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March 5, 2018

The Honorable Marsha Blackburn
Chairman, Subcommittee on Communications and Technology
Committee on Energy and Commerce
2125 Rayburn House Office Building
Washington, DC 20515

Re: Response to follow-up questions

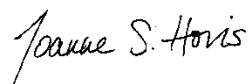
Dear Ms. Blackburn,

It was my privilege to testify before your subcommittee as part of your January 30, 2018, hearing entitled "Closing the Digital Divide: Broadband Infrastructure Solutions."

Public-private partnerships—especially ones in which public entities build fiber-optic networks that may be used by private service providers—can be a crucial part of the broadband solution for rural and unserved urban areas throughout the United States.

Attached please find my answers to your Subcommittee members' additional questions. Please do not hesitate to contact me if I can provide any further information.

Sincerely,



Joanne Hovis
President, CTC Technology & Energy

Attachment

By email: Evan.Viau@mail.house.gov

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RESPONSES FROM JOANNE HOVIS
President, CTC Technology & Energy
CEO, Coalition for Local Internet Choice
March 5, 2018

Question from the Honorable Yvette Clarke

- 1. I have learned by representing the 9th Congressional District of New York and the Smart Cities Caucus that cities are eager to bring high-speed broadband and 5G technology to their constituents. I am concerned, however, by the recent adversarial tone between industry and cities. I think it is wrong to characterize cities and industry as adversaries and not partners.**
 - a. Can you all commit to helping reach a good faith consensus on how to bring high-speed broadband and 5G technology to cities aiming to deploy smart technology for their constituents? What are your plans for this commitment and engagement?**

Answer:

I agree with the sentiments in your preamble. Public and private entities can and should work together to solve our nation's broadband challenges. This requires pursuing a full range of options, including locally driven efforts to utilize public assets to attract private investment and to deploy public networks over which private providers can offer service. Such partnerships can work especially well in areas where there exists insufficient return on investment for private companies to shoulder all infrastructure costs.

To answer your question, yes, I can make a commitment. My company, CTC Technology & Energy, has been a leader in forging or proposing public-private partnerships in areas as diverse as Westminster, Maryland; Huntsville, Alabama; and big cities like San Francisco and Seattle. These public-private collaborations serve the national interest. We will continue to help localities throughout the United States pursue them.

Many localities are forging ties with private entities on their own. Hundreds of localities have reached out to companies including Google Fiber, AT&T, C-Spire, Ting Internet, MetroNet, ALLO Communications, and many others to offer what amount to economic development packages and other incentives. These local collaborations benefit both private and public entities.

- b. Will you commit to working with my office to resolve some of these disputes, and find a path forward that works for all consumers, cities, and the industry?**

I am hopeful that I can assist with this process. In my experience, local governments work very hard to collaborate with private industry on deployment issues and are very motivated to attract private investment in all forms of broadband, including advanced wireless technologies, often called “4G densification” and “5G.” In my experience, industry assertions that localities deliberately get in the way of deployments are simply inaccurate. To the contrary, localities seek to find common ground for industry and community interests, which include the need for better service and, often, more extensive deployments.

Questions from the Honorable Anna G. Eshoo

1. As Congress explores how to remove barriers to broadband deployment, do you believe that targeted federal legislative solutions like CLIMB ONCE and the Community Broadband Act, which simply open the doors for local autonomy, can be helpful in expediting connectivity and economic development?

Answer:

Yes, Climb Once can be enormously helpful. Cumbersome procedures associated with attaching new wires to poles can be a large source of uncertainty, excess cost, and delays in improving the nation’s broadband infrastructure. Under Climb Once, states and localities would become free to implement common-sense policies to streamline such procedures (often called “one-touch-make-ready”).

The opposition to Climb Once seems to me to have little merit. It makes no more sense to require fiber deployers to duplicate efforts in this area than it would to require them to dig separate trenches for each new underground utility. (Indeed, much like “Climb Once, “Dig Once” policies are important tools for municipalities to save tax dollars through coordinated planning—something my firm documented in our 2017 [Technical Guide to Dig Once Policies](#).) The FCC could play a constructive role—and could resolve incumbent concerns—by establishing best practices for such local efforts.

Regarding the Community Broadband Act: Localities should be free to build infrastructure that meets their needs, including broadband infrastructure. At least 21 states restrict this activity. As you know, in 2015 the FCC attempted to block restrictive state laws to protect the rights of municipalities in this area. A later court ruling found that the FCC had no legal power to preempt state laws in this regard—but the court did not disagree with the substantive analysis the FCC presented (based on an extensive record) about the value of community-based broadband efforts or the destructive outcomes of the efforts to curtail local efforts.

2. A recent Harvard study found that contrary to claims that municipal broadband, or even the threat of municipal broadband will reduce network investment, it is actually the

state bans on municipal broadband that result in less overall investment in deployment, and that community-owned fiber to-the-home (FTTH) networks in the United States generally charge less for entry-level broadband service than do competing private providers, and don't use initial low "teaser" rates that sharply rise months later.

a. Doesn't that demonstrate that consumers need more competition? Do you agree with the FCC's determination last April that a sole broadband provider counts as a sufficient level of competition?

Answer:

Taking your second question first, I find it troubling, and almost laughable, that the FCC suggests that one wired broadband provider represents a form of competition when the only other provider is a telephone company offering slow DSL service that does not meet the definition of broadband.

On your first question, which cites the Harvard study, let me take a step back to explain what the study found and to address recent spurious attacks on it. (I would not be surprised if these attacks are circulating within other responses to these questions.) I will then discuss the important role of competition.

In January 2018 a research project within Harvard's Berkman Klein Center for Internet & Society reported that municipally owned fiber networks in the United States generally provided lower and clearer prices for their least-expensive plans that minimally met the FCC's broadband threshold—25 Mbps download, 3 Mbps upload—than did local private competitors.¹ (The study compared broadband-minimum plans regardless of the precise advertised speed over the broadband threshold. Those advertised speeds varied from provider to provider.) Additionally, the study found that unlike private incumbent providers, these municipal fiber networks did not use gimmicks like "teaser" rates.

Subsequent criticisms of the study—generally from industry-funded sources—used misleading lines of argument. One line of attack used "price per megabit" calculations **for download speeds only** to claim that private providers' and municipal providers' basic broadband service were far closer in price, contrary to study findings. Yet this attack was false and misleading because it completely ignored upload speeds, which were much faster with the municipal networks.

Perhaps more importantly, "price per megabit" arguments have limited meaning because consumers cannot purchase broadband service by these units. They can only select among speed tiers that are offered by their providers—and that is what the study compared. Additionally, the

¹ <https://cyber.harvard.edu/publications/2018/01/communityfiber>

marginal value of additional megabits declines as speeds increase (e.g., the difference between having 1 Mbps or 20 Mbps is far more significant than the difference between having 40 Mbps or 60 Mbps).

Critics also pointed to financial difficulties at a relative handful of municipal networks as a basis for attempting to discredit the entire study and devalue all municipal networks.

Interestingly, none of the critics called for the collection and release of more and better data that would allow for deeper research in the public interest—a topic to which I will return at the end of this letter.

Now that I've discussed the study, let me address your question about whether the study shows that competition has value. This study did not attempt to measure the effects of competition, which would have required looking at pricing in a control group of municipalities lacking competition. But we already know that competition produces dramatic positive effects. A 2015 White House report on community broadband pointed to the example of the municipal network in Chattanooga, Tennessee (built by EPB, the city utility):

“EPB’s efforts have encouraged other telecom firms to improve their own service. In 2008, for example, Comcast responded to the threat of EPB’s entrance into the market by investing \$15 million in the area to launch the Xfinity service – offering the service in Chattanooga before it was available in Atlanta, GA. More recently, Comcast has started offering low-cost introductory offers and gift cards to consumers to incentivize service switching. Despite these improvements, on an equivalent service basis, EPB’s costs remain significantly lower.”²

Similar effects have been seen in other areas. For example, after Kansas City assisted with the pioneering rollout of Google Fiber in 2012 and 2013, both Comcast and Time Warner Cable (now Charter) in 2014 announced they would significantly increase speeds in the area. And in 2015, AT&T, which had previously offered only slow DSL, announced it would launch “U-verse” (its name for enhanced broadband speeds over copper telephone lines) in parts of Kansas City, Missouri, and the metro area. In my own observations, even the prospect of potential competition has led incumbents in communities such as Santa Cruz, CA to increase speeds for existing service tiers with no increase in prices and to greatly improve marketing and sales efforts in the community. There are many other examples of this kind.

This topic cries out for more data. Yet the research community lacks access to a great deal of important primary data about broadband markets. Incredibly, the FCC does not comprehensively

² https://obamawhitehouse.archives.gov/sites/default/files/docs/community-based_broadband_report_by_executive_office_of_the_president.pdf

collect data on broadband speeds available by address or adoption by address. And the Commission collects very little data on broadband prices. This makes it impossible to fully understand not only the precise effects of competition, but also the interplay between broadband price, speed, adoption, and various measures of national productivity, public health, education, and labor market participation. Without complete data available, it will remain extremely difficult for economists and social scientists to conduct research on broadband in the national interest.

Thank you for the opportunity to answer these additional questions.