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MARKUP OF:

H.R. 2666, NO RATE REGULATION OF
BROADBAND INTERNET ACCESS ACT;

H.R. 1301, AMATEUR RADIO PARITY
ACT OF 2015; AND

H.R. _____, SMALL BUSINESS BROADBAND
DEPLOYMENT ACT

WEDNESDAY, FEBRUARY 10, 2016

House of Representatives,
Subcommittee on Communications and
Technology,
Committee on Energy and Commerce,
Washington, D.C.

The subcommittee met, pursuant to call, at 3:00 p.m., in Room
2123 Rayburn House Office Building, Hon. Greg Walden [chairman
of the subcommittee] presiding.

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Members present: Representatives Walden, Latta, and Blackburn.

Staff present: Ray Baum, Senior Policy Advisor for Communications and Technology; Rebecca Card, Assistant Press Secretary; Andy Duberstein, Press Secretary; Kelsey Guyselman, Counsel, Telecom; Grace Koh, Counsel, Telecom; Graham Pittman, Legislative Clerk; David Redl, Chief Counsel, Telecom; Dylan Vorbach, Legislative Clerk, Commerce, Manufacturing, and Trade; Gregory Watson, Legislative Clerk, Communications and Technology; Jen Berenholz, Minority Chief Clerk; Christine Brennan, Minority Press Secretary; David Goldman, Minority Chief Counsel, Communications and Technology; Jerry Leverich, Minority Counsel; Lori Maarbjerg, Minority FCC Detailee; and Ryan Skukowski, Minority Policy Analyst.

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Mr. Walden. The subcommittee is going to come to order. We are going to go ahead and start this process with opening statements and hopefully our members will join us, but we are 15 minutes after the scheduled start time.

I am going to start with my own opening comments here. Today we are considering three bills intended to benefit consumers, improve access to communications, and protect small businesses from burdensome regulations. Last month, we held a legislative hearing on these bills, where we heard from the witnesses who provided us with valuable feedback and suggestions for improving our legislation. In the time since that hearing, we have continued to work with our colleagues to focus on changes to the bills that achieve our goals and hopefully garner bipartisan support.

The first bill we will take up today is H.R. 1301, the Amateur Radio Parity Act of 2015. Now this bill puts into place common sense reforms that ensure that ham radio operators have the opportunity to place unobtrusive equipment on their home property. As a ham operator myself, I know firsthand both the passion that operators have for this service, as well as how valuable they are, especially in times of emergency. While we are seeking to protect ham operators' ability to put up antennas, we also recognize that there is a role for community associations in preserving the interests of their residents. To that end, we

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have been working closely with stakeholders and our colleagues on the other side of the aisle to come to an agreement on language that achieves both of these goals. While the bill we will vote on today is the original language, we are still negotiating and we intend to find a compromise before we move the bill to full committee markup.

Next, we will consider H.R. 2666. Now this legislation prohibits the FCC from regulating the rates of broadband internet access service. At our hearing last month, there was broad agreement on both sides of the aisle that we could, in fact, come to consensus on a bill that would prohibit the FCC from engaging in harmful rate regulation. We are seeking to memorialize in law the intent expressed by Chairman Wheeler and President Obama when the Open Internet Rules were adopted, to allow for bright-line protections without regulating the rates charged by broadband providers. We have taken to heart the concerns expressed by witnesses and members alike at our hearing, and are working to incorporate those into legislative language. I am confident that we can find a middle ground that protects consumers while ensuring that no future FCC abuses the new authority granted in the net neutrality proceedings.

Finally, we will consider a bill designed to alleviate reporting burdens for small businesses. The bill would make permanent the exemption to the FCC's enhanced disclosure

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requirements in the Open Internet Order. As with the other bills, while there are disagreements on the details, there is an appropriate balance that can be struck and we are very close to reaching that balance with our Democratic colleagues. We are working together to iron out the small differences that remain in good faith, but both sides are working to protect our small businesses and entrepreneurial ISPs from the heavy hand of the FCC's enhanced transparency requirement. When we meet again for full committee markup, I am confident that we will move forward with a bill on which we can all agree.

I am optimistic that we can put the finishing touches on these bills in the weeks ahead and once again produce important, bipartisan legislation that protects consumers, small businesses, and access to the latest communications services.

We have not yet been joined by a member of the minority party, so I will turn now to Ms. Blackburn, the vice chair of the full committee for three minutes for opening comments.

Ms. Blackburn. Thank you, Mr. Chairman. And I want to say thank you for this markup. The Small Business Broadband Deployment Act is so important to protect these small ISPs who don't have the resources to comply with the net neutrality enhanced disclosure agreements and requirements. The FCC's exemption currently applies to ISPs with 100,000 or fewer

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subscribers and has been extended several times for one-year periods. So this is the right step and we thank you for that.

H.R. 2666 codifies the pledges that Chairman Wheeler and President Obama have made to not engage in rate regulation of broadband internet service. Chairman Wheeler said at the Mobile World Congress in Barcelona last March, and I am quoting him, "This is not regulating the internet. Regulating the internet is rate regulation which we don't do." And it is appropriate that we hold him to that pledge. So thank you, and I yield back my time.

Mr. Walden. The gentlelady yields back her time. I don't see anybody on the other side of the aisle, so we will now go to the vice chair of the subcommittee, Mr. Latta, for opening comments.

Mr. Latta. Thank you very much, Mr. Chairman, and thank you very much for holding today's hearing. I am pleased that we are considering several legislative measures that will limit unnecessary government regulations and protect the public.

I would like to focus on the two bills that stem from the FCC's decision to reclassify broadband as a telecommunication service under Title II of the Communications Act. It is my hope that a subcommittee can work to move these through the legislative process.

First, as a result of Title II, the FCC extends its authority to regulate rates charged for broadband. The threat of a rate

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regulation would chill network investments and stifle innovation. H.R. 2666, of which I am a cosponsor, would prohibit the Commission from regulating rates and remove regulatory uncertainty for internet service providers.

Second, the Small Business Broadband Deployment Act would help eliminate a burdensome regulation created by Title II by making permanent the temporary exemption for small ISPs from enhanced transparency requirements. I have been told by providers in my district that this exemption is essential to their continued operation.

I look forward to the discussion on the bills and look forward to working on this legislation. And with that, Mr. Chairman, I yield back.

Mr. Walden. The gentleman yields back. Let us see here. I don't see any other members seeking to make opening statements. So the chair calls up H.R. 1301 and asks the clerk to report.

[The Bill H.R. 1301 follows:]

*****INSERT 1*****

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The Clerk. H.R. 1301. To direct the Federal Communications Commission to extend to private land use restrictions its rule relating to reasonable accommodation of internet service communications.

Mr. Walden. Without objection, the first reading of the bill is dispensed with. The bill will be open for amendment at any point. So ordered. We are now on H.R. 1301. The subcommittee will reconvene at 10 o'clock tomorrow. And I remind members the chair will give priority recognition to bipartisan amendments and I look forward to seeing all of you and perhaps a few more members tomorrow, including members on the other side. Without objection, the subcommittee stands in recess.

[The Bill H.R. 2666 follows:]

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[The Bill Small Business Broadband Deployment Act follows:]

*****INSERT 3*****

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[Whereupon, at 3:20 p.m., the subcommittee was adjourned.]