美國加州網路中立法遭司法部提告



美國加州州長Jerry Brown於2018年09月30日簽署該州的網路中立(Net Neutrality)Senate Bill 822法案,但美國司法部(Department of Justice,DoJ)隨即於同日對加州提起訴訟。DoJ指出Senate Bill 822法案牴觸聯邦政府於2018年對於網際網路採取解除管制之政策,該法案意圖阻撓聯邦政策的施行,有違美國憲法。

美國國會於1996年針對電信法(The Communications Act)制定「聯邦或州對網路低度管制(unfettered by Federal or State regulation)」之政策,美國聯邦通訊委員會(Federal Communications Commission,FCC)為符合該政策,於2002年發布命令,將寬頻網路接取服務列為資訊服務(information service),而美國不將資訊服務提供者以公共事業來看待並進行管理。雖然FCC於2015年就網路中立性訂立規則,要求網路服務提供者(Internet Service Provider)應平等處理所有資料,不得擅自降低流量速度、封鎖網站或服務,以確保任何人獲取資訊時不受不合理的限制。但FCC於2017年12月取消網路中立規定,並確保網際網路會在FCC之低度管制措施下,持續維持其自由與開放性。

DoJ及FCC均認為,網際網路本質上為跨州資訊服務,依據美國憲法第6條第2項規定,憲法、聯邦法律及美國對外條約為全國之最高法律,跨州之商務(interstate commerce)應屬聯邦管轄事項而非州管轄事項。因此,在聯邦政府已廢除網路中立性的情形下,且州政府沒有制定州際貿易規範的權限,則加州政府通過Senate Bill 822法案對網路立法監管,針對網路使用頒布違法且極端的法令,是企圖藉由Senate Bill 822法案破壞聯邦政府的規定,不當限制網路自由,與聯邦政府政策有所牴觸,此為違法及不利於消費者。故DoJ聲明其有責任捍衛聯邦政府的特權(prerogatives)以及維護憲法秩序。為此,DoJ起訴聲明為禁止加州執行Senate Bill 822法案,並請求法院判決Senate Bill 822法案無效。

雖然美國聯邦政府廢除網路中立性,但此政策受民主黨、Facebook、Amazon等著名大型科技公司及消費者的抨擊。因此,就DoJ起訴加州 Senate Bill 822法案違法,法院是否認同DoJ所主張的牴觸美國憲法,以及美國對於網路中立性議題的後續發展,值得觀察。

- 相關連結
- SB 822 by Senator Scott Wiener (D-San Francisco) Communications: broadband Internet access service
- Justice Department Files Net Neutrality Lawsuit Against the State of California
- OCHAIRMAN PAI STATEMENT ON DEPARTMENT OF JUSTICE DECISION TO FILE LAWSUIT AGAINST CALIFORNIA LAW REGULATING THE INTERNET
- SB-822 Communications: broadband Internet access service
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資料來源:

Governor Brown Issues Legislative Update, SB 822 by Senator Scott Wiener (D-San Francisco) – Communications: broadband Internet access service, Published: Sep 30, 2018, https://www.gov.ca.gov/2018/09/30/governor-brown-issues-legislative-update-22/ (last visited Oct. 11, 2018). Department of Justice Office of Public Affairs, Justice Department Files Net Neutrality Lawsuit Against the State of California, Sunday, September 30, 2018, https://www.justice.gov/opa/pr/justice-department-files-net-neutrality-lawsuit-against-state-california-0 (last visited Oct. 11, 2018). Office of Chairman Ajit Pai, CHAIRMAN PAI STATEMENT ON DEPARTMENT OF JUSTICE DECISION TO FILE LAWSUIT AGAINST CALIFORNIA LAW REGULATING THE INTERNET, Sep 30, 2018, https://www.fcc.gov/document/chairman-pai-doj-lawsuit-against-california-internet-regulation-law (last visited Oct. 11, 2018).

延伸閱讀:

California Legislative Information, SB-822 Communications: broadband Internet access service, Date Published: 10/01/2018, https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill id=201720180SB822 (last visited Nov. 6, 2018).

Federal Communications Commission, CHAIRMAN PAI STATEMENT ON DEPARTMENT OF JUSTICE DECISION TO FILE LAWSUIT AGAINST CALIFORNIA LAW REGULATING THE INTERNET, Sep 30, 2018, https://docs.fcc.gov/public/attachments/DOC-354329A1.pdf (last visited Nov. 6, 2018)

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