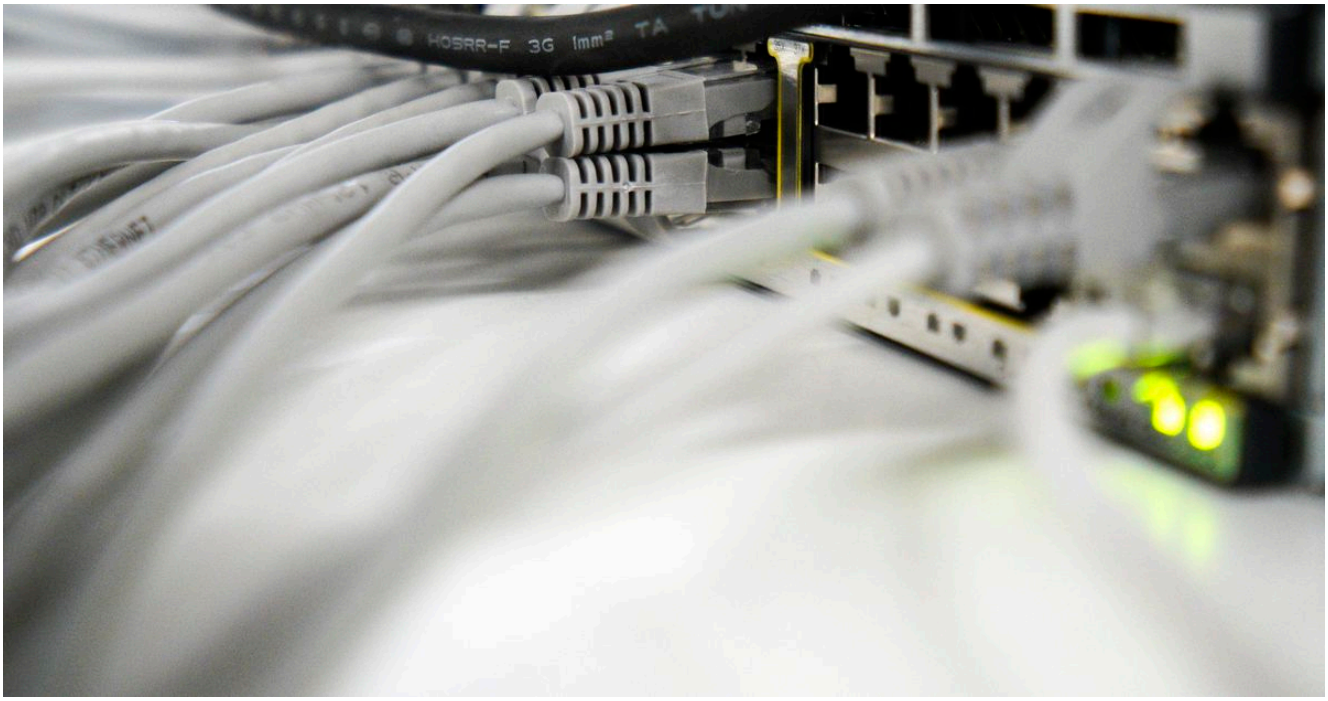
New Yorkers needing affordable internet will have to wait



Internet access is, according to New York's Eastern District Judge Dennis R. Hurley, a "modern necessity." Unfortunately, Judge Hurley wrote those words in an injunction, filed today, to stall a piece of progressive legislation which would have mandated affordable internet availability to all living in New York State – and which would have come into effect early next week.

The bill, known as the Affordable Broadband Act, would have required ISPs serving more than 20,000 households to offer two low-cost plans: one offering speeds of 25 Mbps down for no more than $15 per month, and another offering 200 Mbps down at no more than $20 monthly. It was passed by the state legislature and signed by Governor Cuomo back in April, and would have gone into effect on June 16th.

According to state Assembly member Amy Paulin, the average monthly cost of internet access for New Yorkers is $50; in

general, Americans can pay about double what Europeans do for broadband access.

Of course, no sooner was the bill signed then telecom lobbies sued to stop it from being enacted. According to *Axios*, NY Governor Cuomo was quoted as saying the lawsuit was "nothing more than a transparent attempt by billion-dollar corporations putting profit ahead of creating a more fair and just society." And, love or hate the guy, he has a point there.

The ABA isn't dead in the water, but Judge Hurley's eleventh-hour injunction doesn't bode well. In his determination, he found its enactment is likely to cause "irreparable harm" to telecom companies – either because they're hit with civil penalties for failing to meet the requirements of the ABA, or loss of revenue by charging less for services – among other, base-level findings that allowed the injunction to be found valid.

One particularly interesting arrow in Judge Hurley's quiver, however, was to weaponize other existing programs that help make internet access affordable, specifically the FCC's Emergency Broadband Benefit:

> *While the stated purpose of the ABA is to expand access to broadband internet, that is not to say it is the sole legislative effort doing so. Plaintiffs discuss several federal programs allocating billions of dollars to achieve that same end […] While Defendant argues that the New York Legislature determined these federal benefits were insufficient, that determination was made prior to the FCC's April 29, 2021 announcement that the Emergency Broadband Benefit would become on effective May 12, 2021.*

The Emergency Broadband Benefit is critically different from the ABA in several ways. It does not cap the cost of internet access in any way, and unlike the ABA it's means-tested: applicants need to qualify by showing they meet specific

economic criteria. Those who do can receive $50 off their monthly bill.

So: for now, like the ABA itself, New Yorkers who were hoping for reliable broadband at a reasonable price point are stuck in limbo. While the injunction casts a large shadow over the future of the law, it is, at the end of the day, essentially just a judge saying “look, I need more time to sort all this out.” Hopefully, with some careful consideration, New York can still put a dent in the almost comically consolidated telecommunications sector.

https://www.theverge.com/2021/6/11/22530128/new-york-affordable-internet-15-injunction