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6 MARKUP OF:

7 H.R. 2666, NO RATE REGULATION OF

8 BROADBAND INTERNET ACCESS ACT;

9 H.R. 1301, AMATEUR RADIO PARITY

10 ACT OF 2015; AND

11 H.R. _____, SMALL BUSINESS BROADBAND

12 DEPLOYMENT ACT

13 THURSDAY, FEBRUARY 11, 2016

14 House of Representatives,

15 Subcommittee on Communications and

16 Technology,

17 Committee on Energy and Commerce,

18 Washington, D.C.

19

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22 The subcommittee met, pursuant to call, at 10:00 a.m., in

23 Room 2123 Rayburn House Office Building, Hon. Greg Walden

24 [chairman of the subcommittee] presiding.

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25 Members present: Representatives Walden, Latta, Shimkus,
26 Blackburn, Scalise, Lance, Guthrie, Olson, Pompeo, Kinzinger,
27 Bilirakis, Johnson, Long, Ellmers, Collins, Cramer, Upton (ex
28 officio), Eshoo, Doyle, Welch, Yarmuth, Clarke, Loesback, Rush,
29 DeGette, Matsui, McNerney, Lujan, and Pallone (ex officio).

30 Staff present: Gary Andres, Staff Director; Will Batson,
31 Legislative Clerk, Energy and Power and Environment and the
32 Economy; Ray Baum, Senior Policy Advisor for Communications and
33 Technology; Mike Bloomquist, Deputy Staff Director; Rebecca Card,
34 Assistant Press Secretary; Karen Christian, General Counsel; Andy
35 Duberstein, Press Secretary; Gene Fullano, Detailee, Telecom;
36 Kelsey Guyselman, Counsel, Telecom; Grace Koh, Counsel, Telecom;
37 Tim Pataki, Professional Staff Member; David Redl, Chief Counsel,
38 Telecom; Charlotte Savercool, Professional Staff, Communications
39 and Technology; Dylan Vorbach, Legislative Clerk, Commerce,
40 Manufacturing, and Trade; Gregory Watson, Legislative Clerk,
41 Communications and Technology; Jen Berenholz, Minority Chief
42 Clerk; Christine Brennan, Minority Press Secretary; Elizabeth
43 Ertel, Minority Deputy Clerk; David Goldman, Minority Chief
44 Counsel, Communications and Technology; Tiffany Guarascio,
45 Minority Deputy Staff Director and Chief Health Advisor; Jerry
46 Leverich, Minority Counsel; Lori Maarbjerg, Minority FCC
47 Detailee; Tim Robinson, Minority Chief Counsel; and Ryan
48 Skukowski, Minority Policy Analyst.

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49 Mr. Walden. The subcommittee will come to order. At the
50 conclusion of opening statements yesterday, the chair called up
51 H.R. 1301 and the bill was open for amendment at any point.

52 [The Bill H.R. 1301 follows:]

53

54 *****INSERT 1*****

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55 Mr. Walden. Are there any bipartisan amendments to the
56 bill, H.R. 1301?

57 Are there any amendments to H.R. 1301?

58 Mr. Kinzinger. Mr. Chairman?

59 Mr. Walden. If not, I now recognize the gentleman from
60 Illinois, Mr. Kinzinger.

61 Mr. Kinzinger. Thank you, Mr. Chairman. I move to strike
62 the last word.

63 Mr. Walden. The gentleman is recognized.

64 Mr. Kinzinger. Mr. Chairman, for nearly 3 decades, a large
65 segment of amateur radio operators have been prohibited from
66 installing any form of functional antennas on their own homes due
67 to land use restrictions. For those of you who do not know,
68 amateur radio operators perform a number of vital functions to
69 help establish communications for our first responders during
70 disaster. When the rest of the communications infrastructure
71 goes down due to a disaster, it is hams that are able to patch
72 through communications for our first responders so that they are
73 able to effectively communicate which is a vital life-saving
74 function.

75 As the FEMA director recently said, "I think there is a
76 tendency to believe we have done so much to build infrastructure
77 and resiliency in all of our other systems that when everything
78 else fails, amateur radio is oftentimes our last line of defense.

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79 When you need amateur radio, you really need them."

80 It is important to note that when many of these regulations
81 were first put into place, land use restrictions throughout the
82 country were much less pervasive. But over time, these areas have
83 become more and more prevalent which is not necessarily a bad thing
84 by any means. But just as we have done in our committee time and
85 again, it is good to look back at laws and regulations that were
86 put into place long ago to make sure that they are kept up to date
87 with the ever- evolving pace of innovation and change.

88 Over the past 30 years, while these other land use
89 restrictions have been in place, the flip side of this issue and
90 the basis for this legislation is that FCC policy requiring
91 municipalities to reasonably accommodate the placement of
92 antennas for amateur radio use has worked wonderfully. Antenna
93 height, configuration, and aesthetics have been subject to
94 municipal jurisdiction under the FCC's reasonable accommodation
95 policy.

96 The relationships that have been built on the basis of
97 cooperation following these standards between the licensees, land
98 use planners, and reasonable regulations, has resulted in a
99 process that retains the decision-making power to the
100 municipalities, while allowing amateur radio operators to have
101 the equipment necessary to effectively complete their functions.

102 This is exactly the model on which we put together this

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103 legislation through a reasonable accommodations standard. There
104 is nothing in this legislation that would prohibit the review or
105 approval of amateur radio antennas before their placement or to
106 prohibit them in certain common areas. However, I do
107 understand the concerns that have been brought forward by parties
108 impacted by this legislation. I would also like to thank those
109 parties for their willingness to come forward to reach a consensus
110 on this issue before we reach the full committee markup on the
111 bill.

112 I understand some scheduling issues prevented us from having
113 new language for today's markup, but it is my sincere hope that
114 we will be able to work together to find a solution that works
115 for everybody in this issue.

116 And this is something, Mr. Chairman, that I think is very
117 indicative of this committee, is our ability on both sides to come
118 together and work through issues. Sometimes as niche as this,
119 but very important, and other times even bigger issues. So I
120 appreciate both sides of the aisle willing to work together on
121 this.

122 And I just want to make one more point. As a military pilot,
123 with some of the new technology, I remember flying back in '06,
124 '07 overseas and using amateur radio operators to pass messages.
125 In some cases it was encoded messages that nobody understood what
126 they meant, but they were passed to our command post which had

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127 a mission status, or sometimes you can even in a very doomsday
128 scenario receive an encoded message from and through these
129 operators.

130 And lastly, they also do phone patches. If you want to call
131 your mom back in Bloomington, Illinois, you can have these
132 operators do a phone patch and do it through the radio. So
133 personally, I have appreciated what they do from a very small
134 perspective of just flying overseas with the military.

135 And again, Mr. Chairman, I just want to thank everybody
136 involved in helping to get this done. And I look forward to this
137 bill passing. I yield back.

138 Mr. Walden. I thank the gentleman for his good work on this
139 legislation and his time.

140 Are there are other members? Yes. I now recognize the
141 gentlelady from California, Ms. Eshoo.

142 Ms. Eshoo. Thank you, Mr. Chairman. And I want to thank
143 Mr. Kinzinger for his legislation. This is a bipartisan bill.
144 You have worked hard on it and it shows because there are over
145 a hundred cosponsors. So while we have some concerns about the
146 bill having impacts on homeowners associations, I appreciate
147 Chairman Walden saying that we will work this out, as you have
148 said, and so we are prepared to move this allow with a voice vote.
149 So thank you for your work and I yield back.

150 Mr. Walden. The gentlelady yields back. I would move to

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151 strike the last word. I feel like I have to say something since
152 I am only one of the only licensed amateur radio operators in the
153 Congress. And I concur with what Mr. Kinzinger said. You know,
154 it is not just in emergencies that amateur radio operators are
155 active. I know my own home town of Hood River, the radio amateurs
156 of the gorge are often active in helping with communications
157 during various community events, non-emergency events, the cross
158 channel swim, all kinds of bicycling competitions and all,
159 mountain biking and all, where they will be the communications
160 network to help facilitate safety in many cases for the runners
161 or the swimmers and all that kind of communication.

162 And then certainly when the lights go out and the power goes
163 out and everything else goes down, many of these amateur radio
164 operators then have their own generators. They have their own
165 communication systems that are backed up by generators and perform
166 that emergency communication.

167 And in addition to just the voice communication, as you
168 probably know, one of the best ways to get through when everything
169 else fails is old Morse Code, dot, dot, dot, dot. I mean you go
170 through it and that can get through when nothing else can. And
171 so I think this is really important.

172 And with today's technology and the different bands that
173 amateur radio operators can operate on, you don't necessarily have
174 to have a giant tower blocking everybody's view in a community

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175 living situation. Literally, you can get a two-meter antenna
176 that is probably a foot high with a mag mount that you can put
177 on the roof or somewhere. The Supreme Court has stepped in in
178 some of these cases for satellite communication. There was a
179 period of time when they tried to blanket, prohibit, little
180 satellite dishes in these home situations. And the Court came
181 in and said, you know, for television, you can't just have a
182 blanket ban. We think the same should apply to amateur radio.
183 Certainly, there can be some reasonable prohibitions, but a
184 blanket ban is probably -- shouldn't be legal. And (b) really
185 takes away an emergency communication tool that frankly in the
186 case of a tornado or a hurricane or a flood or something, people
187 of those homeowner associations may be glad they have got a ham
188 radio operator next door that can fire up their rig and communicate
189 and get a signal out when everything else fails.

190 So I congratulate the gentleman for his work on this
191 legislation. I encourage the parties who are still negotiating
192 out there. Get your work done, sooner rather than later, because
193 we intend to move this bill in full committee and get it across
194 the House floor soon. So we appreciate the good-faith
195 negotiations that have gone on. We look forward to those coming
196 to a conclusion, sooner rather than later, because I think there
197 is common ground that can be achieved here, reached here. And
198 I just think it is really important to get done. So with that,

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199 I would yield back the balance of my time.

200 Are there other members seeking recognition on the minority
201 side?

202 Are there other members on the Republican side seeking
203 recognition?

204 Seeing none, the question now occurs on forwarding H.R. 1301
205 to the full committee. All those in favor say aye.

206 Those opposed say nay.

207 The ayes appear to have it. The ayes have it. And the bill
208 is favorably reported.

209 The chair now calls up H.R. 2661 committee and ask the Clerk
210 to report. I am sorry, 2666.

211 [The Bill H.R. 2666 follows:]

212

213 *****INSERT 2*****

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214 The Clerk. H.R. 2666, to prohibit the Federal
215 Communications Commission from regulating the rates charged for
216 broadband internet access services.

217 Mr. Walden. Without objection, the first reading of the
218 bill is dispensed with and the bill will be open for amendment
219 at any point. So ordered.

220 Are there any bipartisan amendments to this legislation?
221 Seeing none, are there other amendments?

222 The chair recognizes the gentlelady from California.

223 Ms. Eshoo. Thank you, Mr. Chairman. I have an amendment
224 at the desk.

225 [The amendment of Ms. Eshoo follows:]

226

227 *****INSERT 3*****

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228 The Clerk. The amendment number, ma'am?

229 Ms. Eshoo. I think it is 1, Forbear 1.

230 Mr. Walden. Forbear 1. And do members of the committee
231 have copies of this amendment? Okay.

232 The Clerk. Amendment to H.R. 2666 offered by Ms. Eshoo.
233 "Strike Section 2 and insert the following: Section 2,
234 forbearance from applying rate regulations and certain other
235 requirements to broadband."

236 Mr. Walden. Without objection, the reading of the amendment
237 is dispensed with and the gentlelady is recognized for 5 minutes
238 in support of her amendment.

239 Ms. Eshoo. Thank you, Mr. Chairman. As I stated at last
240 month's legislative hearing, I don't support the FCC setting the
241 monthly recurring rate that consumers pay for broadband internet
242 access service. And I stated that very clearly and very firmly.

243 On the surface, that is what the no rate regulation of
244 Broadband Internet Access Act appears to do. Where we have a
245 problem is that in actuality, the bill is far broader and could
246 eviscerate the FCC's authority to protect consumers against truth
247 in billing practices and discriminatory data caps, to ensure that
248 broadband availability through USF and e-rate actually are
249 protected to address rate-related issues and merger reviews, to
250 ensure enforcement against paid prioritization, and other
251 essentially consumer protections.

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252 I think that this is a reminder to all of us that the language
253 in bills is very, very important. Once bills become law, those
254 words walk into people's lives. So it is very important not only
255 to read them, but to understand what the impact of the words are.

256 Now, Mr. Chairman, in your October 27th statement before the
257 subcommittee, you asked the question and this is an important
258 question, what will happen with the new chairman? What if someone
259 pushes the FCC to walk back some of the forbearance they agreed
260 to as part of their Open Internet Order?

261 This amendment offers an answer to that question by codifying
262 the forbearance approach used in the FCC's Open Internet Order.
263 This ensures that the forbearance used in the FCC's order cannot
264 be reversed by a future commission, the very concern that you and
265 other colleagues have raised time and time again.

266 During last month's legislative hearing, Mr. Chairman,
267 you reiterated that the purpose of the legislation is to "bind
268 future chairmen to live by the commitments that this
269 administration has made."

270 This amendment appropriately targets your intended goal
271 while ensuring that we don't undermine, either intentionally or
272 unintentionally, the FCC's authority and its fundamental mandate
273 to protect consumers. So for all of these reasons that I have
274 stated, I strongly urge my colleagues to support the amendment.
275 It is one page which is sometimes unusual, but it is straight

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276 forward. It codifies the forbearance approach used in the Open
277 Internet Order. And I think that it speaks to the goal that you
278 have spoken to and which I have quoted.

279 And does anyone -- do I have any time left? Let us see, 43
280 seconds. Anyone want to say anything? Mr. Doyle?

281 Mr. Doyle. I would just add just very briefly is that we
282 hear a lot from people that we are trying to regulate the internet
283 like a utility. The FCC Chairman Wheeler made it clear that that
284 was not his intent and I think putting this -- codifying this into
285 the bill should calm the fears of those who feel that that approach
286 won't be taken by some future commission. So I support the
287 amendment.

288 Mr. Walden. Will the gentleman yield? I just point out
289 that it is -- I will take my own then. I move to strike the last
290 word. Actually, under Title II it becomes a utility in effect,
291 it becomes a common carrier. That is what it is. That was the
292 change under that. And the purpose of the underlying bill is to
293 prevent the FCC from regulating rates for broadband internet
294 access service and I thought we had agreement on that.

295 This amendment asks us to accept the notion that the only
296 way to regulate the rates for broadband is through tariffing and
297 that is not the case. It is simply not true.

298 These were issues, by the way, we were trying to work out in the
299 negotiations until they were abruptly ended.

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300 The amendment would codify the FCC's forbearance in the Open
301 Internet Order. That is true. In that order, the FCC agreed that
302 it would not use its tariffing authorities to regulate rates.
303 However, it did not agree to not regulate rates or its enforcement
304 of Section 201 and Section 202. So Sections 201 and 202 require
305 that rates and charges for telecommunications services to be just
306 and reasonable.

307 So this gets back to your argument about utilities and common
308 carrier. That leaves the FCC with considerable discretion to
309 decide what just and reasonable is. Now that means the FCC
310 retains the authority and as a result of reclassification can now
311 use it to regulate the rates for broadband. That is what happens
312 when you go down this path.

313 The amendment asks the subcommittee to accept that same
314 flawed premise the FCC does that the FCC cannot regulate rates
315 through enforcement. So what we don't want to do is create a
316 situation where okay, they can't tariff, but they can come back
317 after the fact and tell you you got it wrong. That creates the
318 uncertainty in the marketplace I don't think any of us would want
319 is go ahead, be innovative, go out there, but then we are going
320 to second guess you after the fact. And that is what we are
321 concerned about on the Republican side is that that could happen.

322 Through a series of enforcement actions declaring rates
323 unjust or unreasonable, the Commission can achieve the same

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324 outcome as an action to declare what constitutes a reasonable
325 rate. Defining what something is and defining what it isn't can
326 achieve the same thing. So we oppose the FCC's use of either
327 authority to regulate broadband rates and as such I reject this
328 amendment. After the fact regulation could be even more onerous
329 than a tariffing before the fact.

330 Now I also want to talk a bit about the issue of consumers
331 because we all care deeply about making sure that consumers are
332 treated fairly. There is nothing in this bill that would restrict
333 the FCC's ability to enforce its truth in bill rules, rules that
334 regulate the way providers present charges on bills.

335 And I would defer to counsel on that point to make sure I
336 am accurate. Is there anything in this bill that would regulate,
337 that would prevent the FCC from enforcing its truth in billing?

338 Counsel. No.

339 Mr. Walden. So as the ranking member is well aware, the
340 majority has been actively working with the minority to craft
341 language that would prevent the FCC from abusing its authority
342 while retaining the ability of the FCC to protect consumers from
343 fraud and other bad acts. The amendment presents us, I think,
344 with a false choice between an unfettered FCC or unfettered
345 billing practices. And I think there are better ways to do this.

346 I would now recognize the gentleman from Illinois to -- well,
347 I will yield to him the remainder of my time and then he can seek

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348 his own after we go to the minority side.

349 Mr. Kinzinger. Well, thank you, Mr. Chairman. You know,
350 look, I appreciate the discussion on this and I appreciate that
351 everybody wants to get to the point seemingly where we codify to
352 an extent the FCC's inability to do this. I guess I am confused
353 a little bit because when we had the hearing, it seemed like there
354 was an opportunity to work together. I had heard that the staffs
355 of both sides were talking. We were kind of coming close to a
356 conclusion. And even as early as yesterday, I had heard that --
357 you know, I am talking about hey, what is the markup going to be
358 like? Is it going to be long? Is it going to be quick? What
359 is going on? And it is like well, yes, we are pretty close to
360 having a bipartisan agreement. And then it is like, bam, not any
361 more.

362 I guess I don't know. It seems like we have the same goals
363 here, but for some reason, we are fighting when I think we had
364 a real opportunity to work together. So I hope, you know, look,
365 I am going to vote against this amendment. It probably will fail.
366 I hope this doesn't discourage us from doing what this committee
367 does best which is work together. For some reason, obviously,
368 this fell apart at the last minute and I guess I don't quite
369 understand why. But we will see.

370 And with that, Mr. Chairman, thank you. And I will yield
371 back.

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372 Mr. Walden. Reclaiming the final 14 seconds, I couldn't
373 agree more. I was deeply disappointed that the negotiations
374 abruptly ended and we were presented with amendments when we
375 thought we were pretty close on these issues, so it is certainly
376 not what we intended. Perhaps on the way to full, we can address
377 the issues on this and the issues on the exemption for small
378 providers because I know there are members of this committee who
379 care deeply about the costs and burden on small ISPs of the FCC's
380 disclosure regulations. And I intend to work with those members
381 on both sides of the aisle who want to work in that cooperative
382 spirit as we go on to full. I return the balance of my time.

383 Are there other members seeking recognition on Ms. Eshoo's
384 amendment?

385 The gentleman from New Mexico is recognized.

386 Mr. Lujan. Mr. Chairman, a question to counsel. So as we
387 are having this conversation about what seems to be emphasizing
388 on the first page of the legislation, line four where it says "no
389 rate regulation of broadband in the internet access" in the
390 title, I don't see a definition for that anywhere in here. Can
391 you point me to the definition of rate regulation?

392 Counsel. There is no definition of rate regulation in the
393 bill.

394 Mr. Lujan. Is there a definition of rate regulation
395 anywhere?

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396 Counsel. In the FCC's rules? No, there is not.

397 Mr. Lujan. Is there a definition of rate regulation in
398 Webster's Dictionary?

399 Counsel. I don't have a Webster's Dictionary in front of
400 me, so I can't answer that question for you. Sorry.

401 Mr. Lujan. Mr. Chairman, I think that is the question that
402 we have here is when you are defining no against something and
403 we don't know what that something is, that something could be
404 anything. It is starting to sound like a Dr. Seuss book. And
405 that is what I hope that we can get to the bottom of is what indeed
406 are we talking about? How do we isolate this? Because I think
407 what we clearly see today is that on both sides on the aisle we
408 would agree with the decision from the FCC on no forbearance
409 associated with rates. I think that is what the essence of
410 Ranking Member Eshoo's amendment is.

411 And so there is more common ground than there is not, but
412 I think it is incumbently important that we identify and that we
413 define this so that there are assurances that when we talk about
414 consumer protections that we talk about ensuring that there is
415 a responsibility to have truth in billing, so we all know what
416 we are paying on these bills, that they are desegregated, device
417 rental fees, fraudulent, inaccurate and contested charges. And
418 then there is still a whole other question associated with paid
419 prioritization rule. Does that get included in what would be

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420 defined under some as rate regulation which is a whole other
421 conversation I know that this committee is engaging in.

422 And so, Mr. Chairman, I hope that as we get through this that
423 we are able to maybe find some commonality.

424 Mr. Walden. Would the gentleman yield because those are
425 really valid points.

426 Mr. Lujan. Absolutely.

427 Mr. Walden. And that is actually something that our staffs
428 were negotiating on until those negotiations abruptly ended with
429 the definition of rate regulation. So we hope going forward we
430 can get that figured out. Second, as you know, having been a
431 public utility commissioner yourself, like others around me,
432 there is a lot of case law that defines what rate regulation is
433 and what it is not. So I think we could get this. We thought
434 we were on a path to get this done and frankly, we were surprised
435 when we got the amendment.

436 Mr. Lujan. I appreciate that, Mr. Chairman. You know, as
437 a few of our colleagues who are in the room that are former utility
438 commissioners also know, is that every jurisdiction in the country
439 that operates under rate regulation has a different definition.
440 And so that is why it is important that we just -- that we clear
441 this up. I thank you for that and I yield back the balance of
442 my time.

443 Mr. Walden. I appreciate the gentleman's constructive

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444 comments.

445 Are there other members seeking recognition on the
446 gentlelady's amendment?

447 Are there any on the Democratic side seeking comment on the
448 gentlelady's amendment?

449 Seeing none, I recognize the gentleman from North Dakota.

450 Mr. Cramer. Thank you, Chairman, and I thank the other side
451 for the amendment and for this discussion. I too was, as you know,
452 a regulator before coming to Congress, and the gentleman is
453 exactly right. Each state jurisdiction might have a different
454 definition, but case law does, in fact, create definitions because
455 it does create, obviously, precedent. And I think that is why
456 we should reject this amendment as a matter of fact. And we have
457 got to get back to the table of finding the appropriate definition.

458 If I have learned one thing in the short time I have been
459 in Congress, the 3 years I have been here, it is that we don't
460 generally err by restricting the regulatory agencies. If we err
461 in any way it is by giving them too much authority to set these
462 things. People elect us to make these decisions to protect them,
463 not the FCC and frankly, many regulatory agencies. So I would
464 feel much more comfortable if we could get back to bipartisan
465 discussions with the experts on this committee about what rate
466 regulation is as we go forward, rather than passing this amendment
467 which I think just doesn't clarify it nearly enough for my taste.

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468 And frankly, codifying forbearance based on the regulatory
469 agencies' forbearance is not what we ought to be doing. We ought
470 to be setting the forbearance. We ought to be setting the
471 restrictions and then they carry them out. Frankly, I think it
472 would be a service to the regulator as well as to the regulated
473 and more important and most importantly, to the consumer. So with
474 that, I yield back.

475 Mr. Kinzinger. Will the gentleman yield?

476 Mr. Cramer. I would be happy to.

477 Mr. Kinzinger. You know, I agree with what you just said.
478 I guess my question, I am just having a hard time with why we are
479 having to just kind of parse everything apart and minutiae. Let
480 us just say they can't regulate rates, period. That is what the
481 FCC Chairman Wheeler said. I believe he really believes he
482 doesn't want to do it. And we are just saying as Congress that
483 makes laws, that determines things, we are just saying okay, cool,
484 we agree with you. We are just going to put it in law and make
485 sure it gets done. And I guess, I don't know, like I said, we
486 were really close yesterday and for some reason we are not now
487 and hopefully, Mr. Chairman, we get there between now and full
488 committee, but hopefully, this is just a little hiccup. But I
489 will yield back to the gentleman.

490 Mr. Walden. Would the gentleman yield?

491 Mr. Kinzinger. I would.

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492 Mr. Walden. I appreciate the conversation. I think we can
493 find common ground. In fact, Mr. Lujan's comments are really
494 helpful and we would be happy to work with you and your staff,
495 given your vast experience on the Public Utility Commission to
496 work on these issues as we go forward to full to make sure we get
497 them right. I mean we learned a lot out of the hearings on the
498 bills. That is why we do them. We were prepared to make changes
499 and to get this correct, because we all want to get it correct.

500 So in the spirit of that, Mr. Lujan, we would be happy to
501 work with you.

502 And Mr. Cramer, given your background as well, it would be
503 great to have you in that discussion and your staff, more
504 additionally. And so I think that would be good, because we do
505 want to get this right.

506 The question I forgot to drill down a little bit on was the
507 truth of billing issue. And I would defer to counsel a bit about
508 this because this is important, too. I want to make sure that
509 we have truth in billing going forward.

510 Can you tell us what is it, in terms of the FCC's ability
511 to enforce its truth in billing, do we do any violence to that
512 with the underlying bill?

513 Counsel. Mr. Chairman, the FCC's truth in billing rules
514 which are in Section 64-2401 of their rules delineate eight
515 specific things that they are meant to protect. And this is taken

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516 from the FCC's website, all of which are about the presentation
517 of charges, not the rates themselves. One, provide a clear,
518 brief, non-misleading, plain language description of the service
519 or services rendered to a company it has charged. Two, identify
520 the service provider associated with each charge. Three, clearly
521 and conspicuously identify any change in service provider. Four,
522 contain full and non-misleading descriptions of charges. Five,
523 identify those charges for which failure to pay will not result
524 in disconnection of the customer's basic local service. Six,
525 provide a toll-free number for customers to call in order to lodge
526 a complaint or obtain information. Seven, place charges from
527 third parties that are not telephone companies in a distinct
528 section of the bill, separate from telephone company charges.
529 And eight, provide a separate subtotal for third party charges
530 in a separate bill section on a separate page. None of which deal
531 with the rate charged. Those are terms that address how those
532 are presented to the customer on their bill.

533 Mr. Walden. I yield back to the gentleman from North Dakota.

534 Mr. Cramer. I yield the balance of my time to Mrs. Ellmers.

535 Mr. Walden. The gentleman yields back. Well, actually, we
536 need to go to this side. Have you already spoken on this?

537 Mr. Doyle, you can seek your own time and yield back.

538 Mr. Doyle. I move to strike the last word.

539 Mr. Walden. The chair recognizes the gentleman from

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540 Pennsylvania.

541 Mr. Doyle. Thank you, Mr. Chairman. I will yield to my
542 friend.

543 Ms. Eshoo. Thank you, Mr. Doyle. This is a worthy
544 discussion. And the reason why I have raised the issue of the
545 broadness of the bill and whether it -- I would like to think
546 that it is unintentional in its broadness, what it can sweep up.

547 Now the whole issue of -- just take this issue, limiting
548 consumer protection actions such as truth in billing. Now
549 because a bill is a rate, then that word becomes operative at the
550 FCC. They would then be prohibited from doing anything with
551 rates, the way the bill is drafted. So that is why we are raising
552 paid prioritization. I listed them out in my statement relative
553 to the amendments that I have offered.

554 A point of clarification to all of my colleagues on both sides
555 of the aisle. My staff was never presented with an offer that
556 included a definition of rate regulation. So we worked right up
557 until yesterday, but there was not an offer that was placed on
558 the table. So we want to work together. I told Mr. Kinzinger,
559 when he first offered his bill, that I was very hopeful that we
560 could work something out.

561 Now I would like to ask the counsel how do you define rate
562 regulation?

563 Counsel. I don't know.

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564 Ms. Eshoo. You don't. Okay, well, I think therein lies the
565 problem because while the FCC may not be actually regulating
566 rates, they examine them and so again, the language is so broad
567 that it sweeps up, as the chairman said, we all care intensely
568 about these consumer protections that have been put into place.
569 And that is what is at risk. That is what I want to say and I
570 will yield back. I thank the gentleman for yielding to me and
571 I will yield back.

572 Mr. Doyle. Thank you and before I yield to Mr. Lujan, look,
573 we want to work together to get this done. I think what Mr.
574 Kinzinger said is pretty much the same thing as what Ms. Eshoo
575 is saying is that there is an attempt to codify what the FCC is
576 saying. The FCC chairman said he doesn't want to regulate rates
577 and he intends not to do that. So you guys are saying well, we
578 want to make sure he doesn't do it or any future FCC chairman does
579 it, so we want to put that into statute. FCC chairman also said
580 in the Open Internet Order that he wants to forbear a huge part
581 of Title II. And so we are saying well, let us put that into --
582 let us codify that also so that no future FCC chairman can go back
583 and try to regulate the internet under the sections of Title II
584 that the chairman says we want forbearance on.

585 So I think we are both talking about a mechanism to do what
586 you have a concern about and what we have a concern about. Now
587 there is some dispute over how broadly this rate regulation is

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588 written and whether or not it will have protections for paid
589 prioritization and throttling and some other things. But I think
590 these are things we can work out. And I think we are both saying
591 the same thing basically. We are both expressing the desire to
592 put in statute those things that the current FCC is saying they
593 are going to do anyway, so that it binds a future Commission.

594 And I will yield to Mr. Lujan.

595 Mr. Lujan. Thank you very much, Mr. Doyle. And Mr.
596 Chairman, I just think we need to be cautious when we are looking
597 at even the FCC's approach with the rulemaking with trying to make
598 a delineation from charges and rates because inherently there are
599 charges within the rates. You just have to look at interstate
600 charges that are commingled within the rates and you start to
601 disaggregate those on the bill, when we talk about truth in
602 billing, it is all the same.

603 So again, that is why it is so important when we look at this
604 to delineate what, in fact, when we talk about the forbearance
605 of rates and the ability to look at charges and how those relate
606 to the rates. And so let us just be careful as we look at that.

607 Thank you, Mr. Doyle. I yield back my time.

608 Mr. Walden. The gentleman yields back. Members on this
609 side, I recognize the gentlelady from North Carolina. Would she
610 yield to me --

611 Mrs. Ellmers. Yes, absolutely.

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612 Mr. Walden. I just want to point out I think we have a real
613 discrepancy here in terms of the staff communication because our
614 staff was in communication with yours Friday afternoon, yesterday
615 afternoon, on this topic, on this topic. So they were discussing
616 this topic, not that there was no discussion.

617 Mrs. Ellmers. I didn't say there was no discussion, Mr.
618 Chairman. I said that there wasn't an offer from you. We tried.
619 And we didn't get to where we wanted to.

620 Mr. Walden. Well, there is a difference between we didn't
621 get to where you wanted to and no offer, because my understanding
622 is there was language. We have counsel here.

623 Counsel. My understand as of late yesterday, the ranking
624 member had asked us to seek technical assistance from the Federal
625 Communications Commission on trying to find a way to tailor the
626 language. To date, the majority staff has not received any
627 technical assistance in writing from the FCC.

628 Mr. Walden. I know they were working on that for 3 days and
629 not getting response. I yield back to the gentlelady.

630 Mrs. Ellmers. Thank you, Mr. Chairman. And I just briefly
631 want to say that I think we again as we are having this
632 conversation, I think that it is important to note that we are
633 all in agreement, that we certainly want to make this process
634 better, but it does look like we have got these technical issues
635 that need to be worked out.

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636 And to the gentlelady's amendment, I believe it nullifies
637 everything that we are trying to achieve, so we kind of get back
638 to the same place again. And I am encouraged to know that we are
639 all talking about the importance of consumers and transparency,
640 especially when we have had that discussion before and we found
641 ourselves in a place dealing with the FCC where transparency is
642 sometimes important and sometimes it is not. So this is very good
643 moving forward to me and I hope that we can work this out. I can't
644 support the gentlelady's amendment, but it is good to know that
645 we are all thinking on the same terms when it comes to our
646 consumers. So thank you. If anyone wants any of my time, they
647 are welcome to it. I will yield back then.

648 Mr. Walden. The gentlelady yields back. Are there members
649 on the minority side that wish to weigh in on this topic any
650 further?

651 Are there members on the Republican side seeking
652 recognition? Seeing none, if there is no discussion, the vote
653 occurs on the amendment.

654 All those in favor shall signify by saying aye.

655 Those opposed, nay.

656 Why don't we just go ahead and have the clerk call the roll
657 because I think we are going to end up there anyway. So the clerk
658 will just call the roll.

659 The Clerk. Mr. Latta.

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660 Mr. Latta. No.

661 The Clerk. Mr. Barton.

662 [No response.]

663 The Clerk. Mr. Shimkus.

664 Mr. Shimkus. No.

665 The Clerk. Mrs. Blackburn.

666 Mrs. Blackburn. No.

667 The Clerk. Mr. Scalise.

668 Mr. Scalise. No.

669 The Clerk. Mr. Lance,

670 Mr. Lance. No.

671 The Clerk. Mr. Guthrie,

672 Mr. Guthrie. No.

673 The Clerk. Mr. Olson.

674 Mr. Olson. No.

675 The Clerk. Mr. Pompeo.

676 Mr. Pompeo. No.

677 The Clerk. Mr. Kinzinger.

678 Mr. Kinzinger. No.

679 The Clerk. Mr. Bilirakis.

680 Mr. Bilirakis. No.

681 The Clerk. Mr. Johnson.

682 Mr. Johnson. No.

683 The Clerk. Mr. Long.

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684 Mr. Long. No.

685 The Clerk. Mrs. Ellmers.

686 Mrs. Ellmers. No.

687 The Clerk. Mr. Collins.

688 Mr. Collins. No.

689 The Clerk. Mr. Cramer.

690 Mr. Cramer. No.

691 The Clerk. Chairman Upton.

692 The Chairman. No.

693 The Clerk. Ms. Eshoo.

694 Ms. Eshoo. Aye.

695 The Clerk. Mr. Doyle.

696 Mr. Doyle. Yes.

697 The Clerk. Mr. Welch.

698 Mr. Welch. Yes.

699 The Clerk. Mr. Yarmuth.

700 Mr. Yarmuth. Yes.

701 The Clerk. Ms. Clarke.

702 Ms. Clarke. Yes.

703 The Clerk. Mr. Loeb sack.

704 Mr. Loeb sack. Yes.

705 The Clerk. Mr. Rush.

706 [No response.]

707 The Clerk. Ms. DeGette.

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708 Ms. DeGette. Aye.

709 The Clerk. Mr. Butterfield.

710 [No response.]

711 The Clerk. Ms. Matsui.

712 Ms. Matsui. Yes.

713 The Clerk. Mr. McNerney.

714 Mr. McNerney. Aye.

715 The Clerk. Mr. Lujan.

716 Mr. Lujan. Yes.

717 The Clerk. Mr. Pallone.

718 [No response.]

719 The Clerk. Chairman Walden.

720 Mr. Walden. Walden votes no. Clerk will report the
721 results.

722 The Clerk. Mr. Chairman, on that vote there were 17 ayes,
723 and 10 nays. I am sorry, there were 17 nays and 10 ayes.

724 Mr. Walden. Seventeen nays, 10 ayes. The amendment is --
725 we don't want to give false hope over on this left side of the
726 aisle. The amendment is not agreed to. Are there further
727 amendments to the legislation?

728 Ms. Matsui. Mr. Chairman, I have an amendment at the desk.

729 [The amendment of Ms. Matsui follows:]

730

731 *****INSERT 4*****

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732 Mr. Walden. The chair recognizes -- wait a minute, the clerk
733 -- which amendment is it, Ms. Matsui?

734 Ms. Matsui. It is COMB3, C-O-M-B 3.

735 Mr. Walden. Okay. I ask the clerk to report.

736 The Clerk. Amendment to H.R. 2666 offered by Ms. Matsui.

737 Mr. Walden. Actually, Mr. Rush, the vote had closed and we
738 have moved on to another amendment, but we appreciate it.

739 You have reported the amendment, right?

740 The Clerk. Amendment to H.R. 2666 offered by Ms. Matsui.
741 At the end of the following Section 3, Rules of Construction.

742 Mr. Walden. Without objection, the reading of the amendment
743 is dispensed with and the gentlelady is recognized for 5 minutes
744 in support of her amendment.

745 Ms. Matsui. Thank you, Mr. Chairman. Mr. Chairman, like
746 my Republican colleagues, I have no interest in seeing the FCC
747 get into business of regular consumer broadband rates, but I am
748 concerned and I expressed it at the hearing that as written, H.R.
749 2666 may be overly broad and goes far beyond what we all agree
750 on and could undermine important consumer protections.

751 Like millions of Americans, and many of my own constituents
752 in Sacramento, who made their voices heard last year, I am a strong
753 supporter of the free and open internet. And I am especially
754 concerned about the potential for paid prioritization schemes to
755 create fast and slow lanes on the internet. We need the FCC to

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756 be able to act so that the internet remains a vibrant platform
757 for innovation and free speech.

758 This bill would go further than just harming net neutrality.
759 I believe it could also impact other FCC protections we all agree
760 on like universal service support for infrastructure deployment
761 and to connect low-income consumers and schools and libraries.
762 It could also prevent the FCC from going after fraud like cramming
763 on consumers' monthly phone bills.

764 My amendment is simple. It would preserve the FCC's
765 authority to address these key consumer protections.

766 Our Republication colleagues tell us their only goal with
767 this legislation is to block the FCC from regulating broadband
768 rates. If that is truly the case, they should have no problem
769 supporting this amendment.

770 I urge all my colleagues to support my amendment and I yield
771 to anyone on my side who wishes to speak. If not, I yield back.

772 Mr. Walden. The gentlelady yields back the balance of her
773 time. I would move to strike the last word, unfortunately, in
774 opposition to the amendment. I appreciate the gentlelady's
775 comments on this amendment.

776 The amendment, while there are some provisions, I think we
777 could find agreement on in your amendment, Ms. Matsui, especially
778 as it relates to universal service and a few things, we think some
779 of the language on the consumer protections may be a little overly

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780 broad. There are a couple other places that we would like to have
781 those discussions with you on. But some of these are issues that
782 were raised at our legislative hearing.

783 There were issues that I actually referenced in my opening
784 statement that we are interested in addressing. We were actively
785 again working with the ranking member's staff and the FCC to try
786 and work through these issues. And while we don't agree 100
787 percent on every provision, I want to make that clear, put forward
788 in the amendment, I do believe that there is room for compromise
789 here. I have always believed that. In fact, I thought we were
790 headed down that path until we started getting paper.

791 We are happy to continue working toward a solution that
792 achieves our dual goals, preventing harmful rate regulation while
793 still protecting consumers. And again, our concern on this side
794 is you can say you can't regulate rates, but if we leave the door
795 open for the Commission to come back after the fact and say the
796 rates you charged were inappropriate or whatever, then you
797 effectively have the worst kind of rate regulation at that point
798 because then people have gone out, they have done their business,
799 everything else, and then you have a bureaucracy a few blocks away,
800 second guessing what happened. And so that creates real
801 uncertainty in the marketplace as we see it. With that, I
802 reluctantly oppose your amendment, but would again extend the
803 olive branch to continue working forward with your staff or others

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804 who want to work constructively with us.

805 Are there any members on the Republican side seeking time?

806 I will yield back the balance of mine.

807 Are there members on the Democratic side? The chair
808 recognizes the gentlelady from California, Ms. Eshoo.

809 Ms. Eshoo. Thank you, Mr. Chairman. I want to thank Ms.
810 Matsui for offering this amendment and I think that it is a
811 reiteration of what our concerns are on this side. I understand
812 full well that the majority has never supported net neutrality.
813 And so whatever is around it is a huge rub. We agree.

814 We agree on this side and that is why I think -- you know,
815 we can get to yes and I think that we are in a position to do that
816 if, in fact, we don't want the rate regulation. You have spoken
817 about don't use the internet and treat it as a public utility.
818 That has been the charge. We are saying forbear, but don't allow
819 harm to be done in the areas where consumers are protected.

820 Now there is a real problem because there is not a definition
821 of rate regulation. And yet, these words walk into the very
822 principles and specifics where consumers are protected. And Ms.
823 Matsui's amendment is very clear about those areas.

824 So I think that if there is a real sincerity here, then we
825 can come together on it. But what she has in her amendment are
826 very important things. You are saying you don't want those harms.
827 So I think the majority has to come up with a way to guarantee

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828 that there are not going to be those harms, but this whole area
829 that is gray, other than precedent and law that has established
830 it, is on the books and is operational.

831 Again, I want to thank her for offering this because it casts
832 a very bright light on some of the most essential elements of
833 consumer protection. They are not small things. And if those
834 go awry by very broad language, then we are damaging all of our
835 constituents, not just Democratic constituents, all of our
836 constituents. So I thank the gentlewoman for offering the
837 amendment. It is a very important one.

838 Mr. Walden. The gentlelady returns the balance of her time.
839 The chair recognizes the gentleman from Ohio, Mr. Latta.

840 Mr. Latta. Thank you very much, Mr. Chairman. And I move
841 to strike the last word and yield to the chairman.

842 Mr. Walden. I thank the gentleman. I just want to clarify
843 for the record, more than a year ago, I and others on this side
844 put forward a net neutrality bill. So to say that we have never
845 supported it is a misnomer, is not accurate. What we don't
846 support was common carriage. We didn't think we ought to treat
847 the internet as a utility under Title II because it would cause
848 all kinds of other problems which we are now trying to address
849 in some respect because the Federal Trade Commission lost all of
850 its authority when the FCC reclassified the internet as a Title
851 II common carrier.

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852 Our legislation prohibited blocking. Our legislation
853 prohibited throttling. Our legislation prohibited paid
854 prioritization. We have legislation to do that. We would
855 welcome your support of it. We had the disclosure from the 2010
856 order in there. What we didn't support was common carriage
857 regulation because we think the greatness of the internet has been
858 the lack of federal regulatory involvement in the internet.

859 Everybody praises the internet for all the good things that
860 it has done and it has. The expansion of education and jobs and
861 economy, the biggest expansion of knowledge in the world. Think
862 about medical advances, everything. And it has all virtually
863 been done with no FCC second guessing what happens. And if we
864 don't make the right decisions here, some FCC will come back at
865 some time and say we are not really going to forbear against
866 everything Tom Wheeler wanted to forbear against. Maybe we will
867 make some changes. So I think we can find some agreement maybe
868 on forbearance here.

869 And they are going to come back and say well, you know, we
870 are not going to rate regulate. Well, we said we weren't. But
871 we will come back after the fact and we will question whether you
872 got it right not and then we will penalize you like only Washington
873 bureaucracies can penalize people with vengeance. And who do you
874 appeal to? The same people that penalized you. How fair is that?

875 And so unfortunately, we were very close, I felt, in the

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876 negotiations here to address the issues that Ms. Matsui and others
877 have raised and then for some reason we get papered with
878 amendments. So going to full, we will work on these with anyone
879 that wants to work in good faith with us.

880 We sent out 3 weeks ago concepts. The staffs have been
881 negotiating. I don't know what the heck went wrong. I just tell
882 you. There was a way to get this done. Unfortunately, the
883 minority took a different path.

884 I now recognize the gentleman from Illinois.

885 Mr. Kinzinger. Yes, just a couple of seconds, Mr. Chairman,
886 I appreciate that. I just want to add on to that. Again, I don't
887 know why this negotiation, so to speak, fell apart. I mean I think
888 a lot of what we are talking about is correct. I think we are
889 close. And maybe this is inside baseball to talk about, but it
890 is -- you know, when you are trying to get a bipartisan agreement
891 and you are doing that kind of staff to staff, member to member
892 level and you are close there, and all of a sudden somebody comes
893 out and says you know what, I know we are close, but instead we
894 are just going to drop a couple of amendments with a take it or
895 leave it approach. I think that is bad faith, maybe. And I think
896 we can get there.

897 Look, I am not saying this is done, this is over, this is
898 -- but I think in the discussion we are having, Mr. Chairman, I
899 think we are close. It is like we are kind of talking past each

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900 other. We are there and we were there talking about the
901 negotiations, but now all of a sudden we are debating amendments
902 to this bill that we probably could have come to real bipartisan
903 agreements on.

904 But anyway, I guess I don't understand the process, so we
905 will just press forward and hope we can do this on the way to full
906 committee.

907 Mr. Walden. I thank the gentleman for his comments.

908 Mr. Latta. Mr. Chairman?

909 Mr. Walden. It is Mr. Latta's time.

910 Mr. Latta. Well, Mr. Chairman, I would just like to say that
911 the discussion we are having here on the two amendments and the
912 discussions that were going on between the staffs, I fully
913 recommend that we go forward because the staffs have been talking
914 and up to late last -- sounds like late yesterday. And I hope
915 that those discussions can continue as we go to full committee
916 on the bill. And with that, I yield back.

917 Mr. Walden. The gentleman yields back the balance of his
918 time.

919 Mr. Yarmuth. Mr. Chairman, I move to strike the last word.

920 Mr. Walden. Yes, the chair recognizes gentleman from
921 Kentucky.

922 Mr. Yarmuth. Thank you, Mr. Chairman. I would like to
923 yield to the ranking member.

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924 Ms. Eshoo. Thank you, Mr. Yarmuth. I want to make
925 something very clear here. I would like to invite all members
926 that haven't been to my office to drop by one day. There is a
927 wall and Cannon has very wide walls and the ceilings are very high.
928 And that is the wall of pride in my legislative life because there
929 are over 40 bills there that have been signed into law by three
930 presidents, all bipartisan bills. And I have served on this
931 committee since January of 1995, the beginning of my second term.

932 So I think my work product is proof that I can and others
933 can and have worked in a bipartisan way.

934 We couldn't come to an agreement on this. And it is
935 unfortunate. I think that it is a slight to suggest that we throw
936 paper around when we offer amendments. An amendment is an idea.
937 And while we may not agree on the idea that is being put forward,
938 we debate them, and sometimes that leads to something else. One
939 thing can led to another. But I don't think that we should get
940 into an area where we start diminishing each other for offering
941 amendments. I offered an amendment. It codifies. There is
942 nothing stronger than a statute. The President of the United
943 States cannot create a statute. It is only the Congress.

944 So what Congresswoman Matsui has offered, what I have
945 offered, we have offered in good faith. The staffs negotiated
946 in good faith. From your side and our side. So let us just turn
947 the volume down and be respectful of these vehicles that are given

948 to us not only as members of this committee, but as members of
949 Congress.

950 And I want to put that out there because this wasn't anything
951 cute to Sunday, Mr. Chairman. And I say that with all sincerity
952 and with all respect to all of my colleagues. And I thank Mr.
953 Yarmuth for yielding and I yield back.

954 Mr. Yarmuth. I thank the ranking member and I yield back,
955 Mr. Chairman.

956 Mr. Walden. The gentleman yields back the balance of his
957 time. Are there other members seeking recognition on either
958 side? If not, we are prepared to vote on the amendment. If there
959 is no further discussion. All those in favor -- we will go ahead
960 and call the roll.

961 Those in favor of the Matsui amendment will vote aye.

962 Those opposed, no.

963 And the clerk will call the roll.

964 The Clerk. Mr. Latta.

965 Mr. Latta. No.

966 The Clerk. Mr. Latta votes no. Mr. Barton.

967 [No response.]

968 The Clerk. Mr. Shimkus.

969 Mr. Shimkus. No.

970 The Clerk. Mr. Shimkus votes no. Mrs. Blackburn.

971 Mrs. Blackburn. No.

972 The Clerk. Mrs. Blackburn votes no. Mr. Scalise.

973 [No response.]

974 The Clerk. Mr. Lance,
975 Mr. Lance. No.

976 The Clerk. Mr. Lance votes no. Mr. Guthrie,
977 Mr. Guthrie. No.

978 The Clerk. Mr. Guthrie votes no. Mr. Olson.
979 Mr. Olson. No.

980 The Clerk. Mr. Olson votes no. Mr. Pompeo.
981 Mr. Pompeo. No.

982 The Clerk. Mr. Pompeo votes no. Mr. Kinzinger.
983 Mr. Kinzinger. No.

984 The Clerk. Mr. Kinzinger votes no. Mr. Bilirakis.
985 Mr. Bilirakis. No.

986 The Clerk. Mr. Bilirakis votes no. Mr. Johnson.
987 Mr. Johnson. No.

988 The Clerk. Mr. Johnson votes no. Mr. Long.
989 Mr. Long. No.

990 The Clerk. Mr. Long votes no. Mrs. Ellmers.
991 Mrs. Ellmers. No.

992 The Clerk. Mrs. Ellmers votes no. Mr. Collins.
993 Mr. Collins. No.

994 The Clerk. Mr. Collins votes no. Mr. Cramer.
995 Mr. Cramer. No.

996 The Clerk. Mr. Cramer votes no. Chairman Upton.
997 The Chairman. No.

998 The Clerk. Chairman Upton votes no. Ms. Eshoo.
999 Ms. Eshoo. Aye.
1000 The Clerk. Ms. Eshoo votes aye. Mr. Doyle.
1001 Mr. Doyle. Yes.
1002 The Clerk. Mr. Doyle votes aye. Mr. Welch.
1003 Mr. Welch. Yes.
1004 The Clerk. Mr. Welch votes aye. Mr. Yarmuth.
1005 Mr. Yarmuth. Yes.
1006 The Clerk. Mr. Yarmuth votes aye. Ms. Clarke.
1007 Ms. Clarke. Yes.
1008 The Clerk. Ms. Clarke votes aye. Mr. Loeb sack.
1009 Mr. Loeb sack. Yes.
1010 The Clerk. Mr. Loeb sack votes aye. Mr. Rush.
1011 Mr. Rush. Yes.
1012 The Clerk. Mr. Rush votes aye. Ms. DeGette.
1013 Ms. DeGette. Aye.
1014 The Clerk. Ms. DeGette votes aye. Mr. Butterfield.
1015 [No response.]
1016 The Clerk. Ms. Matsui.
1017 Ms. Matsui. Yes.
1018 The Clerk. Ms. Matsui votes aye. Mr. McNerney.
1019 Mr. McNerney. Aye.
1020 The Clerk. Mr. McNerney votes aye. Mr. Lujan.
1021 Mr. Lujan. Yes.
1022 The Clerk. Mr. Lujan votes aye. Mr. Pallone.

1023 [No response.]

1024 The Clerk. Chairman Walden.

1025 Mr. Walden. Walden votes no.

1026 The Clerk. Chairman Walden votes no.

1027 Mr. Walden. The clerk will correctly report the total.

1028 The Clerk. Mr. Chairman on that vote, there were 11 ayes
1029 and 16 nays.

1030 Mr. Walden. Eleven ayes, 16 nays, the amendment is not
1031 agreed to.

1032 Are there further amendments to this legislation? Seeing
1033 none, the question now occurs on forwarding H.R. 2666 to the full
1034 committee. All those -- we will go ahead and do a roll call on
1035 this as well.

1036 Those in favor will vote aye.

1037 Those opposed, no.

1038 The clerk will call the roll.

1039 The Clerk. Mr. Latta.

1040 Mr. Latta. Aye.

1041 The Clerk. Mr. Latta votes aye. Mr. Barton.

1042 [No response.]

1043 The Clerk. Mr. Shimkus.

1044 Mr. Shimkus. Aye.

1045 The Clerk. Mr. Shimkus votes aye. Mrs. Blackburn.

1046 Mrs. Blackburn. Aye.

1047 The Clerk. Mrs. Blackburn votes aye. Mr. Scalise.

1048 [No response.]

1049 The Clerk. Mr. Lance,

1050 Mr. Lance. Aye.

1051 The Clerk. Mr. Lance votes aye. Mr. Guthrie,

1052 Mr. Guthrie. Aye.

1053 The Clerk. Mr. Guthrie votes no. Mr. Olson.

1054 Mr. Olson. Aye.

1055 The Clerk. Mr. Olson votes aye. Mr. Pompeo.

1056 Mr. Pompeo. Aye.

1057 The Clerk. Mr. Pompeo votes aye. Mr. Kinzinger.

1058 Mr. Kinzinger. Aye.

1059 The Clerk. Mr. Kinzinger votes aye. Mr. Bilirakis.

1060 Mr. Bilirakis. Aye.

1061 The Clerk. Mr. Bilirakis votes aye. Mr. Johnson.

1062 Mr. Johnson. Aye.

1063 The Clerk. Mr. Johnson votes aye. Mr. Long.

1064 Mr. Long. Aye.

1065 The Clerk. Mr. Long votes aye. Mrs. Ellmers.

1066 Mrs. Ellmers. Aye.

1067 The Clerk. Mrs. Ellmers votes aye. Mr. Collins.

1068 Mr. Collins. Aye.

1069 The Clerk. Mr. Collins votes aye. Mr. Cramer.

1070 [No response.]

1071 The Clerk. Chairman Upton.

1072 The Chairman. Aye.

1073 The Clerk. Chairman Upton votes aye. Ms. Eshoo.
1074 Ms. Eshoo. No.
1075 The Clerk. Ms. Eshoo votes no. Mr. Doyle.
1076 Mr. Doyle. No.
1077 The Clerk. Mr. Doyle votes no. Mr. Welch.
1078 Mr. Welch. No.
1079 The Clerk. Mr. Welch votes no. Mr. Yarmuth.
1080 Mr. Yarmuth. No.
1081 The Clerk. Mr. Yarmuth votes no. Ms. Clarke.
1082 Ms. Clarke. No.
1083 The Clerk. Ms. Clarke votes no. Mr. Loeb sack.
1084 Mr. Loeb sack. No.
1085 The Clerk. Mr. Loeb sack votes no. Mr. Rush.
1086 Mr. Rush. No.
1087 The Clerk. Mr. Rush votes no. Ms. DeGette.
1088 Ms. DeGette. No.
1089 The Clerk. Ms. DeGette votes no. Mr. Butterfield.
1090 [No response.]
1091 The Clerk. Ms. Matsui.
1092 Ms. Matsui. No.
1093 The Clerk. Ms. Matsui votes no. Mr. McNerney.
1094 Mr. McNerney. No.
1095 The Clerk. Mr. McNerney votes no. Mr. Lujan.
1096 Mr. Lujan. No.
1097 The Clerk. Mr. Lujan votes no. Mr. Pallone.

1098 [No response.]

1099 The Clerk. Chairman Walden.

1100 Mr. Walden. Walden votes aye. Are there other members who
1101 are not recorded on this vote? The clerk will report the tally.

1102 The Clerk. Mr. Chairman, on that vote there were 15 ayes
1103 and 11 nays.

1104 Mr. Walden. The bill is favorably reported.

1105 We will now turn to the discussion draft on the Small Business
1106 Broadband Deployment Act. The chair calls up that discussion
1107 draft and asks the clerk to report.

1108 [The Small Business Broadband Deployment Act follows:]

1109

1110 *****INSERT 5*****

1111 The Clerk. Discussion Draft. To ensure that small
1112 business providers of broadband internet access service can
1113 devote resources to broadband deployment.

1114 Mr. Walden. Without objection, the first reading of the
1115 bill is dispensed with. The bill will be open for amendment at
1116 any point. So ordered. Are there any bipartisan amendments to
1117 the Small Business Broadband Deployment Act?

1118 Seeing none, are there amendments? The chair recognizes --
1119 for what purpose does the gentleman from Iowa seek recognition?

1120 Mr. Loeb sack. Mr. Chairman, I have an amendment at the desk.

1121 [The amendment of Mr. Loeb sack follows:]

1122

1123 *****INSERT 6*****

1124 Mr. Walden. The clerk will report the amendment. Which
1125 amendment is it?

1126 Mr. Loeb sack. For clarification, it is Sunset 01 February
1127 2nd.

1128 The Clerk. Amendment to discussion draft offered by Mr.
1129 Loeb sack. Page 2, after line 11, insert the following and
1130 redesignate succeeding provisions accordingly.

1131 Mr. Walden. Without objection, the reading of the amendment
1132 is dispensed with and the gentleman is recognized for 5 minutes.

1133 Mr. Loeb sack. Thank you, Mr. Chair. I would like to offer
1134 this amendment to the Small Business Broadband Deployment Act
1135 discussion draft. I agree with the FCC's transparency rule that
1136 consumers deserve to know what they are buying when they pay their
1137 monthly broadband bill. At the same time, I understand that for
1138 smaller service providers, the burdens of the enhanced
1139 transparency rule may outweigh the benefits.

1140 My amendment would strike a careful balance between these
1141 important consumer interests and very real costs for smaller
1142 internet service providers. Striking this balance is especially
1143 important back home in Iowa where I have well over one hundred
1144 separate internet service providers. The American Cable
1145 Association, who represents over 800 small operators, many of
1146 which are in Iowa, recommended to the FCC that it exempt providers
1147 with 100,000 subscriber lines or fewer from the enhanced
1148 transparency rules. By codifying this level, my amendment would

1149 allow these small businesses to focus their limited resources on
1150 increased deployment and better services. Increasing deployment
1151 is especially important in rural areas as so many on this
1152 committee, I think, have experienced themselves and where so many
1153 people still do not even have access to high speed broadband.

1154 And to better inform our decision making forward, my
1155 amendment would also sunset this exemption in 5 years while also
1156 requiring the FCC to collect more data about how many consumers
1157 will be affected and the real cost to providers. This report will
1158 make sure any extension of this exemption is data driven and
1159 accurately weighs the costs and benefits of the rule.

1160 I have been working hard with my colleagues on both sides
1161 of the aisle over the past few weeks to try and reach a compromise
1162 we can all support. And while we have not yet come to an
1163 agreement, I am optimistic that we can work together across the
1164 aisle to offer a final bill that is amenable to both sides of the
1165 aisle. And to that end, Mr. Chair, I withdraw the amendment.

1166 Mr. Walden. The gentleman withdraws his amendment without
1167 objection. I thank the gentleman for offering and making the
1168 case. You have been very productive to work with. I think again
1169 on this one we were right down to a final sort of back and forth
1170 and can find common ground. This is important work to get done
1171 and we are happy to work with you going forward to find that right
1172 number that makes sense. And as I say, there is a lot of back
1173 and forth discussion here on our side because we want to get this

1174 right so that these small internet service providers like the ones
1175 you described and like the ones we all have, don't get overly
1176 burdened. We were more than open to those discussions and thought
1177 we had this worked out. So we are kind of surprised as well by
1178 the amendment.

1179 Mr. Loeb sack. I look forward to working with you.

1180 Mr. Walden. I appreciate the comity here. With that, the
1181 gentleman has withdrawn his amendment.

1182 Are there any other amendments to this discussion draft
1183 legislation? If not, does anyone seek recognition on this?

1184 I will recognize the gentleman from Pennsylvania, Mr. Doyle.

1185 Mr. Doyle. Yes, Mr. Chairman, and I just want to say that
1186 we want to work with you on this. I think some of the concerns
1187 we have on the majority side when you look at 500,000 subscribers,
1188 that includes some companies that have revenues in excess of \$100
1189 million and we think they could easily comply with some of these
1190 consumer protections. So we want to work with you. It is our
1191 intention to voice this and work this on full committee.

1192 Mr. Walden. I appreciate the gentleman's comments. We had
1193 proffered several discussion points well below that initial
1194 number, starting points, so we are not in disagreement on that.
1195 That is why I said I thought we were actually very close on that.
1196 And I think this one shouldn't be hard to get finished up. So
1197 I am happy to work with and Mr. Loeb sack and anyone else that wants
1198 to. I think we are all affected. We want to get it right. And

1199 as I say, I thought we were there.

1200 So the question now occurs on forwarding the discussion
1201 draft to full committee.

1202 All those in favor say aye.

1203 Those opposed nay.

1204 The ayes appear to have it and the ayes have it. And the
1205 bill -- for a guy who was going to voice vote it, I didn't know
1206 you were voting no. The bill is favorably forwarded to the full
1207 committee.

1208 Without objection, staff is authorized to make technical and
1209 conforming changes, move Mr. Doyle down three paces, and to the
1210 legislation approved by the subcommittee today. So ordered.

1211 Without objection, the subcommittee stands adjourned.

1212 [Whereupon, at 11:18 a.m., the subcommittee was adjourned.]