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Congress of the United States
House of Representatives
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Statement of Representative Anna G. Eshoo
Committee on Energy and Commerce
Full Committee Markup of H.R. 2576, “TSCA Modernization Act of 2015” and H.R. 2583,
“FCC Process Reform Act of 2015”
June 2, 2015

Mr. Chairman, thank you for calling this markup of legislation regarding two issues: toxic chemicals regulation and FCC process reform. I hope the Committee can report two bipartisan bills to the full House tomorrow morning.

Everyone on this Committee is aware of the sad state of federal toxics regulation, and I commend my colleagues for putting together a bill to address this. Most importantly, H.R. 2576 will remove the impossible barrier of regulation of toxic chemicals which prevented the EPA from banning asbestos which kills thousands of Americans each year. I’m also pleased that the bill includes expedited review for toxic chemicals that accumulate in the environment or in our food supply.

However, I do have concerns. Allowing unlimited industry-initiated reviews of chemicals could bog down the EPA and prevent it from performing risk evaluations on the most dangerous chemicals. I’m also concerned that the requirement allowing EPA to initiate 10 risk evaluations each year is made “subject to the availability of appropriations,” meaning the agency will be immune from suit for failing to meet this requirement and could be severely limited by Appropriators from conducting the minimum amount of reviews.

I also remain concerned about the preemption provisions in H.R. 2576. TSCA has floundered over the last four decades at the federal level, but California voters passed Proposition 65 in 1986 to require the listing and labeling of toxic chemicals. While the bill makes an attempt at grandfathering Prop 65, last week California Attorney General Kamala Harris wrote to this Committee expressing concerns about the grandfathering provision. Attorney General Harris enforces Prop 65 every day. In her letter to us she suggests making small changes to the bill that will clarify the grandfathering provision and prevent needless litigation. I plan to offer an amendment at tomorrow’s markup that includes these recommended changes.

With respect to H.R. 2583, the FCC Process Reform Act, I continue to support the underlying bill as reported out of the Communications and Technology Subcommittee two weeks ago. Although I strongly disagree with the inclusion of an artificial delay of the FCC

Collaboration Act, the bill takes a compromise approach to enhance transparency and accountability at the FCC by providing the agency with the flexibility to evaluate and adopt procedural changes to its rules.

What I cannot support are attempts to stack this bill with partisan amendments that have the effect of tying the FCC in knots. Proposed under the guise of improved agency transparency and accountability, what these bills actually do is prevent the FCC from being fast, efficient and transparent.

After four years of debating FCC process reform, the Committee can take one of two routes. If the Majority wants to offer its partisan amendments, Democrats will oppose final passage and this bill will once again fail to become law. Alternatively, we can adopt the Democratic substitute amendment which incorporates the areas of bipartisan agreement into the underlying bill and join together in urging the Senate to expeditiously pass the FCC Process Reform Act.