U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON ENERGY AND COMMERCE

February 11, 2015

TO: Members, Committee on Energy and Commerce

FROM: Committee Majority Staff

RE: Full Committee Markup

I. INTRODUCTION

The Committee on Energy and Commerce will meet in open markup session on February 11-12, 2015, in 2123 Rayburn House Office Building.

On Wednesday, February 11, 2015, at 5:00 p.m. the Committee will convene for opening statements only. The Committee will reconvene on Thursday, February 12, 2015, at 10:00 a.m. to consider the following:

- H.R. 734, Federal Communications Commission Consolidated Reporting Act of 2015;
- H.R. 212, Drinking Water Protection Act, as amended and forwarded by the Subcommittee on Environment and the Economy;
- H.R. 471, Ensuring Patient Access and Effective Drug Enforcement Act of 2015;
- H.R. 639, Improving Regulatory Transparency for New Medical Therapies Act, as amended and forwarded by the Subcommittee on Health;
- H.R. 647, Access to Life-Saving Trauma Care for All Americans Act; and,
- H.R. 648, Trauma Systems and Regionalization of Emergency Care Reauthorization Act.

In keeping with Chairman Upton's announced policy, Members must submit any amendments they may have two hours before they are offered during this markup. Members may submit amendments by email to peter.kielty@mail.house.gov. Any information with respect to an amendment's parliamentary standing (e.g., its germaneness) should be submitted at this time as well.

II. LEGISLATION

A. H.R. 734, Federal Communications Commission Consolidated Reporting Act of 2015

The Federal Communications Consolidated Reporting Act passed the House in May 2012 on a voice vote, and again in September 2013 in a unanimous vote. It seeks to relieve burdens on the Federal Communications Commission (FCC) and make reports more meaningful. By eliminating outdated studies and consolidating the ones that remain into a biennial release, the Commission will be more efficient and can provide more useful information. The draft also proposes a "State of the Industry" report, focused on the challenges and opportunities in the marketplace, as well as the chairperson's plan of action.

Section 1. Short Title: Section 1 would provide a Short Title of "Federal Communications Commission Consolidated Reporting Act of 2015."

Section 2. Communications Marketplace Report: Section 2 would add section 13 to the Communications Act.

New Section 13(a)—Communications Marketplace Report. New section 13(a) would require the FCC to publish and submit to Congress a communications marketplace report synched to the two-year Congressional cycle.

New Section 13(b)—Contents. New section 13(b) would require the FCC to assess the state of competition in the communications marketplace, the state of deployment, including the deployment of advanced telecommunications capability, and regulatory barriers to market entry and competitive expansion. The subsection also would require the FCC to identify the issues it plans to address over the next two years as a result of this assessment and to report on its progress on those issues previously identified.

New Section 13(c)—Special Considerations. New section 13(c) would require the FCC to consider intermodal, facilities-based, and Internet-based competition and to compile a list of geographic areas that are not served by any provider of advanced telecommunications capability. The subsection also would empower the FCC to consider international and demographic data in making its assessments. In addition, the FCC would be required to consider market entry barriers for small businesses. Finally, the FCC would be required to report the aggregate average total amount paid by cable systems in compensation under section 325 of the Communications Act.

Section 3. Consolidation of Redundant Reports; Conforming Amendments: Section 3 would consolidate into a Communications Marketplace Report the ORBIT Act Report, the Satellite Competition Report, the International Broadband Data Report, the Status of Competition in the Market for the Delivery of Video Programming Report, the Report on Cable Industry Prices, Triennial Report Identifying and Eliminating Market Entry Barriers for Entrepreneurs and Other Small Businesses, the Section 706 Report, and the Report on the State of Competitive Market Conditions With Respect to Commercial Mobile Radio Services.

Section 3 would strike from the Communications Act outdated or already repealed reports, including the Report on Competition between Wire Telephone and Wire Telegraph Providers, the 1997 Report on Spectrum Auctions, and several reports repealed by the Federal Reports Elimination and Sunset Act of 1995.

Section 4. Effect on Authority: Section 4 would specify that this Act does not alter the authority of the Commission in any way.

B. H.R. 212, Drinking Water Protection Act

Background: Contamination by algal blooms in a public water system's source water gained attention early this past summer when blue-green algae (cyanobacteria) laced with a toxin called microcystin (a cyanotoxin), were found in Lake Erie and Toledo's Collins Water Treatment Plant. On August 2, 2014, based upon two sample readings for microcystin registering above Ohio's one (1) microgram per liter standard, the City of Toledo, Ohio urged all customers of Toledo water not to drink or boil its treated tap water until an "all clear" was issued.[1,2] Two days later, the Mayor of Toledo announced that the water was safe to drink and lifted the advisory.[3] In the interim, residents were advised against using the water to brush their teeth, bathe their children, or give to their pets, and after the ban was lifted, the city banned swimming and other recreational activities in one of the drinking water reservoirs.[4]

Current Law: No enforceable Federal standards or guidelines have been established for algal toxins in drinking water. Nine states have some kind of response requirements for one or more algal toxins, including Ohio and Oregon, which use as guidance the World Health Organization's provisional drinking water standard of 1 microgram per liter (µg/L, or parts per billion) for microcystin-LR, one of the most common and harmful algal toxins.

Summary of H.R. 212: H.R. 212, as amended by the Subcommittee on Environment and the Economy, was forwarded to the full Committee by a voice vote on February 5, 2015. The bill, as amended, contains three main components:

First, the bill would require the Environmental Protection Agency (EPA), within 90 days of its enactment and subject to later updates, to develop and submit to Congress a strategic plan for assessing and managing risks from algal toxins in drinking water provided by public water systems. The strategic plan must include steps and timelines EPA plans to follow for:

- evaluating risks to human health;
- publishing a comprehensive list of algal toxins EPA determines may have an adverse effect on human health when present in that drinking water, taking into account likely exposures;
- summarizing known adverse human health effects of algal toxins;
- identifying factors that make toxin-producing cyanobacteria and algae to become harmful;
- determining whether to publish health advisories on specific algal toxins, establishing guidance for feasible analytical methods to quantify the presence of algal toxins, and setting guidance on monitoring frequency;
- recommending feasible treatment options, including procedures, equipment, and source water protection practices, to mitigate any adverse health effects caused by identified algal toxins; and,
- entering into cooperative agreements and providing technical assistance to affected States and public water systems to aid in managing risks associated with algal toxins in drinking water.

[1] http://www.who.int/water_sanitation_health/dwq/chemicals/microcystinsum.pdf?ua=1
[2] http://toledo.oh.gov/news/2014/08/urgent-water-notice/
[3] http://www.washingtonpost.com/news/post-nation/wp/2014/08/04/toledo-mayor-lifts-ban-declares-drinking-water-safe/
[4] http://www.toledoblade.com/local/2014/08/20/Toxin-from-algae-prompts-ban-on-swimming-at-Ohio-reservoir.html

Second, the bill requires EPA to identify gaps in (1) its understanding of the human health effects of algal toxins and (2) the methods and means of testing and monitoring for the presence of harmful algal blooms in the source water of or drinking water provided by public water systems. EPA, as appropriate, is then asked to consult with other Federal agencies, States, operators of public water systems, multinational agencies, foreign governments, research and academic institutions, and companies that provide drinking water treatment options and to assemble and publish information from Federal agencies that examine cyanobacteria or algal toxins or address public health concerns related to harmful algal blooms.

Finally, the bill requires the Government Accountability Office to inventory and report to Congress on Federal spending, between fiscal years 2010 and 2014, on analyses and public health efforts of the Federal government on toxins producing cyanobacteria and algae, including the specific purpose for which the funds were made available, the law under which the funds were authorized, the Federal agency that received or spent the funds, and recommended steps to reduce any duplication, and improve interagency coordination, of such expenditures.

C. H.R. 471, Ensuring Patient Access and Effective Drug Enforcement Act of 2015

H.R would amend the Controlled Substances Act (CSA) to help prevent prescription drug abuse, establish clear and consistent enforcement standards, and ensure that patients have access to medications by promoting collaboration among government agencies, patients, and industry stakeholders. The bill is based on H.R. 4709, which passed the House in the 113th Congress.

D. H.R. 639, Improving Regulatory Transparency for New Medical Therapies Act

H.R. 639 would amend the CSA to require the Drug Enforcement Agency (DEA) to act on a recommendation from the Food and Drug Administration (FDA) to add a drug or substance that has never been marketed in the United States to a schedule of controlled substances within a specified period. Currently, new drug and substances that previously have not been marketed in the United States and that have abuse potential must be scheduled under the CSA by the DEA prior to being marketed. The CSA currently provides no deadline for the DEA to act after receiving a recommendation. The amount of time the DEA has taken before acting on FDA recommendations has increased significantly in recent years, delaying the availability of these drugs and substances to patients. The legislation is based on H.R. 4299, which passed the Committee during the 113th Congress.

E. H.R. 647, Access to Life-Saving Trauma Care for All Americans Act

H.R. 647 would amend the Public Health Service Act to reauthorize Trauma Center Care Grants. These grants aid hospitals in handling their substantial uncompensated care costs from traumatic injuries.

F. H.R. 648, Trauma Systems and Regionalization of Emergency Care Reauthorization Act

H.R. 648 would amend the Public Health Service Act to reauthorize Trauma Care Systems Planning Grants, which support State and rural development of trauma systems. It also would reauthorize pilot projects to implement and assess regionalized emergency care models. The legislation is based on H.R. 4080, which passed the House during the 113th Congress.

III. STAFF CONTACTS

If you have any questions regarding H.R. 734, please contact David Redl or Kelsey Guyselman. If you have any questions regarding H.R. 212, please contact David McCarthy or Jerry Couri. If you have any questions regarding H.R. 471 or H.R. 639, please contact John Stone or Carly McWilliams. If you have any questions regarding H.R. 647 or H.R. 648, please contact Katie Novaria. The Committee staff can be reached at (202) 225-2927.