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4 MARKUP ON H.R. _____, THE FEDERAL COMMUNICATIONS COMMISSION

5 PROCESS REFORM ACT; AND

6 H.R. _____, THE FEDERAL COMMUNICATIONS COMMISSION

7 CONSOLIDATED REPORTING ACT

8 THURSDAY, July 25, 2013

9 House of Representatives,

10 Subcommittee on Communications and Technology

11 Committee on Energy and Commerce

12 Washington, D.C.

13 The subcommittee met, pursuant to call, at 9:00 a.m., in

14 Room 2123 of the Rayburn House Office Building, Hon. Greg

15 Walden [Chairman of the Subcommittee] presiding.

16 Present: Representatives Walden, Latta, Scalise, Lance,

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17 Gardner, Kinzinger, Upton (ex officio), Eshoo and Dingell.
18 Staff present: Gary Andres, Staff Director; Ray Baum,
19 Senior Policy Advisor/Director of Coalitions; Mike
20 Bloomquist, General Counsel; Matt Bravo, Professional Staff
21 Member; Andy Duberstein, Deputy Press Secretary; Kelsey
22 Guyselman, Counsel, Telecom; Sydne Harwick, Legislative
23 Clerk; Brittany Havens, Legislative Clerk; Andrew Powaleny,
24 Deputy Press Secretary; David Redl, Counsel, Telecom;
25 Charlotte Savercool, Legislative Coordinator; Tom Wilbur,
26 Digital Media Advisor; Jen Berenholz, Democratic Chief Clerk;
27 Shawn Chang, Democratic Senior Counsel; Margaret McCarthy,
28 Democratic Professional Staff Member; Roger Sherman,
29 Democratic Chief Counsel; and Kara van Stralen, Democratic
30 Special Assistant.

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|
31 H.R. _____

32 Mr. {Walden.} We will call to order the Subcommittee on
33 Communications and Technology. The chair recognizes himself
34 for an opening statement.

35 Reforming the FCC process is an issue that this
36 subcommittee is no stranger to. Over the past 2-1/2 years,
37 we have had multiple hearings, marked up two bills last time
38 and passed both of them on the House Florida with bipartisan
39 support. Throughout this process, I think that it has been
40 well established where my colleagues in the minority and I
41 disagree on some specific language in the bill. However, we
42 do agree that all government agencies should have a
43 transparent, predictable and consistent process that ensures
44 the agency is productive in carrying out its
45 responsibilities.

46 Two weeks ago, the subcommittee met for a legislative
47 hearing on these two bills, and I am proud to say that there
48 is no little to no disagreement on the need for and language
49 in the consolidated reporting bill. Reducing the burden on
50 the FCC by eliminating outdated reports and consolidating its

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51 remaining reporting obligations is the kind of commonsense
52 legislation that helps make our government smaller and more
53 nimble in the information economy. So I look forward to
54 moving this bill expeditiously with bipartisan support.

55 At that same hearing, however, some of the witnesses and
56 some of my colleagues expressed concerns with certain aspects
57 of the process reform bill. The version that we are
58 considering today incorporates a number of changes that were
59 suggested in that hearing. This kind of productive,
60 bipartisan debate has been a hallmark of this subcommittee
61 and it has produced successful collaborative legislation in
62 the past. To that end, in lieu of lengthy debate on a number
63 of amendments, yesterday Ranking Members Waxman and Eshoo
64 agreed to vote this bill out of subcommittee and to continue
65 working together to try and find a legislative solution that
66 achieves our shared goal.

67 Make no mistake, I still stand behind the language in
68 this bill. I believe that it would produce a more productive
69 and predictable FCC that could serve as a model for
70 administrative agencies throughout the federal government.
71 But despite our differences, I am not ready to throw in the

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72 towel on a bipartisan approach. I have instructed my staff
73 to work over the August recess with their counterparts in Mr.
74 Waxman and Ms. Eshoo's offices to see if we can't find some
75 sort of common ground and agreement. I thank the ranking
76 members for their willingness to continue these important
77 discussions.

78 [The prepared statement of Mr. Walden follows:]

79 ***** COMMITTEE INSERT *****

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|
80 Mr. {Walden.} I would yield to the vice chair of the
81 committee, Mr. Latta.

82 Mr. {Latta.} I thank the chairman for yielding, and Mr.
83 Chairman, again, thank you very much for holding this markup
84 today on the FCC Process Reform Act and the FCC Consolidated
85 Reporting Act. I commend the chairman for previously holding
86 hearings examining FCC processes. We have all learned a
87 great deal with a wide array of witnesses.

88 I have learned that the bills before us today are
89 commonsense reform measures that will bring transparency and
90 accountability to the FCC. Furthermore, the proposed changes
91 in the FCC will bring regulatory certainty to the entire
92 communications marketplace that can lead to investment,
93 innovation and job creation. The costs of regulation to
94 American businesses and hence to our economy is too great to
95 ignore. With the telecommunications industry driving a
96 significant portion of the economic growth in our country
97 during the recent economic downturn, as Members of Congress,
98 we should make sure that the FCC does not promulgate
99 regulations that hamper this sector of the economy,

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100 especially if they are made behind closed doors without
101 publication in the Federal Register or for lawmakers,
102 industry and consumers to review.

103 Several weeks ago, I introduced H.R. 4649, the FCC
104 Analysis of Benefits and Costs Act of 2013, which would
105 require the FCC to conduct a cost-benefits analysis at the
106 time of a proposed rule and again at the time of the final
107 rule. I thank the chairman for including the cost-benefit
108 analysis as a requirement for economically significant rules
109 in the discussion draft. Every business, and family, for
110 that matter, must make tough decisions based on these
111 calculations, and so should the agency that oversees the
112 telecommunications in the United States.

113 Mr. Chairman, with that, I yield back the balance of my
114 time.

115 [The prepared statement of Mr. Latta follows:]

116 ***** COMMITTEE INSERT *****

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|
117 Mr. {Walden.} I appreciate that, and I wonder if Mr.
118 Kinzinger wants to make any opening comments regarding the
119 legislation.

120 Mr. {Kinzinger.} Mr. Chairman, with the changes, I
121 will--

122 Mr. {Walden.} Anyone else on our side? If not, then I
123 will return the balance of time and now recognize my friend
124 and colleague from California, Ms. Eshoo, for 5 minutes for
125 her opening statement.

126 Ms. {Eshoo.} Thank you, Mr. Chairman. Good morning to
127 you.

128 First of all, thank you for committing to work with
129 Democrats to address the substantial concerns raised in the
130 subcommittee's July 11th hearing, ``Improving the FCC
131 Process.'' Because we share a common goal of strengthening
132 the FCC and modernizing it to increase openness, transparency
133 and accountability, I remain very hopeful that we can reach
134 an agreement and do so without being overly prescriptive.

135 I want to acknowledge and commend you on the latest
136 revisions made to the FCC Process Reform Act. These

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137 improvements reflect the testimony of our expert witnesses
138 and signal to me a willingness to find common ground on
139 provisions that improve the overall operation of the FCC.

140 I support the FCC Consolidated Reporting Act of 2013,
141 which recognizes that there are opportunities to streamline
142 many of the outdated reporting requirements Congress has
143 placed on the FCC. At a time in which agency resources are
144 limited, we should ensure that the FCC is maximizing its
145 staff time.

146 It isn't a surprise that I don't support provisions that
147 would gut the FCC's ability to protect the public interest in
148 media and telecom mergers but there are other areas where I
149 believe compromise is possible. For example, directing the
150 FCC to complete a rulemaking that considers procedural
151 changes to its rules is one way to maximize public
152 participation and efficient decision making without, again,
153 being overly prescriptive.

154 So Mr. Chairman, with so many important issues before
155 the Commission today, neither of us wants to see the FCC
156 hamstrung by years of litigation. I want to thank you again
157 for agreeing to work with us, to work with me and my staff to

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158 find agreement on the FCC Process Reform Act prior to markup
159 at the full committee, and I would also like, Mr. Chairman,
160 for unanimous consent to place Mr. Waxman's opening comments
161 into the record since he can't be here this morning.

162 Mr. {Walden.} Without objection.

163 [The prepared statement of Mr. Waxman follows:]

164 ***** COMMITTEE INSERT *****

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|

165 Ms. {Eshoo.} And I would also like to congratulate
166 David being at the table for the first time in this new role.
167 Bravo.

168 With that, I yield back the balance of my time.

169 [The prepared statement of Ms. Eshoo follows:]

170 ***** COMMITTEE INSERT *****

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|
171 Mr. {Walden.} The gentlelady yields back the balance of
172 her time. Is there anyone else in the Republican side
173 seeking to make any statements this morning? Does the chair
174 wish to issue one? Okay. And on this side, Mr. Dingell, do
175 you have any statements you want to issue this morning?

176 Mr. {Dingell.} I have no statement, Mr. Chair.

177 Mr. {Walden.} Thank you. I appreciate that. Then I
178 think we will move to call up the committee print titled
179 ``Federal Communications Commission Process Reform Act of
180 2013'' and ask the clerk to report.

181 The {Clerk.} Discussion draft to amend the
182 Communications Act of 1934 to provide for greater
183 transparency and efficiency in the procedures followed by the
184 Federal Communications Commission.

185 [H.R. ____ follows:]

186 ***** INSERT 1 *****

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|
187 Mr. {Walden.} Without objection, the first reading of
188 the bill is dispensed with and the bill will be open for
189 amendment at any point. So ordered.

190 Are there any bipartisan amendments to the bill? Are
191 there any amendments to the bill, any other amendments?

192 If not, the question now occurs on favorably reporting
193 the Committee Print to the full committee.

194 All those in favor shall signify by saying aye.

195 All those opposed, no.

196 The ayes have it, and the Committee Print is favorably
197 reported.

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198 H.R. _____

199 Mr. {Walden.} The chair now calls up the Committee

200 Print titled ``The Federal Communications Commission

201 Consolidated Reporting Act of 2013'' and ask the clerk to

202 report.

203 The {Clerk.} Discussion draft to amend the

204 Communications Act of 1934 to consolidate the reporting

205 obligations of the Federal Communications Commission in order

206 to improve congressional oversight and reduce reporting

207 burdens.

208 [H.R. _____ follows:]

209 ***** INSERT 2 *****

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|
210 Mr. {Walden.} Without objection, the first reading of
211 the bill is dispensed with and the bill will be open for
212 amendment at any point. So ordered.

213 Are there any bipartisan amendments to the bill? Are
214 there any other amendments?

215 The question now occurs on forwarding the Committee
216 Print to the full committee.

217 All those in favor will say aye.

218 Those opposed, no.

219 The ayes appear to have it. The ayes do have it, and
220 the bill is agreed to.

221 Without objection, the staff is authorized to make
222 technical and conforming changes to the bill as approved by
223 the subcommittee today. So ordered.

224 And without objection, the subcommittee now stands
225 adjourned.

226 [Whereupon, at 9:10 a.m., the Subcommittee was
227 adjourned.]