

STATEMENT OF CONSUMERS UNION
Jonathan Schwantes, Senior Policy Counsel

COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE ON GOVERNMENT OPERATIONS

A PUBLIC ROUNDTABLE ON

PR22-0691 - Sense of the Council Opposing the Repeal of Net Neutrality Rules Resolution of 2017

Wednesday, January 24, 2018

Consumers Union¹ has long supported strong, enforceable net neutrality rules to ensure an open internet for consumers, free of interference by their internet service providers (ISPs). After years of bipartisan attempts to pass workable rules to support and promote net neutrality, the Federal Communications Commission (FCC) finally passed court-approved rules when it adopted the *2015 Open Internet Order*.² That order contained basic rules that guarded against ISPs from blocking or slowing down websites or apps, or prioritizing access and preferring some content for a fee. These rules were formulated based upon an extensive rulemaking record, and with the support of millions of consumers and ultimately, a federal court.

All of this changed last December when the FCC, under new leadership, voted to approve the *Restoring Internet Freedom Order*.³ This order, for all intents and purposes, repealed the Commission's very own net neutrality rules. Though this flawed order has yet to take legal effect, it has already been challenged in federal court, and we expect many of the thorny legal issues—including the order's attempt to preempt state and local net neutrality efforts—to ultimately be resolved in the courtroom. Furthermore, some members of Congress are pushing efforts endorsed by Consumers Union to nullify the FCC's repeal altogether.

¹ Consumers Union is the public policy and advocacy division of Consumer Reports. Consumers Union works for a fair, just, and safe marketplace for all consumers and to empower consumers to protect themselves, focusing on the areas of telecommunications, health care, food and product safety, energy, and financial services, among others. Consumer Reports is the world's largest independent product-testing organization. Using its more than 50 labs, auto test center, and survey research center, the nonprofit organization rates thousands of products and services annually. Founded in 1936, Consumers Reports has over eight million subscribers to its magazine, website, and other publications.

² *In the Matter of Protecting and Promoting the Open Internet*, WC Docket No. 14-28, Report and Order on Remand, Declaratory Ruling, and Order, 30 FCC Rcd 5601 (2015) (Note: the *NPRM* repeatedly refers to this Order as the *Title II Order*; we have chosen to use its more common reference, the *2015 Open Internet Order*).

³ *In the Matter of Restoring Internet Freedom*, WC Docket No. 17-108, Declaratory Ruling, Report and Order, and Order, FCC 17-166 (January 4, 2018) available at: <https://www.fcc.gov/document/fcc-releases-restoring-internet-freedom-order>

The battles are many, and Consumers Union remains firmly on the side of those who share our belief that net neutrality rules benefit consumers. Therefore, we are more than happy to support the DC Council’s Resolution, PR22-0691, which expresses the District’s strong opposition to the FCC’s repeal of the net neutrality rules.

Net neutrality, and the rules that support it, is pretty straightforward. At the risk of over-simplification, we consider how the internet has worked for the last 20 or so years. The millions upon millions of websites, applications, and services that consumers enjoy are like traffic driving up and down a road—a massive, infinite, global amount of traffic delivering packets of data. Whether a consumer is reading an email, streaming music, checking headlines, or sharing photos, it is just a transmission of bytes being sent and received that makes it all possible.

In the two decades that consumers have been doing all of this digital sharing, they have become accustomed to a free and open internet. Whether using the internet at home or on a mobile device, consumers can shop at any website they want, find the news they like to read, and hook up the devices they prefer to use. All of the packets of information traveling back and forth across the internet have been treated the same way without favoritism or discrimination. Consumers expect that legal sites or apps will not be blocked or slowed down (also known as “throttling”). And consumers expect that the fee they pay their ISP every month means they can access *all* the websites and apps they want to visit and use, not just some chosen by the ISP.

Nonetheless, opponents of net neutrality falsely characterized the *2015 Open Internet Order* as the application of “utility-style regulation” to the internet, and charged that the

“decision represented a massive and unprecedented shift in favor of government control of the Internet.”⁴ The authors of the net neutrality repeal defended their efforts by stating it was “proposing to end the utility-style regulatory approach that gives government control of the Internet.”⁵

Not only is “utility-style regulation” left undefined by the FCC, these statements confuse what exactly was being regulated and governed by the *2015 Open Internet Order*. The net neutrality rules contained within the *Order* do not regulate the internet, but rather those ISPs that charge consumers and businesses money to provide *access* to the internet. Similarly, it is unclear how prohibiting an ISP from blocking or throttling lawful internet content that consumers want represents government control of the internet, or of the content contained in it.

More importantly, consumers are not clamoring for the repeal of net neutrality; in fact, evidence confirms that the majority of Americans support net neutrality rules. Because we believe the opinions and views of American consumers are vitally important to any debate on whether or not ISPs should be bound by net neutrality rules, Consumers Union, in partnership with our publication, Consumer Reports, asked Americans last summer to share their views on net neutrality and broadband internet service.⁶ Our survey asked more than a thousand consumers about the role of the internet in their everyday lives, and whether they supported the FCC’s current net neutrality rules.

⁴ *In the Matter of Restoring Internet Freedom*, WC Docket No. 17-108, Notice of Proposed Rulemaking (May 23, 2017) (*NPRM*) at ¶ 3.

⁵ *Id.* at ¶ 5.

⁶ See **Appendix: Net Neutrality, 2017 Nationally-Representative Phone Survey**, Prepared by the Survey Research Department of Consumer Reports (August 11, 2017) (CR Survey)

First and foremost, when consumers were asked how often it is necessary for them to access the internet or use other services provided by their ISP without disruption to carry out their daily activities, 79 percent of those with an ISP responded that they rely on the internet five or more days a week and more than two-third need access to the internet every day.⁷ Moreover, more than 60 percent of American consumers equate the importance of internet service to that of water or electricity service.⁸ When also considering these results, there is no doubt how important access to the internet has become in our everyday lives.

Our survey also asked consumers whether or not they supported the FCC's net neutrality rules. We specifically used the FCC's description of those rules.⁹ More than half of consumers—57 percent—responded that they supported the FCC's net neutrality rules.¹⁰ Only 16 percent said they either strongly opposed or somewhat opposed the rules.¹¹ These results demonstrate that consumer opposition to net neutrality is small—fewer than two in 10. And neither is net neutrality a terribly partisan issue, with 61 percent of consumers identifying themselves as Democrats supporting the rules, and 48 percent of Republicans also responding in support, compared to only 13 percent of Democrats and 21 percent of Republicans opposed.¹² A copy of our survey is attached to this testimony as an appendix, and it was also submitted to the FCC's record of last year's repeal proceeding.

⁷ CR Survey at p. 2-3.

⁸ *Id.*

⁹ CR Survey at p. 4: “The Federal Communications Commission, or FCC, has rules for an Open Internet, sometimes referred to as ‘net neutrality’. These rules prohibit certain practices by internet service providers, to protect your ability to go where you want when you want online. The current net neutrality regulations prohibit internet service providers from blocking or discriminating against lawful content on the internet.”

¹⁰ *Id.* at p. 5.

¹¹ *Id.*

¹² *Id.*

Even more revealing were consumer responses to whether they agreed or disagreed with ISP practices that are currently prohibited by the *2015 Open Internet Order*. For example, 67 percent of all respondents believed that ISPs should not be allowed to choose which websites, apps, or streaming content consumers can access.¹³ Not surprisingly, among those consumers who strongly support the FCC’s net neutrality rules, 82 percent disagreed with allowing ISPs to choose or curate content.¹⁴ But even among those who said they strongly oppose or somewhat oppose net neutrality rules, 57 percent of those consumers also disagreed with allowing ISPs to restrict content.¹⁵

Similar results were found when we asked consumers if ISPs should be allowed to modify or edit (tantamount to throttling) content, or outright censor content. More than half of consumers responded that ISPs should not be allowed to engage in these practices, with 63 percent disagreeing that an ISP should be allowed to “modify or edit content on the internet that customers try to access” and 57 percent opposed to allowing an ISP to censor content.¹⁶ Only 16 percent and 21 percent of consumers, respectively, agreed that ISPs should be allowed to conduct editing activities or censoring.¹⁷

Overall, our survey demonstrates that consumers support the now repealed rules, and would not agree that those net neutrality rules have somehow “denied” them important benefits, as suggested by the authors of last year’s repeal and the ISPs. Maintaining an open internet with strong net neutrality rules is vital to consumers’ everyday experience.

Consumers benefit when the internet is a level playing field and not a place where ISPs can

¹³ *Id.* at p. 6-7.

¹⁴ *Id.* at p. 7.

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.*

pick winners and losers by blocking or throttling competitors, or charging websites and services extra for access with those costs likely passed onto consumers in the form of higher prices.

For these reasons, which are supported by the consumers we surveyed, Consumers Union encourages the Council to give strong consideration to these survey results and to feel confident that a majority of consumers would support the Council's Resolution.

A handwritten signature in black ink, appearing to read 'JS' followed by a stylized flourish.

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APPENDIX

CONSUMER REPORTS

NET NEUTRALITY 2017 Nationally-Representative Phone Survey

Prepared by Survey Research Department
August 11, 2017

CONSUMER REPORTS®

NET NEUTRALITY

2017 Nationally-Representative Phone Survey

Prepared by Survey Research Department

August 11, 2017

INTRODUCTION

In July 2017, Consumer Reports conducted a nationally-representative phone survey to assess attitudes towards the Federal Communications Commission (FCC) regulations on internet service provider (ISP) practices, referred to as net neutrality or open internet. Opinion Research Corporation (ORC) of Princeton, New Jersey administered the survey to a nationally-representative sample of 1,005 U.S. adult residents through its CARAVAN Omnibus Survey. Respondents were selected by means of random-digit dialing and were interviewed via landline or cell phone. The data were statistically weighted so that respondents in the survey are demographically and geographically representative of the U.S. population.

REPORT HIGHLIGHTS

44%

HIGHLY SATISFIED WITH
THEIR INTERNET
SERVICE PROVIDER

Forty-four percent of those individuals with an internet service provider are highly satisfied with the overall quality of service they receive (15% completely satisfied and 29% very satisfied). A small number report that they are completely dissatisfied (4%). Thirteen percent of respondents indicate that they do not have an ISP.

79%

RELY ON THE INTERNET
5-7 DAYS PER WEEK

Americans are dependent on the internet on a daily basis. Almost 80% say it is necessary five or more days per week to access the internet or use other services provided by their ISP without disruption to carry out their daily activities. The largest group of respondents say they rely on the internet every day (68%).

61%

INTERNET IS AS IMPORTANT
AS ELECTRICITY OR WATER

Americans believe that their internet service is a crucial part of their lives. More than half agree with the statement "internet service is as important as electricity or water service in today's world."

74%

HIGH-SPEED ACCESS IS
THE MOST IMPORTANT
FEATURE PROVIDED BY ISP

Of those with an ISP, nearly three-quarters feel that high-speed access to the internet is the most important feature of having an ISP. Receiving an email address through the ISP or web-hosting services was selected as the most important feature far less frequently (12% and 6%, respectively).

57%

SUPPORT
NET NEUTRALITY
REGULATIONS

Over half of Americans say that they support the current net neutrality regulations that prohibit ISPs from blocking or discriminating against lawful content on the internet (31% strongly support; 26% somewhat support). Sixteen percent oppose these regulations, and about a quarter did not express an opinion.

67%

DISAGREE THAT ISPs
SHOULD BE ALLOWED
TO CHOOSE CONTENT

More than half of Americans feel that ISPs should not be allowed to restrict the content consumers receive when accessing the internet. More than two-thirds disagree that ISPs should choose which websites, apps, or streaming services customers can access, while 48% disagree that they should adjust quality and/or speed based on prioritization fees.

FINDINGS

INTERNET USAGE

Respondents were asked to answer a series of questions about their internet service providers, and their use of the internet. They were told to think about the company that provides them with access to the internet and other related services, which may also give them access to cable TV, wireless, or telephone services. If they use more than one provider for these services, respondents were instructed to answer regarding the one that they use most often for internet service.

44%
HIGHLY SATISFIED WITH
THEIR INTERNET
SERVICE PROVIDER

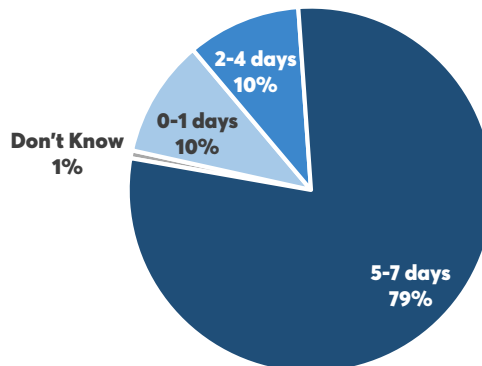
Forty-four percent of Americans with an ISP are highly satisfied with the overall quality of service they receive (15% completely satisfied and 29% very satisfied). A small number report that they are completely dissatisfied (4%). Thirteen percent of respondents indicate that they do not have an ISP.

Among those with an ISP, Americans are dependent on the internet on a daily basis. Americans were asked how often it is necessary for them to access the internet or use other services provided by their ISP without disruption to carry out their daily activities, and almost 80% said five or more days per week. The largest group of respondents say they rely on the internet every day (68%).

Baby Boomers are less likely than Millennials and Gen Xers to say they rely on the internet most days. Even among this group of older adults, 74% say they need internet access five or more days per week, compared to 84% in the younger age groups.

DAYS PER WEEK PEOPLE RELY ON THE INTERNET

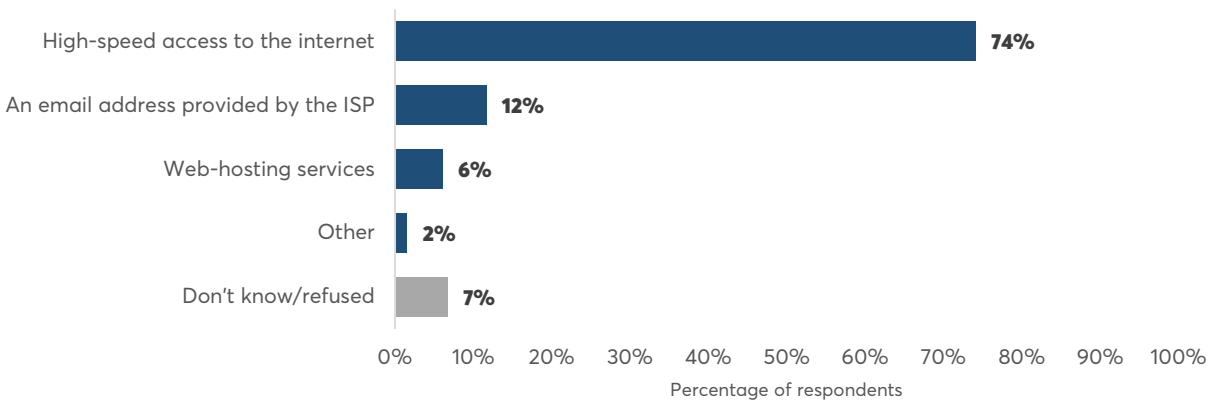
for those respondents with an ISP



Furthermore, many Americans believe that their internet service is a crucial part of their lives. In fact, 61% of Americans agree that "Internet service is as important as electricity or water service in today's world."

Among those Americans with an ISP, we asked which feature they see as the most important offering from their ISPs: High-speed access to the internet, an email address, and web-hosting services. Not surprisingly, nearly three-quarters of individuals feel high-speed internet is the most important feature of having an ISP. Receiving an email address through the ISP (not through a service such as Gmail) or web-hosting services (for example, for a personal or business website), was selected as the most important feature far less frequently (12% and 6%, respectively).

MOST IMPORTANT FEATURE PROVIDED BY YOUR ISP



OPINIONS ON REGULATIONS

Respondents heard the following, based on language from the *Federal Communications Commission* website defining net neutrality, and were asked whether they support or oppose the rules and regulations described:

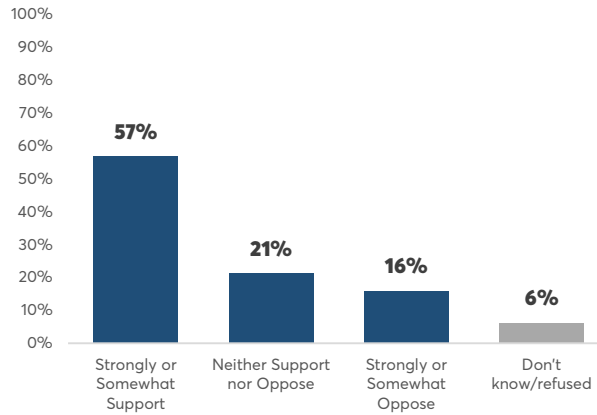
The Federal Communications Commission, or FCC, has rules for an Open Internet, sometimes referred to as 'net neutrality'. These rules prohibit certain practices by internet service providers, to protect your ability to go where you want when you want online. The current net neutrality regulations prohibit internet service providers from blocking or discriminating against lawful content on the internet.

57%

**SUPPORT
NET NEUTRALITY
REGULATIONS**

Over half of Americans say that they support the current net neutrality regulations that prohibit ISPs from blocking or discriminating against lawful content on the internet (31% strongly support; 26% somewhat support). 16% oppose these regulations, and about a quarter did not express an opinion.

**SUPPORT OR OPPOSITION TO
NET NEUTRALITY REGULATIONS**



The table below shows the percentage of Americans who support or oppose these regulations by gender, age group, and political party affiliation. Men are significantly more likely to support these rules than women, and Republicans tend to be less likely to support them than Democrats. There are not significant differences in level of support based on age.

SUPPORT OR OPPOSITION TO CURRENT FCC NET NEUTRALITY REGULATIONS							
	<i>Base: All respondents</i>	Percentage of Respondents					
		Strongly Support	Somewhat Support	Neither Support nor Oppose	Somewhat Oppose	Strongly Oppose	Don't know/refused
Total	1,005	31	26	21	7	9	6
GENDER							
Male	485	39	28	18	5	7	3
Female	520	24	23	24	9	10	9
AGE							
Millennials	316	35	25	25	4	8	3
Gen X	236	31	26	21	7	10	5
Baby Boomers	287	33	26	20	7	10	5
POLITICAL PARTY AFFILIATION							
Democrat	305	38	23	18	7	6	7
Independent, lean Democrat	152	35	29	23	7	6	1
Republican	210	24	24	24	7	14	7
Independent, lean Republican	123	36	25	18	8	9	4
Independent, non-leaning	123	28	22	19	7	17	7

INTERNET SERVICE PROVIDER PRACTICES

Respondents were asked to agree or disagree with a series of statements about what an ISP should be allowed to do. Over half of Americans feel that ISPs should not be allowed to restrict the content consumers receive when accessing the internet. Paid prioritization practices are viewed as permissible by a larger percentage of people than blocking practices. For the four statements provided to respondents, below are the percentages of Americans who do not think ISPs should conduct business in this way:

67% of Americans **DISAGREE** that *An ISP should be allowed to...*

CHOOSE WHICH WEBSITES, APPS, OR STREAMING SERVICES CUSTOMERS CAN ACCESS.

Only 16% of Americans think ISPs should do this, and 17% did not provide an opinion.

63% of Americans **DISAGREE** that *An ISP should be allowed to...*

MODIFY OR EDIT CONTENT ON THE INTERNET THAT CUSTOMERS TRY TO ACCESS.

Only 16% of Americans think ISPs should do this, and 21% did not provide an opinion.

57% of Americans **DISAGREE** that *An ISP should be allowed to...*

CENSOR CONTENT ON THE INTERNET THAT CUSTOMERS TRY TO ACCESS.

Only 21% of Americans think ISPs should do this, and 22% did not provide an opinion.

48% of Americans **DISAGREE** that *An ISP should be allowed to...*

ADJUST QUALITY AND/OR SPEED OF INTERNET CONTENT BASED ON FEES CHARGED TO COMPANIES FOR PRIORITY.

Only 26% of Americans think ISPs should do this, and 26% did not provide an opinion.

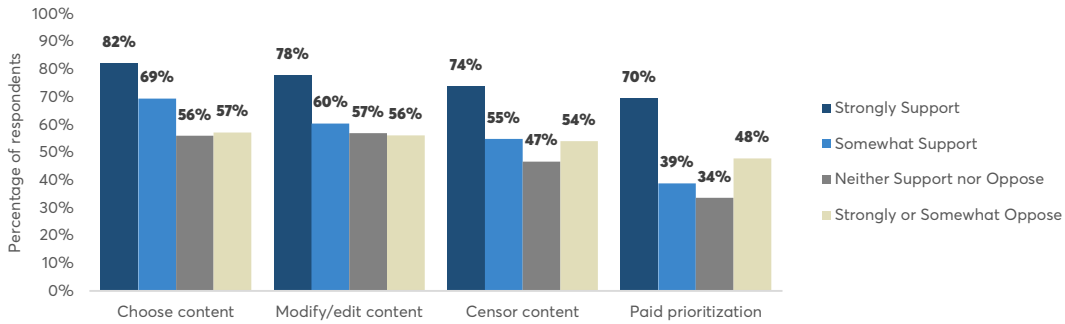
OVERALL, ISP BLOCKING PRACTICES ARE OPPOSED

by more than half of Americans, even those who say they are against net neutrality

Here, individuals are presented with the statements shown above—components of net neutrality regulations—compared to asking them if they support or oppose net neutrality regulations by name, as in the previous section. The graph that follows shows that 82% of people who strongly support net neutrality do not believe that ISPs should be allowed to choose the content it displays. Furthermore, 57% of Americans who say they oppose net neutrality also don't think that ISPs should be able to choose what content it displays. Interesting to note, there is not a significant difference between Republicans and Democrats in their level of disagreement with these four statements.

VIEWPOINTS THAT ISPs SHOULD NOT BE ALLOWED TO DO CERTAIN PRACTICES

among respondents who support or oppose net neutrality regulations



Note: Strongly Oppose and Somewhat Oppose combined due to small sample sizes.

The table below shows the percentage of Americans who agree or disagree with ISP practices by gender, age group, and political party affiliation.

VIEWPOINTS ON WHAT INTERNET SERVICE PROVIDERS SHOULD BE ALLOWED TO DO											
An ISP should be allowed to...	Total %	Gender		Age			Political Party Affiliation				
		Male %	Female %	Millennials %	Gen X %	Baby Boomers %	Dem. %	Ind., lean Dem. %	Rep. %	Ind., lean Rep. %	Ind., non-lean. %
CHOOSE WHICH WEBSITES, APPS, OR STREAMING SERVICES CUSTOMERS CAN ACCESS											
Agree	16	12	20	15	19	15	16	16	19	14	17
No Opinion	15	14	17	7	11	17	14	13	18	11	19
Disagree	67	74	61	78	70	67	68	70	61	75	64
Don't know/refused	2	0	3	0	0	1	2	1	2	0	1
ADJUST QUALITY AND/OR SPEED OF INTERNET CONTENT BASED ON FEES CHARGED TO COMPANIES FOR PRIORITY											
Agree	26	25	27	28	24	26	23	26	30	18	33
No Opinion	24	20	26	19	20	24	25	18	26	18	19
Disagree	48	54	43	52	53	48	50	55	40	64	43
Don't know/refused	2	1	4	0	3	3	2	1	3	0	5
MODIFY OR EDIT CONTENT ON THE INTERNET THAT CUSTOMERS TRY TO ACCESS											
Agree	16	15	16	10	18	18	16	11	20	8	14
No Opinion	19	15	23	16	9	22	22	14	22	11	23
Disagree	63	70	57	74	69	58	60	75	57	81	56
Don't know/refused	2	0	4	1	3	1	2	1	1	0	7
CENSOR CONTENT ON THE INTERNET THAT CUSTOMERS TRY TO ACCESS											
Agree	21	18	23	18	24	23	22	18	21	16	22
No Opinion	21	16	24	14	16	22	20	17	25	14	21
Disagree	57	64	50	68	60	53	56	65	51	70	56
Don't know/refused	1	1	2	0	0	2	2	0	3	0	1
<i>Base: All respondents</i>	1,005	<i>485</i>	<i>520</i>	<i>316</i>	<i>236</i>	<i>287</i>	<i>305</i>	<i>152</i>	<i>210</i>	<i>123</i>	<i>123</i>

SUMMARY

More than half of Americans believe that internet service is “as important as electricity or water in today’s world.” Individuals are dependent daily on their ISP, which gives them access to the internet and other related services, and may even offer them access to cable TV, cellular, or telephone services.

When it comes to what individuals believe should go into policies regulating ISPs, more than half of Americans support the current Federal Communications Commission ruling that prohibits ISPs from blocking or discriminating against lawful content on the internet—referred to as net neutrality. About a quarter of individuals have no opinion on the topic, and a smaller percentage of Americans oppose these regulations. Men are significantly more likely to support these rules than women, and Republicans tend to be less likely to support them than Democrats. There are not significant differences in level of support based on age.

We wanted to know how Americans felt about specific elements of net neutrality, such as allowing ISPs to choose which websites, apps, or streaming services customers can access, to modify or edit content on the internet, to censor content on the internet, or to adjust quality and/or speed of internet content based on fees charged to companies for priority. Paid prioritization practices are viewed as permissible by a larger percentage of people than blocking practices, and generally Americans disagree that their ISPs should participate in blocking activities. Just under half of Americans believe that ISPs should not be allowed to adjust quality or speed for prioritization fees, and more than two-thirds are against them choosing content customers can access.

The topic of net neutrality is complex, and the implications for the consumer of policies regulating ISPs may not be fully understood by all Americans. This is apparent in the finding that more than half of Americans are opposed to ISP blocking practices, even among those who say they are against net neutrality.

With a service that so permeates our lives, it is vital to understand the rules and regulations placed on internet service providers, and the viewpoints of the Americans affected by them.

METHODOLOGY

This phone survey was fielded by ORC using a nationally-representative sample. The survey was conducted from July 20-23, 2017.

The study was conducted using two probability samples: randomly selected landline telephone numbers and randomly selected mobile (cell) telephone numbers. The combined sample consists of 1,005 adults (18 years old and older) living in the continental United States. Of the 1,005 interviews, 504 were from the landline sample and 501 from the cell phone sample. The margin of error for the sample of 1,005 is +/- 3.1% at the 95% confidence level. Smaller subgroups will have larger error margins.

Surveys were collected by trained and supervised U.S. based interviewers using a computer-assisted telephone interviewing system. Where appropriate, response answer choices were randomized. Scale answer choices (for example, strongly agree to strongly disagree) were randomly rotated such that half the sample was always offered positive options first and the other half negative options first. Final data is weighted by age, gender, region, race/ethnicity and education to be proportionally

representative of the U.S. adult population.

Key demographic characteristics (after weighting is applied) are presented below:

- 52% female
- Median age of 46
- 61% White, non-Hispanic
- 32% 4-year college graduates
- 38% have a household income of \$50,000 or more
- 30% Democrat; 21% Republican; 40% Independent (12% *non-leaning*, 15% *lean Democrat*, 12% *lean Republican*)