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BEFORE THE HOUSE ENERGY & COMMERCE COMMITTEE  
HEARING ENTITLED, "LIFT AMERICA: REVITALIZING OUR NATION'S INFRASTRUCTURE AND ECONOMY"  
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Committee Chairman Pallone, Ranking Member McMorris Rodgers, Subcommittee Chairman Doyle, Subcommittee Ranking Member Latta, and Members of the Committee, thank you for inviting me to share my views on the communications portions of H.R. 1848, the "LIFT America Act", and efforts to expand broadband deployment for all Americans. It is a pleasure to return to where my career began, even if only virtually. I also extend my appreciation for your continued public service to our nation, despite the unfair and inappropriate criticism often laid before this body.

The availability of high-speed Internet allows users around the world to communicate, learn, work, conduct commerce, and so much more. These benefits have never been more apparent than during the Covid-19 pandemic when American families have been isolated and quarantined. In fact, in some instances, including access to telemedicine/telehealth or testing and vaccine information, the technology has been a lifesaver. These activities have driven Americans to seek and use broadband technologies — whether via cable, fiber, wireless, satellite or otherwise — to a far greater extent than previously.

Appreciatively, our networks have stood up to the pandemic challenge, and America's private broadband sector deserves immense credit for the investment and upgrades it implemented over the years to handle the recent surge in Internet traffic. Reports and anecdotal evidence suggest that companies experienced usage increases of 30 to 50 percent compared to the pre-Covid time period. In contrast to other nations, American broadband providers performed incredibly well, never seeking measures to stymie Internet consumption or reduce speeds in order to minimize challenges to overall network sustainability. It is because of industry's foresight and network advances in prior years that U.S. broadband networks were generally able to sustain these capacity demands. And, the industry should be duly credited for forgoing revenue and fees during the Covid-19 crisis to ensure connectivity to subscribers in financial need, as part of voluntary pledges to the government.

Despite dedicated efforts, there is no dispute that millions of American households are still without access to broadband. Thankfully, this situation is improving. While the exact number of locations without access is currently uncertain, largely due to a problem with broadband mapping, the number of unserved Americans continues to shrink precipitously. More work nonetheless remains.

Experience has shown that there are two leading ways to extend broadband to the unserved. First, it is through very targeted, well thought-out subsidy programs that focus directly on unserved Americans and exclude areas that the private sector is already serving. Introducing aspirational qualifications and questionable policy directions can be unhelpful and counter-productive in achieving this desirable goal. Second, barriers to private sector deployment must be reduced or completely eliminated. Respectfully, for these reasons I find the LIFT America Act severely lacking.

On the positive side, I appreciate efforts by the Committee to continue to exclude state and local government 9-1-1 fee diverters from receiving any of the new federal grant monies identified for modernizing 9-1-1 networks. The current diverting states, specifically New York, New Jersey, Rhode

Island, and Nevada, should remain completely ineligible, until they stop stealing consumer-paid 9-1-1 fees for other purposes.

### *Current Federal Efforts*

Over the last several decades, the Federal Communications Commission has taken many steps to facilitate broadband deployment and greater access. During my tenure at the agency in both minority and majority capacities, I helped spearhead efforts to reform and modernize the Connect America Fund, permit standalone broadband offerings by rate-of-return providers, introduce the Alternative Connect America cost Model (ACAM), formulate and initiate reverse auctions to promote efficient use of subsidies, craft the Rural Digital Opportunity Fund, and introduce many other Universal Service Fund reforms. This required countless hours deep in the policy weeds. At no point did I or anyone else ever support the notion that our work was completed. Instead, once an effort was adopted, my attention shifted to the next program needing reform.

Most recently, Congress has provided funding for numerous programs, both at the Commission and at other federal agencies, to further extend broadband's reach to those without access. Federal entities outside of the FCC now administering broadband-related programs include the Department of Agriculture, the National Telecommunications and Information Administration at the Department of Commerce, the Department of Education, and the Department of Treasury. Additionally, other funding has been allocated for very broad purposes, such as the \$350 billion in funding to state and local governments as part of the recent Covid-19 stimulus legislation, which can be used for many purposes, including broadband projects.

### *Problems with Poorly Designed Programs*

While I sincerely hope that all funding streams accomplish their stated goals, I have concerns about how certain mechanisms have been administered in the past and worry about their potential to undercut the nation's progress in the future. Specifically, there is a major risk that some of the new programs and those being contemplated will lead to subsidized overbuilding, which is not only wasteful, but significantly discourages private sector investment and deployment. It can also threaten the viability of smaller providers, especially in areas that are already receiving federal broadband subsidies. For instance, if a new, competing subsidy program attracts the business of the local school, hospital, and/or large employer, it can completely and artificially skew the economics for maintaining and upgrading existing broadband networks, potentially jeopardizing small providers' abilities to serve residential consumers. Equally important, government spending on served or scheduled to be served areas siphons the ability to address the those Americans who are truly unserved. Every dollar wasted on subsidized overbuilding means a longer wait for those without access.

Coordination between agencies and even within agencies has proven to be extremely difficult to mandate in practice, yet it is essential to preventing subsidized overbuilding. Going forward, congressional efforts to mandate coordination among federal agencies involved in broadband-related programs need to be more specific and robust.

Relatedly, policymakers are faced with the difficult questions of what level of service determines whether a given area should be eligible for subsidies and what performance standard should be expected from broadband providers in order to receive federal government support. In other words, should the definition of broadband be changed? While I appreciate the interests of some to "future-

proof” networks through extensive technical mandates and aggressive and aspirational definitions, I strongly disagree with this approach, since in practice, it means ignoring the most neglected communities and delaying their ability to access very good and functional broadband today. For instance, the push for symmetrical speeds at exorbitant levels — such as 100/100 Mbps — makes little sense.

For the vast majority of Americans, unless they are performing remote tele-surgery at home, upload speeds do not need to be symmetrical to download speeds, and that’s even taking into account the more extensive video uses seen during the pandemic. Keep in mind that an appreciable portion of increased Internet usage has been in the form of video conferencing, telework, and distance learning, which are rather low bandwidth, taking take far less upstream bandwidth than 4K and high-definition video subscription services.” And, setting arbitrary and out of touch speed levels far in excess of expected growth or current usage undermines innovation, since it would effectively eliminate all broadband technologies, except for fiber. Codifying or adopting these exaggerated speeds will steer providers to move investments and deployment to easier to serve areas, further delaying efforts to bring access to all Americans. That is not to suggest that the current speed threshold couldn’t be changed, but it must be done very judiciously.

#### *Obstacles to Deployment*

Despite the great desire of policymakers, providers, and users to ensure broadband access to those without, many restrictions are preventing this from occurring. Specifically, some state and local governments and private company limitations are acting as barriers to greater deployment. Providers can face high fees to utilize existing communications infrastructure — e.g., poles, ducts, conduits — or convoluted processes to gain rights-of-way and zoning approvals. They also encounter limitations on the placement or expansion of wireless facilities.

After years of learning about these issues and seeing them firsthand, I am pleased to see the broad array of legislative efforts introduced by Committee Members to address many of these obstacles. From streamlining the permitting process and addressing approval timelines, to excluding providers from needless reviews and codifying steps the Commission has approved over the last several years, the collection of ideas would go a long way towards fixing existing barriers to deployment and allowing broadband providers to meet the needs for Americans without access. I humbly suggest that many of these provisions — if not all — as well as others, should be included in any broadband package approved by the Committee.

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Broadband is a highly valuable service that can be life changing for many Americans. Exceptional progress has been made over the last decade by the private sector and through various federal programs to extend existing networks and expand opportunities for access. More work remains in this area, but it needs to be accomplished thoughtfully and carefully, lest it cause more harm than good.