

Testimony of
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on

“Breaking Down Barriers to Broadband Infrastructure Deployment”

before the
House Energy & Commerce
Subcommittee on Communications & Technology

October 28, 2015



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Chairman Walden, Ranking Member Eshoo, and members of the Subcommittee, thank you for the opportunity to participate in today’s panel on “Breaking Down Barriers to Broadband Infrastructure Deployment.”

Sound infrastructure policy is a necessary complement to good spectrum policy. CTIA commends the Subcommittee for its continued leadership in working toward a long-term spectrum plan to ensure that America’s wireless industry can continue to be the world’s leader and an engine for investment and innovation. However, it is also essential for the Subcommittee to take steps to promote reasonable, predictable processes to enable the deployment of the infrastructure necessary to put that spectrum to work. Toward that end, CTIA commends the Eshoo-Walden “Dig Once” bill introduced last week and the staff discussion drafts that are the subject of this hearing. Taken comprehensively, these proposals can help CTIA’s members effectively deploy the world’s most advanced wireless networks.

Non-Federal Sites

Building out wireless infrastructure to ensure that all Americans have broadband capabilities will require access to locations controlled by the Federal government and others. On the non-federal side, the Federal Communications Commission (“FCC” or “Commission”)’s November 2009 “shot-clock” Order (*In re Petition for Declaratory Ruling*, 24 FCC Rcd. 13994, 14001) produced a framework that helps in the roughly three-quarters of the country governed by the municipal zoning process. That framework, which resulted from a petition filed by CTIA, led to the establishment of a 90-day deadline for action by municipal authorities to act on collocation requests (that is, an application to place a new antenna on an existing structure) and 150 days to process all other applications. CTIA supported the Commission’s Order and intervened in support of the FCC in its defense of the Order throughout the appellate process (culminating in a 2013 U.S. Supreme Court decision, *City of Arlington, Texas, et al. v. Federal Communications Commission, et al.*, upholding the Order).

That decision has already begun to produce positive results. In the period following the imposition of the “shot-clock,” siting applications that had been backlogged began moving through the approval process, accelerating the rate of facilities deployment and improving

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network coverage. This successful “shot-clock” concept has now become a statutory obligation in a number of states, most recently in California with enactment of AB 57 just three weeks ago. CTIA is hopeful that other states will follow suit.

Congress took an additional and equally important step supporting access to non-federal sites by adopting Section 6409 of the 2012 Middle Class Tax Relief and Job Creation Act. In particular, Section 6409(a) provides that “a State or local government may not deny, and shall approve, any eligible facilities request for a modification of an existing wireless tower or base station that does not substantially change the physical dimensions of such tower or base station.” This ability to collocate by right has been enormously helpful as carriers have migrated from 3G to 4G and upgraded antenna deployments to do so. This will be even more critical as we transition from 4G to 5G and greater network densification helps enable the Internet of Things.

But more needs to be done. The Commission has helpfully initiated work to reduce the burdens on implementing small cells and permit greater access to so-called Twilight Towers (*i.e.*, towers that may lack paperwork associated with historic preservation review and which therefore may be ineligible for collocating wireless facilities). That work should be completed expeditiously.

Federal Sites

Unfortunately, the provisions of Section 6409 affecting use of federal property have not been as successfully, or as rapidly, implemented, as the provisions authorizing collocation by right on non-federal land. Section 6409(c)(1) states that within 60 days of the law’s February 2012 enactment the Administrator of General Services was to establish common processes and contracts for the deployment of wireless antenna structures on federal buildings or property, while Section 6409(b) requires development of a common form for applications for federal easements and rights-of-way. Congress’ directive is consistent with Executive Order 13616 (issued in June 2012), which required the General Services Administration (“GSA”) to consult with the Federal Property Working Group to develop application forms, master contracts, and fees consistent with Section 6409. Subsections (b) and (c) of Section 6409 have only recently been acted upon by the GSA. While we commend GSA for its efforts, the relief envisioned by 6409(b) and (c) and the Executive Order will come only if those provisions are fully

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implemented and ultimately utilized in a consistent manner by agencies across the federal government. Congressional help in this effort, through effective oversight and, if necessary, additional legislation, is key to improving the siting experience in the federal space.

That is important because the federal government controls approximately 28 percent of the land mass of the United States, as well as thousands of buildings across the country. Siting on these properties or buildings is often complicated and time-consuming. Delays result in investment deferred or denied, with negative consequences for industry and consumers alike. Similarly, even where antennas have been deployed, the process for lease renewal is often unnecessarily lengthy and bureaucratic. Thus, it is CTIA's view that it would be beneficial to take actions that make the federal siting process look more like the municipal siting process. More complete implementation of Section 6409 of the 2012 Spectrum Act and the 2012 Executive Order will help produce that result. Further, the wireless industry appreciates the efforts of the Broadband Opportunity Council, which recently announced several recommendations and timelines to help expedite infrastructure siting. This is a good start and CTIA is hopeful that, with appropriate monitoring by Congress, agencies will achieve the Broadband Opportunity Council's goals.

Action on these fronts will produce several benefits. First, because industry isn't looking for free access to these sites, facilitating siting on federal properties will produce revenue for the government. Second, it will assist industry in its efforts to enhance service in areas where service is already available and to extend service in areas where it may be lacking. That drives investment and jobs. And finally, by further deploying wireless networks, we can enable users in government, the private sector, and the public at large to leverage America's world-leading wireless networks to improve their lives.

How Congress Can Help

In addition to moving forward with the "Dig Once" bill and the staff discussion drafts, CTIA offers several recommendations for action by Congress. *First*, just as the FCC "shot-clock" imposed a deadline for municipal authorities to act on siting applications, agencies should have a deadline for acting on requests to site on federal land, buildings, or other properties, including access to federal rights-of-way. Like the "shot-clock" framework, those deadlines should account

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for requests to collocate on existing structures. *Second*, to the maximum extent practicable, all agencies should be encouraged to consistently use a common process and contracts established by GSA pursuant to Section 6409(c) of the Spectrum Act. *Third*, while the FCC has been working diligently, Congress should direct the Commission to conclude work on its Distributed Antenna System (“DAS”) and Small Cell Deployment proceeding (WT Docket 15-180) by a firm deadline, ideally within a year, consistent with the agency’s own timeframe for finalizing streamlined rules. *Finally*, Congress should direct the FCC to affirmatively state that Twilight Towers that have not been subject to prior historic preservation objections need not be processed under Section 106 of the National Historic Preservation Act (“NHPA”). Such a determination will facilitate collocations on Twilight Towers, thereby contributing to the more rapid deployment of wireless broadband services. Collectively, these actions will improve carriers’ ability to deploy wireless infrastructure and enhance America’s economic well-being.

Thank you again for the opportunity to testify.