service providers serving Rhode Islanders have made public pledges to continue to abide by the principles of a free and open internet despite the FCC's actions; and

WHEREAS, the loss of net neutrality threatens to increase the costs of accessing and sharing information for people and for businesses alike; and

WHEREAS, this Administration bears the ongoing responsibility of ensuring 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, and affordable broadband internet service for the State;

NOW, THEREFORE, I, Gina M. Raimondo, by virtue of the authority vested in me as Governor of the State of Rhode Island and Providence Plantations, do hereby issue the following directive to all State Agencies, as follows:

1. The Division of Purchases within the Department of Administration (DOA), and all other contracting units or officials of any State Agency, shall require that all future

contracts for fixed or mobile broadband internet access services be awarded only to service providers that adhere to “net neutrality principles.”

2. For purposes of this Order, adherence to “net neutrality principles” means that a service provider shall not, with respect to any consumer in the State of Rhode Island (including the State itself):

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

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;

c. Engage in paid prioritization unless the State waives the ban as to particular purchased or funded internet access services if the State determines that the practice is in the public interest, promotes public safety, or is otherwise not inconsistent with the purpose of this Order; or

d. Unreasonably interfere with or unreasonably disadvantage either: (i) a customer’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 a customer, subject to reasonable network management that is disclosed to its customers.

3. Broadband internet access service as used in this Order means a mass-market retail service by wire or radio that provides the capability to transmit data to and receive data from all or substantially all internet endpoints, including any capabilities that are incidental to and enable the operation of the communications service, but excluding dial-up internet service. This term also encompasses any service that the FCC finds to be providing a functional equivalent of the service described in the previous sentence, or that is used to evade the protections set forth in this chapter.

4. Edge provider as used in this Order means any individual or entity that provides any content, application or service over the internet, and any individual or entity that provides a device used for accessing any content application or service over the internet.

5. “Paid prioritization” as used in this Order shall mean the management of a broadband Internet access service provider's network to directly or indirectly favor some traffic over other traffic, including through use of techniques such as traffic shaping,

prioritization, resource reservation, or other forms of preferential traffic management, either (i) in exchange for consideration (monetary or otherwise) from a third party, or (ii) to benefit an affiliated entity. Paid prioritization does not include the provision of tiered internet access service or offerings to a retail end user.

6. "State Agency" as used in this Order means any department 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.

7. "Future Contracts" as used in this Order means contracts awarded or renewed by any State Agency on or after July 1, 2018.

8. As soon as practicable, the Division of Purchases, with input from the Division of Public Utilities Commission (DPUC), the Emergency Management Administration (EMA), and the Division of Information Technology (DOIT), shall amend the State's procurement rules and regulations as necessary and appropriate to comply with this directive, and issue 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.

9. Waivers to these procedures may be granted by the Director of the DOA only upon receipt of a written justification from a State Agency and a finding by the Director that a waiver would serve a legitimate and significant interest of the State. The DPUC shall resolve any dispute over the definition of terminology used in this Executive Order.

10. Each State Agency that procures internet, data and telecommunications services shall cooperate with the Division of Purchases and the DPUC in implementing this Executive Order.

11. The DPUC, in consultation with the DOIT, shall evaluate and advise the Governor on potential actions to promote net neutrality to protect Rhode Islanders' access to a free and open internet.

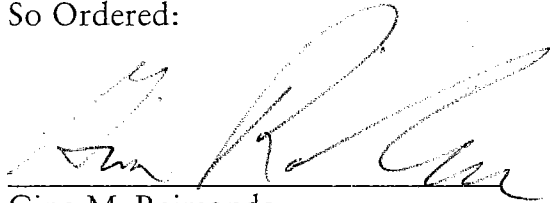
12. Nothing in this Order shall (i) supersede any obligation or authorization a provider of fixed or mobile broadband internet access service may have to address the needs of emergency communications or law enforcement, public safety, or national security authorities, consistent with or as permitted by applicable law, or limit he

provider's ability to do so, or (ii) prohibit reasonable efforts by a provider of broadband internet access service to address copyright infringement or other unlawful activity.

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

This Executive Order shall take effect immediately.

So Ordered:



Gina M. Raimondo  
Governor

Dated: 4/24/18