

March 21, 2017

The Hon. Marsha Blackburn
Chairman
Committee on Energy & Commerce
Subcommittee on Communications &
Technology
United States House of Representatives
Washington, DC 20515

The Hon. Michael Doyle
Ranking Member
Committee on Energy & Commerce
Subcommittee on Communications &
Technology
United States House of Representatives
Washington, DC 20515

The Hon. Greg Walden
Chairman
Committee on Energy & Commerce
United States House of Representatives
Washington, DC 20515

The Hon. Frank Pallone
Ranking Member
Committee on Energy & Commerce
United States House of Representatives
Washington, DC 20515

Dear Chairman Blackburn, Ranking Member Doyle, Chairman Walden, and Ranking Member Pallone:

As Congress considers how to best address the challenges of closing the digital divide, it is critical that efforts to promote new deployment and investments in broadband infrastructure encourage both widespread access to broadband, as well as competitive, affordable connectivity. Many families, particularly in rural and low-income communities, don't have access to broadband at all, and even consumers in wealthy or densely populated areas consistently lack competitive choices. It is essential that our nation's infrastructure policies effectively deliver greater broadband deployment and access for all, more broadband competition and choice for consumers, and lower prices for essential connectivity.

Broadband access is a basic necessity for full participation in the modern life. Connectivity is an essential tool for economic opportunity, education, healthcare, and civic discourse. The importance of broadband infrastructure is a settled question; today, the key issue for Congress, the Administration, and the Federal Communications Commission ("FCC") to address is how to ensure affordable, reliable access for all Americans, to expand economic opportunity for all. Broadband access is an issue for all underserved communities, whether geographically or demographically underserved. Last year, the FCC found that 39% of households in rural communities have no access to a fixed broadband provider.¹ Broadband access is also lacking in high-density urban areas. For example, just last year the National Digital Inclusion Alliance found that 21% of census blocks in Detroit and Cleveland had access to speeds no greater than 1.5 Mbps - far slower than any modern

¹ Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion, and Possible Steps to Accelerate Such Deployment Pursuant to Section 706 of the Telecommunications Act of 1996, as Amended by the Broadband Improvement Act, GN Docket No. 15-91, *Broadband Progress Report*, 31 FCC Rcd 699, 736 ¶ 86 (2016) ("*2016 Broadband Progress Report*").

definition of broadband.² The bulk of those census blocks were low-income inner city communities.³

In addition to the lack of broadband availability in rural and low-income areas, many Americans also lack access to affordable connectivity where there is deployment. Often, high prices are a result of a lack of competitive options for consumers to choose from. According to the FCC, 61% of U.S. households have at most one provider for fixed broadband. In rural communities, the problem is even more pronounced – only 13% of households have more than one choice of broadband provider.⁴ The fixed broadband marketplace is not serving the needs of consumers, and lacks any semblance of competition for more than half of all Americans. A direct result of this lack of meaningful competition is that consumers pay inflated prices for broadband access - at least \$60 billion annually, and approximately \$250 billion over the past five years, according to the Consumer Federation of America.⁵

While high prices have driven robust rates of return on capital investment for broadband providers, they have not led those providers to invest those profits into deployment to rural, unserved, and underserved communities. Although broadband providers may promise that high prices and profits will fund expansion and infrastructure investment in rural and low-income areas, the market has failed to deliver on those promises, leaving millions of Americans on the wrong side of the digital divide.

From small towns to the densest inner cities, the broadband industry is not serving everyone. The free market does not function without competitive pressure providing consumer choice, driving down prices, improving quality, and incentivizing innovation. Americans literally cannot afford to wait any longer. Every year that goes by without access is a year without reading supplements for a low income third grader; or a year without remote health care access for veterans; or another year of entrepreneurs leaving small towns for opportunities in a major city. While millions wait on the wrong side of the digital divide, giant broadband and media companies continue to consolidate the market under the control of two or three companies without providing solutions for those who are left behind.

² National Digital Inclusion Alliance, “Access from AT&T” Not Available to 1.5 Mbps Households, Sept. 5, 2016, <https://digitalinclusion.org/blog/2016/9/5/access-from-att-problem/> (last visited Feb. 27, 2017).

³ See National Digital Inclusion Alliance and Connect Your Community, AT&T’s Digital Redlining of Cleveland, Mar. 10, 2017, <https://digitalinclusion.org/blog/2017/03/10/atts-digital-redlining-of-cleveland/> (last visited Mar. 20, 2017) (finding FCC Form 477 data show “22% of Cleveland Census blocks were reported by AT&T to have maximum residential download speeds of 3 mbps or less. 55% had maximum download speeds no greater than 6 mbps. The comparable percentages for the rest of Cuyahoga County were 12% and 24%, respectively.”).

⁴ *2016 Broadband Progress Report*, at 736 ¶ 86.

⁵ See Mark Cooper, Consumer Federation of America, *Overcharged and Underserved: How a Tight Oligopoly on Steroids Undermines Competition and Harms Consumers in Digital Communications Markets* x, 4, 104, 172 (2016), <http://consumerfed.org/wp-content/uploads/2016/12/Overcharged-and-Underserved.pdf> (finding that a typical household pays approximately 25% more for telecommunications services than they would in a competitive market, totaling about \$45 per month (\$540 per year) per household, and \$60 billion per year across all households).

There is no silver bullet policy that alone will close the digital divide by making broadband available and affordable for all. Instead, policymakers and regulators should pursue an “all of the above” strategy to promote deployment, competition, and affordable access. These policies should include, but not be limited to:

- easing access to physical infrastructure to speed deployment, such as requiring dig once and one touch make ready polices, as well as streamlining access to federal lands and assets;
- pre-empting state laws that make it difficult for communities to self-provision broadband service or enter into public-private partnerships to connect communities;
- making broadband availability data more accurate and easily accessible through maintaining the National Broadband Map and requiring improved reporting and accuracy in FCC Form 477 data;
- reforming the contribution mechanism for the Universal Service Fund to include a broader range of services;
- addressing the high cost of backhaul to wireless towers, base stations, and cell sites paid by competitive and rural wireless providers;
- speeding the availability of additional spectrum for mobile broadband services, including licensed, unlicensed, and shared spectrum in low, mid, and high-band frequencies;
- fully implementing the 2016 *Lifeline Modernization Order* and standing up the National Eligibility Verifier to encourage provider participation and bring additional competition and choice to low-income subscribers in the Lifeline program;
- and ensuring that technology transitions and network upgrades bring affordable, reliable, high-quality services to all Americans, even those in communities that may not economically support multiple service providers.

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The lack of competition and consumer choice, and the high prices being charged to those who do have service, is both a drain on the pocketbooks of average families, and a barrier to the economic success of those who happen to live outside a fixed broadband service area. The market has not addressed these problems. Policymakers must prioritize broadband availability and affordability to make meaningful progress toward closing the digital divide. It is time for Congress to craft meaningful, effective, and inclusive policies to promote competition and foster buildout where the free market has failed to provide affordable connectivity.

Sincerely,

Christopher Lewis
Vice President
Public Knowledge