



March 21, 2017

Hon. Greg Walden
Chairman
Energy and Commerce Committee
U.S. House of Representatives
2185 Rayburn House Office Building
Washington, DC 20515

Hon. Frank Pallone
Ranking Member
Energy and Commerce Committee
U.S. House of Representatives
237 Cannon House Office Building
Washington, DC 20515

Hon. Marsha Blackburn
Chairman
Communications and Technology
Subcommittee
U.S. House of Representatives
2266 Rayburn House Office Building
Washington, DC 20515

Hon. Michael Doyle
Ranking Member
Communications and Technology
Subcommittee
U.S. House of Representatives
239 Cannon House Office Building
Washington, DC 20515

RE: Hearing on “Deploying America's 21st Century Infrastructure,” March 21, 2017

Dear Chairmen Walden & Blackburn, and Ranking Members Pallone & Doyle,

We commend you and the Subcommittee on Communications and Technology for holding this hearing. Telecom policy is ripe for decisive, bipartisan action, particularly on broadband deployment. While Americans may differ on their views of how to regulate the Internet, we should all agree: better, faster, cheaper and more competitive broadband benefits everyone.

There is no one-size-fits-all solution to deployment challenges. Rural towns in Kansas pose different obstacles than the hilly streets of San Francisco. But, historically, American broadband policy has been too focused on managing scarcity when we should be working to increase the supply of bandwidth and Internet access at affordable prices.

Promoting broadband deployment at all levels of government will require diligent coordination among diverse stakeholders: neighborhood organizations, city councils, state houses, federal agencies, tribal governments, companies, and, ultimately, the taxpayers.

While there is no silver bullet, two proposed bills would create the right framework for better broadband deployment:

1. Rep. Anna Eshoo's (D-CA) **Broadband Conduit Deployment Act** of 2017 requires the U.S. Department of Transportation, in coordination with the NTIA and FCC, to evaluate the "anticipated need in the next 15 years for broadband conduit" under hard surfaces in federally funded road projects. Where need is found, contractors will be required to install broadband conduit as part of the covered road project. A similar Dig Once provision was included in the **Streamlining and Investing in Broadband Infrastructure Act** introduced by Sens. Klobuchar (D-MN), Gardner, (R-CO), and Daines (R-MT) last Congress.
2. Sen. John Thune's (R-SD) **MOBILE NOW Act**, among other things, requires state transportation departments, as a condition of receiving federal highway funding, to establish processes for coordinating access to federal rights of way in order to make it easier to install conduit or fiber under, or alongside, federal highways, as well as aerial or wireless infrastructure in rights of way along roads.

Dig Once. All three bills would enable smarter use of public assets for broadband deployment. "Dig Once" conduits are as basic and uncontroversial as tech-related legislation gets. There is no reason why governments should dig up roads without installing broadband conduit for a miniscule fraction of the total cost of the dig. Failure to implement Dig Once means more construction, more disruption, and much higher costs for private providers — who may simply decide not to deploy in an area where the economics don't work. The tiny cost of installing conduit (about 1% in added costs) pales in comparison to the taxpayer burden of unnecessary digs, traffic congestion, and the opportunity cost of not having high-speed networks that both help support public services and grow the economy.¹

A study by the GAO² showed that "Dig Once" policies can reduce the of the cost of deploying fiber under highways in urban areas by 25–33% and by roughly 16% in rural areas.³ These cost reductions add up to enormous savings in the context of multi-million-dollar builds. More importantly, whether to deploy a new network (or upgrade an existing network) is always a microeconomic question decided on the margins: even relatively small cost reductions could be decisive as an incumbent or potential new entrant attempts to obtain the capital necessary to deploy broadband to a particular area. With minimal expenditure of taxpayer funds, governments can greatly expedite deployment simply by adopting Dig Once policies — and gradually recoup those investments by leasing conduit to private providers.

Rights of Way. "Dig Once" is only part of the solution. The overall goal should be to make better use of federal *and state* rights of way for broadband deployment. Dig Once should not be limited to conduits installed under hard surfaces (like asphalt); it may be more useful and cheaper to install conduits in the rights of way alongside highways in the course of a road project. The rationale

¹ John Eggerton, *Reps. Eshoo, Walden Introduce "Dig Once" Bill*, Broadcasting & Cable (Oct. 22, 2015), <http://www.broadcastingcable.com/news/washington/rep-walden-eshoo-introduce-dig-once-bill/145196>.

² Susan A. Flemming, *Planning and Flexibility Are Key to Effectively Deploying Broadband Conduit through Federal Highway Projects*, Government Accountability Office (June 27, 2012), <http://www.gao.gov/assets/600/591928.pdf>

³ Google Testimony at 4, available at <http://docs.house.gov/meetings/IF/IF16/20150722/103745/HHRG-114-IF16-Wstate-SlingerM-20150722.pdf>

underlying Dig Once — it makes sense to coordinate among multiple users, and accommodating potential future users in a single conduit — also applies to publicly owned rights of way: it also makes sense to coordinate multiple parties when they want to put up new poles, or use existing poles, or to use currently “dumb” infrastructure like highway lamps to support new antennas.

Federalism. All three bills are respectful of federalism; neither supersedes state or local decisionmaking. States and localities will maintain primary responsibility for managing their own road projects and broadband deployment efforts. But just as federal highways have been the lifeblood of American transportation, they will be the backbone of the Internet. Making highway rights of way more useful for deployment is critical to connecting the millions of Americans who live in rural small towns, in very low density areas along highways, and on tribal reservations.

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We look forward to working with the Committee and other stakeholders who share our goal of stimulating deployment so that all Americans have more options and better service at affordable prices.

Sincerely,

TechFreedom
Information Technology and Innovation Foundation
Niskanen Center
R Street Institute