

ONE HUNDRED FOURTEENTH CONGRESS
Congress of the United States
House of Representatives
COMMITTEE ON ENERGY AND COMMERCE
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MEMORANDUM

February 3, 2015

To: Subcommittee on Communications and Technology Democratic Members and Staff
Fr: Committee on Energy and Commerce Democratic Staff
Re: Subcommittee Markup of H.R. ___, “Federal Communications Commission Consolidated Reporting Act of 2015”

On Wednesday, February 4, 2015, at 10:00 a.m. in room 2123 of the Rayburn House Office Building, the Subcommittee on Communications and Technology will consider a discussion draft of the “Federal Communications Commission Consolidated Reporting Act of 2015.”

I. THE FEDERAL COMMUNICATIONS COMMISSION CONSOLIDATED REPORTING ACT OF 2015

The discussion draft would consolidate eight statutorily mandated FCC reports into a single biennial report on communications marketplace competition. The FCC would be required to outline the agency’s agenda for the coming two years to address marketplace barriers and the actions taken in the previous two years to address barriers identified in the last report. The draft bill would further eliminate additional references in the Communications Act to certain outdated reports. Many are one-time reports that Congress requested by law, rather than ongoing data collection or analysis. The discussion draft is identical to H.R. 2844 from the 113th Congress, which passed the House unanimously on September 9, 2013.

II. CONCERNS WITH THE DISCUSSION DRAFT

Since the 113th Congress considered H.R. 2844, a congressional statute and a federal appeals court ruling impacted two of the reports to be consolidated pursuant to the discussion draft.

In passing the STELA Reauthorization Act in December 2014, Congress modified certain aspects of the FCC’s annual cable pricing report. Specifically, Congress required the FCC to provide more transparency on how retransmission consent costs affect cable rates.¹ The discussion draft would consolidate the annual cable pricing report into the broader biennial report on the communications marketplace, however the draft has not been updated to reflect this change in the law.

Second, the discussion draft retains provisions identical to H.R. 2844 related to the FCC’s reporting obligation under Section 706(b) of the 1996 Telecommunication Act. This report was a key component in the January 2014 *FCC v. Verizon* decision. In that case, the D.C. Circuit affirmed that the FCC is required to take “immediate action” to “accelerate deployment” of broadband if the Commission finds in the 706(b) report that broadband is not being deployed in “a reasonable and timely fashion.”² The discussion draft has not been revised since the court’s decision.

Democratic staff is discussing ways to address these issues with the majority and anticipates resolving these concerns in a bipartisan managers’ amendment offered at mark up.

¹ Senate Report 113-322, S. 2799 Satellite Television Access and Viewer Rights Act (Dec. 12, 2014).

² *Verizon v. Federal Communications Commission*, 740 F.3d 623 (D.C. Cir. 2014).