ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised 2 minutes remain in this vote.

□ 1756

Mr. CLEAVER and Mr. BROWN of Ohio changed their vote from ''yea'' to ''nay.''

Messrs. MARSHALL, RAHALL, CLAY and FORD changed their vote from ''nay'' to ''yea.''

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Ms. PRYCE of Ohio. Mr. Speaker, on the legislative day of Thursday, June 8, 2006, the house had a vote on rollcall 237, on H Res. 850, providing for consideration of the bill (H.R. 5252) to promote the deployment of broadband networks and services. Had I been present, I would have voted ''yea.''

GENERAL LEAVE

Mr. BARTON of Texas. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days within which to revise and extend their remarks on H.R. 5252 and to insert extraneous material on the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

COMMUNICATIONS OPPORTUNITY, PROMOTION, AND ENHANCEMENT ACT OF 2006

The SPEAKER pro tempore. Pursuant to House Resolution 850 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 5252.

□ 1758

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5252) to promote the deployment of broadband networks and services, with Mr. PRICE of Georgia in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered read the first time.

The gentleman from Texas (Mr. BARTON) and the gentleman from Michigan (Mr. DINGELL) each will control 30 minutes.

The Chair recognizes the gentleman from Texas.

Mr. BARTON of Texas. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I enthusiastically bring the general debate for H.R. 5252, the Communications Opportunity, Promotion, and Enhancement Act of 2006, to the floor of the House of Representatives. The process in getting the bill to this stage has been long, has been fruitful, and, in my opinion, it has been fair. It has involved more than a year of hearings, as well as staff and Member-level negotiations. That process has clearly borne, I think, positive fruit.

We come to the House today with a bill that has received overwhelming bipartisan support in both the subcommittee and the full committee. The bill passed the subcommittee by a margin of 27–4, with all Republicans voting for it and two-thirds of the Democrat minority party voting for it. In the full committee it was reported by a margin of 42–12, again all Republicans voting for it and a majority of the Democrats voting for it.

The primary focus of this legislation is to create a streamlined cable franchising process in order to increase the number of facilities-based providers for video, voice, and data services everywhere in our great Nation.

Today, there are thousands of local franchising authorities. Each may impose disparate restriction on the provision of cable service in its specific franchising area. The requirement to negotiate such local franchises and the patchwork of obligations that local franchising authorities impose are hindering the deployment of advanced broadband networks that will bring increasingly innovative and competitive services to all of our constituents.

The United States does not even rank in the top 10 of the nations of the world in broadband deployment. This bill should change that statistic.

H.R. 5252 seeks to address this concern and strike the right balance between national standards and local oversight. It would allow the negotiation of local franchises, but make available an alternative national franchise process.

□ 1800

Moreover, the national franchise preserves local franchise fees, municipal control over their rights-of-way, and support for their Public Education and Governmental channels that so many of our Members are strongly in favor of.

The bill also seeks to strike the right balance between ensuring the public Internet remains an open, vibrant marketplace, and ensuring Congress does not hand the FCC a blank check to regulate Internet services, an action that I believe would have a chilling effect on broadband deployment, especially broadband innovation. We need the FCC to stop the cheats without killing honest creativity. We don't need anybody to be the first Secretary of the Internet.

Finally, the bill addresses rules for voiceover Internet protocol services, or VoIP services, to ensure that the Internet voice services become a vibrant competitor to what we call plain old telephone service.

I want to thank Congressman RUSH for his cosponsorship, Subcommittee Chairman Mr. UPTON for his cosponsorship, Vice Chairman CHIP PICKERING of Mississippi for his leadership, and all the members of the committee and the subcommittee on both sides of the aisle who have cosponsored this bipartisan legislation with me.

I would urge my colleagues to support this bill and look forward to a vigorous debate on the amendments that have been made in order by the Rules Committee.

Mr. Chairman, I reserve the balance of my time.

Mr. DINGELL. Mr. Chairman, I yield myself 5 minutes.

(Mr. DINGELL asked and was given permission to revise and extend his remarks.)

Mr. DINGELL. Mr. Chairman, I rise in opposition to this measure. It is a bad bill. It does nothing except take care of the special and the vested interests. The baby bells, the telephone companies, and the cable operators are going to cut a fat hog. The consumers are able to anticipate only a few things: One, they are going to get worse service, probably less competition, and almost certainly increases in rates.

Consumers are going to see their cities lose control over their streets and roads to, of all things, the Federal Communications Commission, one of the sorriest of the Federal agencies, and an agency which has neither the staff time nor willingness to address the important questions that are going to be conferred on it by this legislation.

In addition to that, the FCC is going to be clogged. There is going to be deadlock and absolute chaos in that agency because of the total lack of that agency in addressing the serious questions regarding administration of highways, streets, roads, and use of public facilities belonging to cities, counties, and States.

It would be a wonderful argument, which is made by the proponents of this bill, that it will lower cable bills and bring consumers choice. What a wonderful argument, if only it were true. This bill is going to harm our consumers, harm our citizens, and harm commercial users of the Internet.

First, with regard to consumers. The bill will leave many consumers paying higher prices for cable services. There is no general promise of lower prices. In fact, the telephone companies, and listen to this, have been telling Wall Street that the price they get for their services will be higher than cable. That is the competition we are going to see under this legislation.

Worse, the bill is a blow to the universal service principles which Congress has insisted on since 1927. The bill abandons current law that in exchange for the use of public property cable operators are required to serve all consumers, all consumers in the franchise area. Both new and existing cable providers will, under this bill, be allowed to cherrypick and skim cream,

serving only attractive neighborhoods and the highest value of consumers in the way that best suits their balance sheets. The rest of us will only be left without competitive choice, but we very well can face higher cable bills, worse service qualities, or even withdrawal of our only provider.

The bill's redlining provisions focused on income is too weak to offer any real protection against discrimination, which is why the leadership conference on civil rights opposes it. The bill does not stop cable operators from offering inferior service based on a person's race, color, religion, national origin or sex.

Second, communities find that this bill inexplicably takes control over local rights-of-way. And as I mentioned, hands them, of all things, to the FCC. Now, the FCC knows about as much on street and sidewalk repairs and local traffic patterns and other local concerns as it does about astrophysics, yet the bill lets the FCC overrule the cities with regard to the management of their property. This is the reason that the League of Cities, the Conference of Mayors and the National Association of Counties oppose it.

Citizens and commercial users of the Internet will find a third reason to oppose it. This bill does away with network neutrality. It is something in which there should be no mistake. Telephone and cable companies will be able to operate as private tax collectors to single out certain Web sites to pay extra fees, to make extra benefits, and get extra privileges. Small and large business schools, libraries, ordinary citizens running Web sites will get shut out of this fast lane unless they are willing to pay a lot more. This could significantly alter the open and innovative Internet that the government has, until now, protected.

If you want a bad piece of legislation, Mr. Chairman, we are looking at it right here. It is going to hurt people. We could have written a good piece of legislation but, regrettably, did not. We have before us, then, a piece of the purest special interest legislation, something which will benefit the few at the expense of the many, something which is rather worthy of this Republican-led Congress.

Mr. BARTON of Texas. Mr. Chairman, I yield 1 minute to a member of the Energy and Commerce Committee, a strong supporter of the bill, the gentleman from California (Mr. RADANOVICH).

Mr. RADANOVICH. Thanks, Mr. Chairman.

Mr. Chairman, I rise to support H.R. 5252, the COPE Act. Today's communications networks have become national and international in nature, therefore it does not make sense to still require companies to provide video services to meet varying requirements in tens of thousands of different areas.

We have seen evidence and heard stories of the months and years it takes to get any one individual franchise, and in some cases video providers must get dozens of individual franchises to service one area. All that does is slow down competition.

This bill also helps get the next generation Internet to consumers with the ability to provide voice, data, and now video, telecommunications companies will be able to develop and increase their infrastructure and provide better and cheaper services.

This is one of the most pro-consumer bills to come to the floor this year, and we need to make sure that the President signs video voice legislation this year. I urge all my colleagues to vote for the COPE Act.

Mr. MARKEY. Mr. Chairman, I yield 2 minutes to the gentlewoman from Wisconsin (Ms. BALDWIN).

Ms. BALDWIN. Mr. Chairman, I rise today in opposition to H.R. 5252, the Communications Opportunity Promotion and Enhancement Act of 2006.

Simply put, I support the ends but not the means with respect to this legislation. The goal of increasing competition in the video communication market is worthy. Indeed, it is of great importance. We know that robust competition can improve customer services, reduce pricing, and spark innovation and technological advances. This House is right to take on this critical and timely subject. But I am disappointed the drafters felt the need to use a national cable franchise as the means to achieve these laudable ends.

I see numerous examples of telephone companies, small and large, entering into successful negotiations with local franchise authorities, and I believe that we can encourage new entrants and new competition without moving to a federally managed national franchise.

But, Mr. Chairman, despite my reservations about the national cable franchise, I might view this model more favorably if the legislation contained adequate safeguards and requirements to ensure that the benefits of increased competition are shared as widely as possible. Unfortunately, this is not what happened in committee when we marked up this legislation and we were denied the ability to bring our amendments to improve the bill to the floor this evening.

Instead, H.R. 5252 backs away from the tenet of universal service to all citizens, which has been a fundamental principle of our Nation's communication policies for over 70 years. And while anti-redlining language is included in the bill, other provisions in the bill render it toothless.

The legislation also strips the States and localities of their authority to both establish and enforce consumer protections and customer service standards. It makes the FCC the final arbiter of local rights-of-way disputes.

Most disappointingly, the bill does little to protect what we call the neutrality of the Internet. Neutrality has become crucial to the development of innovative and competitive broadband content and services.

I urge my colleagues to reject this legislation.

Mr. BARTON of Texas. Mr. Chairman, I yield 1 minute to a member of the full committee and the distinguished Chairman of the Veterans' Committee, Mr. BUYER of Indiana.

Mr. BUYER. Mr. Chairman, I commend Chairman BARTON and Chairman UPTON for their leadership, along with my colleague, Mr. RUSH, from Chicago, and others.

This came out of the subcommittee 27–4, a majority of the minority Democrats of the full committee supported this legislation. So this is an overwhelmingly bipartisan piece of legislation that is very exciting for the American people because it outlines the principles of free, open, market competition. It continues to spawn the technological renaissance that will benefit consumers and lower price.

We are talking about things today that weren't even around when we did the Telecommunications Act of 1996. Telephony? IPTV? We didn't even know those terms. As a matter of fact, when compression technology came along, we thought the future in 1996 was about voice. We got it wrong. It is about voice, video, and data, and that is what we have today on these cell phones.

So when we talk about delivering of video services, the landscaped has changed. Congress has to change. We need to get out of the way. We need to deregulate. If you have to regulate, do so on parity and be technologically neutral.

I commend the chairman.

I do not support the Markey amendment.

Mandated neutrality standards do nothing more than squelch innovation, stifle competition and undermine broadband deployment.

Anytime the government attempts to legislate a "potential" problem it ends up either, at best in years of litigation, and at worst with a regulatory framework that does nothing to help this country.

Currently, at great expense, large and small companies across the country have invested billions of dollars to lay fiber in an effort to provide wanted services to their consumers. Any attempt for government to then restrict their ability to potentially charge for the use of these pipelines acts as a disincentive to continue to deploy, or maintain current access.

Even now, consumers choose different tiers of access to the Internet—I don't see how it can be fair to charge the same rate to one consumer who merely wants to use the internet for sending and receiving emails and another who is actively downloading a multitude of songs, videos, and television shows. The same goes for web sites that demand the use of large amounts of data, such as a video sharing site, or a music download site. In an effort to provide the fastest and most efficient service, should we be blind to those who paid and labored to place the fiber in the ground?

It seems inequitable and counterintuitive to the pro-market principles from which this nation has benefited.

Mr. MARKEY. Mr. Chairman, I yield 2 minutes to the gentleman from Virginia (Mr. BOUCHER).

(Mr. BOUCHER asked and was given permission to revise and extend his remarks.)

Mr. BOUCHER. Mr. Chairman, I thank the gentleman from Massachusetts for yielding this time to me. I rise in support of the bill and I urge its approval by the House.

In my view, it will bring urgently needed competition to cable television and benefit consumers nationwide with more varied program offerings and the better pricing that competition inevitably brings.

The bill also opens the door for local governments to offer commercial telecommunication services, filling the gap where broadband is either not available or is available but is priced beyond the reach of residential subscribers and the small business community.

The manager's amendment contains provisions I recommended that will assure fair treatment for electric utilities and telephone companies in pole attachment pricing, and I want to thank the gentleman from Texas (Mr. BARTON), who chairs the full committee, for his assistance with that provision. And the bill will assure that consumers who desire to purchase a freestanding broadband service can do so without having to buy telephone or cable service from the broadband provider.

I also urge support for the net neutrality amendment that the gentleman from Massachusetts (Mr. MARKEY) will be offering. It is essential to preserve the Internet as a platform for innovation. Broadband providers plan to create a two-lane Internet, a fast lane for their own content and for others who can pay for fast-lane access, and a slow lane for everyone else. That plan fundamentally changes the character of the Internet and would eliminate the openness and the accessibility that have enabled the Internet to be a platform for innovation unequaled by any advent in American history.

□ 1815

I will have more to say about that when the Markey amendment is offered, but I want to take the opportunity during these remarks to say that the net neutrality amendment is fundamental, and I strongly urge its adoption when it is offered.

Mr. UPTON. Mr. Chairman, I yield 1 minute to the gentleman from Louisiana (Mr. ALEXANDER).

Mr. ALEXANDER. Mr. Chairman, I rise in support of H.R. 5252. This legislation will permit us to move the video franchising process into the 21st century. The concept of a national franchise is needed to make the U.S. concurrent with the global nature of telecommunications by enabling competition to enter the market and build tomorrow's communications network in a timely manner.

There are more than 30,000 individual franchise authorities in the United States. If telecom companies have to negotiate with each and every one of these, it will be a very long time before they get around to addressing video franchises for rural areas such as the one I represent in Louisiana. Video competition will increase access for these rural Americans and drive new innovations like telemedicine and distance learning. We can greatly accelerate that process by creating a national streamlined method for video entry.

Let us not miss this opportunity to allow the marketplace to thrive and usher in a new era in technology.

Mr. MARKEY. Mr. Chairman, I yield 2½ minutes to the gentlewoman from California (Ms. ESHOO).

Ms. ESHOO. Mr. Chairman, I thank the distinguished ranking member of the Telecommunications Subcommittee for yielding me this time.

Mr. Chairman, I want to start out by saying, here we are again. I remember being a conferee on the 1996 telecommunications bill. It does not seem like it was a decade ago, but it was.

That bill, if my colleagues will recall, was designed to create telephone competition for the Baby Bells. But instead, it resulted in the babies eating the mother.

There is something monopolistic in the air here. And if any Member of the House is trying to make up their minds about what to do with this bill, I want to tell you something, if you like monopolies, you will love this bill because they are at it again.

In 1996, they signed onto and said these are the rules that we are going to play by. Local competition, boy, that went out the window.

Then they came on again and wanted something else. Now the telephone companies want to go for the golden goose of the American economy, and that is the Internet.

What should be built into this bill is net neutrality. But I want to say a few other things about the bill. It is flawed in other ways. It really turns local control on its head. Local governments across the country have weighed in. Mayors have said these are not good rules for us.

I came from local government. I have a deep regard for it. We can do much better by the cities and mayors in our communities. We can do much better about the rules in terms of build-out in our country. We should not in the 21st century be drawing lines around who is in and who is out. That is not where America is at its strongest and its best.

This is a flawed bill, and we have to remember, all of us, that the Internet has been the key driver of the American economy. And to have the telecoms come after it and reconfigure it, reshape it to their liking, is something that is an echo of the past, their past behavior. We should not allow that.

So I am urging my colleagues in this general debate to reconsider what it is you are considering because this is not the best legislation for the people of our country. We can do much, much better.

PARLIAMENTARY INQUIRY

Mr. BARTON of Texas. Mr. Chairman, I wish to propound a parliamentary inquiry.

I would like to yield 10 minutes to my Democrat sponsor, Mr. RUSH, to control in the general debate in the Committee of the Whole. Is that possible, or how might I do that?

The CHAIRMAN. The Chairman of the Committee of the Whole may not entertain a request to change the scheme for control of general debate ordered by the House.

Mr. BARTON of Texas. So I can't do it.

The CHAIRMAN. Under the rule, the gentleman from Texas must be the one to yield the time, and the Chair cannot entertain a request to change the scheme for general debate from the established by the special order of business in House Resolution 850.

Mr. BARTON of Texas. Mr. Chairman, in that case, I yield 2 minutes on behalf of Mr. RUSH to the gentleman from Texas (Mr. GONZALEZ).

Mr. GONZALEZ. Mr. Chairman, first of all, I need to thank the chairman, my neighbor in Texas, as well as Mr. RUSH, my dear friend and colleague.

I want to express my support today as we move forward on the COPE Act. This bill will make necessary changes to the Nation's cable laws to ensure that for the first time we have a fully open national market for cable services. This will allow not only the major phone and cable companies to compete against each other in provision of video services to average Americans, but will allow countless new companies to quickly enter the cable television market and offer their services. This will not only drive down prices for every American, but it will undoubtedly result in countless unforeseen new services and technologies to be offered to Americans.

Mr. Chairman, the telecommunications industry is the most dynamic industry in this country. Every day new technologies are introduced that have the potential to dramatically expand the opportunities for average Americans to have access to new sources of information, new forms of entertainment, and new ways to communicate with each other. These changes have become so rapid with so many implications to both business and public policy that the political process has simply failed to keep up.

This bill reflects, in my view, how Congress should best handle the revolutionary changes that are occurring in telecommunications. It should let the marketplace work. Mayors, regulators, and Members of Congress simply do not know in advance how all of the revolutionary changes in telecommunications will turn out. For us to attempt to do so, whether under the guise of net neutrality or any other slogan, is both foolish and dangerous.

Rather, we should aim, as this bill does, to relieve unnecessary barriers that prevent a full national market to

develop and leave the ultimate decision-making process to the engineers, the businessmen and, most importantly, the consumers of our country.

Mr. MARKEY. Mr. Chairman, I yield 2 minutes to the gentlewoman from California (Ms. ZOE LOFGREN).

Ms. ZOE LOFGREN of California. Mr. Chairman, until August of last year, broadband Internet providers were considered common carriers under the law, with a legal requirement to carry all traffic equally.

A series of FCC decisions and the Supreme Court's decision to them changed all that, turning broadband services into unregulated ''information services.''

Why is this important? In my district in Silicon Valley, everybody uses the Internet and knows that you have to have net neutrality. They cannot believe that we would even consider changing that rule.

So what does ''common carrier'' mean? For those of you who don't use the Internet a lot, common carrier is a concept that is quite old. What it really means in exchange for rights to use public ways: you agree to carry all passengers on the same terms. If you get on the bus, a common carrier, you are charged a fee; but the bus company cannot charge more to women than it can to men, and that is really the equivalent of what we are talking about here.

The phone company consolidations have meant that most Americans have one or at most two choices for their broadband service provider. What that means is that we are going to have a duopoly or a monopoly unless we have net neutrality rules that will stifle the Internet. It will turn the Internet into the equivalent of cable TV. That is not going to be good for innovation.

Google is a multi-billion dollar corporation that was founded in a dorm room by two Stanford students. They had an opportunity to be successful because they were not screened out at the very beginning by incumbents who paid for access. That is about to change unless this House adopts net neutrality rules.

Some of the phone companies have suggested that there is a free ride. What they have failed to point out is that the phone companies are paid an enormous amount of money, just like the bus company is, for use of their services. What the net neutrality rules say is you cannot differentiate.

I would just like to say we want to go on seeing the girl in the funny hat making lemonade. Don't make us watch Robin Williams's cousin making bacon juice instead.

Mr. UPTON. Mr. Chairman, I yield 1 minute to the gentlewoman from Tennessee (Mrs. BLACKBURN), a very valuable member of the subcommittee.

Mrs. BLACKBURN. Mr. Chairman, I want to thank our chairman for the good work on the bill, and I want to encourage my colleagues to support this legislation tonight.

My colleague, Representative WYNN, and I began working on the effort to streamline this Nation's franchising rules more than a year ago when we introduced the Video Choice Act. It has been a pleasure to work with him on the issue.

We knew that government regulations were keeping prices high for American consumers; and when I spoke earlier today during debate on the rule, I talked a bit about how competition helps lower prices. I have a chart here to help make that point. This data demonstrates consumer price changes over the past 7 years. Here is the Consumer Price Index. Now take a look at what has happened with cable prices over the past 7 years and how they have soared. This blue line right here is our long distance prices, and then our wireless prices are the green line. So you can see how dramatically our video or cable pricing has outpaced the Consumer Price Index.

Mr. Chairman, the COPE bill will bring competition. It will help lower prices. It will help all entrants, including the little guys, like Ben Lomand Telephone Cooperative in McMinnville, Tennessee.

Mr. MARKEY. Mr. Chairman, I yield 2 minutes to the gentleman from Maine (Mr. ALLEN).

Mr. ALLEN. Mr. Chairman, I rise in opposition to H.R. 5252. I regret that leadership did not allow votes on key amendments important to municipalities and community television.

Each of us wants more competition in video. That can happen today. There is no legal impediment to a telephone company offering video over its lines. There are two towns in Maine wired for video, but the service has not been turned on.

If the current local franchising regime is as cumbersome as the phone companies say, then let's figure out a way to streamline the process. The municipalities are open to streamlining. We should negotiate a consensus bill involving all of the stakeholders.

Unfortunately, this bill did not follow that process. Twice the Committee on Energy and Commerce on which I serve struck bipartisan deals that gave all stakeholders a voice in the legislation; and twice the bipartisan deals were scuttled by external forces that preferred a divisive bill to a consensus one.

My substantive concerns are threefold:

First, local control. The current cable franchising process gives communities the ability to meet their needs. Municipalities can ensure that every resident gets service and that access to public access channels. They retain management of public rights-of-way.

This bill goes too far by federalizing the process of streamlining. It makes the FCC the arbiter of consumer complaints, for example; and the FCC has neither the resources nor expertise to do that.

Second, universal access. The new video providers have been honest. They are going to the swanky neighborhoods first. Maine is a rural State. Without a build-out requirement, companies are free to ignore northern and eastern Maine.

□ 1830

If we abandon universal access, we will leave rural areas behind.

Third, net neutrality. I support the Markey amendment. Allowing toll booths on the Internet will undermine the freedom of the Internet and hurt consumers.

Lastly, any franchising bill that becomes law should include reform of the universal service fund to bring broadband and video competition to rural and underserved counties.

I urge defeat of the bill.

Mr. UPTON. At this point, Mr. Chairman, on behalf of Mr. RUSH, I yield 2 minutes to the gentleman from Texas (Mr. GENE GREEN).

Mr. GENE GREEN of Texas. Mr. Chairman, the COPE Act is a complex piece of legislation with a simple purpose, granting a nationwide cable television franchise to provide competition.

Today, cable television is a series of local monopolies. Only 2 percent of the United States has competition, companies that those local franchises are aggressively marketing, Voice Over IP, telephone service, broadband, and giving them a triple play of video, broadband and voice services at a flat monthly rate.

In Houston, that monthly rate is about $100 and you can get digital cable, high speed Internet and unlimited telephone calls from the cable company. To compete with the cable's triple-play monopoly, telephone companies need to spend billions to upgrade their networks to carry the high-definition cable television service and faster broadband.

The FCC has found that cable television rates drop 40 percent after competition. And that doesn't even factor in the consumer benefits from the triple play, so to speak, that you add, also the cost savings from telephone Internet and high speed cable service, definition service.

As a result, we should support granting national franchises for cable television service to spur competition. If we stick with local franchises, then there will be much less cable and triple-play competition.

The purpose of the bill is great, and I have had a number of concerns about the district I represent that is not a wealthy area. These concerns have been addressed.

For example, franchise areas are defined as they are today that would prevent telephone companies from cherry-picking areas out of existing franchises. This means that the bill's redlining provisions, drafted by my colleague from Illinois, BOBBY RUSH, would stop companies from picking and choosing the areas they want to serve. I would have preferred Mr. DINGELL's

approach, but again we don't have that opportunity, and it didn't pass in committee even though I voted for it.

However, I still strongly support the legislation because we have had several discussions with our local telecom company about their plans for competition in my area. As a result, I am confident that the build-out will increase in all areas of Houston, and they are not just going to go to the high-income areas; they will come to my low-wealth and my middle class area.

Mr. Chairman, I would like to place my full statement into the RECORD, and I would hope that this would be a compromise bill. I am sorry that our leadership and the committee didn't work it. But some day, hopefully, it will be the Barton-Dingell bill again.

Mr. Chairman, the COPE Act is a complex piece of legislation with a simple purpose: granting nationwide cable television franchises to provide competition.

Today cable television is a series of local monopolies—only 2 percent of the U.S. has competition.

Companies with these local franchises are aggressively marketing VOIP telephone service and broadband, giving them a ''triple play'' of video, broadband, and voice services at a flat monthly rate.

In Houston, for $100 a month, you can get digital cable, high speed Internet, and unlimited telephone calls from the cable company.

To compete with cable's triple play monopoly, telephone companies need to spend billions to upgrade their networks to carry high-definition cable television service and faster broadband.

The Federal Communications Commission has found that cable television rats drop 40 percent after competition and that doesn't even factor in the consumer benefits of the triple play.

As a result, we should support granting national franchises for cable television service to spur competition. If we stick with local franchises, then there will be much less cable and triple play competition.

The purpose of the bill is great, but I did have a number of concerns about this legislation and its effects on the middle-class folks in my district. These concerns have been addressed.

For example, franchise areas in the bill were defined as they are today, which would prevent telephone companies from cherry-picking areas out of existing franchise areas.

This means that the bill's anti-redlining provisions, drafted by Congressman BOBBY RUSH, will stop companies from picking and choosing the areas they want to offer service.

I would have preferred the approach by Mr. DINGELL, which would have set reasonable, flexible guidelines for companies to build out their networks and offer new services.

I wish we could have considered Mr. DINGELL's amendment today, and I am disappropriated that the Rules Committee rejected it.

They did a disservice to one of the most knowledgeable, respected Members in the history of Congress.

However, I can still strongly support this legislation because we have had several discussions with our local telecom company about their plans for competition in the Houston area.

As a result of those conversations, I am confident that buildout is going to increase in all areas of Houston and that they are not going to discriminate against our middle class and low wealth areas.

To all members who are concerned about the impact of this legislation on your district, I encourage you to contact your incumbent telecom company and meet with their local staff responsible for deployment, not just the DC staff. I think you will be happy with what you hear.

Cities are also concerned with their interests in franchising, but many of these concerns have been addressed. Cities will not lose any revenue as a result of this bill. The COPE Act allows 5 percent franchise fees and 1 percent public access fees.

Cities will also not lose any right-of-way control and to make sure, I included an amendment in Committee to require companies to certify in writing that they will obey local right of way rules.

I do regret that the usual bi-partisan telecom process between the leadership of our Committee has temporarily broken down.

Today is not the end of the road, so I hope this can still become a Barton-Dingell bill or a Dingell-Barton bill before all is said and done.

Mr. MARKEY. I yield 1 minute to the gentleman from Ohio (Mr. BROWN).

Mr. BROWN of Ohio. Mr. Chairman, I thank my friend from Massachusetts for his leadership on all of these issues.

Net neutrality would maintain the free and open Internet that exists today. This bill simply does not protect the right of consumers to a wide array of information and entertainment sources.

The Markey amendment would provide those essential protections by outlawing sweetheart deals between network operators, like the phone or cable companies, and Internet content providers.

Without net neutrality, buying company A's phone service might restrict you to Google and deny you Yahoo, might deny you CNN.com and only give you FoxNews.com.

American consumers deserve choice, whether they choose to use the Internet giant Google or the new start-up search engine. This amendment is about consumer choice. This amendment is about market competitiveness.

I urge you to join me in support of the Markey amendment in opposition to the bill.

Mr. UPTON. Mr. Chairman, I yield 2 minutes to a member of the Energy and Commerce Committee, the gentleman from Texas (Mr. BURGESS).

Mr. BURGESS. Mr. Chairman, I do want to thank Chairman BARTON, chairman of the Full Committee; and the gentleman from Michigan, who is the subcommittee chairman; as well as Vice Chairman PICKERING. And also we have enjoyed the bipartisan support from BOBBY RUSH on our committee.

This is truly a bipartisan product that was forged together after countless hours of negotiation. Its recent passage out of the Energy and Commerce Committee by a vote of 42–12 only underscores this point.

Mr. Chairman, I represent a district in north Texas, and there is a community within that area in north Texas named Keller. Keller, Texas, a very forward-thinking town of over 36,000 people. Keller is home to Verizon's first fiberoptic television system. What has happened since the fiberoptic system was introduced in the Keller market is that prices for cable TV are now 25 percent lower than they were before the entry into the video market. New services, new technologies, lower prices.

Consumers now have a choice, and over 30 percent of the market has signed up for this new fiberoptic service from Verizon. Clearly, people want choice. The citizens of Keller not only have access to one of the best telecommunications networks in the world, and a choice of providers, but they also get much better services at competitive prices.

What is even more intriguing is about a third of those new video customers were not previously cable customers. That means that these customers now are a new source of franchise fee revenue for the city of Keller.

Mr. Chairman, it is no accident that every member from Texas on the committee supports this bill. This past year the State of Texas passed legislation similar to that which we are considering here, removing the franchise fee from the local level. Texas is now at the forefront of video competition.

I sponsored H.R. 5252. I voted for it in committee. I will vote for it on the floor. I urge my colleagues to support this commonsense legislation as well.

Mr. MARKEY. Mr. Chairman, I yield myself 2 minutes.

This is a historic bill. Without question, the Republican majority is not respecting the importance of the issue.

Tonight, we will have a debate on net neutrality that will last 20 minutes, 10 minutes on either side. That is, without question, a disgrace. We debate week after week out here on the House floor, namings of post offices that each get 40 minutes. Here we are talking about an engine of economic growth which has transformed our economy and the global economy over the last 15 years. And it has done so with provisions which guaranteed nondiscrimination to the smallest players being able to enter with their ideas and communicate across our country and across the globe.

What the Republicans are doing tonight is they are refusing to have a debate on who is going to be benefited

from it. That is, will the telephone companies be responsible for building-out across all communities? Their bill says you don't have to, and they won't allow us an amendment out here on the floor so that we can have that debate.

Will there be redlining? We believe there should not be. The Republicans refuse to allow HILDA SOLIS's amendment out here on the floor so we can have a full debate on it.

Will there be a bill that passes tonight which is defeatist in terms of entrepreneurs and equal access, democratization of access to opportunity because of access to this new technology in every part of the community? Or will it be a bill that has a future orientation, looking ahead over the next century as to who Americans are going to be, what the nature of our economy is going to be in terms of these entrepreneurs playing this change agent role? Or will we have this bill that has been put together behind closed doors with the most powerful three or four companies in America, the telephone companies who had nothing to do with the construction of the Internet?

Mr. UPTON. Mr. Chairman, on behalf of Congressman RUSH, I yield 2 minutes to the gentleman from Maryland (Mr. WYNN), an able member of the subcommittee.

Mr. WYNN. Mr. Chairman, I thank the committee chairman for his leadership, the subcommittee chairman for his leadership, as well as Mrs. BLACKBURN of Tennessee who worked with me on the Video Choice Act which was somewhat of a precursor to this bill.

I want to say, first of all, that this bill is not about net neutrality. The Google crowd, the Internet crowd does not care about cable rates. But this bill is about cable rates. And what we know today is that cable rates are too high in America. We know that consumers are paying as much as 80 percent increases over the last years in cable rates, and so that is what this bill seeks to address. It addresses it by trying to create more competition. And there is no disagreement that if we had more competition in video services we would have lower cable bills.

Now, there are new companies, telephone companies and other companies, that want to come into the market. But under current law, they have to negotiate hundreds of thousands of individual agreements with local governments. That is why we don't have more competition.

This bill creates a national franchise and says we can bring in new entrants to provide competitive services and lower prices. What happens with this? Well, we do protect the local communities because they still receive franchise fees from new entrants. We protect their rights to control their rights-of-way.

We also have antidiscrimination to protect against redlining. We have language that says that if you discriminate, you can and will be punished and penalized. So I think this is a very good bill that addresses the fundamental issue, which is cable rates.

Let me turn for a moment to net neutrality. Understand, there is only finite space within the network. Everybody can't travel at top speed at the same time, so there has to be some differentiation. And ultimately, the issue is who will pay. Will the consumer pay, or will the content providers pay? That is the Google and the Internet and the innovators that they talk about. Those innovators, those people would rather have the consumer pay if there has to be a differentiation, if you want ultra-high speeds, if you want excessive amounts of the bandwidth.

I believe net neutrality is not a relevant issue here. I believe that we have a solid bill that addresses the fundamental concern, which is reducing cable rates. We have an opportunity to do something very good for the American people, and I think we ought to do it and pass the COPE bill.

Mr. MARKEY. I yield 3 minutes to the gentlewoman from California (Ms. SOLIS).

Ms. SOLIS. Mr. Chairman and Members, today I rise again in strong opposition to this bill. I support the efforts to increase competition in the video marketplace.

Greater competition, as we know, will inevitably help to create jobs and provide for lower consumer costs. But we must also make certain that benefits derived from a streamlined franchising process benefit consumers and not just the telecommunications industry.

The bill doesn't go far enough, in my opinion, to ensure that all communities have access to broadband Internet. Although the broadband access has increased greatly in recent years, the digital divide remains a reality in communities like mine, the ones that I represent in Los Angeles County in California.

In fact, in 2003, a study by the Pew Foundation found that those least likely to have broadband Internet access at home are the poor, the older, less educated and Latinos and African Americans; 60 percent of the constituents I represent in my district happen to be underserved Latinos.

While Latinos are the fastest growing demographic group of online users, only one in eight Latino households has access to broadband services.

Eleven Hispanic Members of this Congress and numerous civil rights organizations, consumer and Latino advocacy organizations weighed in in strong support of such language, including the Leadership Conference on Civil Rights; the Mexican American Legal Defense and Education Fund, known as MALDEF; the National Conference of Hispanic State Legislators; the Hispanic Federation; the National Puerto Rican Coalition; and the National Hispanic Bar Association. That is why these groups are urging a ''no'' vote on the bill.

The bill also weakens, in my opinion, consumer protections without providing strong enforcement for consumer rights. We should ensure that all States and localities retain the ability to establish consumer protection standards for video services. No one here knows the needs of the residents that I represent in Los Angeles, El Monte, West Covina, and other cities that I represent.

In fact, this week I received numerous letters that I will submit for the RECORD from cities in my district, including the City of Los Angeles, the newly elected mayor, Mayor Antonio Villaraigosa, urging me and others to oppose the bill.

I share with my colleagues' goals of passing legislation which promotes an increased competition, lower prices, improves the quality and access to developing brand-new services that help all consumers. But the digital divide, Members, remains a reality for many constituents in my district and many others across this country. We should not let this opportunity pass without addressing this fact. I would ask that we not let this opportunity pass without addressing the fact in an effective manner.

I urge my colleagues to oppose the bill. Furthermore, I would like to say that while we have had numerous discussions outside of the committee room regarding this bill, I still have not heard from the telephone companies and others that they would like to see strong language put in the bill to provide for protection so that we don't exclude communities like mine that I represent.

□ 1845

I am disheartened when I hear that there is a possibility that they will come into Los Angeles, but they will go around East Los Angeles and they won't attend to those constituents that I represent.

Mr. UPTON. Mr. Chairman, I yield 1 minute to the gentleman from Texas (Mr. CONAWAY).

Mr. CONAWAY. Mr. Chairman, rural America needs broadband now more than ever. The information society is in full swing with an abundant amount of choices and access to the infinite sources of information, yet there are those who may not have the same access to information and will therefore be left out in the cold.

As we move away from dial-up Internet to broadband via cable modem, DSL, satellite, and fiber-based networks, Congress should be enacting legislation that encourages broader network deployment. Without the proper economic incentives and regulatory environment, rural America will be left behind when the next generation networks are built.

That is why we must pass the COPE Act tonight. Not only does COPE open competition in the video market, but it also includes the proper regulatory light touch and the right incentives to

foster the deployment of advanced networks. More importantly, it creates incentives to build out these networks without the spending of government funds.

It is time to pass this bill and get broadband deployment moving in the right direction, the direction of rural America.

Mr. MARKEY. Mr. Chairman, I reserve the balance of my time.

Mr. UPTON. Mr. Chairman, I would yield on behalf of Mr. RUSH 1 minute to the gentleman from New York (Mr. ENGEL).

Mr. ENGEL. Mr. Chairman, I rise in support of the COPE Act. Fundamentally, it is all about promoting greater competition in the video service industry, what we often call cable, but is no longer limited to that delivery system.

We have all heard the complaints from our constituents about the rising cost of cable. For part of my district, the fact is there is no competitor to cable. Satellite TV signals can't magically go around tall buildings nor pass through them to reach someone on the other side. The COPE Act will speed competition into the video service industry and drive down prices.

I am also pleased with the VoIP provisions of the bill. I was an early proponent to require emergency 911 services for VoIP providers. I am also pleased that we cleaned up the rules for VoIP providers to interconnect, thus providing the same level playing field that C–LECs enjoyed. Finally, I was pleased to offer language requiring disabilities access with my colleague from Washington (Mr. INSLEE). With the support of Chairman UPTON, we have ensured that disabled Americans will be a full part of this broadband resolution.

We will consider a number of amendments today, some I will support because I believe that they will make this a better bill. I would have voted for the Baldwin and Solis amendments if they had been allowed to be put forth. Nevertheless, we start with a good base bill, and it will have my support on final passage regardless of which amendments pass. We have before us a bill that seeks to update our laws to keep pace with new technologies and new market realities.

Mr. MARKEY. Mr. Chairman, I continue to reserve my time.

Mr. UPTON. Mr. Chairman, I yield 1 minute to the gentleman from the Buckeye State, the chairman of the Financial Services Committee, Mr. OXLEY.

(Mr. OXLEY asked and was given permission to revise and extend his remarks.)

Mr. OXLEY. Mr. Chairman, it seems like old times debating a telecommunications bill. It has been a while since I had that opportunity, and I see some familiar faces on both sides. I first want to congratulate my good friend from Michigan for his concerted efforts on this legislation as well as Chairman BARTON and other members who have worked on this legislation.

This is a good solid follow-up of the 1996 Act. It recognizes market forces, it gets government out of picking winners and losers. I chair the Financial Service Committee now, and there have been some arguments about whether the net neutrality issue that the gentleman from Massachusetts will be offering will be a boon for the financial services industry. I am here to say that the financial services industry understands competition, they understand choice, they understand how markets work, and the folks that are represented in that financial services community will benefit by this legislation without the Markey amendment, and that is what is important to keep in mind.

This has been a great effort. I congratulate again all those who have put this bill on the floor today.

I rise in strong support of H.R. 5252, the Communications Opportunity, Promotion, and Enhancement Act of 2006.

I've been a believer in the power of competition in telecommunications since I came to Congress 25 years ago. The move from government regulation to market competition has totally changed the telecommunications landscape, and the consumer has been the big winner. There are more products, services, and choices than ever before.

I remember people looking at Congressman RICK BOUCHER and me like we were nuts when we first introduced a bill to allow telephone and cable companies to compete with each other. Since then, satellite TV and the Internet have joined the act and we have more channels than we know what to do with.

Some saw the spectrum auctions as a heretical idea. But they helped give birth to the cell phone industry, and now there's a kiosk in every mall begging for your business. Along the way, those auctions brought in billions of dollars for the U.S. Treasury and our own budgeters.

I was on the conference committee for the Telecommunications Reform Act of 1996, and the law has done a lot to promote private investment and consumer choice. But I'm not sure we ever fully broke the regulatory mindset at the bureaucratic level.

Ten years later, we're at the point where we need to see more investment in the advanced telecommunications systems vital to our international competitiveness. We trail some of our hungriest competitors in broadband deployment. And by next year, China may have more broadband subscribers than the United States.

There are still too many regulatory impediments holding back competition. H.R. 5252 does a good job of removing them, so we can unleash private capital on this national need.

Historically, video entrants—primarily cable companies—have been required to negotiate contracts, called franchises, with local governments before offering video service. With some 33,000 municipalities, this negotiating process is time consuming and costly, serving as a barrier to market access.

H.R. 5252 streamlines this process by creating a single, national approval process. This will open the door for telephone companies to enter the video services market and build out extensive new fiber-optic networks to compete with the cable industry whose network is already well established. The bottom line is a national franchise will open the door for more choices, better services and lower bills.

I am concerned about some of the potential amendments that, under the guise of ''fairness,'' would just defeat the purpose of the bill.

The first is mandatory build-out requirements, which are nothing less than the government telling a business how to run itself. Requiring a new entry in a competitive market to deploy broadband everywhere at once, even when it's not economical, guarantees that nothing will be built. Market demand will make the case for broadband expansion soon enough.

Next, there seem to be new efforts to regulate the ''last frontier,'' the Internet. I think the Internet has experienced explosive growth because for the most part, the government has kept its hands off by not taxing and regulating it to death.

But in the name of something called ''net neutrality,'' some would have the government effectively impose free carriage requirements on the Internet and Internet backbone providers. Supporters claim that in order to ''keep the internet as we know it'' we must regulate the service providers. Regulating Internet Service Providers will stall investment, curbing the growth and innovation the Internet has fostered in the last decade.

Again, this is something best left to the market to figure out. And at this point, it seems to be a solution in search of an actual problem.

We are again at a pivotal point in telecommunications policy. At one time, telecom was one of the drivers of our economy and we need a full comeback. This bill will promote investment in the advanced networks that will keep the U.S. economy competitive in a fierce global marketplace. Let's again unleash the innovation of our telecom, cable, satellite, and Internet companies because when the rules are right, there are none in the world who are better.

Mr. BARTON of Texas. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, I just want to thank the distinguished chairman of the Financial Services Committee, Mr. OXLEY, for his leadership and his statement that he just made. It is greatly appreciated and it I think enlightens the debate.

Mr. MARKEY. Mr. Chairman, I yield myself 1 minute at this time.

Mr. Chairman, let me explain one of the real problems with this bill. In testimony before the Commerce Committee on this legislation, I asked the head of the national cable industry what they would do once this bill passed, and the answer was quite revealing. They said that after this bill passes, since the telephone companies are going to go into the wealthy side of town in order to deploy their new broadband systems, that under the legislation they no longer had any responsibility to serve the whole community. They had no responsibility to continue to upgrade on the other side of the town, which the cable industry is already serving, because every mayor always extracted that from every cable company as they came into town.

So we are going to wind up with a perverse situation where the cable industry on the poor side of town is able

to raise rates because the telephone companies won't promise to go there and actually compete against the cable company. And the Republicans oppose even having a debate on the House floor in order to accomplish that, and so we wind up with a situation where the wealthy people are going to have two competitors and have lower rates, and the poor people are going to have only one company that is saying they are going to raise rates because there will be no competition. It is a perverse result for cable subscribers in America.

Mr. BARTON of Texas. Mr. Chairman, I yield 1 minute to the gentleman from Florida (Mr. KELLER).

Mr. KELLER. Mr. Chairman, I thank the chairman for yielding.

I rise today in support of H.R. 5252, and I want to discuss the so-called net neutrality provisions. The free Internet that we have today will remain free. If you can go there today, you will be able to go there tomorrow. If you would like to be able, in the future, to immediately download full-length movies and high definition video games and you are willing to pay for that greater bandwidth to do that, you will have the freedom to make that choice as well. If we take away these choices, it will be like trying to send a golf ball through a garden hose in terms of clogging up the bandwidth for everyone.

In a nutshell, it seems to me that more consumer freedom and less government regulation is the better approach. If down the road the telecommunication companies improperly restrict access to the Internet and the FCC fails to act, then we can drop the hammer on them. Until then, it seems like imposing new regulations on the Internet is a case of Big Brother being a big pain in the behind.

I urge my colleagues to vote ''yes'' on H.R. 5252.

I rise today in support of H.R. 5252, and I want to discuss the so-called "Net Neutrality" provisions.

I don't understand why we need new laws for a problem that doesn't yet exist. I've heard that some high-tech companies, like Yahoo and Google, are worried that certain cable or phone companies might block, or limit, consumers' internet access.

At this early stage, it seems to me that the market place will take care of that issue real quick. Consumers simply will not continue to purchase service from a provider that seeks to block or restrict their internet access.

For example, when I'm at my home in Orlando, Florida, I use Google and Yahoo nearly every day, and I get my high speed internet access through my local cable company, Bright House. If Bright House restricted my access to either Google or Yahoo, I would switch to my local phone company, BellSouth, so fast it would make your head spin. In other words, competition is what will keep companies on the straight and narrow.

The free internet that we have today will remain free. If you can go there today, you will be able to go there tomorrow.

If you would like to be able, in the future, to immediately download full-length movies and high-definition video games, and you're willing to pay for the greater bandwidth to do that, you'll have the freedom to make that choice as well.

If we take away these choices, it will be like trying to send a ball through a garden hose in terms of clogging up the bandwidth for everyone.

In a nutshell, it seems to me, that more consumer freedom, and less government regulation, is the better approach. If, down the road, the telecommunications companies improperly restrict access to the internet, and the FCC fails to act, then we can drop the hammer on them.

Until then, it seems like imposing new regulations on the internet is a case of Big Brother being a big pain in the behind.

I urge my colleagues to vote "yes" on H.R. 5252.

Mr. MARKEY. Mr. Chairman, I reserve the balance of my time.

Mr. BARTON of Texas. Mr. Chairman, on behalf of Mr. RUSH of Illinois, I yield 1 minute to the gentlewoman from Illinois (Ms. BEAN).

(Ms. BEAN asked and was given permission to revise and extend her remarks.)

Ms. BEAN. Mr. Chairman, I thank Mr. RUSH for this opportunity to speak, and I thank him and my colleagues on both sides of the aisle for their work on this bill. As a new Member of this body who brings 20 years of experience in the tech sector, I rise today to speak in support of H.R. 5252.

Many of our constituents have one option for cable TV and one price. Our constituents desire choice. I believe this bill will provide much-needed modernization of our telecommunications laws to provide for improved competition for video services and lower prices for consumers. By overhauling current rules and speeding the entry of competitors in the market, we encourage competition and provide our constituents with new choices and cheaper bills.

To keep America competitive in the global economy, telecommunications companies will be expected to invest heavily in infrastructure. This bill will spur investment in broadband networks that will help bring America up to speed with other nations who have jumped ahead of us in broadband capacity.

Some colleagues have raised legitimate concerns about how to streamline our laws while advancing new technologies. I am confident this bill will ensure consumer choice and preserve innovation on the Net, respect rights for municipalities while establishing a new source of revenue for them, and strictly prohibiting discriminatory practices like redlining.

I encourage support.

Mr. MARKEY. Mr. Chairman, I yield myself 1½ minutes.

Mr. Chairman, so again we hear the argument that this is going to lower cable rates. And it will lower cable rates, I don't deny that, on the good side of town, which is where they are going with their Harvard Business School 3-by-5 card, ''go to the wealthy side of town and offer them a package of broadband services to compete against the cable companies.'' Rates are going down.

But the problem is on the other side of town, once this bill passes, once the telephone company comes into town, the cable company is no longer bound by the agreement that it made with the city. So the cable industry, and they testified to this in the committee, they can then raise rates on the parts of town that the telephone company is not going to go to and provide cable service.

So you are going to wind up with this incredible situation where we, that is, Congressmen in our parts of town, we are going to have lower cable rates. But people on the other side of town, and you don't have to be a summa cum laude, you from Harvard Business School, to understand this, the people on the other side of town are not going to get this service, because obviously the Republicans are protecting AT&T and Verizon by prohibiting us having this discussion here on the floor.

They won't even let the discussion take place, because they know that is what is going to happen, that the other side of town isn't going to get this service, because AT&T doesn't want us to have to mandate that if they are going into the town, they just can't cherry-pick the good parts of town. They are going to have to do everybody. And if they don't do everybody, what do you think is going to happen when there is no competition? Rates are going up in that part of town, because that part of the town will be a monopoly.

Mr. BARTON of Texas. Mr. Speaker, I want to yield 1 minute to a gentleman from Mississippi who doesn't have a degree from Harvard Business School, but he does have a degree from Ole Miss, CHIP PICKERING, the vice chairman of the full committee.

Mr. PICKERING. Mr. Chairman, I thank the chairman.

Having received an MBA from a great institution in the State of Texas, Baylor, I was taught that competition drives deployment, innovation, investment.

Why would the telephone companies have to go to both sides of the town? Because the cable companies are going with something called voiceover Internet, voice over cable systems, voice providers and other companies, into both sides of the town. And unless the telephone companies want to lose both sides of the town, they are going to have to go with video.

So more video choice, more voice choice, more investment, more innovation, greater competition. And that is why we will see benefits on all parts, in all parts of our country, and all sides of our cities and communities.

That is why this is a good bill. It makes a national framework, as it should do, as we go into an IP, Internet-based world. It is interstate. It is international. It should be done at the

FCC, not in a patchwork of entities all across the country, slowing deployment and investment.

I want to commend the great chairman from the Great State of Texas and the subcommittee chairman from Michigan, and I also want to thank our colleagues on the other side.

Mr. MARKEY. Mr. Chairman, I yield 2 minutes to the gentlewoman from California (Ms. WATSON).

Ms. WATSON. Mr. Chairman, I stand in opposition to the fact that the provisions that are going to be considered do not contain any language that would guard against discrimination, discrimination as to where people live, redlining. And we want to be sure that when we go into restructuring where we place our cable lines, I want to be sure no community is left out.

Unless we can see that language in the bill, I cannot support it. Communications are too important, and I don't want the cable companies choosing the high-end communities and leaving the low-end communities out of the cable network.

□ 1900

So I would hope that if we do not get a provision in the bill, and it looks like we are not going to, that we vote against it and try all over again.

This will affect every area of my district, and many districts in this country, if we do not put provisions in there to eliminate redlining, to be sure we have antidiscrimination clauses in there, and be sure that people do not have to come to the FCC to get rulings when they find they are underserved. I would suggest that we vote against the bill.

Mr. BARTON of Texas. Mr. Chairman, I yield 1 minute to the gentleman from Florida (Mr. MACK).

Mr. MACK. Mr. Chairman, competition is the backbone of innovation. Competition has enabled the Internet and scores of new technologies to be introduced to the marketplace, and it has changed the way we live, work and play.

Mr. Chairman, the COPE Act will ensure that competition and innovation continue to flourish. It will eliminate needless government barriers and has shown that the expansion of new technology and innovation comes when competition is alive and well.

Mr. Chairman, I urge my colleagues to vote in support of this piece of legislation. It will help drive prices down. It will help companies invest in future technology that will help make our lives better.

Mr. Chairman, I want to thank you, I want to thank the committee for giving me the opportunity to speak on this bill.

Mr. MARKEY. Mr. Chairman, I yield myself 1½ minutes.

Mr. Chairman, here is the really perverse part of this. The telephone company is going to come into town, and they are going to start offering lower rates on the good part of town, as they are delivering the service.

The people on the other side of town, the poorer part of town, are going to say, hey, do we get the lower rates too in town? Because under the cable-negotiated agreement with the city, everyone got the same rate in town.

Well, the telephone company will not offer that same lower rate to the other part of the town, only to the people on the good part of town, which is where they are going. So we said to the majority, the Republicans, well, let's make sure everyone in town gets that lower rate, because now we know what the rate should be for that community, because they are offering it to the good side of town.

The Republicans say, oh, no, we are not going to give the lower rate to the poor side of town where the telephone company is not going to, because they are not going there. And the cable industry says, fine, we are going to raise rates on that side of town because the telephone company is telling us we are not going there.

So we are going to have again this crazy situation where they are going to the homes, and we are going to wind up with this perverse result where they are going to the good side of town, they are going to the good communities. They are going to have lower cable rates because they are going to have competition. And the telephone companies have told us over and over and over again they are not going to the other side of town.

They are not going to the poorer communities, and we object to any amendment by Democrats on the floor that will make us do the poor part of town, that will make us go to the other side of town. We are going to fight it and we are going to ask the Republicans to not even allow for a debate on the House floor that will help the people on the poor side of town get the lower rates.

That is what this bill at its heart is all about tonight, the ability of the telephone companies to cherry-pick the wealthiest families in America to have competing cable service.

Mr. BARTON of Texas. Mr. Chairman, I yield 3 minutes to the gentleman from Michigan (Mr. UPTON), our subcommittee chairman.

Mr. UPTON. Mr. Chairman, a couple of weeks ago, the Wall Street Journal ran a story headlined: ''U.S. lags behind in high speed Internet access, ranking slips to 12th spot among 30 nations.''

Today telecommunication providers offer a host of services, whether it be voice, data, or video. And this legislation, should it be enacted later this year like I think it will, will jump-start, jump-start that competition, as it will provide more competition, it will lower prices, probably in the range of $30 to $40 per household per month, nearly $400 for the year, and I have to tell you that that is great for America.

Now, over the last year we have had plenty of hearings, lots of witnesses, input from almost every sector. It has been a fair and open process from the start. And I commend my chairman, Joe Barton. He has done a magnificent job pulling together folks from all sides of the aisle, all different sides of the issues, to put together a bipartisan bill that we debate tonight.

Now, the document that we marked up in my subcommittee and then in full committee changed. It changed because of amendments that were debated and offered and accepted and voted on. And I have to tell you that after each step of that process, the bill was better. It was stronger and it was better. And the proof was in the pudding.

We passed the bill in subcommittee 27–4. We passed the bill in full committee, changed, 42–12. And I would note that when we introduced H.R. 5252, after the full committee markup process was completed, there were 15 Democrats from the Energy and Commerce Committee that asked that their names be listed as cosponsors.

Now, in some debate tonight we have talked about the cities, a question about right-of-way. Well, let us read the language in the bill. Page 19 says this: ''Nothing in this act affects the authority of a State or local government to manage, on a reasonable, competitively neutral, and nondiscriminatory basis, the public rights-of-way and easements that have been dedicated for compatible use.

That protects the cities with rights-of-way. We protect the cities with a revenue stream. Most of them today have about a 5 percent revenue from the receipts that are collected. We add to that. It will be 6 percent, because we guarantee that that extra percent is going to go to the community access channels, what we call the PEG channels, the Public, Education, Government channels.

In fact, some of the studies that have come out show that the cities will gain revenues in the neighborhood of perhaps as much as 30 percent. We added an anti-redline provision that was offered by our friend, Mr. RUSH from Chicago. It was a great provision. It made the bill better. It was accepted, as I recall, on a voice vote.

The bottom line is this: if you are happy with the status quo, please vote ''no'' tonight. If you like cable rates going up, if you like the regulations, vote ''no.'' But if you want change, please vote ''yes.''

Mr. MARKEY. Could I inquire of the Chair how much time is remaining.

The CHAIRMAN. The gentleman from Massachusetts (Mr. MARKEY) has 2½ minutes remaining. The gentleman from Texas (Mr. BARTON) has 3½ minutes remaining.

Mr. MARKEY. I yield 1 minute to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the distinguished gentleman. I know this has been hard work for members of the Energy and Commerce Committee. This is another

giant step in telecommunications, and now with the focus on broadband.

I recall, Mr. Chairman, the 1996 opportunity, and in fact I recall many, many years ago before I was in Congress the opportunities that led to the creation of BET. I hope as we go forward that we will be able to focus on small, medium, women-owned, minority-owned businesses that may engage in the cable franchising business.

I think as we make our way to the Senate and this bill comes back to the House, more emphasis needs to be focused on those generating opportunities. We are seeking, of course, to open telecommunications, broadband to the world. And to do that, it is also important that small businesses have the opportunity, both in terms of the franchise fees, and both in terms of mentoring by larger companies, so I hope that in working with my colleagues on Energy and Commerce and through the Senate, we will have the opportunity to put a focus on small, medium, women-owned and minority-owned businesses.

Mr. BARTON of Texas. Mr. Chairman, I yield 3½ minutes to the gentleman from Illinois (Mr. RUSH), my distinguished primary cosponsor on the Democrat side.

Mr. RUSH. Mr. Chairman, I want to thank the gentleman for yielding me time.

Mr. Chairman, I am from the other side of town. I live on the other side of town; and, Mr. Chairman, those who live on the other side of town understand the Biblical principle, the verse in the Bible that says, know ye the truth, and the truth shall set you free.

Mr. Chairman, there are some untruths that have been spoken today about this bill. This is a good bill. This is a marvelous bill. This is a bill that is worthwhile. This is a bill that will make a difference in the lives of the people who live on the other side of town.

Mr. Chairman, there are five truths about this legislation that I want to share with you. This legislation, number one, represents a huge step in bringing lower prices and more choices for cable services, not only from the other side of town, but from all of town, and also to the Nation.

Mr. Chairman, this bill will provide equitable competition amongst a variety of video service providers on the other side of town. Video service providers can compete in price, in quality, and in quantity. And the people on the other side of town, on my side of town, can finally decide which service provider they prefer.

Number two, Mr. Chairman, the second truth, this bill will create a nationwide approval process for pay TV services. The people on my side of town, on the other side of town, pay more money for cable TV services than any other demographic group within the Nation. And by streamlining this archaic franchise system, companies will be able to offer new TV services on the other side of town, while also protecting the local interests.

The third truth. And this is a truth, Mr. Chairman, that I take to heart. I have spent all of my life fighting against discrimination. And I will never, never, ever be a sponsor or cosponsor or vote for a bill that allows for discrimination in any area of life within this Nation.

The third truth, Mr. Chairman, is that this bill will prohibit discrimination on the basis of income and give the FCC the power to impose stiff fines, up to $500,000 a day, or revoke a provider's franchise area if there is willful or repeated violation of discrimination.

And it goes even beyond that. The burden of proof will be on the company and not on the consumer.

The fourth truth, Mr. Chairman, is that this bill also preserves net neutrality by allowing the FCC explicit power to go after companies that violate network neutrality principles.

And, Mr. Chairman, on network neutrality, let me just say this: network neutrality is a Trojan horse in this whole debate. It is not about build-out; it is not about access. The opponents of this bill are in favor of network neutrality, and they are not in favor, Mr. Chairman, of lowering cable costs for the people on the other side of town.

Mr. MARKEY. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, this bill is a failure. It fails the challenge to ensure that this broadband technology will be deployed in every neighborhood in America. The Bell Companies oppose it, and the Republicans are not going to allow us to even have that debate here on the House floor.

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Why is it important? Because in a post-GATT, post-NAFTA world, we have to make sure that every family and every child in every family has access to this high tech skillset which can only come from access to this broadband technology. The telephone companies do not want the responsibility to build out into the poor side of the town, the Republicans have not built that responsibility into the bill, and they have prohibited the Democrats from making that amendment. And their bill also fails the Internet. It fails the nondiscriminatory history of the Internet which has required, which has made possible for entrepreneurs and individuals on a nondiscriminatory basis, to use the Internet.

We want to have a debate on net neutrality. All the Republicans are willing to give to the proponents of the Net neutrality, the central constitutional protection built into the Internet for the last 20 years, is 10 minutes. That is a disgrace. The whole way we are making this bill is really a tribute to the Republican control of Congress and their lack of willingness to have full and open debate on the most important post-GATT, post-NAFTA issues we could debate, the access to a 21st century skillset and the ability for entrepreneurs to use the information superhighway to create the new jobs. I urge a ''no'' vote on final passage on this bill.

Mr. STARK. Mr. Chairman, I rise in strong opposition to H.R. 5252, the so-called Communications Opportunity, Promotion and Enhancement Act of 2006, H.R. 5252.

Supporters of this bill claim that if telephone companies provide video services to compete with cable and satellite, rates will decrease and quality of service will increase.

I agree, but there is nothing in current law stopping phone companies from offering video services. Just ask Verizon, which currently offers fiber optic TV in 16 states—and counting. However, AT&T and others thought they could get a better deal from their Congressional benefactors. The Leave No Lobbyist Behind Republican Congress did not disappoint them.

This bill eliminates all requirements to build out service to an entire community, so if you want to benefit from competition, you better live on the right side of town with the rich people. Your city also better have enough money to have a lawyer permanently stationed in Washington, DC, because this bill gives the Federal Communications Commission, FCC, final say over all video services. Under current law, cities control when and where video providers dig up streets to lay cable and they set standards for customer service and billing. But small government Republicans think that the FCC knows better. They provide no new staff or money to handle this enormous responsibility, so expect a busy signal the next time you have a problem with your cable bill.

Finally, this bill was a critical opportunity to renew so-called ''net neutrality'' rules that require Internet Service Providers to treat all Web sites equally. When Google was being run out of a college dorm, the search page loaded just as quickly as Yahoo or MSN or the Comcast corporate Web site. The ability for so-called ''garage inventors'' to enter the market without paying a toll or suffering degraded service enabled the Internet's rapid growth and success. Those non-discrimination rules ended last year, and broadband providers have made no secret of their desire to extract a high price for continued service. Their multimillion dollar campaign to defeat a net neutrality amendment only confirms their insidious plans.

This gift to giant telecom companies, devoid of any worthwhile public policy, is a disgrace, and I urge my colleagues to join me in voting no.

Mr. BLUMENAUER. Mr. Chairman, I agree with the intent of the bill, which is to improve competitive choice for consumers, lower costs, and increase innovation. I hope that is where we will be at the end of this process. However, currently, I have profound concerns about the loss of local revenues, lack of assurances for universal access, and the potential for anti-competitive behavior by network providers.

This comes to the floor with significant problems for local governments. The COPE Act will reduce Public Education Government, PEG, funding for Portland and Multnomah County by $2.4 million each year.

Proponents argue that more competitors will increase local revenues. However, the revenue is based on the size of the customer population, thus more competitors will not necessarily result in more revenue than already

exists. This bill also grants new authorities to the FCC to resolve local and private disputes. I am uncertain that the FCC possesses the capacity to effectively handle these local issues.

In the spirit of preserving innovation and providing equal access to web surfers and businesses alike, the Internet must remain a non-discriminatory, egalitarian, and open playing field. This is an issue that has often been referred to as ''net neutrality.'' I am concerned about the ability of the Internet to remain neutral and equal under the COPE Act.

This issue is particularly important to my district in Oregon as it has one of the highest broadband penetration rates in the country. I have received thousands of letters, e-mails, and phone calls from my constituents expressing concerns about the COPE Act's ability to safeguard the neutrality of the Internet. I support the Markey Amendment on network neutrality, which regretfully the House failed to adopt.

Lastly, I am concerned that the COPE Act does not ensure universal access for vital telecommunication services. Without strong ''build out provisions,'' poor and rural areas in the country are at risk of falling behind. Telecom companies will be able to cherry pick the most profitable areas and force cable companies to follow suit in order to remain competitive. History suggests that it is unrealistic to expect one company to continue to invest in all of its regions if a competitor applies market pressure to small concentrated areas.

This bill is the start of a long conversation regarding how best to address telecommunications in this country. It is my strong belief that we will be revisiting the concerns I have outlined should this bill pass, and it is my hope that through the legislative process, we can provide the American people the telecom reform they deserve.

Mr. WELLER. Mr. Chairman, I rise today in support of the Communications Opportunity, Promotion and Enhancement Act of 2006 (COPE), H.R. 5252. This is an important, bipartisan bill that will benefit the consumers I represent, especially those in rural areas.

While the cost of wireless minutes has fallen more than 77 percent in the past 10 years, the cost of cable rates has done the exact opposite, increasing over 86 percent during that same time frame. The COPE bill will bring choice and competition to television and the Internet. Through this bill, the market will have a chance to expand to areas in which competition does not currently exist. As we have consistently seen in other industries, competition helps the consumer through more choices and lower prices. For example, my own parents live in a small rural community. Mom and dad are retired on a fixed income. Like millions of other Americans living in small towns or rural communities, they have limited options when it comes to cable service. With the COPE bill, my parents and countless others will have increased access and competition.

It should be noted that this bill is about more than just lowering prices and creating a competitive marketplace. Significant benefits will be brought uniquely for rural communities. It will bring faster broadband to more places, especially rural areas. It will also mean the opportunity for distance learning and distance medical diagnosis and treatment for those living in rural communities. These are new and important opportunities for improving the quality of life for rural America.

This legislation really is about choice, competition, and rural access. I urge my colleagues to support the Barton-Rush COPE Act, an important bipartisan bill.

Mr. UDALL of Colorado. Mr. Chairman, while I have some reservations about the COPE Act, H.R. 5252, I will vote for it today.

There have been many changes in the telecommunications and cable industry in the 10 years since the last major revision of telecommunications law.

In 1996, telecommunication companies and cable companies provided very different services. Today though, these industries are providing very similar services and the distinctions in the old law are no longer as relevant. As a result, I believe it is time for us to make changes to our telecommunication laws that take into account the technological advances of the industry and the changes in the marketplace.

This bill would make some of those needed changes. However, I am concerned that its provisions, particularly those affecting the local franchise authorities, may go a little too far and do not do enough to allow localities and their constituents to adequately address right-of-way concerns in a timely fashion. I hope that Congress will be able to more fully address these concerns as this bill proceeds through the legislative process.

I supported the Markey amendment, even though its language would have needed some adjustments in conference particularly as it pertained to the ''last mile'' of Internet connectivity, because I thought it would improve the bill.

I was joined in this support for ''net neutrality'' by a wide variety of organizations whose members place a high value on unencumbered use of the internet—from AARP, ACLU and Gun Owners of America. I regret the amendment was not adopted.

However, even without that amendment this bill is an improvement over current law. It takes important steps to increase competition and reduce costs of cable and Internet. There is no doubt that the Internet has revolutionized how we do business, educate, and entertain. Making broadband services more affordable and accessible is vital to ensure we close the digital divide and allow businesses to benefit from new Internet-based technologies.

While this bill is not perfect, it is a good step forward. I believe it is important that we continue to work with the Senate to improve this bill and hope a conference report will continue to provide an increase in competition while protecting the freedom of the Internet.

Mr. GOODLATTE. Mr. Chairman, I rise in general support of this legislation, which will increase competition in the video services market by reducing the regulatory barriers that effectively bar new entrants into this important market. Competition will give consumers more choices and will help ensure the delivery of new and innovative services at lower prices.

However, I have concerns about the way this bill addresses the net neutrality issue. Specifically, this legislation was drafted such that it grants exclusive jurisdiction to the Federal Communications Commission to adjudicate complaints arising from anticompetitive practices of broadband providers. This grant of exclusive jurisdiction unfortunately puts into question whether the antitrust laws would apply when anticompetitive conduct arises in this area.

I believe in free market principles and the fact that government involvement often stifles innovation in the marketplace. However, I also believe that our Nation's antitrust laws have served as important guidelines to ensure that markets remain competitive and that these antitrust laws must remain applicable in the broadband services market.

I understand that Congressman LAMAR SMITH will offer an amendment today to expressly state that the antitrust laws do indeed apply despite the use of the word ''exclusive'' in the underlying bill. I support that clarification to ensure that our nation's antitrust laws continue to have full effect and continue to guard against anticompetitive conduct in the marketplace. However, I do not believe that this amendment goes far enough to discourage anticompetitive conduct in the Internet arena.

On the other hand, I do not believe that the amendment that will be offered by Congressman MARKEY is the right approach either. Specifically, that amendment would create more government red tape and hurdles for broadband providers by applying an FCC-focused overly regulatory approach to protecting the Internet. The way to ensure competition in the provision of broadband is not to bury broadband providers with more regulations.

I believe that competition in this area can be encouraged by setting forth clear and articulate guidelines that do not stifle innovation or the ability for broadband providers to recoup the investments they make in their infrastructures. Relatively minor amendments to our Nation's antitrust laws could be the right approach in this area. Unfortunately, neither this legislation, nor any of the amendments being offered today, contains such a narrowly-tailored and effective approach.

Despite my strong concerns about how the underlying bill handles the net neutrality issue, I will support this legislation because of the video services provisions that will increase competition and lower prices in that market. However, I look forward to working with all affected parties to ensure that robust competition remains the standard in the broadband services market.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Chairman, I rise today to share my thoughts on H.R. 5252, the Communications Opportunity, Promotion, and Enhancement Act of 2006.

Similar to the 1996 telecommunications law that deregulated the phone and cable industries, I have examined this bill with the interests of my constituents in mind and a deep respect for the advancement of technological innovation.

As a result of this I have decided to vote in favor of H.R. 5252 as the bill provides the best we here in the House of Representatives could wish for with regard to the increased distribution of affordable cable services and a continued support of increased telecommunications innovation.

As with any complex bill, I do not agree with every aspect of the measure; however, I do feel that the measure provides the tools necessary to facilitate increased video choice for my district. Streamlining the video franchise process will help accelerate competition in the video market.

Constituents within my congressional district are crying out for increased competition and affordable cable rates and it is impossible for me to disregard their concerns by voting

against this, bill. According to the Federal Communications Commission, roughly 1.5 percent of markets have head-to-head competition for cable services.

Increased competition amongst cable providers will provide my constituents with consumer choice that is currently lacking. Consumers win when telecom carriers and cable operators compete head to head.

A multitude of service providers, each committed to indiscriminately serving my constituents regardless of income levels holds great promise for lower prices, better service and increased programming content and diverse ownership opportunities for minority and women-owned businesses.

Lastly, much has been said regarding the issue of net neutrality, the notion that broadband service providers should operate their networks in a nondiscriminatory manner.

While I agree wholeheartedly with this notion, I also feel that the government should not act too prematurely in intervening with the growth and innovation of the internet. The net neutrality bill presented before us tonight would impose a non-discriminate requirement on the internet backbone.

For years, the internet has blossomed, thanks in large part due the hands-off approach the federal government has taken. Currently I am satisfied with the language captured in H.R. 5252.

The bill gives the FCC strong authority to protect web access and internet applications by allowing the FCC to enforce its broadband principles that ensure consumers are entitled to: (1) Access the lawful internet content of their choice; (2) Run applications and services of their choice, subject to the needs of law enforcement; (3) Connect their choice of legal devices that do not harm the network; and (4) Competition among network providers, application and service providers, and content providers.

While I do not feel that additional action above and beyond the bill's current language at this time, I do support revisiting the issue in the event discriminatory conduct amongst internet service providers in the future.

Mr. CONYERS. Mr. Chairman, I rise against this legislation for several reasons. I fully support the concept of bringing competition to video, but the bill before us today contains some serious flaws and omissions that negate the positive intentions.

First, the bill does not contain meaningful net neutrality protections. All it does is reference the FCC's policy statement, which does not clearly delineate what a network provider can and cannot do. It provides the FCC with ''exclusive'' authority to define and adjudicate discriminatory broadband practices but also deprives the FCC of the authority to adopt rules on net neutrality. It only allows for case-by-case adjudication of complaints so that there will never be an order of general applicability.

Chairman SENSENBRENNER and I hoped that our net neutrality legislation, which passed the Judiciary Committee with bipartisan support, would be debated on the House floor today. Qur amendment would have required that broadband service providers interconnect with the facilities of other network providers on a reasonable and nondiscriminatory basis. It also would have required them to operate their network in a reasonable and nondiscriminatory manner so that all content, applications and services are treated the same and have an equal opportunity to reach consumers.

To the detriment of the COPE Act, the Rules Committee did not make our amendment in order. The Committee did make in order an amendment offered by Representative SMITH, which purports to preserve the antitrust laws for net neutrality but is actually nothing but a fig leaf. It changes nothing and does nothing to protect net neutrality. Of course the antitrust laws apply, but the Smith amendment does nothing to clarify how they apply and whether they apply to protect nondiscrimination.

The failure to provide strong net neutrality rules is not the only flaw of the COPE Act. Again, while I support the goal of furthering competition in video, I could only endorse this approach with certain protections to ensure that the service is distributed equitably and fairly. The COPE Act does not include these important safeguards.

The COPE Act removes guarantees that all cable customers must be treated equally, regardless of race, color, nationality or sex because it permits providers to designate their franchise areas. As a result, a provider will be able to ''cherry pick'' those areas it wants to serve and totally bypass other parts of the community. And it allows national franchise holders to offer service in one area of a community at a higher rate in order to subsidize the provision of service to residents in a more competitive area of the community.

These are serious problems that detract from the ultimate goal of furthering competition in the provision of video services. As a result, I oppose this legislation and urge my colleagues to do the same.

Mr. BACHUS. Mr. Chairman, I support H.R. 5252. Communications technology today is advancing rapidly but communications law is not. H.R. 5252 will allow the law to not only ''catch-up'' with technology, but also to get out of the way so consumers may benefit from new innovations and competition for broadband video services.

It is odd to me that, at the same time we are streamlining our policy in one area, we are considering new regulation in another area that has enjoyed explosive growth and innovation precisely because it has been free of government regulation. Mr. Chairman, this is not the time to start regulating the Internet.

Some voices say new regulation is necessary to preserve the Internet and protect consumers. I do not agree. The Internet is growing and thriving without regulation. Until there is a specific problem to fix, I think Internet regulation is a heavy-handed solution in search of a problem that will have many unintended consequences.

It is important to remember that the FCC has already adopted principles designed to ensure that Internet services are provided in a fair and neutral manner. Provisions of H.R. 5252 reinforce these principles without imposing innovation stifling regulation. Plus, my colleague on the House Judiciary Committee, Mr. SMITH, is offering an amendment making it clear that our Nation's anti-trust laws are in place to protect consumers as well. I support his amendment and encourage my colleagues to approve H.R. 5252 and reject calls for Internet regulation.

Mr. OXLEY. Mr. Chairman, I rise in strong support of H.R. 5252, the Communications Opportunity, Promotion, and Enhancement Act of 2006.

I've been a believer in the power of competition in telecommunications since I came to Congress 25 years ago. The move from government regulation to market competition has totally changed the telecommunications landscape, and the consumer has been the big winner. There are more products, services, and choices than ever before.

I remember people looking at Congressman RICK BOUCHER and me like we were nuts when we first introduced a bill to allow telephone and cable companies to compete with each other. Since then, satellite TV and the Internet have joined the act and we have more channels than we know what to do with!

Some saw the spectrum auctions as a heretical idea. But they helped give birth to the cell phone industry, and now there's a kiosk in every mall begging for your business. Along the way, those auctions brought in billions of dollars for the U.S. Treasury and our own budgeters.

I was on the conference committee for the Telecommunications Reform Act of 1996, and the law has done a lot to promote private investment and consumer choice. But I'm not sure we ever fully broke the regulatory mindset at the bureaucratic level.

Ten years later, we're at the point where we need to see more investment in the advanced telecommunications systems vital to our international competitiveness. We trail some of our hungriest competitors in broadband deployment. And by next year, China may have more broadband subscribers than the United States.

There are still too many regulatory impediments holding back competition. H.R. 5252 does a good job of removing them, so we can unleash private capital on this national need.

Historically, video entrants—primarily cable companies—have been required to negotiate contracts, called franchises, with local governments before offering video service. With some 33,000 municipalities, this negotiating process is time consuming and costly, serving as a barrier to market access.

H.R. 5252 streamlines this process by creating a single, national approval process. This will open the door for telephone companies to enter the video services market and build out extensive new fiber-optic networks to compete with the cable industry whose network is already well established. The bottom line is a national franchise will open the door for more choices, better services and lower bills.

I am concerned about some of the potential amendments that, under the guise of ''fairness'', would just defeat the purpose of the bill.

The first is mandatory build-out requirements, which are nothing less than the government telling a business how to run itself. Requiring a new entry in a competitive market to deploy broadband everywhere at once, even when it's not economical, guarantees that nothing will be built. Market demand will make the case for broadband expansion soon enough.

Next, there seem to be new efforts to regulate the ''last frontier'', the Internet. I think the Internet has experienced explosive growth because for the most part, the government has kept its hands off by not taxing and regulating it to death.

But in the name of something called ''net neutrality'', some would have the government effectively impose free carriage requirements

on the Internet and Internet backbone providers. Supporters claim that in order to "keep the internet as we know it" we must regulate the service providers. Regulating Internet Service Providers will stall investment, curbing the growth and innovation the Internet has fostered in the last decade.

Again, this is something best left to the market to figure out. And at this point, it seems to be a solution in search of an actual problem.

We are again at a pivotal point in telecommunications policy. At one time, telecom was one of the drivers of our economy and we need a full comeback. This bill will promote investment in the advanced networks that will keep the U.S. economy competitive in a fierce global marketplace. Let's again unleash the innovation of our telecom, cable, satellite, and Internet companies because when the rules are right, there are none in the world who are better.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the bill is considered read for amendment under the 5-minute rule.

The text of the bill is as follows:

H.R. 5252

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Communications Opportunity, Promotion, and Enhancement Act of 2006''.

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.

TITLE I—NATIONAL CABLE FRANCHISING

Sec. 101. National cable franchising.
Sec. 102. Definitions.
Sec. 103. Monitoring and reporting.

TITLE II—ENFORCEMENT OF BROADBAND POLICY STATEMENT

Sec. 201. Enforcement of broadband policy statement.

TITLE III—VOIP/911

Sec. 301. Emergency services; interconnection.

TITLE IV—MUNICIPAL PROVISION OF SERVICES

Sec. 401. Government authority to provide services.

TITLE V—BROADBAND SERVICE

Sec. 501. Stand-alone broadband service.
Sec. 502. Study of interference potential of broadband over power line systems.

TITLE VI—SEAMLESS MOBILITY

Sec. 601. Development of seamless mobility.

TITLE I—NATIONAL CABLE FRANCHISING

SEC. 101. NATIONAL CABLE FRANCHISING.

(a) AMENDMENT.—Part III of title VI of the Communications Act of 1934 (47 U.S.C. 541 et seq.) is amended by adding at the end the following new section:

''SEC. 630. NATIONAL CABLE FRANCHISING.

''(a) NATIONAL FRANCHISES.—

''(1) ELECTION.—A person or group that is eligible under subsection (d) may elect to obtain a national franchise under this section as authority to provide cable service in a franchise area in lieu of any other authority under Federal, State, or local law to provide cable service in such franchise area. A person or group may not provide cable service under the authority of this section in a franchise area unless such person or group has a franchise under this section that is effective with respect to such franchise area. A franchising authority may not require any person or group that has a national franchise under this section in effect with respect to a franchise area to obtain a franchise under section 621 or any other law to provide cable service in such franchise area.

''(2) CERTIFICATION.—To obtain a national franchise under this section as authority to provide cable service in a franchise area, a person or group shall—

''(A) file with the Commission a certification for a national franchise containing the information required by paragraph (3) with respect to such franchise area, if such person or group has not previously obtained a national franchise; or

''(B) file with the Commission a subsequent certification for additional franchise areas containing the information required by paragraph (3) with respect to such additional franchise areas, if such person or group has previously obtained a national franchise.

''(3) CONTENTS OF CERTIFICATION.—Such certification shall be in such form as the Commission shall require by regulation and shall contain—

''(A) the name under which such person or group is offering or intends to offer cable service;

''(B) the names and business addresses of the directors and principal executive officers, or the persons performing similar functions, of such person or group;

''(C) the location of such person or group's principal business office;

''(D) the name, business address, electronic mail address, and telephone and fax number of such person or group's local agent;

''(E) a declaration by such person or group that such person or group is eligible under subsection (d) to obtain a national franchise under this section;

''(F) an identification of each franchise area in which such person or group intends to offer cable service pursuant to such certification, which franchise area shall be—

''(i) the entirety of a franchise area in which a cable operator is, on the date of the filing of such certification, authorized to provide cable service under section 621 or any other law (including this section); or

''(ii) a contiguous geographic area that covers the entirety of the jurisdiction of a unit of general local government, except that—

''(I) if the geographic area within the jurisdiction of such unit of general local government contains a franchise area in which a cable operator is, on such date, authorized to provide cable service under section 621 or any other law, the contiguous geographic area identified in the certification under this clause as a franchise area shall not include the area contained in the franchise area of such cable operator; and

''(II) if such contiguous geographic area includes areas that are, respectively, within the jurisdiction of different franchising authorities, the certification shall specify each such area as a separate franchise area;

''(G) a declaration that such person or group transmitted, or will transmit on the day of filing such declaration, a copy of such certification to the franchising authority for each franchise area for which such person or group is filing a certification to offer cable service under this section;

''(H) a declaration by the person or group that the person or group will comply with the rights-of-way requirements of the franchising authority under subsection (f); and

''(I) a declaration by the person or group that—

''(i) the person or group will comply with all Commission consumer protection and customer service rules under section 632(b) and subsection (g) of this section; and

''(ii) the person or group agrees that such standards may be enforced by the Commission or by the franchising authority in accordance with subsection (g) of this section.

''(4) LOCAL NOTIFICATION; PRESERVATION OF OPPORTUNITY TO NEGOTIATE.—

''(A) COPY TO FRANCHISING AUTHORITY.—On the day of filing any certification under paragraph (2)(A) or (B) for a franchise area, the person or group shall transmit a copy of such certification to the franchising authority for such area.

''(B) NEGOTIATED FRANCHISE AGREEMENTS PERMITTED.—Nothing in this section shall prevent a person or group from negotiating a franchise agreement or any other authority to provide cable service in a franchise area under section 621 or any other law. Upon entry into any such negotiated franchise agreement, such negotiated franchise agreement shall apply in lieu of any national franchise held by that person or group under this section for such franchise area.

''(5) UPDATING OF CERTIFICATIONS.—A person or group that files a certification under this section shall update any information contained in such certification that is no longer accurate and correct.

''(6) PUBLIC AVAILABILITY OF CERTIFICATIONS.—The Commission shall provide for the public availability on the Commission's Internet website or other electronic facility of all current certifications filed under this section.

''(b) EFFECTIVENESS; DURATION.—

''(1) EFFECTIVENESS.—A national franchise under this section shall be effective with respect to any franchise area 30 days after the date of the filing of a completed certification under subsection (a)(2)(A) or (B) that applies to such franchise area.

''(2) DURATION.—

''(A) IN GENERAL.—A franchise under this section that applies to a franchise area shall be effective for that franchise area for a term of 10 years.

''(B) RENEWAL.—A franchise under this section for a franchise area shall be renewed automatically upon expiration of the 10-year period described in subparagraph (A).

''(C) PUBLIC HEARING.—At the request of a franchising authority in a franchise area, a cable operator authorized under this section to provide cable service in such franchise area shall, within the last year of the 10-year period applicable under subparagraph (A) to the cable operator's franchise for such franchise area, participate in a public hearing on the cable operator's performance in the franchise area, including the cable operator's compliance with the requirements of this title. The hearing shall afford the public the opportunity to participate for the purpose of identifying cable-related community needs and interests and assessing the operator's performance. The cable operator shall provide notice to its subscribers of the hearing at least 30 days prior to the hearing.

''(D) REVOCATION.—A franchise under this section for a franchise area may be revoked by the Commission—

''(i) for willful or repeated violation of any Federal or State law, or any Commission regulation, relating to the provision of cable service in such franchise area;

''(ii) for false statements or material omissions knowingly made in any filing with the Commission relating to the provision of cable service in such franchise area;

''(iii) for willful or repeated violation of the rights-of-way management laws or regulations of any franchising authority in such franchise area relating to the provision of cable service in such franchise area; or

''(iv) for willful or repeated violation of the antidiscrimination requirement of subsection (h) with respect to such franchise area.

''(E) NOTICE.—The Commission shall send a notice of such revocation to each franchising authority with jurisdiction over the franchise areas for which the cable operator's franchise was revoked.

''(F) REINSTATEMENT.—After a revocation under subparagraph (D) of a franchise for a franchise area of any person or group , the Commission may refuse to accept for filing a new certification for authority of such person or group to provide cable service under this section in such franchise area until the Commission determines that the basis of such revocation has been remedied.

''(G) RETURN TO LOCAL FRANCHISING IF CABLE COMPETITION CEASES.—

''(i) If only one cable operator is providing cable service in a franchise area, and that cable operator obtained a national franchise for such franchise area under subsection (d)(2), the franchising authority for such franchise area may file a petition with the Commission requesting that the Commission terminate such national franchise for such franchise area.

''(ii) The Commission shall provide public notice and opportunity to comment on such petition. If it finds that the requirements of clause (i) are satisfied, the Commission shall issue an order granting such petition. Such order shall take effect one year from the date of such grant, if no other cable operator offers cable service in such area during that one year. If another cable operator does offer cable service in such franchise area during that one year, the Commission shall rescind such order and dismiss such petition.

''(iii) A cable operator whose national franchise is terminated for such franchise area under this subparagraph may obtain new authority to provide cable service in such franchise area under this section, section 621, or any other law, if and when eligible.

''(c) REQUIREMENTS OF NATIONAL FRANCHISE.—A national franchise shall contain the following requirements:

''(1) FRANCHISE FEE.—A cable operator authorized under this section to provide cable service in a franchise area shall pay to the franchising authority in such franchise area a franchise fee of up to 5 percent (as determined by the franchising authority) of such cable operator's gross revenues from the provision of cable service under this section in such franchise area. Such payment shall be assessed and collected in a manner consistent with section 622 and the definition of gross revenues in this section.

''(2) PEG/I-NET REQUIREMENTS.—A cable operator authorized under this section to provide cable service in a franchise area shall comply with the requirements of subsection (e).

''(3) RIGHTS-OF-WAY.—A cable operator authorized under this section to provide cable service in a franchise area shall comply with the rights-of-way requirements of the franchising authority under subsection (f).

''(4) CONSUMER PROTECTION AND CUSTOMER SERVICE STANDARDS.—A cable operator authorized under this section to provide cable service in a franchise area shall comply with the consumer protection and customer service standards established by the Commission under section 632(b).

''(5) CHILD PORNOGRAPHY.—A cable operator authorized under this section to provide cable service in a franchise area shall comply with the regulations on child pornography promulgated pursuant to subsection (i).

''(d) ELIGIBILITY FOR NATIONAL FRANCHISES.—The following persons or groups are eligible to obtain a national franchise under this section:

''(1) COMMENCEMENT OF SERVICE AFTER ENACTMENT.—A person or group that is not providing cable service in a franchise area on the date of enactment of this section under section 621 or any other law may obtain a national franchise under this section to provide cable service in such franchise area.

''(2) EXISTING PROVIDERS OF CABLE SERVICE.—A person or group that is providing cable service in a franchise area on the date of enactment of this section under section 621 or any other law may obtain a franchise under this section to provide cable service in such franchise area if, on the date that the national franchise becomes effective, another person or group is providing cable service under this section, section 621, or any other law in such franchise area.

''(e) PUBLIC, EDUCATIONAL, AND GOVERNMENTAL USE.—

''(1) IN GENERAL.—Subject to paragraph (3), a cable operator with a national franchise for a franchise area under this section shall provide channel capacity for public, educational, and governmental use that is not less than the channel capacity required of the cable operator with the most subscribers in such franchise area on the effective date of such national franchise. If there is no other cable operator in such franchise area on the effective date of such national franchise, or there is no other cable operator in such franchise area on such date that is required to provide channel capacity for public, educational, and governmental use, the cable operator shall provide the amount of channel capacity for such use as determined by Commission rule.

''(2) PEG AND I–NET FINANCIAL SUPPORT.—A cable operator with a national franchise under this section for a franchise area shall pay an amount equal to 1 percent of the cable operator's gross revenues (as such term is defined in this section) in the franchise area to the franchising authority for the support of public, educational, and governmental use and institutional networks (as such term is defined in section 611(f)). Such payment shall be assessed and collected in a manner consistent with section 622, including the authority of the cable operator to designate that portion of a subscriber's bill attributable to such payment. A cable operator that provided cable service in a franchise area on the date of enactment of this section and that obtains a national franchise under this section shall continue to provide any institutional network that it was required to provide in such franchise area under section 621 or any other law. Notwithstanding section 621(b)(3)(D), a franchising authority may not require a cable operator franchised under this section to construct a new institutional network.

''(3) ADJUSTMENT.—Every 10 years after the commencement of a franchise under this section for a franchise area, a franchising authority may require a cable operator authorized under such franchise to increase the channel capacity designated for public, educational, or governmental use, and the channel capacity designated for such use on any institutional networks required under paragraph (2). Such increase shall not exceed the higher of—

''(A) one channel; or

''(B) 10 percent of the public, educational, or governmental channel capacity required of that operator prior to the increase.

''(4) TRANSMISSION AND PRODUCTION OF PROGRAMMING.—

''(A) A cable operator franchised under this section shall ensure that all subscribers receive any public, educational, or governmental programming carried by the cable operator within the subscriber's franchise area.

''(B) The production of any programming provided under this subsection shall be the responsibility of the franchising authority.

''(C) A cable operator franchised under this section shall be responsible for the transmission from the signal origination point (or points) of the programming, or from the point of interconnection with another cable operator under subparagraph (D), to the cable operator's subscribers, of any public, educational, or governmental programming produced by or for the franchising authority and carried by the cable operator pursuant to this section.

''(D) Unless two cable operators otherwise agree to the terms for interconnection and cost sharing, such cable operators shall comply with regulations prescribed by the Commission providing for—

''(i) the interconnection between two cable operators in a franchise area for transmission of public, educational, or governmental programming, without material deterioration in signal quality or functionality; and

''(ii) the reasonable allocation of the costs of such interconnection between such cable operators.

''(E) A cable operator shall display the program information for public, educational, or governmental programming carried under this subsection in any print or electronic program guide in the same manner in which it displays program information for other video programming in the franchise area. The cable operator shall not omit such public, educational, or governmental programming from any navigational device, guide, or menu containing other video programming that is available to subscribers in the franchise area.

''(f) RIGHTS-OF-WAY.—

''(1) AUTHORITY TO USE.—Any franchise under this section for a franchise area shall be construed to authorize the construction of a cable system over public rights-of-way, and through easements, which is within the area to be served by the cable system and which have been dedicated for compatible uses, except that in using such easements the cable operator shall ensure that—

''(A) the safety, functioning, and appearance of the property and the convenience and the safety of other persons not be adversely affected by the installation or construction of facilities necessary for a cable system;

''(B) the cost of the installation, construction, operation, or removal of such facilities be borne by the cable operator or subscriber, or a combination of both; and

''(C) the owner of the property be justly compensated by the cable operator for any damages caused by the installation, construction, operation, or removal of such facilities by the cable operator.

''(2) MANAGEMENT OF PUBLIC RIGHTS-OF-WAY.—Nothing in this Act affects the authority of a State or local government (including a franchising authority) over a person or group in their capacity as a cable operator with a franchise under this section to manage, on a reasonable, competitively neutral, and non-discriminatory basis, the public rights-of-way, and easements that have been dedicated for compatible uses. A State or local government (including a franchising authority) may, on a reasonable, competitively neutral, and non-discriminatory basis—

''(A) impose charges for such management; and

''(B) require compliance with such management, such charges, and paragraphs (1)(A), (B), and (C).

''(g) CONSUMER PROTECTION AND CUSTOMER SERVICE.—

''(1) NATIONAL STANDARDS.—Notwithstanding section 632(d), no State or local law (including any regulation) shall impose on a cable operator franchised under this section any consumer protection or customer service

requirements other than consumer protection or customer service requirements of general applicability.

''(2) PROCEEDING.—Within 120 days after the date of enactment of this section, the Commission shall issue a report and order that updates for cable operators franchised under this section the national consumer protection and customer service rules under section 632(b), taking into consideration the national nature of a franchise under this section and the role of State and local governments in enforcing, but not creating, consumer protection and customer service standards for cable operators franchised under this section.

''(3) REQUIREMENTS OF NEW RULES.—

''(A) Such rules shall, in addition to the requirements of section 632(b), address, with specificity, no less than the following consumer protection and customer service issues:

''(i) Billing, billing disputes, and discontinuation of service, including when and how any late fees may be assessed (but not the amount of such fees).

''(ii) Loss of service or service quality.

''(iii) Changes in channel lineups or other cable services and features.

''(iv) Availability of parental control options.

''(B) Such rules shall require forfeiture penalties or customer rebates, or both, as determined by the Commission, that may be imposed for violations of such Commission rules in a franchise area, and shall provide for increased forfeiture penalties or customer rebates, or both, for repeated violations of the standards in such rules.

''(C) The Commission's rules shall also establish procedures by which any forfeiture penalty assessed by the Commission under this subsection shall be paid by the cable operator directly to the franchising authority.

''(D) The Commission shall report to the Congress no less than once a year—

''(i) on complaints filed, and penalties imposed, under this subsection; and

''(ii) on any new consumer protection or customer service issues arising under this subsection.

''(E) The Commission's rules established under this subsection shall be revised as needed.

''(4) COMPLAINTS.—Any person may file a complaint with respect to a violation of the regulations prescribed under section 632(b) in a franchise area by a cable operator franchised under this section—

''(A) with the franchising authority in such area; or

''(B) with the Commission.

''(5) LOCAL FRANCHISING ORDERS REQUIRING COMPLIANCE.—In a proceeding commenced with a franchising authority on such a complaint, a franchising authority may issue an order requiring compliance with any of such regulations prescribed by the Commission, but a franchising authority may not create any new standard or regulation, or expand upon or modify the Commission's standards or regulations.

''(6) ACCESS TO RECORDS.—In such a proceeding, the franchising authority may issue an order requiring the filing of any contract, agreement, or arrangement between the subscriber and the provider, or any other data, documents, or records, directly related to the alleged violation.

''(7) COMMISSION REMEDIES; APPEALS.—Unless appealed to the Commission, an order of a franchising authority under this subsection shall be enforced by the Commission. Any such appeal shall be resolved by the Commission within 30 days after receipt of the appeal by the Commission.

''(8) COST OF FRANCHISING AUTHORITY ORDERS.—A franchising authority may charge a provider of cable service under this section a nominal fee to cover the costs of issuing such orders.

''(h) ANTIDISCRIMINATION.—

''(1) PROHIBITION.—A cable operator with a national franchise under this section to provide cable service in a franchise area shall not deny access to its cable service to any group of potential residential cable service subscribers in such franchise area because of the income of that group.

''(2) ENFORCEMENT.—

''(A) COMPLAINT.—If a franchising authority in a franchise area has reasonable cause to believe that a cable operator is in violation of this subsection with respect to such franchise area, the franchising authority may, after complying with subparagraph (B), file a complaint with the Commission alleging such violation.

''(B) NOTICE BY FRANCHISING AUTHORITY.—Before filing a complaint with the Commission under subparagraph (A), a franchising authority—

''(i) shall give notice of each alleged violation to the cable operator;

''(ii) shall provide a period of not less than 30 days for the cable operator to respond to such allegations; and

''(iii) during such period, may require the cable operator to submit a written response stating the reasons why the operator has not violated this subsection.

''(C) BIANNUAL REPORT.—A cable operator with a national franchise under this section for a franchise area, not later than 180 days after the effective date of such national franchise, and biannually thereafter, shall submit a report to the Commission and the franchising authority in the franchise area—

''(i) identifying the geographic areas in the franchise area where the cable operator offers cable service; and

''(ii) describing the cable operator's progress in extending cable service to other areas in the franchise area.

''(D) NOTICE BY COMMISSION.—Upon receipt of a complaint under this paragraph alleging a violation of this subsection by a cable operator, the Commission shall give notice of the complaint to the cable operator.

''(E) INVESTIGATION.—In investigating a complaint under this paragraph, the Commission may require a cable operator to disclose to the Commission such information and documents as the Commission deems necessary to determine whether the cable operator is in compliance with this subsection. The Commission shall maintain the confidentiality of any information or document collected under this subparagraph.

''(F) DEADLINE FOR RESOLUTION OF COMPLAINTS.—Not more than 60 days after the Commission receives a complaint under this paragraph, the Commission shall issue a determination with respect to each violation alleged in the complaint.

''(G) DETERMINATION.—If the Commission determines (in response to a complaint under this paragraph or on its own initiative) that a cable operator with a franchise under this section to provide cable service in a franchise area has denied access to its cable service to a group of potential residential cable service subscribers in such franchise area because of the income of that group, the Commission shall ensure that the cable operator extends access to that group within a reasonable period of time.

''(H) REMEDIES.—

''(i) IN GENERAL.—This subsection shall be enforced by the Commission under titles IV and V.

''(ii) MAXIMUM FORFEITURE PENALTY.—For purposes of section 503, the maximum forfeiture penalty applicable to a violation of this subsection shall be $500,000 for each day of the violation.

''(iii) PAYMENT OF PENALTIES TO FRANCHISING AUTHORITY.—The Commission shall order any cable operator subject to a forfeiture penalty under this subsection to pay the penalty directly to the franchising authority involved.

''(i) CHILD PORNOGRAPHY.—Not later than 180 days after the date of enactment of this section, the Commission shall promulgate regulations to require a cable operator with a national franchise under this section to prevent the distribution of child pornography (as such term is defined in section 254(h)(7)(F)) over its network.

''(j) LEASED ACCESS.—The provisions of section 612(i) regarding the carriage of programming from a qualified minority programming source or from any qualified educational programming source shall apply to a cable operator franchised under this section to provide cable service in a franchise area.

''(k) APPLICABILITY OF OTHER PROVISIONS.—The following sections shall not apply in a franchise area to a person or group franchised under this section in such franchise area, or confer any authority to regulate or impose obligations on such person or group: Sections 611(a), 611(b), 611(c), 613(a), 617, 621 (other than subsections (b)(3)(A), (b)(3)(B), (b)(3)(C), and (c)), 624(b), 624(c), 624(h), 625, 626, 627, and 632(a).

''(l) EMERGENCY ALERTS.—Nothing in this Act shall be construed to prohibit a State or local government from accessing the emergency alert system of a cable operator with a franchise under this section in the area served by the State or local government to transmit local or regional emergency alerts.

''(m) REPORTING, RECORDS, AND AUDITS.—

''(1) REPORTING.—A cable operator with a franchise under this section to provide cable service in a franchise area shall make such periodic reports to the Commission and the franchising authority for such franchise area as the Commission may require to verify compliance with the fee obligations of subsections (c)(1) and (e)(2).

''(2) AVAILABILITY OF BOOKS AND RECORDS.—Upon request under paragraph (3) by a franchising authority for a franchise area, and upon request by the Commission, a cable operator with a national franchise for such franchise area shall make available its books and records to periodic audit by such franchising authority or the Commission, respectively.

''(3) FRANCHISING AUTHORITY AUDIT PROCEDURE.—A franchising authority may, upon reasonable written request, but no more than once in any 12-month period, review the business records of such cable operator to the extent reasonably necessary to ensure payment of the fees required by subsections (c)(1) and (e)(2). Such review may include the methodology used by such cable operator to assign portions of the revenue from cable service that may be bundled or functionally integrated with other services, capabilities, or applications. Such review shall be conducted in accordance with procedures established by the Commission.

''(4) COST RECOVERY.—

''(A) To the extent that the review under paragraph (3) identifies an underpayment of an amount meeting the minimum percentage specified in subparagraph (B) of the fee required under subsections (c)(1) and (e)(2) for the period of review, the cable operator shall reimburse the franchising authority the reasonable costs of any such review conducted by an independent third party, as determined by the Commission, with respect to such fee. The costs of any contingency fee arrangement between the franchising authority and the independent reviewer shall not be subject to reimbursement.

''(B) The Commission shall determine by rule the minimum percentage underpayment

that requires cost reimbursement under subparagraph (A).

''(5) LIMITATION.—Any fee that is not reviewed by a franchising authority within 3 years after it is paid or remitted shall not be subject to later review by the franchising authority under this subsection and shall be deemed accepted in full payment by the franchising authority.

''(n) ACCESS TO PROGRAMMING FOR SHARED FACILITIES.—

''(1) PROHIBITION.—A cable programming vendor in which a cable operator has an attributable interest shall not deny a cable operator with a national franchise under this section access to video programming solely because such cable operator uses a headend for its cable system that is also used, under a shared ownership or leasing agreement, as the headend for another cable system.

''(2) DEFINITION.—The term 'cable programming vendor' means a person engaged in the production, creation, or wholesale distribution for sale of video programming which is primarily intended for the direct receipt by cable operators for their retransmission to cable subscribers.

''(o) GROSS REVENUES.—As used in this section:

''(1) IN GENERAL.—Subject to paragraphs (2) and (3), the term 'gross revenues' means all consideration of any kind or nature, including cash, credits, property, and in-kind contributions (services or goods) received by the cable operator from the provision of cable service within the franchise area.

''(2) INCLUDED ITEMS.—Subject to paragraph (3), the term 'gross revenues' shall include the following:

''(A) all charges and fees paid by subscribers for the provision of cable service, including fees attributable to cable service when sold individually or as part of a package or bundle, or functionally integrated, with services other than cable service;

''(B) any franchise fee imposed on the cable operator that is passed on to subscribers;

''(C) compensation received by the cable operator for promotion or exhibition of any products or services over the cable service, such as on 'home shopping' or similar programming;

''(D) revenue received by the cable operator as compensation for carriage of video programming or other programming service on that operator's cable service;

''(E) all revenue derived from the cable operator's cable service pursuant to compensation arrangements for advertising; and

''(F) any advertising commissions paid to an affiliated third party for cable services advertising.

''(3) EXCLUDED ITEMS.—The term 'gross revenues' shall not include the following:

''(A) any revenue not actually received, even if billed, such as bad debt net of any recoveries of bad debt;

''(B) refunds, rebates, credits, or discounts to subscribers or a municipality to the extent not already offset by subparagraph (A) and to the extent such refund, rebate, credit, or discount is attributable to the cable service;

''(C) subject to paragraph (4), any revenues received by the cable operator or its affiliates from the provision of services or capabilities other than cable service, including telecommunications services, Internet access services, and services, capabilities, and applications that may be sold as part of a package or bundle, or functionally integrated, with cable service;

''(D) any revenues received by the cable operator or its affiliates for the provision of directory or Internet advertising, including yellow pages, white pages, banner advertisement, and electronic publishing;

''(E) any amounts attributable to the provision of cable service to customers at no charge, including the provision of such service to public institutions without charge;

''(F) any tax, fee, or assessment of general applicability imposed on the customer or the transaction by a Federal, State, or local government or any other governmental entity, collected by the provider, and required to be remitted to the taxing entity, including sales and use taxes and utility user taxes;

''(G) any forgone revenue from the provision of cable service at no charge to any person, except that any forgone revenue exchanged for trades, barters, services, or other items of value shall be included in gross revenue;

''(H) sales of capital assets or surplus equipment;

''(I) reimbursement by programmers of marketing costs actually incurred by the cable operator for the introduction of new programming; and

''(J) the sale of cable services for resale to the extent the purchaser certifies in writing that it will resell the service and pay a franchise fee with respect thereto.

''(4) FUNCTIONALLY INTEGRATED SERVICES.—In the case of a cable service that is bundled or integrated functionally with other services, capabilities, or applications, the portion of the cable operator's revenue attributable to such other services, capabilities, or applications shall be included in gross revenue unless the cable operator can reasonably identify the division or exclusion of such revenue from its books and records that are kept in the regular course of business.

''(5) AFFILIATE REVENUE.—Revenue of an affiliate shall be included in the calculation of gross revenues to the extent the treatment of such revenue as revenue of the affiliate has the effect (whether intentional or unintentional) of evading the payment of franchise fees which would otherwise be paid for cable service.

''(6) AFFECT ON OTHER LAW.—Nothing in this section is intended to limit a franchising authority's rights pursuant to section 622(h).

''(p) ADDITIONAL DEFINITIONS.—For purposes of this section:

''(1) CABLE OPERATOR.—The term 'cable operator' has the meaning provided in section 602(5) except that such term also includes a person or group with a national franchise under this section.

''(2) FRANCHISE FEE.—

''(A) The term 'franchise fee' includes any fee or assessment of any kind imposed by a franchising authority or other governmental entity on a person or group providing cable service in a franchise area under this section, or on a subscriber of such person or group, or both, solely because of their status as such.

''(B) The term 'franchise fee' does not include—

''(i) any tax, fee, or assessment of general applicability (including any such tax, fee, or assessment imposed on both utilities and a person or group providing cable service in a franchise area under this section (or the services of such person or group) but not including a fee or assessment which is unduly discriminatory against such person or group or the subscribers of such person or group);

''(ii) any fee assessed under subsection (e)(2) for support of public, educational, and governmental use and institutional networks (as such term is defined in section 611(f));

''(iii) requirements or charges under subsection (f)(2) for the management of public rights-of-way, including payments for bonds, security funds, letters of credit, insurance, indemnification, penalties, or liquidated damages; or

''(iv) any fee imposed under title 17, United States Code.

''(3) INTERNET ACCESS SERVICE.—The term 'Internet access service' means a service that enables users to access content, information, electronic mail, or other services offered over the Internet.

''(4) UNIT OF GENERAL LOCAL GOVERNMENT.—The term 'unit of general local government' means—

''(A) a county, township, city, or political subdivision of a county, township, or city;

''(B) the District of Columbia; or

''(C) the recognized governing body of an Indian tribe or Alaskan Native village that carries out substantial governmental duties and powers.''.

(b) IMPLEMENTING REGULATIONS.—The Federal Communications Commission shall prescribe regulations to implement the amendment made by subsection (a) within 120 days after the date of enactment of this Act.

SEC. 102. DEFINITIONS.

Section 602 of the Communications Act of 1934 (47 U.S.C. 522) is amended—

(1) in paragraph (4), by inserting before the semicolon at the end the following: '', or its equivalent as determined by the Commission'';

(2) in paragraph (5)(A), by inserting ''(regardless of whether such person or group provides such service separately or combined with a telecommunications service or information service)'' after ''over a cable system''; and

(3) by striking paragraph (6) and inserting the following:

''(6) the term 'cable service' means—

''(A)(i) the one-way transmission to subscribers of (I) video programming, or (II) other programming service; and

''(ii) subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service; or

''(B) the transmission to subscribers of video programming or other programming service provided through wireline facilities located at least in part in the public rights-of-way, without regard to delivery technology, including Internet protocol technology, except to the extent that such video programming or other programming service is provided as part of—

''(i) a commercial mobile service (as such term is defined in section 332(d)); or

''(ii) an Internet access service (as such term is defined in section 630(p)).''.

SEC. 103. MONITORING AND REPORTING.

(a) REPORT ON CABLE SERVICE DEPLOYMENT.—The Federal Communications Commission shall, commencing not later than one year after the date of enactment of this Act, issue a report annually on the deployment of cable service. In its report, the Commission shall describe in detail—

(1) with respect to deployment by new cable operators—

(A) the progress of deployment of such service within the telephone service area of cable operators, if the operator is also an incumbent local exchange carrier, including a comparison with the progress of deployment of broadband services not defined as cable services within such telephone service area;

(B) the number of franchise areas in which such service is being deployed and offered;

(C) where such service is not being deployed and offered; and

(D) the number and locations of franchise areas in which the cable operator is serving only a portion of the franchise area, and the extent of such service within the franchise area;

(2) the number and locations of franchise areas in which a cable operator with a franchise under section 621 of the Communications Act of 1934 (47 U.S.C. 541) on the date of

enactment of this Act withdraws service from any portion of the franchise area for which it previously offered service, and the extent of such withdrawal of service within the franchise area;

(3) the rates generally charged for cable service;

(4) the rates charged by overlapping, competing multichannel video programming distributors and by competing cable operators for comparable service or cable service;

(5) the average household income of those franchise areas or portions of franchise areas where cable services is being offered, and the average household income of those franchise areas, or portions of franchise areas, where cable service is not being offered;

(6) the proportion of rural households to urban households, as defined by the Bureau of the Census, in those franchise areas or portions of franchise areas where cable service is being offered, and the proportion of rural households to urban households in those franchise areas or portions of franchise areas where cable service is not being offered, including a State-by-State breakdown of such data and a comparison with the overall ratio of rural and urban households in each State; and

(7) a comparison of the services and rates in areas served by national franchisees under section 630 of the Communications Act of 1934 (as added by section 101 of this Act) and the services and rates in other areas.

(b) CABLE OPERATOR REPORTS.—The Federal Communications Commission is authorized—

(1) to require cable operators to report to the Commission all of the information that the Commission needs to compile the report required by this section; and

(2) to require cable operators to file the same information with the relevant franchising authorities and State commissions.

TITLE II—ENFORCEMENT OF BROADBAND POLICY STATEMENT

SEC. 201. ENFORCEMENT OF BROADBAND POLICY STATEMENT.

Title VII of the Communications Act of 1934 (47 U.S.C. 601 et seq.) is amended by adding at the end the following new section:

''SEC. 715. ENFORCEMENT OF BROADBAND POLICY STATEMENT.

''(a) AUTHORITY.—The Commission shall have the authority to enforce the Commission's broadband policy statement and the principles incorporated therein.

''(b) ENFORCEMENT.—

''(1) IN GENERAL.—This section shall be enforced by the Commission under titles IV and V. A violation of the Commission's broadband policy statement or the principles incorporated therein shall be treated as a violation of this Act.

''(2) MAXIMUM FORFEITURE PENALTY.—For purposes of section 503, the maximum forfeiture penalty applicable to a violation described in paragraph (1) of this subsection shall be $500,000 for each violation.

''(3) ADJUDICATORY AUTHORITY.—The Commission shall have exclusive authority to adjudicate any complaint alleging a violation of the broadband policy statement and the principles incorporated therein. The Commission shall complete an adjudicatory proceeding under this subsection not later than 90 days after receipt of the complaint. If, upon completion of an adjudicatory proceeding pursuant to this section, the Commission determines that such a violation has occurred, the Commission shall have authority to adopt an order to require the entity subject to the complaint to comply with the broadband policy statement and the principles incorporated therein. Such authority shall be in addition to the authority specified in paragraph (1) to enforce this section under titles IV and V. In addition, the Commission shall have authority to adopt procedures for the adjudication of complaints alleging a violation of the broadband policy statement or principles incorporated therein.

''(4) LIMITATION.—Notwithstanding paragraph (1), the Commission's authority to enforce the broadband policy statement and the principles incorporated therein does not include authorization for the Commission to adopt or implement rules or regulations regarding enforcement of the broadband policy statement and the principles incorporated therein, with the sole exception of the authority to adopt procedures for the adjudication of complaints, as provided in paragraph (3).

''(c) STUDY.—Within 180 days after the date of enactment of this section, the Commission shall conduct, and submit to the House Committee on Energy and Commerce and the Senate Committee on Commerce, Science, and Transportation, a study regarding whether the objectives of the broadband policy statement and the principles incorporated therein are being achieved.

''(d) DEFINITION.—For purposes of this section, the term 'Commission's broadband policy statement' means the policy statement adopted on August 5, 2005, and issued on September 23, 2005, In the Matters of Appropriate Framework for Broadband Access to the Internet over Wireline Facilities, and other Matters (FCC 05–151; CC Docket No. 02–33; CC Docket No. 01–337; CC Docket Nos. 95–20, 98–10; GN Docket No. 00–185; CS Docket No. 02–52).''.

TITLE III—VOIP/911

SEC. 301. EMERGENCY SERVICES; INTERCONNECTION.

Title VII of the Communications Act of 1934 (47 U.S.C. 601 et seq.) is further amended by adding after section 715 (as added by section 201 of this Act) the following new sections:

''SEC. 716. EMERGENCY SERVICES.

''(a) 911 AND E–911 SERVICES.—

''(1) IN GENERAL.—Each VOIP service provider has a duty to ensure that 911 and E–911 services are provided to subscribers of VOIP services.

''(2) USE OF EXISTING REGULATIONS.—A VOIP service provider that complies with the Commission's regulations requiring providers of VOIP service to supply 911 and E911 capabilities to their customers (Report and Order in WC Docket Nos. 04–36 and 05–196) and that are in effect on the date of enactment of this section shall be considered to be in compliance with the requirements of this section, other than subsection (c), until such regulations are modified or superseded by subsequent regulations.

''(b) NON-DISCRIMINATORY ACCESS TO CAPABILITIES.—

''(1) ACCESS.—Each incumbent local exchange carrier (as such term is defined in section 251(h)) or government entity with ownership or control of the necessary E–911 infrastructure shall provide any requesting VOIP service provider with nondiscriminatory access to such infrastructure. Such carrier or entity shall provide access to the infrastructure at just and reasonable, nondiscriminatory rates, terms, and conditions. Such access shall be consistent with industry standards established by the National Emergency Number Association or other applicable industry standards organizations.

''(2) ENFORCEMENT.—The Commission or a State commission may enforce the requirements of this subsection and the Commission's regulations thereunder. A VOIP service provider may obtain access to such infrastructure pursuant to section 717 by asserting the rights described in such section.

''(c) NEW CUSTOMERS.—A VOIP service provider shall make 911 service available to new customers within a reasonable time in accordance with the following requirements:

''(1) CONNECTION TO SELECTIVE ROUTER.—For all new customers not within the geographic areas where a VOIP service provider can immediately provide 911 service to the geographically appropriate PSAP, a VOIP service provider, or its third party vendor, shall have no more than 30 days from the date the VOIP provider has acquired a customer to order service providing connectivity to the selective router so that 911 service, or E911 service where the PSAP is capable of receiving and processing such information, can be provided through the selective router.

''(2) INTERIM SERVICE.—For all new customers not within the geographic areas where the VOIP service provider can immediately provide 911 service to the geographically appropriate PSAP, a VOIP service provider shall provide 911 service through—

''(A) an arrangement mutually agreed to by the VOIP service provider and the PSAP or PSAP governing authority; or

''(B) an emergency response center with national call routing capabilities.

Such service shall be provided 24 hours a day from the date a VOIP service provider has acquired a customer until the VOIP service provider can provide 911 service to the geographically appropriate PSAP.

''(3) NOTICE.—Before providing service to any new customer not within the geographic areas where the VOIP service provider can immediately provide 911 service to the geographically appropriate PSAP, a VOIP service provider shall provide such customer with clear notice that 911 service will be available only as described in paragraph (2).

''(4) RESTRICTION ON ACQUISITION OF NEW CUSTOMERS.—A VOIP service provider may not acquire new customers within a geographic area served by a selective router if, within 180 days of first acquiring a new customer in the area served by the selective router, the VOIP service provider does not provide 911 service, or E911 service where the PSAP is capable of receiving and processing such information, to the geographically appropriate PSAP for all existing customers served by the selective router.

''(5) ENFORCEMENT: NO FIRST WARNINGS.—Paragraph (5) of section 503(b) shall not apply to the assessment of forfeiture penalties for violations of this subsection or the regulations thereunder.

''(d) STATE AUTHORITY.—Nothing in this Act or any Commission regulation or order shall prevent the imposition on or collection from a VOIP service provider, of any fee or charge specifically designated or presented as dedicated by a State, political subdivision thereof, or Indian tribe on an equitable, and non-discriminatory basis for the support of 911 and E–911 services if no portion of the revenue derived from such fee or charge is obligated or expended for any purpose other than support of 911 and E–911 services or enhancements of such services.

''(e) FEASIBILITY.—In establishing requirements or obligations under subsections (a) and (b), the Commission shall ensure that such standards impose requirements or obligations on VOIP service providers and entities with ownership or control of necessary E–911 infrastructure that the Commission determines are technologically and operationally feasible. In determining the requirements and obligations that are technologically and operationally feasible, the Commission shall take into consideration available industry technological and operational standards.

''(f) PROGRESS REPORTS.—To the extent that the Commission concludes that it is not

technologically or operationally feasible for VOIP service providers to comply with E–911 requirements or obligations, then the Commission shall submit reports to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the progress in attaining and deploying E–911 service. Such reports shall be submitted semiannually until the Commission concludes that it is technologically and operationally feasible for all VOIP service providers to comply with E–911 requirements and obligations. Such reports may include any recommendations the Commission considers appropriate to encourage the migration of emergency services to TCP/IP protocol or other advanced services.

''(g) ACCESS TO INFORMATION.—The Commission shall have the authority to compile a list of PSAP contact information, testing procedures, and classes and types of services supported by PSAPs, or other information concerning the necessary E–911 infrastructure, for the purpose of assisting providers in complying with the requirements of this section.

''(h) EMERGENCY ROUTING NUMBER ADMINISTRATOR.—Within 30 days after the date of enactment of this section, the Federal Communications Commission shall establish an emergency routing number administrator to enable VOIP service providers to acquire non-dialable pseudo-automatic number identification numbers for 9–1–1 routing purposes on a national scale. The Commission may adopt such rules and practices as are necessary to guide such administrator in the fair and expeditious assignment of these numbers.

''(i) EMERGENCY RESPONSE SYSTEMS.—

''(1) NOTICE PRIOR TO INSTALLATION OR NUMBER ACTIVATION OF VOIP SERVICE.—Prior to installation or number activation of VOIP service for a customer, a VOIP service provider shall provide clear and conspicuous notice to the customer that—

''(A) such customer should arrange with his or her emergency response system provider, if any, to test such system after installation;

''(B) such customer should notify his or her emergency response system provider after VOIP service is installed; and

''(C) a battery backup is required for customer premises equipment installed in connection with the VOIP service in order for the signaling of such system to function in the event of a power outage.

''(2) DEFINITION.—In this subsection:

''(A) The term 'emergency response system' means an alarm or security system, or personal security or medical monitoring system, that is connected to an emergency response center by means of a telecommunications carrier or VOIP service provider.

''(B) The term 'emergency response center' means an entity that monitors transmissions from an emergency response system.

''(j) MIGRATION TO IP-ENABLED EMERGENCY NETWORK.—

''(1) NATIONAL REPORT.—No more than 18 months after the date of the enactment of this section, the National 911 Implementation and Coordination Office shall develop a report to Congress on migrating to a national IP-enabled emergency network capable of receiving and responding to all citizen activated emergency communications.

''(2) CONTENTS OF REPORT.—The report required by paragraph (1) shall—

''(A) outline the potential benefits of such a migration;

''(B) identify barriers that must be overcome and funding mechanisms to address those barriers;

''(C) include a proposed timetable, an outline of costs and potential savings;

''(D) provide recommendations on specific legislative language,

''(E) provide recommendations on any legislative changes, including updating definitions, to facilitate a national IP-enabled emergency network; and

''(F) assess, collect, and analyze the experiences of the PSAPs and related public safety authorities who are conducting trial deployments of IP-enabled emergency networks as of the date of enactment of this section.

''(3) CONSULTATION.—In developing the report required by paragraph (1), the Office shall consult with representatives of the public safety community, technology and telecommunications providers, and others it deems appropriate.

''(k) IMPLEMENTATION.—

''(1) DEADLINE.—The Commission shall prescribe regulations to implement this section within 120 days after the date of enactment of this section.

''(2) LIMITATION.—Nothing in this section shall be construed to permit the Commission to issue regulations that require or impose a specific technology or technological standard.

''(l) DEFINITIONS.—For purposes of this section:

''(1) VOIP SERVICE.—The term 'VOIP service' means a service that—

''(A) provides real-time 2-way voice communications transmitted through customer premises equipment using TCP/IP protocol, or a successor protocol (including when the voice communication is converted to or from TCP/IP protocol by the VOIP service provider and transmitted to the subscriber without use of circuit switching), for a fee;

''(B) is offered to the public, or such classes of users as to be effectively available to the public (whether part of a bundle of services or separately); and

''(C) has the capability so that the service can originate traffic to, and terminate traffic from, the public switched telephone network.

''(2) VOIP SERVICE PROVIDER.—The term 'VOIP service provider' means any person who provides or offers to provide a VOIP service.

''(3) NECESSARY E–911 INFRASTRUCTURE.—The term 'necessary E–911 infrastructure' means the selective routers, selective router databases, automatic location information databases, master street address guides, trunk lines between selective routers and PSAPs, trunk lines between automatic location information databases and PSAPs, and other 911 and E–911 equipment, facilities, databases, interfaces, and related capabilities specified by the Commission.

''(4) NON-DIALABLE PSEUDO-AUTOMATIC NUMBER IDENTIFICATION NUMBER.—The term 'non-dialable pseudo-automatic number identification number' means a number, consisting of the same number of digits as numbers used for automatic number identification, that is not a North American Numbering Plan telephone directory number and that may be used in place of an automatic number identification number to convey special meaning. The special meaning assigned to the non-dialable pseudo-automatic number identification number is determined by nationally standard agreements, or by individual agreements, as necessary, between the system originating the call, intermediate systems handling and routing the call, and the destination system.

''SEC. 717. RIGHTS AND OBLIGATIONS OF VOIP SERVICE PROVIDERS.

''(a) IN GENERAL.—

''(1) FACILITIES-BASED VOIP SERVICE PROVIDERS.—A facilities-based VOIP service provider shall have the same rights, duties, and obligations as a requesting telecommunications carrier under sections 251 and 252, if the provider elects to assert such rights.

''(2) VOIP SERVICE PROVIDERS.—A VOIP service provider that is not a facilities-based VOIP service provider shall have only the same rights, duties, and obligations as a requesting telecommunications carrier under sections 251(b), 251(e), and 252, if the provider elects to assert such rights.

''(3) CLARIFYING TREATMENT OF VOIP SERVICE.—A telecommunications carrier may use interconnection, services, and network elements obtained pursuant to sections 251 and 252 from an incumbent local exchange carrier (as such term is defined in section 251(h)) to exchange VOIP service traffic with such incumbent local exchange carrier regardless of the provider originating such VOIP service traffic, including an affiliate of such telecommunications carrier.

''(b) DISABLED ACCESS.—A VOIP service provider or a manufacturer of VOIP service equipment shall have the same rights, duties, and obligations as a telecommunications carrier or telecommunications equipment manufacturer, respectively, under sections 225, 255, and 710 of the Act. Within 1 year after the date of enactment of this Act, the Commission, in consultation with the Architectural and Transportation Barriers Compliance Board, shall prescribe such regulations as are necessary to implement this section. In implementing this subsection, the Commission shall consider whether a VOIP service provider or manufacturer of VOIP service equipment primarily markets such service or equipment as a substitute for telecommunications service, telecommunications equipment, customer premises equipment, or telecommunications relay services.

''(c) DEFINITIONS.—For purposes of this section:

''(1) FACILITIES-BASED VOIP SERVICE PROVIDER.—The term 'facilities-based VOIP service provider' means an entity that provides VOIP service over a physical facility that terminates at the end user's location and which such entity or an affiliate owns or over which such entity or affiliate has exclusive use. An entity or affiliate shall be considered a facilities-based VOIP service provider only in those geographic areas where such terminating physical facilities are located.

''(2) VOIP SERVICE PROVIDER; VOIP SERVICE.—The terms 'VOIP service provider' and 'VOIP service' have the meanings given such terms by section 716(j).''.

TITLE IV—MUNICIPAL PROVISION OF SERVICES

SEC. 401. GOVERNMENT AUTHORITY TO PROVIDE SERVICES.

(a) IN GENERAL.—Neither the Communications Act of 1934 nor any State statute, regulation, or other State legal requirement may prohibit or have the effect of prohibiting any public provider of telecommunications service, information service, or cable service (as such terms are defined in sections 3 and 602 of such Act) from providing such services to any person or entity.

(b) COMPETITION NEUTRALITY.—Any State or political subdivision thereof, or any agency, authority, or instrumentality of a State or political subdivision thereof, that is, owns, controls, or is otherwise affiliated with a public provider of telecommunications service, information service, or cable service shall not grant any preference or advantage to any such provider. Such entity shall apply its ordinances, rules, and policies, including those relating to the use of public rights-of-way, permitting, performance bonding, and reporting without discrimination in favor of any such provider as compared to other providers of such services.

(c) COMPLIANCE WITH OTHER LAWS NOT AFFECTED.—Nothing in this section shall exempt a public provider from any law or regulation that applies to providers of telecommunications service, information service, or cable service.

(d) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Federal Communications Commission shall submit to the Congress a report on the status of the provision of telecommunications service, information service, and cable service by States and political subdivisions thereof.

(e) DEFINITION OF PUBLIC PROVIDER.—For purposes of this section, the term ''public provider'' means a State or political subdivision thereof, or any agency, authority, or instrumentality of a State or political subdivision thereof, that provides telecommunications service, information service, or cable service, or any entity that is owned, controlled, or is otherwise affiliated with such State or political subdivision thereof, or agency, authority, or instrumentality of a State or political subdivision thereof.

TITLE V—BROADBAND SERVICE

SEC. 501. STAND-ALONE BROADBAND SERVICE.

Title VII of the Communications Act of 1934 (47 U.S.C. 601 et seq.) is further amended by adding after section 717 (as added by section 301 of this Act) the following new section:

''SEC. 718. STAND-ALONE BROADBAND SERVICE.

''(a) PROHIBITION.—A broadband service provider shall not require a subscriber, as a condition on the purchase of any broadband service the provider offers, to purchase any cable service, telecommunications service, or VOIP service offered by the provider.

''(b) DEFINITIONS.—In this section:

''(1) The term 'broadband service' means a two-way transmission service that connects to the Internet and transmits information at an average rate of at least 200 kilobits per second in at least one direction.

''(2) The term 'broadband service provider' means a person or entity that controls, operates, or resells and controls any facility used to provide broadband service to the public, by whatever technology and whether provided for a fee, in exchange for an explicit benefit, or for free.

''(3) The term 'VOIP service' has the meaning given such term by section 716(j). ''.

SEC. 502. STUDY OF INTERFERENCE POTENTIAL OF BROADBAND OVER POWER LINE SYSTEMS.

Within 90 days after the date of enactment of this Act, the Federal Communications Commission shall conduct, and submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, a study of the interference potential of broadband over power line systems.

TITLE VI—SEAMLESS MOBILITY

SEC. 601. DEVELOPMENT OF SEAMLESS MOBILITY.

(a) STREAMLINED REVIEW.—

(1) The Commission shall further the development of seamless mobility.

(2) Within 120 days after the date of enactment of this Act, the Commission shall implement a process for streamlined review and authorization of multi-mode devices that permit communication across multiple Internet protocol-enabled broadband platforms, facilities, and networks.

(b) STUDY.—The Commission shall undertake an inquiry to identify barriers to the achievement of seamless mobility. Within 180 days after the date of enactment of this Act, the Commission shall report to the Congress on its findings and its recommendations for steps to eliminate those barriers.

(c) DEFINITIONS.—For purposes of this section, the term ''seamless mobility'' means the ability of a communications device to select between and utilize multiple Internet protocol-enabled technology platforms, facilities, and networks in a real-time manner to provide a unified service.

The CHAIRMAN. No amendment to the bill is in order except those printed in House Report 109–491. Each amendment may be offered only in the order printed in the report, by a Member designated in the report, shall be considered read, shall be debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question.

AMENDMENT NO. 1 OFFERED BY MR. BARTON OF TEXAS

The CHAIRMAN. It is now in order to consider amendment No. 1 printed in House Report 109–491.

Mr. BARTON of Texas. Mr. Chairman, I have an amendment at the desk made in order under the rule.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. BARTON of Texas:

Page 5, line 4, strike ''intends'' and insert ''seeks authority''.

Page 5, lines 13 and 23, and page 6, line 4, strike ''contiguous''.

Page 5, beginning on line 17, strike ''within the jurisdiction of such unit of general local government contains'' and insert ''overlaps with''.

Page 6, lines 1 and 2, strike ''area contained in the franchise area of such cable operator'' and insert ''overlapping area''.

Page 6, line 15, after ''certification'' insert ''for authority''.

Page 6, line 20, strike ''under'' and insert ''in accordance with''.

Page 7, line 1, strike ''and subsection (g) of this section'' and insert ''(including the rules adopted under section 632(b) pursuant to subsection (g) of this section)''.

Page 8, line 4, strike ''that files'' and insert ''with''.

Page 9, line 19, after the period insert the following: ''The Commission shall by rule specify the methods by which a franchising authority shall notify a cable operator of the hearing for which its participation is required under this subparagraph.''.

Page 12, line 24, strike ''definition of gross revenues'' and insert ''definitions of gross revenues and franchise fee''.

Page 15, line 25, after ''to provide'' insert ''on the day before its national franchise became effective''.

Page 16, beginning on line 20, strike subparagraph (A) and insert the following:

''(A) A cable operator franchised under this section shall ensure that any public, educational, or governmental programming carried by the cable operator under this section within a franchise area is available to all of its subscribers in such franchise area.

Page 17, line 16, after ''cable operators shall'' insert '', if at least one of the operators is providing cable service in the franchise area pursuant to a franchise under this section,''.

Page 19, line 16, strike ''Act'' and insert ''section''.

Page 22, line 7, strike ''Congress'' and insert ''Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate''.

Page 27, beginning on line 24, strike ''The following sections'' and insert ''The provisions of this title that apply to a cable operator shall apply in a franchise area to a person or group with a national franchise under this section to provide cable service in such franchise area, except that the following sections''.

Page 28, line 3, before the colon insert ''in such franchise area''.

Page 28, line 7, strike ''Act'' and insert ''section''.

Page 29, line 22, strike ''subsections (c)(1) and (e)(2)'' and insert ''subsection (c)(1) or (e)(2)''.

Page 30, line 22, after ''cable operator'' insert ''with a national franchise''.

Page 38, line 5, strike ''and''; on page 39, line 2, strike the period at the end of the line and insert a semicolon; and after such line insert the following:

(4) in paragraph (7)(D), by inserting after ''section 653 of this title'' the following; ''except in a franchise area in which such system is used to provide cable service under a national franchise pursuant to section 630'';

(5) in paragraph (9)—

(A) by inserting ''(A)'' after ''means''; and

(B) by inserting before the semicolon at the end the following: ''; and (B) a national franchise that is effective under section 630 on the basis of a certification with the Commission''; and

(6) in paragraph (10), by inserting before the semicolon at the end the following: '', but does not include the Commission with respect to a national franchise under section 630''.

Page 39, line 8, before the period insert the following: ''pursuant to the amendments made by this title''.

Page 41, after line 20, insert the following new section:

SEC. 104. RULE OF CONSTRUCTION.

Nothing in this Act or the amendments made by this Act shall affect the application or interpretation of section 224 of the Communications Act of 1934 (47 U.S.C. 224).

Page 53, line 24, after ''for a fee'' insert ''or without a fee''.

Page 54, beginning on line 11, strike paragraph (3) and insert the following:

''(3) NECESSARY E–911 INFRASTRUCTURE.—The term 'necessary E–911 infrastructure' means the originating trucks to the selective routers, selective routers, databases (including automatic location information databases and master street address guides), trunks, or other related facilities necessary for the delivery and completion of 911 and E–911 calls, or other 911 and E–911 equipment, facilities, databases, interfaces, and related capabilities specified by the Commission.

Page 57, line 18, and page 60, line 13, strike ''716(j)'' and insert ''716(l)''.

The CHAIRMAN. Pursuant to House Resolution 850, the gentleman from Texas (Mr. BARTON) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Texas.

Mr. BARTON of Texas. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I have continued to listen to the constructive comments from Members on both sides of the aisle as well as the comments of the cities and the affected stakeholders in this issue as the bill has moved from committee to discussion under the Rules Committee, and now to the floor

of the House of Representatives. We have tried to incorporate many of those constructive comments into the manager's amendment that is now before the House.

The amendment would do the following: It would clarify what constitutes a franchise area. This was a concern of Mr. DINGELL in the full committee markup.

It would clarify that a person or group seeking authority to provide service under a national franchise must agree to comply with all requirements the FCC Commission would promulgate pursuant to the consumer protection and customer services provisions in the bill.

Further, it clarifies that pursuant to a colloquy that I had with Mr. BOUCHER at the full committee markup, the manager's amendment would clarify that anyone with a national franchise shall be subject to all the cable operator provisions of title 6 of the Communications Act, except for those ones specifically in the pending bill.

It would also clarify that nothing in the legislation that affects existing pole attachment law. This was another concern of Mr. BOUCHER and others at full committee.

Mr. Chairman, I would urge my colleagues to support the amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. MARKEY. Mr. Chairman, I claim the time in opposition to the amendment.

The CHAIRMAN. The gentleman from Massachusetts is recognized for 5 minutes.

Mr. MARKEY. Mr. Chairman, I yield myself such time as I may consume. I might add that I am not in opposition to the manager's amendment except to the extent to which the manager's amendment does not include language on nondiscrimination. Language which would ensure that all parts of a community receive the lower cable rates, not just the good parts of town where the telephone companies are going to deploy.

There is no provision in here that deals in a meaningful way with net neutrality to ensure that the Internet as we know it is preserved, protected for the future, that entrepreneurs know that they can have access to it without having to pay a discriminatory entry fee, that the telephone companies cannot tip these entrepreneurs upside down and shake money out of their pockets. That is the problem that I have with the manager's amendment. It is not that I object to what is in it. It is really what is not in it, what should have been included, what would have led to this bill being characterized as a bill which was balanced.

By the way, the bill which we had agreed upon on a handshake deal, Democrats and Republicans, was a balanced bill. It did include protections for the Internet. It did include protections for rate payers. But all of that, obviously, was objected to by the Bell companies.

Let me just make this point once again. The Bell companies had nothing to do with the creation of the Internet. The Bell companies had nothing to do with the development of the World Wide Web. The Bell companies had nothing to do with the browser in its development. In fact, AT&T was asked if they wanted to build the Internet, the packet switch network in 1966. They turned the contract down when the government went to them. And so a company named BB&N, Bolt, Betranick and Newman got the contract. It was a very small company, not AT&T.

They have had nothing to do with the development of the Internet, but now at this late date, they want to come in and to create these bottleneck control points that allow them to extract Internet taxes, Internet fees from companies and individuals who have been using the Internet for a generation.

It is this absence of nondiscriminatory language in the manager's amendment and in the bill to which I object, and I think as time goes on and, obviously, the majority has been unwilling to have this debate in the full light of day. We will be finishing this some time around midnight. And the key amendments, of course, were not even put in order for us to debate, with the exception of net neutrality which we will have 10 minutes to the proponents of net neutrality to make their case. You can barely explain the concept in 10 minutes, much less have a full debate on what the implications of it are. But that is all part of the plan by the telephone companies and the Republican majority not to have a full debate on it.

But the consequences for our country are going to be dramatic in the long run. It has taken a long time to get to this point where America has been the leader in the Internet. And tonight monopolies have arrived, finally, belatedly, as they have come to understand this technology. But a little bit of history is important to understand.

They never purchased their first foot of fiber optic until the government broke up AT&T in 1984. They never deployed their first broadband technology until 1997 after we passed the Telecommunications Act. It has always taken the government to ensure that AT&T, these telephone companies, do, in fact, innovate, such as the word can be used, when you are describing a telephone company.

The real storyline over the last 20 years has been hundreds of thousands of smaller companies using the Internet, innovating on the Internet, creating jobs and revolutionizing not only our own country's ability to communicate and create jobs, but the rest of the world's as well.

So I do not object to the manager's amendment for what is in it but rather for what is not in it. And, unfortunately, the same thing can be said for amendments which are not going to be debated here tonight because of the Republican recalcitrance, their unwillingness to have a full blown debate on perhaps the central growth issue that we will have before the Congress on this session.

Mr. Chairman, I yield back the balance of my time.

Mr. BARTON of Texas. Mr. Chairman, I have no further requests for time. I urge a yes vote on the Barton manager's amendment.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. BARTON).

The amendment was agreed to.

AMENDMENT NO. 2 OFFERED BY MS. JACKSON-LEE OF TEXAS

The CHAIRMAN. It is now in order to consider amendment No. 2 printed in House Report 109–491.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I have an amendment at the desk.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2 offered by Ms. JACKSON-LEE of Texas:

Page 15, line 16, before the period insert '', except that such amount shall be equal to 0.5 percent of such revenues in the case of a cable operator that is a small business concern owned and controlled by socially and economically disadvantaged individuals or a small business concern owned and controlled by women (as such terms are defined in section 8(d)(3) of the Small Business Act)''.

The CHAIRMAN. Pursuant to House Resolution 850, the gentlewoman from Texas (Ms. JACKSON-LEE) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from Texas.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I thank the distinguished chairman. My amendment had very well founded and grounded intentions, and that is in this massive effort, the hard work of this committee, the fine leadership of Mr. DINGELL and Mr. MARKEY, fine leadership of Mr. BARTON and Mr. RUSH, all focus on greater opportunities. And so this amendment was to provide greater opportunity for, in fact, the small businesses, minority-owned businesses, women-owned businesses, businesses in rural areas to access, if you will, the broadband, the DSL, but opportunities to be a franchisee, if you will, and be able to have small entities that would be part of this massive reformation of this system.

So this was an effort to draw upon the funding for a particular programmatic provision in the legislation and to allow the small companies to pay less fees so they could be competitive enough to engage in what I think is a very, very important business.

I hope that as we make our way through this process of legislation and as we make our way to the Senate, we

will be reminded of language specifically that could ensure the energy of small businesses to be created. Someone gave me a terminology, I hope I have it correct, but the productivity of technology or the expansion of technology amongst many, many different groups and specifically the women-owned disadvantaged and small businesses. However, I am also aware of the fact that the peg programming supports stations like Access Houston and covers programming for issues dealing with women and minorities. So I am particularly sensitive to that issue.

Even with that in mind I do not want to eliminate, if you will, eliminate the opportunity for small businesses with this massive reformation of this broadband and DSL system as we move forward with this legislation.

Mr. Chairman, I reserve the balance of my time.

Mr. BARTON of Texas. Mr. Chairman, I claim the time in opposition to the amendment although I am not opposed to the amendment.

The CHAIRMAN. The gentleman from Texas is recognized for 5 minutes.

Mr. BARTON of Texas. I want to commend the gentlewoman from Houston for her leadership on this issue. I am somewhat unclear what her intentions are in terms of moving towards a vote. I will pledge to her to continue to work with her, if she were to withdraw the amendment, to reach a mutually acceptable resolution as we go to conference with the other body, but I am going to follow her yield or her wishes on the pending amendment.

If she calls it for a vote, I will vote yes on the amendment. If she wishes to withdraw it, I will work with her as we move forward in the normal channels of the legislative process.

Mr. Chairman, I reserve the balance of my time.

Ms. JACKSON-LEE of Texas. Mr. Chairman, how much time do I have remaining?

The CHAIRMAN. The gentlewoman has 2½ minutes remaining.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I yield 30 seconds to the distinguished gentleman from Illinois (Mr. RUSH).

Mr. RUSH. I thank the gentlewoman. Mr. Chairman, her amendment is a very worthwhile amendment. It goes a long way toward getting to the essence of a problem that I have determined is one of the barriers to economic parity within this Nation.

Mr. Chairman, we are sick and tired in my community of just being viewed as consumers of technology. We also want to be providers of technology. And this amendment, the Jackson-Lee amendment, would go a long way in making us providers of that amendment.

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Ms. JACKSON-LEE of Texas. Mr. Chairman, I am delighted to yield 30 seconds to the distinguished gentleman from Maryland (Mr. WYNN).

Mr. WYNN. Mr. Chairman, I thank the gentlewoman for yielding.

I wanted to compliment her on her amendment because it focuses on a very important area and that is the diversity of technology providers, focusing on women-owned business, minority businesses and small businesses that want to compete as providers of technology, and the thrust of this bill is providing more competition. She recognizes it is providing an opportunity to help these small businesses compete.

There has been a lot of talk about build-out in neglected communities. One aspect of the bill that has not been considered is the fact that there are a lot of competitors who may go into other communities, underserved communities, who may be enthusiastic about the opportunities she is trying to provide.

So I wanted to indicate that she is on the right track with her amendment.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I yield myself such time as I may consume.

I thank the distinguished gentleman from Maryland for his comments.

I want to inquire of the gentleman from Massachusetts (Mr. MARKEY) and thank him for his leadership. We know the leadership you have given. We understand the dilemma I have here because I support programmatic funding that PEG provides as well. However, I think it is important that we have at least a language statement, if you will, about the importance of small, minority, women-owned businesses to be engaged in this superhighway and this new DSL and broadband.

Mr. Chairman, I yield 30 seconds to the gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY. Mr. Chairman, I thank the gentlewoman for raising this very important issue, and really, since the beginning of my career on the Telecommunications Subcommittee, working with Mickey Leland from your district, adding in language that ensured a larger percentage of minority participation in legislation, it is without question a high goal.

What I think we all want to be sure of here is that in communities it does not take resources away from municipalities that might have gone to those very same communities, but I think we can work together in order to accomplish that.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I yield myself the remaining time.

Let me thank Mr. MARKEY. I know of his history. Let me thank the chairman, Mr. RUSH and Mr. WYNN. I am passionate, as many of us are, about the embracing of small, minority, women-owned businesses and medium-owned businesses, and I like the terminology ''provider of technology.''

We want to make sure that we have extensive build-out. We want to make sure that we have the representation of our community, but I want to see some producers. I accept the kind hand of the chairman and the ranking member of the subcommittee I believe of energy and commerce and Mr. WYNN and Mr. RUSH.

With that in order to ensure a program going forward, I would like to be able to work on this language further as it makes its way through the Senate and the conference.

Mr. Chairman, I respectfully ask to withdraw this amendment.

The CHAIRMAN. Without objection, the amendment is withdrawn.

There was no objection.

AMENDMENT NO. 3 OFFERED BY MR. WYNN

The CHAIRMAN. It is now in order to consider amendment No. 3 printed in House Report 109–491.

Mr. WYNN. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 3 offered by Mr. WYNN:

Page 21, strike line 17 and all that follows through page 23, line 22, and insert the following:

''(B) The Commission's revised consumer protection rules shall provide for forfeiture penalties, or customer rebates, refunds or credits, or both, and shall establish forfeiture, rebate, refund, and credit guidelines with respect to violations of such rules. Such guidelines shall—

''(i) provide for increased forfeiture penalties for repeated violations of the standards in such rules; and

''(ii) establish procedures by which any forfeiture penalty assessed by the Commission under this subsection shall be paid by the cable operator directly to the franchising authority affected by the violation.

''(4) COMPLAINTS.—

''(A) IN GENERAL.—Any person may file a complaint with respect to an alleged violation of the Commission's revised consumer protection rules in a franchise area by a cable operator franchised under this section—

''(i) with the franchising authority in such area; or

''(ii) with the Commission.

''(B) LOCAL FRANCHISING AUTHORITY PROCEDURE.—On its own motion or at the request of any person, a franchising authority for a franchise area may—

''(i) initiate its own complaint proceeding with respect to such an alleged violation; or

''(ii) file a complaint with the Commission regarding such an alleged violation.

''(C) TIMING.—The Commission or the franchising authority conducting a proceeding under this paragraph shall render a decision on any complaint filed under this paragraph within 90 days of its filing.

''(5) LOCAL FRANCHISING ORDERS.—

''(A) REQUIRING COMPLIANCE.—In a proceeding commenced by a franchising authority, a franchising authority may issue an order requiring compliance with the Commission's revised consumer protection rules, but a franchising authority may not create any new standard or regulation, or expand upon or modify the Commission's revised consumer protection rules.

''(B) ACCESS TO RECORDS.—In such a proceeding, the franchising authority may issue an order requiring the filing of any data, documents, or records (including any contract, agreement, or arrangement between the subscriber and the cable operator) that are directly related to the alleged violation.

''(C) COST OF FRANCHISING AUTHORITY ORDERS.—A franchising authority may charge a cable operator franchised under this section a nominal fee to cover the costs of issuing orders under this paragraph.

''(6) COMMISSION REMEDIES; APPEALS.—

''(A) REMEDIES.—An order of a franchising authority under this subsection shall be enforced by the Commission under this Act if—

''(i) the order is not appealed to the Commission;

''(ii) the Commission does not agree to grant review during the 30-day period described in subparagraph (B); or

''(iii) the order is sustained on appeal by the Commission.

''(B) APPEALS.—Any party may file a notice of appeal of an order of a franchising authority under this subsection with the Commission, and shall transmit a copy of such notice to the other parties to the franchising authority proceeding. Such appeal shall be deemed denied at the end of the 30-day period beginning on the date of the filing unless the Commission agrees within such period to grant review of the appeal.

''(C) TIMING.—After the filing of a notice of appeal under subparagraph (B), if such notice is not denied by operation of such subparagraph, the Commission shall render a decision within 90 days of such filing.

''(7) ANNUAL REPORT.—

''(A) IN GENERAL.—Not later than 1 year after the date of enactment of this section, and annually thereafter, the Commission shall submit a report to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the implementation of this subsection, including the following:

''(i) The number of complaints filed with franchising authorities under clause (4)(A)(i).

''(ii) Any trends concerning complaints, such as increases in the number of particular types of complaints or in new types of complaints.

''(iii) The timeliness of the response of such franchising authorities and the results of the complaints filed with such franchising authorities, if not appealed to the Commission.

''(iv) The number of complaints filed with the Commission under clause (4)(A)(ii).

''(v) The number of appeals filed with the Commission under paragraph (6)(B) and the number of such appeals which the Commission agreed to hear.

''(vi) The timeliness of the Commission's responses to such complaints and appeals.

''(vii) The results of such complaints and appeals filed with the Commission.

''(B) SUBMISSION OF INFORMATION BY FRANCHISING AUTHORITIES.—The Commission may request franchising authorities to submit information about the complaints filed with the franchising authorities under subparagraph (4)(A)(i), including the number of such complaints and the timeliness of the response and the results of such complaints.

''(8) DEFINITION.—For purposes of this subsection, the term 'Commission's revised consumer protection rules' means the national consumer protection and customer service rules under section 632(b) as revised by the Commission pursuant to paragraph (2) of this subsection.

The CHAIRMAN. Pursuant to House Resolution 850, the gentleman from Maryland (Mr. WYNN) and a Member opposed each will control 5 minutes.

Mr. DOYLE. Mr. Chairman, I do not oppose the amendment, but I ask unanimous consent to claim the time in opposition.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The CHAIRMAN. The Chair recognizes the gentleman from Maryland.

Mr. WYNN. Mr. Chairman, I yield myself such time as I may consume.

One of the issues that came up as we began to develop this bill was consumer protection and the role of the local franchising authority in protecting the interests of local consumers.

The bill says that we will have a national franchise, and it also provides that under the national franchise the FCC will promulgate specific standards for consumer protection, dealing with issues such as billing disputes, discontinuation of service, loss of service, service quality, changes in channel line-up, other service features, the availability of parental controls.

The amendment that I have today basically says that, number one, an individual that has a complaint may file a complaint with the FCC or with the local franchising authority. It says that the FCC or the local franchising authority must render a decision in 90 days of the filing of a complaint. That is to address the concern that the complaint process, the consumer protection process, is too time consuming and imposes burdens on the franchisee.

Second, the amendment provides that the local franchising authority, the cities, the counties, the States, may initiate on their own a complaint proceeding and file that complaint with the FCC regarding a violation of the rules promulgated by the FCC. They may issue an order requiring that the franchisee comply with the FCC's consumer protection rules. This order will stand and may be enforced by the FCC unless it is successfully appealed.

This basically adds to the consumer protections already in the bill and enables both the individual and the local community to bring an action to enforce the rules that are set forth by the FCC to protect the consumer.

In addition, the amendment provides for an annual report, because one of the things that we wanted to see was what was going on out there once we had this new field of competition and new providers of video services. So we will have a study that will come back to our committee and our companion committee in the Senate telling us about the number of complaints the FCC has received, the trend in these complaints, the timeliness of the response to these complaints. We believe this type of information will be very useful in determining whether we need stronger rules and regulations on consumer protection.

In sum, this is a very simple and straightforward amendment that protects the consumers and involves the local communities, and I urge its adoption.

Mr. BARTON of Texas. Mr. Chairman, will the gentleman yield?

Mr. WYNN. I yield to the gentleman from Maryland.

Mr. BARTON of Texas. Mr. Chairman, I thank the gentleman for yielding. This is a good amendment. I am very supportive and urge a ''yes'' vote on the Wynn amendment.

Mr. WYNN. Mr. Chairman, I thank my chairman.

Mr. Chairman, I reserve the balance of my time.

Mr. DOYLE. Mr. Chairman, I yield myself such time as I may consume.

I want to thank my good friend from Maryland for offering a good amendment that is quite similar to the provisions of the Doyle-Dingell amendment that was ruled out of order. No sour grapes. It is a good amendment, worthy of support, but it only goes part of the way.

I want to make sure my friends and colleagues understand that settling for the Wynn amendment is like a football team declaring victory right after kickoff.

The Doyle-Dingell amendment would have been the equivalent of winning the Super Bowl, and I say that humbly, coming from Pittsburgh.

The Wynn amendment gives local governments the right to enforce consumer complaints and outlines an FCC backstop, just like the Doyle-Dingell amendment did.

Where this amendment stops is on the enforcement of the rest of the bill. If you agree with Mr. WYNN that the principle of local enforcement and an FCC appeal is a good one, and you should, you should also agree with that same principle for issues like public access and school channels, INETs, public hearings, as well as consumer protection like the Dingell-Doyle amendment would have.

While we are on the subject of enforcement, I want to make sure my friends are aware that the House will not debate an amendment to fix the COPE Act's rights-of-way boondoggle. For my friends who have gotten calls and letters from mayors in their districts, resolutions from city councils, this amendment, while good, does not address their larger concerns about their roads, their streets, and their other public property.

If local enforcement is such a good idea, and it is, then why should local governments not be allowed to enforce their own laws about their own streets? The COPE Act sends any dispute about streets and sidewalks to the FCC in Washington, D.C. That is a fundamental change. It is so far from how the law works today, and our body needed to debate that point.

America's cities and towns and consumers will benefit from the Wynn amendment, and I thank my friend from Maryland for offering it, but it is a 5-yard gain when America needs 80 yards to score.

Mr. Chairman, I reserve the balance of my time.

Mr. WYNN. Mr. Chairman, I yield myself such time as I may consume.

Let me begin by thanking the gentleman for his kind words with respect to my amendment, and I also want to thank him for his leadership, along with that of our ranking member on other issues of great concern.

I would only point out that he has acknowledged that having the FCC promulgate and allow local enforcement of this rule is a good idea. I thank you for that comment, and that is what this amendment attempts to do.

Are there other things that might be desirable? I would certainly concur with him that there are, but I would certainly appreciate support for the amendment because, as he has pointed out, it addresses at least part of the issue that local communities have expressed concern about.

Mr. Chairman, I yield back the balance of my time.

Mr. DOYLE. Mr. Chairman, I yield myself such time as I may consume.

I would just conclude by saying that it is better to have someone in the local jurisdiction who understands the problems of local government make these decisions than a bureaucrat down in Washington, D.C. If you want to have every municipality, every mayor, every city council have to hire a Washington attorney to go to the FCC to represent them when there is a dispute about a street opening, then we have not done a good enough job today on this bill.

The Wynn amendment is a good idea. It is a good principle. It goes halfway. It is a shame we could not have gone all the way and taken care of all the problems in this bill.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Maryland (Mr. WYNN).

The amendment was agreed to.

AMENDMENT NO. 4 OFFERED BY MS. EDDIE BERNICE JOHNSON OF TEXAS

The CHAIRMAN. It is now in order to consider amendment No. 4 printed in House Report 109–491.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Chairman, I have an amendment at the desk.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 4 offered by Ms. EDDIE BERNICE JOHNSON of Texas:

Page 27, line 5, strike ''$500,000'' and insert ''$750,000''.

The CHAIRMAN. Pursuant to House Resolution 850, the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from Texas.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Chairman, I yield myself such time as I may consume.

Let me thank the chairman of the committee, also a Texan. I have an amendment before us today that is really unambiguous and straightforward in its intent.

The amendment increases the maximum forfeiture penalty in the antidiscrimination section from $500,000 to $750,000 if the FCC determines that a cable operator has denied access to its services to a group of potential services because of that group's income.

It is my respectful view that an increase of 50 percent to this bill's current penalty amount is a small price for a corporation that discriminates in the delivery of video or broadband services against communities that are crying out for increased competition and affordable cable prices.

Many of the constituents that I represent are heavy cable users and heavy telephone users. The gas prices are very high. Tickets to entertainment are very high, and so cable is generally their entertainment and the telephone keeps them in touch with companies. So it is a large use many times of the lower-income communities in my congressional district and throughout America that should not be relegated to second-class citizens with regard to their ability to enjoy the fruits of cable competition that this bill touts.

I am not thrilled that the Federal Communications Commission will be delving into discrimination matters that could impact an entire class of individuals. However, it is my belief that if the FCC is to be charged with enforcing antidiscrimination laws and levying correspondent fines, the agency, one, should be sensitive as possible to complaints filed by a local franchising authority that believes a cable operator with a national franchise has violated the antidiscrimination section of this bill; and, two, respond forcefully with a meaningful forfeiture penalty that preserves the integrity of the ultimate public interest goal of universal service, particularly to individuals that stand to benefit significantly from increased competition.

Mr. Chairman, as I close, I would like to reiterate that a 50 percent increase in this bill's current penalty amount is a small price for the battle between the millionaires and billionaires, and so I do not know why I did not put $1 million here; but whether the action is motivated intentionally or the direct result of shortsightedness, cable providers should not be left off the hook for failing to bring competition to communities that need it the most.

I urge my colleagues to vote ''yes'' on this amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. BARTON of Texas. Mr. Chairman, for purposes of debate only, I rise in opposition to the amendment; but I am not in opposition to the amendment.

The CHAIRMAN. The gentleman from Texas is recognized for 5 minutes.

Mr. BARTON of Texas. Mr. Chairman, I yield myself such time as I may consume.

First, let me say about the gentlewoman from Dallas, I support her amendment. I think it is a good amendment. I think it adds to the bill, increasing the penalty by 50 percent from $500,000 to $750,000. It does increase the penalty for discrimination; and for that reason, I will be happy to support the amendment at the appropriate time.

□ 1945

Mr. Chairman, I would like to enter into a colloquy with a member of the committee, Mr. MURPHY of Pennsylvania.

Mr. MURPHY. I thank the chairman for this. I have worked with you in the committee to move this bill forward. I know it has a number of things that continue to help local franchising authorities to collect the 5 percent of revenues and also allows some other aspects in there, but I want to get to a colloquy about these two specific issues.

Many localities in my district are concerned about their continued management of rights-of-way. In Pennsylvania, such management has been said to include not only the physical, but also the fiscal management of those rights-of-way. Currently, when a cable wire carries multiple services, a Pennsylvania municipality can charge rent based on some formula for the use of rights-of-way.

Do you see the bill having an adverse effect on a locality's income by shielding operator revenue in this manner?

Mr. BARTON of Texas. Congressman MURPHY, current law allows local authorities to assess a franchise fee of up to 5 percent of a cable operator's gross revenue for the use of the public right-of-way for cable service. The Act before us would allow the localities to assess the exact same fee on holders of a national franchise.

In other words, localities may continue to collect the same rent for the use of the rights-of-way for cable service. The Act before us also preserves the locality's physical management of their right-of-way. Section 630(f) explicitly states that nothing in the Act affects the authority of the localities to manage their rights-of-way on a competitively neutral, reasonable, and nondiscriminatory basis.

Mr. MURPHY. Thank you, Mr. Chairman. One other question.

In addition to retaining rights-of-way management authority, isn't it true that municipalities would still have the authority to negotiate franchises with cable operators under this bill?

Mr. BARTON of Texas. Would you repeat the question?

Mr. MURPHY. Yes. Is it true that municipalities would still have the authority to negotiate franchises with cable operators under this bill? In other words, they still have the authority to negotiate local franchise agreements.

Mr. BARTON of Texas. For a specific period of time, the answer to that is yes.

Mr. MURPHY. Thank you, and I appreciate your responses and clarifying these issues, Mr. Chairman.

Mr. DOYLE. Mr. Chairman, would the chairman yield for a question?

Mr. BARTON of Texas. I would always yield to my friend from Pittsburgh, a member of the committee, and the new manager of the Democrat baseball team, who is so overworking his team that they are complaining to me about how hard they are having to work, yes.

Mr. DOYLE. Mr. Chairman, when you have a talent deficit, you have to work harder.

Mr. Chairman, just a question. Under the bill, if a local government had an ordinance that said you couldn't open a street during rush hour in a major artery, and the cable or phone company saw that as not reasonable and decided not to comply with that ordinance, where would the appeal process be? Currently, under law now, that appeal process takes place in local courts. Would the bill require local governments to now go to the FCC for any dispute resolution on rights of ways?

Mr. BARTON of Texas. Reclaiming my time, nothing in the pending bill will change current law with regard to how the cities control their local rights-of-way, the physical access to that right-of-way. They would have access through the local court system, and I would assume, if they wished to, they could also go to the Federal Court system or the FCC. But they can certainly continue to use the remedies available under current law.

Mr. DOYLE. If the chairman will continue to yield. So, Mr. Chairman, you are saying under the COPE bill, that any disputes with regards to rights-of-way do not have to go to the FCC for resolution?

Mr. BARTON of Texas. They have the option under the pending bill, if the gentleman were so kind to vote for it on final passage, and I know he is thinking about that, we would expand the potential remedies. They would have every remedy under existing law, plus they could also go to the Federal courts and to the FCC.

Mr. DOYLE. So if the gentleman will continue to yield.

Mr. BARTON of Texas. So far you have not tricked me, so I will continue to yield.

Mr. DOYLE. You are saying that any right-of-way dispute, any right-of-way dispute could be adjudicated at the local level and not have to go to the FCC.

Mr. BARTON of Texas. They have the option. They have the option. They have an expanded list of remedies that they currently don't have.

Mr. Chairman, I yield back the balance of my time.

Ms. EDDIE BERNICE JOHNSON of Texas. I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON).

The amendment was agreed to.

AMENDMENT NO. 5 OFFERED BY MR. RUSH

The CHAIRMAN. It is now in order to consider amendment No. 5 printed in House Report 109–491.

Mr. RUSH. Mr. Chairman, I have an amendment at the desk.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 5 offered by Mr. RUSH:

Page 30, after line 15, insert the following new paragraph:

''(6) FEE DISPUTE RESOLUTION.—

''(A) COMPLAINT.—A franchising authority or a cable operator may file a complaint at the Commission to resolve a dispute between such authority and operator with respect to the amount of any fee required under subsection (c)(1) or (e)(2) if—

''(i) the franchising authority or the cable operator provides the other entity written notice of such dispute; and

''(ii) the franchising authority and the cable operator have not resolved the dispute within 90 calendar days after receipt of such notice.

''(B) MEETINGS.—Within 30 calendar days after receipt of notice of a dispute provided pursuant to subparagraph (A)(i), representatives of the franchising authority and the cable operator, with authority to resolve the dispute, shall meet to attempt to resolve the dispute.

''(C) LIMITATION.—A complaint under subparagraph (A) shall be filed not later than 3 years after the end of the period to which the disputed amount relates, unless such time is extended by written agreement between the franchising authority and cable operator.

''(D) RESOLUTION.—The Commission shall issue an order resolving any complaint filed under subparagraph (A) within 90 days of filing.

The CHAIRMAN. Pursuant to House Resolution 850, the gentleman from Illinois (Mr. RUSH) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Illinois.

Mr. RUSH. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, my amendment establishes a dispute resolution process for monetary disputes between local franchise authorities and cable operators. If localities and video operators have disputes over franchise fees or other fees, this amendment will allow them to negotiate a resolution in a timely process.

The amendment is simple. It sets forth a deadline for the initiation and resolution of a complaint process. First, the amendment calls for the parties to meet and settle their differences before issuing a complaint at the FCC. It simply states that a franchise authority or cable operator must provide written notice to each other if there is a dispute regarding franchise fees or PEG/I-Net support. Both parties must meet within 30 days of notification. If the local franchise authority and the cable operator have not resolved the dispute within 90 days, then both parties can petition the FCC to resolve the complaint. The FCC then has 90 days to resolve any fee disputes.

Mr. Chairman, I urge my colleagues on both sides of the aisle to support this amendment.

I reserve the balance of my time.

Mr. BARTON of Texas. Mr. Chairman, for purposes of debate, I rise to claim the time in opposition, but I am not in opposition.

The CHAIRMAN. The gentleman from Texas is recognized for 5 minutes.

Mr. BARTON of Texas. Mr. Chairman, I do support the Rush amendment. I think it is an addition to the base bill, and it continues to show the excellent leadership that Mr. RUSH is providing on this issue, and I would urge my colleagues at the appropriate time to support the amendment.

At this point in time, I would like to enter into a colloquy with the gentleman from Washington, Congressman REICHERT.

Mr. REICHERT. Mr. Chairman, I appreciate your leadership on this legislation and I would like to call attention to an issue of extreme importance to America's public safety providers: The inability of Americans to use 911 on their Voice Over Internet Protocol phones. As a former cop, this certainly ranks high on the list of my concerns.

The Federal Communications Commission attempted to address this issue by requiring Voice Over IP companies to provide enhanced 911 before they could sell their services. I am largely in favor of this bill; however, it does reverse the FCC ruling. It allows Voice Over IP companies to continue to sell telephone service without having to properly route 911 calls for as long as 6 months after entering a new market. Six months is too long to wait, which is why many first responders have not embraced this bill.

There have already been tragedies and near tragedies that have occurred when Voice Over IP consumers have tried to call 911 in an emergency. To call 911 and receive the service is a necessity regardless of the type of phone service a caller is using. Customers expect this capability.

The ability to provide every American full access to 911 is of great concern to me. Our first duty is to protect American citizens. I urge you to address this issue before the legislation is finalized in conference.

Mr. Chairman, thank you for allowing me this opportunity voice my concerns.

Mr. BARTON of Texas. I thank the gentleman from Washington for raising this issue. We agree that as a matter of both public policy and public safety, American citizens should have access to basic 911 service.

I understand your perspective on this concern, as a former law enforcement officer who had to respond to 911 calls himself for many years. I will work in conference to address your concerns.

I can add that Mr. GORDON of Tennessee and Mr. PICKERING of Mississippi, just to name two members of the committee, share your concerns and are working on this issue.

Mr. REICHERT. I thank the Chairman and look forward to working with you.

Mr. BARTON of Texas. I have no other requests for time, urge a ''yes'' vote on the Rush amendment, and I yield back the balance of my time.

Mr. RUSH. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. RUSH).

The amendment was agreed to.

AMENDMENT NO. 6 OFFERED BY MR. SMITH OF TEXAS

The CHAIRMAN. It is now in order to consider amendment No. 6 printed in House Report 109–491.

Mr. SMITH of Texas. Mr. Chairman, I have an amendment at the desk made in order under the rule.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 6 offered by Mr. SMITH of Texas:

Page 44, after line 12, insert the following (and make such technical and conforming changes as may be appropriate):

''(d)(1) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to modify, impair, or supersede the applicability of the antitrust laws or the jurisdiction of the district courts of the United States to hear claims arising under the antitrust laws.

''(2) DEFINITION OF ANTITRUST LAWS.—The term 'antitrust laws' has the meaning given it in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12(a)), except that such term includes section 5 of the Federal Trade Commission Act (15 U.S.C. 45) to the extent that such section 5 applies to unfair methods of competition.''

The CHAIRMAN. Pursuant to House Resolution 850, the gentleman from Texas (Mr. SMITH) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Texas.

Mr. SMITH of Texas. Mr. Chairman, I yield myself such time as I may consume.

The Internet has succeeded beyond our wildest dreams, in large part, because the government has not tried to regulate its growth. I sympathize with the concerns of those who want to regulate the Internet, but we do not want to destroy the wonderful tool the Internet has become in order to save it. Frankly, I do not think we have the ability to perceive how the Internet will grow or to direct that growth.

I am more comfortable leaving these matters to the antitrust courts and the FCC to decide on a case-by-case basis in the context of specific factual situations, and that is what this amendment would do. It is a simple antitrust savings clause. It makes clear that the language in the bill that gives the FCC exclusive jurisdiction of network neutrality complaints does not displace the antitrust laws or the jurisdiction of the courts to hear antitrust cases in this area. These cases would be heard under existing antitrust standards.

Look at what the Internet was 10 years ago and look at what it is now. It would not be anything like what it is today if we had tried to regulate it then. The courts and the FCC are sometimes slow, but they are much better equipped to work through the complicated fact situations that these issues present. We can always come back and legislate in the future if they fail in their task.

This amendment makes sure that broadband service providers are subject to antitrust lawsuits. In my experience, most people would consider that to be a pretty heavy burden. If those broadband service providers lose such a suit, they are subject to the whole range of antitrust remedies, including treble damages, injunctions, and attorneys' fees. The people who are for the various provisions designed to ensure network neutrality are the same people who usually push these kinds of antitrust remedies.

Some will argue you should skip over this amendment and vote for the Markey amendment. It is true that the Markey amendment includes an antitrust savings clause, and I appreciate Mr. MARKEY's desire to keep the Judiciary Committee involved in this area. The problem with his amendment is that it is a package deal. Not only do you get an antitrust savings clause, you also get to impose his vision of how he and the government would regulate the Internet. I do not think, Mr. Chairman, anyone is qualified to dictate how the government should control the Internet. The Internet has done pretty well on its own without any interference from any of us.

So the choice is this: Do we let the Internet grow on its own, as it has for the last 10 years; or do we tie its future to government regulation? To me, that is an easy choice, and that is why I offer this amendment.

I urge my colleagues to support this amendment and oppose the Markey amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. BARTON of Texas. Mr. Chairman, I rise in opposition to the Smith amendment.

The CHAIRMAN. The gentleman from Texas is recognized for 5 minutes.

Mr. BARTON of Texas. Mr. Chairman, I wanted to clarify some things with the author of the amendment. Does your amendment deal specifically with the complaint adjudication process with regards to antitrust laws and the jurisdiction of the courts to hear such cases?

Mr. SMITH of Texas. If my friend will yield, the answer is yes, that is correct.

Mr. BARTON of Texas. With that understanding, I am going to change from opposition to support and encourage you for offering the amendment.

□ 2000

Mr. CONYERS. Mr. Chairman, I rise to claim the time in opposition to the amendment of the gentleman from Texas on the Judiciary Committee, Mr. SMITH. I am opposed to the amendment.

The CHAIRMAN. The gentleman from Texas has claimed the time in opposition.

Mr. BARTON of Texas. Mr. Chairman, I will be happy to yield to the distinguished ranking member of the Judiciary Committee. I believe I probably still have 4 minutes; is that correct?

The CHAIRMAN. The gentleman has 4½ minutes remaining.

PARLIAMENTARY INQUIRY

Ms. ZOE LOFGREN of California. Mr. Chairman, parliamentary inquiry.

The CHAIRMAN. The gentlewoman may state her inquiry.

Ms. ZOE LOFGREN of California. Isn't it necessary to claim the time in opposition to actually be opposed, and the chairman of the committee is not opposed to the amendment.

Mr. BARTON of Texas. Mr. Chairman, I was opposed at the beginning of the debate.

The CHAIRMAN. The gentleman will suspend.

The gentleman stated he was opposed, and the Chair took the gentleman at his word when allocating the time.

Mr. BARTON of Texas. Mr. Chairman, I respect Mr. CONYERS. He is a good man. He is in serious opposition. I have 4½ minutes remaining. I would be happy to yield those 4½ minutes to my good friend, Mr. CONYERS.

The CHAIRMAN. The gentleman from Michigan is recognized for 4½ minutes.

Mr. CONYERS. Mr. Chairman, I want to thank the chairman, Mr. BARTON, because I am sure this could have been cleared up and it was an inadvertent mistake and I thank him for his generosity in correcting this matter.

I would like to share some of this time in opposition with the gentlewoman from California (Ms. ZOE LOFGREN), but I rise against the Smith amendment because what we have here is a problem of an amendment that does not really promote the goals of net neutrality as we understand them.

It is a horse, a beautiful horse, but it is a Trojan horse. The language is disguised as meaningful net neutrality protection, but it is actually an empty shell.

The current law already allows for an antitrust remedy for violations of anticompetitive conduct; but when it comes to net neutrality, there are no rules, no guidelines telling the gatekeepers of the Internet what kind of conduct is allowed and what kind is not allowed.

The telephone and cable companies have made it clear they intend to use their market power to charge companies who want to distribute their content over the Internet, thereby determining what a consumer can access.

The Sensenbrenner-Conyers net neutrality amendment which we hoped to have made in order would have provided clear guidelines. I have five specifics that would make it very clear as opposed to what the Smith amendment does not do, and I include them for the RECORD.

H.R. 5417 reasserts an antitrust remedy for anticompetitive conduct in which the

broadband network provider: (1) fails to provide network services on reasonable and nondiscriminatory terms; (2) refuses to interconnect with the facilities of other network providers on a reasonable and nondiscriminatory basis; (3) blocks, impairs or discriminates against a user's ability to receive or offer lawful content; (4) prohibits a user from attaching a device to the network that does not damage or degrade the network; or (5) fails to disclose to users, in plain terms, the conditions of the broadband service.

I will reserve our time on this side.

The CHAIRMAN. The gentleman from Texas controls the time.

Mr. BARTON of Texas. Mr. Chairman, if I do, I will be happy to yield to the gentlewoman from California. I want there to be a full debate on this.

The CHAIRMAN. The gentleman from Texas controls the time.

Mr. BARTON of Texas. How much time do I still have?

The CHAIRMAN. The gentleman from Texas has 2½ minutes remaining.

Mr. BARTON of Texas. I would like to yield Ms. LOFGREN 2½ minutes if she so wishes.

The CHAIRMAN. The gentlewoman from California is recognized for 2½ minutes.

Ms. ZOE LOFGREN of California. Mr. Chairman, I would just like to point out that the Smith amendment does absolutely nothing. The amendment is to the Communications Act, not to the Clayton or Sherman antitrust acts; and whether or not we past this amendment, the current antitrust laws will continue to operate as before.

The savings clause neither creates new net neutrality protections nor takes them away. It is superfluous, it is nothing, and it is meant to encourage Members who actually are for net neutrality into thinking they can somehow get away with being for net neutrality but doing nothing.

The Trinko case contained a similar antitrust savings clause. The Telecommunications Act of 1996 and the Trinko case basically held there were no antitrust remedies for anticompetitive conduct in areas regulated by the Telecommunications Act.

The whole issue is how the antitrust laws apply. I would point out that our committee, the Committee on the Judiciary, reported out by a vote of 20–13 a bill introduced by Chairman SENSENBRENNER and the ranking member, Mr. CONYERS, that actually did provide antitrust remedies for these Internet provisions. Inexplicably, the real bill, the real amendment that the chairman of the committee and the ranking member crafted and that won a majority of support, bipartisan I would add, on the committee to be reported out, was not made in order for us to discuss today. Instead, this phony amendment was made in order.

I would like to say something else about this rhetoric about regulation. Antitrust law is not regulation. It sets the standard for what monopolies cannot do. It is not a regulatory approach. It is a set of laws that keep monopolies from squeezing the little guys, which is what is going to happen if we do not get real net neutrality in this bill.

The Markey amendment was put in order. We can vote for that, and I hope it passes. If it does not, we will end up with the dualopolies or the monopolies turning the Internet into a kind of cable television outfit.

When the public finds out what we are doing to their Internet, the dome is going to collapse with the uproar they create. For Members who have been here a long time and remember the vote that they took that allowed cable TV rates to go through the roof, that uproar is going to be nothing compared to what you hear if this measure goes forward.

Mr. SMITH of Texas. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, let me say again that I sympathize with the concerns of those who would oppose this amendment. I want a vibrant Internet just like they do. Our disagreement is over how best to achieve that. I say let entrepreneurs develop it freely. They say let the government dictate it. It is an honest difference of opinion, but I think we have a 10-year track record and the entrepreneurs have got us to where we are today.

My amendment deals only with antitrust, so I urge my colleagues to reject government regulation of the Internet. Vote for the Smith amendment and against the Markey amendment.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. SMITH).

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. SMITH of Texas. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Texas will be postponed.

AMENDMENT NO. 7 OFFERED BY MR. MARKEY

The CHAIRMAN. It is now in order to consider amendment No. 7 printed in House Report 109–491.

Mr. MARKEY. Mr. Chairman, I have an amendment at the desk.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 7 offered by Mr. MARKEY: Strike section 201 of the bill and insert the following:

SECTION 201. NETWORK NEUTRALITY.

(a) AMENDMENT.—Title VII of the Communications Act of 1934 (47 U.S.C. 601 et seq.) is amended by adding at the end the following new section:

"SEC. 715. NETWORK NEUTRALITY.

''(a) POLICY.—It is the policy of the United States—

''(1) to maintain and enhance the vibrant and competitive free market that presently exists for the Internet and Internet services, upon which Internet commerce relies;

''(2) to preserve and promote the open and interconnected nature of the Internet and consumer empowerment and choice;

''(3) to foster innovation, investment, and competition among network providers, as well as application, content, and service providers;

''(4) to ensure vigorous and prompt enforcement of this section's requirements to safeguard innovation, consumer protection, and marketplace certainty; and

''(5) to preserve the security and reliability of the Internet and the services that enable consumers to access content, applications, and services over the Internet.

''(b) IN GENERAL.—Each broadband network provider has the duty—

''(1) not to block, impair, degrade, discriminate against, or interfere with the ability of any person to use a broadband connection to access, use, send, receive, or offer lawful content, applications, or services over the Internet;

''(2) to operate its broadband network in a nondiscriminatory manner so that any person can offer or provide content, applications, and services through, or over, such broadband network with equivalent or better capability than the provider extends to itself or affiliated parties, and without the imposition of a charge for such nondiscriminatory network operation;

''(3) if the provider prioritizes or offers enhanced quality of service to data of a particular type, to prioritize or offer enhanced quality of service to all data of that type (regardless of the origin of such data) without imposing a surcharge or other consideration for such prioritization or enhanced quality of service;

''(4) to enable a user to attach and use any device to the operator's network that does not physically damage, make unauthorized use of, or materially degrade other users' utilization of, the network; and

''(5) to clearly and conspicuously disclose to users, in plain language, accurate information about the speed, nature, and limitations of their broadband connection.

''(c) PRESERVED RIGHTS AND EXCEPTIONS.—Nothing in this section shall prevent a broadband network provider from taking reasonable and nondiscriminatory measures to—

''(1) manage the functioning of its network to protect the security of such network and broadband network services, provided that such management does not depend upon the affiliation with the broadband network provider of the content, applications, or services on the network;

''(2) offer varied service plans to users at defined levels of bandwidth and different prices;

''(3) offer consumer protection services (including services for the prevention of unsolicited commercial electronic messages, parental controls, or other similar capabilities), or offer cable service, so long as a user may refuse or disable such services;

''(4) give priority to emergency communications and telemedicine services; or

''(5) prevent any violation of Federal or State law, or comply with any court-ordered law enforcement directive.

''(d) EXPEDITED COMPLAINT PROCESS.—Within 180 days after the date of enactment of this section, the Commission shall prescribe regulations providing for the expedited review of any complaints alleging a violation of this section. Such regulations shall include a requirement that the Commission issue a final order regarding any request for a ruling contained in a complaint not later than 30 days after the date of submission of such complaint.

''(e) DEFINITIONS.—As used in this section:

''(1) BROADBAND NETWORK PROVIDER.—The term 'broadband network provider' means a person or entity that owns, controls, operates, or resells and controls any facility used

to provide broadband network service to the public, by whatever technology and whether provided for a fee, in exchange for an explicit benefit, or for free.

''(2) BROADBAND NETWORK SERVICE.—The term 'broadband network service' means a two-way transmission service that connects to the Internet and transmits information at an average rate of at least 200 kilobits per second in at least one direction.

''(3) USER.—The term 'user' means any person who takes and uses broadband network service, whether provided for a fee, in exchange for an explicit benefit, or for free.''.

(b) SAVINGS PROVISION.—Nothing in this section shall be construed to modify, impair, or supersede the applicability of the antitrust laws, as such term is defined in section 602(e)(4) of the Telecommunications Act of 1996.

In the heading of title II of the bill, strike ''**ENFORCEMENT OF BROADBAND POLICY STATEMENT**'' and insert ''**NETWORK NEUTRALITY**''.

Conform the table of contents accordingly.

The CHAIRMAN. Pursuant to House Resolution 850, the gentleman from Massachusetts (Mr. MARKEY) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentleman from Massachusetts.

Mr. MARKEY. Mr. Chairman, I yield 2 minutes to the gentleman from Virginia (Mr. BOUCHER).

(Mr. BOUCHER asked and was given permission to revise and extend his remarks.)

Mr. BOUCHER. Mr. Chairman, I thank the gentleman from Massachusetts for yielding this time to me.

The Internet is a platform for innovation unequaled in American history. It has enabled the creation of hundreds of thousands of jobs and has driven the growth and the technology industry, which in turn has driven the growth of the American economy.

But innovation on the Internet is now at risk. The openness and accessibility that have defined the Internet experience are now threatened. Broadband providers are planning a two-lane Internet with a fast lane for their content and for the content of those who pay, and a slow lane for everyone else. Start-ups cannot afford the fast lane fees, and in the slow lane they cannot succeed. Innovation is at risk.

The Markey amendment which I am pleased to cosponsor will keep the Internet open. It will keep the toll booths from being erected. It is essential to the promotion of the American economy. This is the most important debate that we are having on this bill. There are those who will say that we have the time to wait; we should simply see how this works out. Make a determination 5 or 8 or 10 years down the road about how the two-lane Internet is faring. And if innovation is threatened, if problems arise, then we can always come back and make corrections.

My message tonight is that we will have one opportunity to act, and it is tonight. History shows us that once a business model goes into effect and revenues are being derived from that business, jobs depend on that business, stock valuations depend on that business, and it is virtually impossible for Congress under those circumstances to take that business model away. And so tonight is the night.

The Markey amendment is the amendment. It will preserve the openness and accessibility of the Internet. It will keep it a platform for innovation for the 21st century, and I urge its adoption.

Mr. BARTON of Texas. Mr. Chairman, I rise in strongest possible opposition to the Markey amendment.

The CHAIRMAN. The gentleman from Texas is recognized for 10 minutes.

Mr. BARTON of Texas. Mr. Chairman, I yield 1 minute to the gentleman from Michigan (Mr. UPTON), the distinguished subcommittee chairman.

Mr. UPTON. Mr. Chairman, I live by an adage: if it ain't broke, don't fix it. No Internet service provider ought to be able to block access to your favorite Web sites or Internet applications, and I have to say that there are protections in this bill which preserve those rights. There is no evidence of any problem. And if they surface, we have some protections in here.

Let me read what they are. This bill, Barton-Rush bill, ensures that consumers are entitled to: one, access the lawful Internet content of their choice; two, run applications and services of their choice, subject to the needs of law enforcement; three, connect their choice of legal devices that do no harm to the network; and, four, competition among network providers, application and service providers, and content providers.

We give the FCC the explicit authority to enforce those principles, in fact, a fine for up to half a million dollars for every violation. We have a 90-day time clock to make sure that they are adjudicated properly and in a timely fashion.

The Internet has a great history of developing free of taxation and regulation. We want to keep it that way, and that is why we should vote ''no'' on this amendment.

Mr. MARKEY. Mr. Chairman, I yield 2 minutes to the gentleman from Washington (Mr. INSLEE).

(Mr. INSLEE asked and was given permission to revise and extend his remarks.)

Mr. INSLEE. Mr. Chairman, the Internet, the World Wide Web truly are the most magnificent intellectual achievements since the invention of the printing press. And tonight the U.S. Congress, if it does not do its job, will severely let down that marvelous achievement of the human intellect because today, at least until last August, engrained in the DNA of the Internet was a principle of nondiscrimination and freedom among all sources of information on the Internet.

Unless we pass the Markey amendment and preserve net neutrality, that basic DNA is going to be subject to mutation, to discrimination.

We have a simple proposition in the Markey amendment, and that is just as all men are created equal, all bits are created equal and we must treat all bits of information fairly, accurately, and without discrimination.

If this amendment does not pass, we will for the first time, for the first time allow the infection of discrimination to discriminate amongst bits of information. I note this because the opponents of this amendment, the Markey amendment, are saying we have to get these entities that use these services to pay. No doubt. And under the marketing ability, you will be able to charge for the distribution of bits. But what we should not allow is to discriminate amongst those who in fact enter the on-ramp of the Internet information superhighway.

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We will continue to allow people to charge depending on how many bits you send through the pipe. But what we should never allow, and until last August, we have not allowed, is the discrimination about who is sending those bits across this information super highway.

Preserve the basic DNA of the Internet. Pass the Markey amendment and preserve freedom of access of information.

Mr. BARTON of Texas. Mr. Chairman, I yield 1 minute to the distinguished member of the subcommittee and full committee, the gentlewoman from Nashville, Tennessee, Congresswoman BLACKBURN.

Mrs. BLACKBURN. Mr. Chairman, I rise in opposition to the Markey amendment.

This afternoon I went to the computer and I pulled up Google and then I pulled up Yahoo and in my search engines I put ''network neutrality.'' Interesting what I found.

Well, I found article after article that I certainly believe has their facts wrong, because network neutrality is a term that people can't agree on. Everybody has got a different definition.

Now, while that bothered me, Mr. Chairman, I believe that it is important that we do a couple of things. One of those is I don't think the government ought to tell Google and Yahoo how to rank or present their information. That is not a road that we want to go down. But that is what the Markey amendment would do. It would force companies that build and maintain the networks where the data flows to present and categorize data in packets according to a government standard. Once we have done that, Mr. Chairman, the next thing is going to be having a Secretary of Internet access. I don't believe that is somewhere we want to go.

The COPE bill says that individuals should be able to connect any device to the Internet and access legal content.

Mr. MARKEY. I yield 2½ minutes to the gentlewoman from California (Ms. ESHOO).

Ms. ESHOO. Mr. Chairman, I thank our distinguished ranking member of the Telecommunications Committee in the House. And everyone knows that when he speaks about anything that is related to telecommunications, he knows of what he speaks. And that is why this amendment that bears his name, and I am proud to have my name as a part of this amendment as well, why it is so important.

Now, for people that are listening in to us this evening, what is this debate about? What does the term ''net neutrality'' mean? I think the better way to describe this is what does the Internet look like today? How does it function? What does it represent? What are the opportunities? Who takes advantage of these opportunities? Is anyone discriminated against when they go to use the Internet? Whether it is a small Web company, whether it is an individual user, whether it is a university, a library, a school, seniors in the senior center, those that are at home, those of us in Congress, our staff, it is not discriminatory. It is open. Everyone has equal access to it.

So what is this debate about? The telephone companies, and let's face it, if they really were in charge of the future, they would have allowed cell phones, and they didn't. I mean, these people are really part of the past, I am sorry to say. So what this is is a profound change to the Internet.

What will the change be? The telephone companies have come to the Congress and said, change the rules. Rewrite the rules. We want to be able to offer our own tier, our own speed and charge for it. I think that this is flawed, deeply flawed. And I think if we move in this direction, we will be moving away from the future. This debate is really all about the future, the future of the Internet and what we want it to look like.

Our Republican friends have done some real heavy lifting here. Some Democrats too, but I will tell you something. I take my hat off to the Republicans. They have done everything for the telephone companies, everything, at a cost to what is one of the greatest sources of pride of America, a free and open Internet that is accessible to everyone. It has worked. We are the envy of the world as a result of it. We should not tamper with it. Vote for net neutrality.

Mr. BARTON of Texas. Mr. Chairman, I yield 1½ minutes to the distinguished gentleman of the full committee hailing from the great Alamo City, birthplace of Texas democracy, Mr. GONZALEZ.

Mr. GONZALEZ. Mr. Chairman, first of all, the advocates for this amendment claim this amendment is about consumers, the little guy. Countless of bloggers have written all Members of Congress in fear if this amendment does not pass, they will no longer be free to express their opinions on the Internet and have their voices heard. Let me tell you as directly as I can to all the bloggers out there, to all of e-mailers out there, to all the households out there, to the average American, this Markey amendment is not about you. It is not about the consumer.

So what is it? I will tell you what it is. First, it is a guarantee that the consumer will be the only one to finance the building, the maintenance and the improvement of the Internet highway. That is what the Markey amendment will do.

It imposes and establishes, secondly, a massive Federal regulation by mandating and dictating conditions on how the Internet will evolve without any consideration for technological advances and emerging business practices and models.

The Markey amendment does this. It picks sides. It creates inferior and superior stakeholders in the Internet.

And lastly, this is the Markey amendment, in my own opinion. It is driven by a hostility against one particular business entity that is involved and is a stakeholder in the Internet.

It is unfair when this body takes sides and does not allow the marketplace and innovation, imagination, creativity, technological and business practices to flourish in our society. We do a disservice. Vote ''no'' on Markey.

Mr. MARKEY. I yield 1½ minutes to the ranking member of the full commerce committee, the gentleman from the State of Michigan, Mr. DINGELL.

(Mr. DINGELL asked and was given permission to revise and extend his remarks.)

Mr. DINGELL. Mr. Chairman, and my colleagues, this is a good amendment. If you want to improve the bill, and I suspect the Bells don't want you to, and they may not even permit you to. But the hard fact of the matter is this preserves network neutrality.

The bill, as it now constitutes, says that the FCC shall do certain things. But it denies them specifically the authority to write rules under which uniform treatment will be afforded to all persons. It imposes, or permits the imposition of huge fines. But the fines will never be imposed.

What network neutrality does, it sees that everybody is treated alike with regard to use of the Internet. That has been a principle which has been applied to the Internet and Internet use since it was first originated.

This legislation permits the Bells to begin to disregard that, to pick and choose whom they will serve, to determine the conditions under which they will afford service, and to create a situation where there will be no rights and no capacity for the user of the Internet or the companies which provide Internet service to see to it that they can protect their rights.

The Markey amendment, which is before us, gives us some assurance that the FCC will be able to do some of the things that it should do to see to it that we preserve the Internet as we have known it, to protect the users, to protect the companies which provide this service, to protect the libraries, the schools, the individuals and the universities.

I urge adoption of the amendment.

Mr. BARTON of Texas. Mr. Chairman, I yield 1 minute to the pride of New Providence, New Jersey, a member of the full committee, Mr. FERGUSON.

Mr. FERGUSON. Mr. Chairman, I rise in strong opposition to the Markey amendment. This amendment is essentially a solution in search of a problem. When we considered this bill in both the subcommittee and in the full committee, we asked experts to identify one example of a problem that this amendment would solve. They couldn't point to one example where a Bell-operated company or a cable company had blocked access to their networks or infringed on so-called Internet freedom.

Further, when we asked these experts to define net neutrality, these same experts couldn't even agree on a definition for this term or even provide a description that was less than confusing.

I am concerned that this amendment will give the FCC the authority to impose old network common carriage requirements on new networks.

Since the advent of the Internet, Congress's hands off policy has allowed the World Wide Web to prosper by having the market pick winners and losers, rather than the government.

The Markey amendment takes us in the opposite direction. It forsakes the free market in favor of government price controls. This amendment would chill investment in broadband network and deployment of new broadband services, and, at the end of the day, very simply, it would reduce choice for our constituents. The Internet has prospered very well without this type of heavy-handed interference.

This amendment is not about network neutrality, it is about network neutering, and this amendment should be defeated.

Mr. MARKEY. Mr. Chairman, I reserve the balance of my time.

Mr. BARTON of Texas. Mr. Chairman, I yield 1 minute to another member of the Energy and Commerce Committee, the pride of the entire State of Nebraska, Mr. Lee Terry.

Mr. TERRY. Mr. Chairman, the interesting irony about this is that the bill, as written, does not regulate or tamper or mess with anything on the Internet. The amendment that we are discussing here is the regulation of the Internet. And I agree with the Speaker beforehand. There is not an issue today on prioritization along the network or through the pipelines.

I look at it like, this amendment, if it was brought up 100 years ago, would have froze the Pony Express into that permanent state. But yet, we all know that later on developed first class mail, airplane, FedEx, UPS and a variety of different ways to deliver to the consumer. I say, let's wait until there is a discriminatory process that is put in place, that is anti-consumer and trying

to guess that something that, we don't know what, may happen in the future. Let's not regulate the Internet today. Let's defeat this amendment.

Mr. BARTON of Texas. Mr. Chairman, I yield 1 minute to another member of the distinguished Energy and Commerce Committee who hails from Houston, Texas (Mr. GENE GREEN).

Mr. GENE GREEN of Texas. Mr. Chairman, I hope I am also the pride of the whole State of Texas.

Mr. BARTON of Texas. He is the pride of the entire State of Texas.

Mr. GENE GREEN of Texas. Mr. Chairman, I will include my full statement in the RECORD, and I will paraphrase it.

The Internet is made of numerous interconnected, privately owned networks. It has become the amazing resource it is today without the law on network Internet neutrality.

The FCC, in 2005, released four network neutrality principles and they are in this language. H.R. 5252 enacts these network principles into the law, sending a strong anti- or nondiscrimination message to the telecommunications industry.

As we listen to the debate, the supporters of the Markey amendment will use these four principles in their rhetoric, but their amendment adds a much different network neutrality principle. The Markey amendment bans residential Internet providers from charging large Internet content providers for maintenance or upgrades based on how much bandwidth they are using.

The Markey amendment means higher praises for the consumers, those of us who pay monthly, while large Internet content providers get a free ride over the portion of the Internet that is the most need for investment.

Supporters claim the Internet companies pay for their network. The problem is, with television and video, it requires more bandwidth. They have got to make that investment. Are we going to put it on our constituents individually, or are the people who are making the money going to pay for it?

The Internet is made of numerous interconnected privately-owned networks, and it became the amazing resource it is today without any law on Internet network neutrality.

In 2005, the Federal Communications Commission released four network neutrality principles:

(1) consumers are entitled to access the lawful Internet content of their choice;

(2) consumers are entitled to run applications and services of their choice;

(3) consumers are entitled to connect their choice of safe, legal devices; and

(4) consumers are entitled to competition among network, application, service, and content providers.

Some people say we need to pass the Markey amendment to prevent blocking of websites or anticompetitive behavior. This is not the case.

The (COPE) Act, H.R. 5252, enacts these net neutrality principles into law, sending a strong non-discrimination message to the telecommunications industry.

As we listen to the debate, the supporters of the Markey amendment will use these four FCC principles for their rhetoric, but their amendment adds a much different network neutrality principle.

The Markey amendment bans residential Internet providers from charging large Internet content providers for maintenance or upgrades based on how much bandwidth they are using.

The Markey amendment means higher prices for consumers while large Internet content providers get a free ride over the portion of the Internet that is in most need of investment.

Supporters claim that if Internet companies pay their way on the network we will hurt entrepreneurs.

Any website that takes up a lot of bandwidth already has always paid more to Internet backbone providers if they are putting a lot of content on the Internet and generating a lot of traffic.

Now many of these companies are complaining about paying local Internet network owners for the use of their networks.

The issue for the future is when websites offer high-bandwidth services like high-definition movies, television, and video games from websites, all over the Internet.

These applications require guaranteed high quality service, something that's not usually available on the Internet today.

To upgrade the ''last mile'' of broadband to accommodate these new services while keeping consumer prices low, telephone and cable companies may need to offer premium service to large Internet content companies.

The Markey amendment bans this commercial arrangement and sends the whole bill to the consumers.

Congress should ensure that no Internet service is blocked or degraded by cable or telephone companies, and the COPE Act does just that.

This point is so important we should repeat it: the underlying text of the COPE Act puts network neutrality into law for the first time. No anticompetitive discrimination is allowed.

The Markey amendment goes much further, and regulates the price of Internet traffic between large network operators and large Internet content providers.

A good definition of wisdom is not how much you know, but if you know what you don't know.

Most of us do not fully understand how the Internet works on a detailed basis or the financial arrangements that build our networks.

The Internet has thrived without Congressional intervention on prices and commercial arrangements, and it will do so in the future. If it ain't broke, don't fix it.

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Mr. BARTON of Texas. Mr. Chairman, I reserve the balance of my time.

Mr. MARKEY. I yield myself the balance of the time.

This debate is a travesty. We are allowed 10 minutes to explain this fundamental change in the whole history of the Internet. It is pretty much a joke.

If two consumers go into a car dealership and one wants to buy a Ferrari and another decides to buy a Ford Taurus, that is their choice. The Ferrari is expensive and has all sorts of bells and whistles. But once those two customers drive the Ferrari and the Taurus off the lot, the car dealership shouldn't be allowed to tell them where they can and cannot drive. We don't have certain roads or destinations just for Ferraris or just for Taurus drivers, and the auto dealership certainly shouldn't be permitted to put up new toll booths to extract fees on those highways. That limits freedom. That is what the Republicans and the Bell companies are doing tonight.

If you like the way the Internet is today, vote for the Markey amendment. If you don't want new broadband taxes, fees imposed upon the Internet, vote for the Markey amendment. If you agree with the National Religious Broadcasters, with the Gun Owners Association, Common Cause, the Christian Coalition, and the ACLU, you vote for the Markey amendment tonight. Because if you don't, there is going to be a fundamental change in the whole history of the Internet. You can't put together a coalition like that unless something fundamental is happening in America. It goes to voices, all of these organizations who feel it is going to be limited, and choices, the choices that consumers are going to have and the choices that entrepreneurs are going to have in getting onto this information highway without having to pay special fee or tax to the telephone companies or cable companies. Vote ''aye'' for the Markey amendment. Preserve network neutrality, preserve the Internet as we know it today. There is nothing wrong with it, and you won't hear a word from the Republicans or from the telephone companies making a case that there is anything wrong.

Mr. BARTON of Texas. I yield myself the balance of the time.

(Mr. BARTON of Texas asked and was given permission to revise and extend his remarks.)

MR. BARTON of Texas. Mr. Chairman, I listened with a great degree of respect to the gentleman from Massachusetts as he rose in defense of his amendment. And I agree that, if a consumer goes into that dealership and you could find a dealership that was selling a Ferrari alongside with a Ford Taurus, that the consumer has the right to choose which vehicle to purchase and he has the right to take that vehicle out on the highway and he has the right, subject to the laws of the State, to drive it as fast as he or she wishes. That is what the underlying base bill does.

We are debating a term of ''net neutrality'' that didn't exist 9 months ago. We are debating a term that, as Mr. FERGUSON pointed out in his remarks, there wasn't even agreement among the experts exactly what it was when we had a hearing on this before the full committee. But we understand, just as Mr. MARKEY supports, we understand that, whatever net neutrality is, we want to preserve the open access nature of the Internet, number one.

Number two, we also want to bring the United States out of the undeveloped nations, so to speak, in terms of broadband deployment.

Now, the underlying purpose of this bill is to get the private entrepreneurs of this country to put the billions and billions and billions of dollars that are necessary to get the broadband deployment into the homes hopefully of every American home in this country, and then use that to unleash the creative entrepreneurship of our creative community to develop new services and new ways of providing those services so that all Americans can have access to some of these new services that are promised if we actually make this bill a reality.

What Mr. MARKEY's amendment really does, if we were to adopt it, is say you can't charge for any of that; you can't differentially price between the Taurus and the Ferrari, you have to charge everybody the same. And, if you do that, you are not going to get the deployment.

Now, the base bill says we are not sure what net neutrality is, but we agree it should be preserved, and we want the FCC to preserve it. And, we explicitly give the FCC the authority to punish a transgression once it is identified on a case-by-case basis and to do it within 90 days.

Now, if you really want to unleash the creative energy, if you really want this to be a jobs bill, if you really want the United States to go from twelfth in broadband deployment into hopefully number one, vote against Mr. MARKEY and for the underlying bill. That is real net neutrality.

Ms. PELOSI. Mr. Chairman, I salute my colleagues, Congressmen DINGELL, MARKEY, INSLEE, and BOUCHER, and Congresswoman ESHOO for their leadership on this issue of vital importance to the future. I also want to recognize the leadership of Congressman JOHN CONYERS and Congresswoman ZOE LOFGREN for their work on Net Neutrality in the Judiciary Committee.

HISTORY

When Lewis and Clark made their historic journey of discovery two centuries ago, information could only travel as fast as a horse could run or a boat could sail. Now information travels in an instant. And just as railroads and highways did in the past, broadband has dramatically increased the productivity and efficiency of our economy and will continue to do so in the future. It has created jobs today, and will create even more jobs tomorrow.

INNOVATION AGENDA

Last fall, House Democrats introduced our Innovation Agenda: A Commitment to Competitiveness to Keep America Number One. In that Agenda, we have called for affordable broadband access for every American within 5 years.

INTERNET

The reason we want to bring broadband to everyone is because that key infrastructure brings the Internet to everyone. In turn, the Internet brings us the world—a world of information, communications, and commerce. The Internet brings us the future.

Since its inception, the Internet has been characterized by its openness—its freedom. That freedom has enabled innovation to flourish.

Magnificent disrupters like Jerry Yang of Yahoo! and Larry Page and Sergey Brin from Google built businesses based on big ideas, bringing spectacular new innovations and services to billions of users.

NET NEUTRALITY

About a year ago, the FCC and the Courts changed the way the Internet is regulated.

Due to that change, there could be the equivalent of new taxes on electronic commerce.

Telecommunications and cable companies are now able to create toll lanes on the information superhighway, essentially permitting new, discriminatory fees—a new broadband bottleneck tax—on Web-based businesses to reach consumers.

This strikes at the heart of the free and equal nature of the Internet and would fundamentally change the way the Internet currently works.

America's small businesses and entrepreneurs could be left in the slow lane with inferior Internet service, unable to compete with the big corporations that can pay Internet providers toll charges to be in the fast lane. Bloggers, our citizen journalists, could be silenced by skyrocketing costs to post and share video and audio clips.

The Markey amendment will prevent those toll lanes. The Markey amendment will allow the innovative tradition of the Internet to continue by enacting protections that ensure all consumers are able to access any content they wish with the same broadband speed and performance. The Markey amendment will preserve the equality, openness, and innovation of the Internet that has defined it since its first days.

CONCLUSION

I urge my colleagues to vote in favor of the future, to vote in favor of Net Neutrality by supporting the Markey amendment.

Mrs. CAPPS. Mr. Chairman. I rise in strong support of the Markey amendment to maintain network neutrality on the Internet.

This is probably one of the most important issues this Congress will face this year.

At issue is whether we maintain the current system of nondiscrimination on the network or whether we allow this engine for innovation and progress to be controlled by a few large corporations.

As we all know, the Internet has a history of openess and freedom. To be sure, all this freedom has its questionable effects—an enormous amount of chaos, loud and intemperate voices opining on everything under the sun, and an unparalled proliferator of unfounded rumors.

I'm sure we all remember the infamous—and mythical—Congressman Schnell who was introducing legislation to tax the Internet? Only the Internet could start and rapidly transmit—and keep going for years—such an easily knocked down rumor.

But it is precisely this unbridled freedom on the Internet that has also brought us innovation on an almost unimaginable scale over the last decade or so. The explosive growth of everything from web-based businesses to politically-based sites to newsgathering sources has been nothing short of amazing. And much of that growth is attributable to the ease with which anyone can access the world wide platform of the Internet.

We simply have to protect that level of freedom and openess on the Internet.

And yet, the head of AT&T is loudly calling for changes that could seriously undermine the Internet and perhaps marginalize its innovative qualities in the future.

I am extremely concerned about what the Internet might look like under a regime where one—or more likely, all—of the big broadband networks decides what data bits can move at what speeds across the network.

The large phone and cable companies will tell us all that they have no desire to reduce the freedom of the Internet. They will tell us such a move would be bad for business if nothing else. And they are telling us that there is no problem to be solved, that all this talk about network neutrality is just theoretical.

But how can we believe any of this when AT&T's CEO refers to the paths for Internet access as ''his pipes'' and he vows to make some users pay for access to these pipes? That sounds very clear to me and I find some agreement with one Internet expert who referred to this as the ''Tony Soprano business model.''

The danger is twofold. First, it means that small players on the Internet will find it harder to use the world wide reach of the Internet to bring their new ideas to market.

The danger is not to Google, but to the next potential Google. That new idea that might upend Google or MySpace won't get very far if it can't match the reach of those behemoths. The inability to pay phone and cable company fees for the ''fast lane'' will keep new ideas out of the market.

Second, the lack of net neutrality allows for the distinct possibility that the phone and cable companies could block or slow the sites and services of their competitors. I don't see in the phone and cable companies the kind of wide open competition that is present today on the Internet. And given that lack of competition in the phone and cable industries, I question the commitment to competition of its players and what that means for consumers under the provisions of this bill.

This legislation is supposed to be about creating more competition, giving consumers more choices and lower prices. But without this amendment to ensure that network neutrality remains the fundamental principle governing the Internet, this bill will result in fewer choices and higher prices.

I urge the House to adopt this amendment and ensure the Internet remains a platform for innovation and choice.

Mr. BARTON of Texas. Mr. Chairman, I yield back the balance of my time and ask for a ''no'' vote on the Markey amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts (Mr. MARKEY).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. MARKEY. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Massachusetts will be postponed.

AMENDMENT NO. 8 OFFERED BY MR. GUTKNECHT

The CHAIRMAN. It is now in order to consider amendment No. 8 printed in House Report 109–491.

Mr. GUTKNECHT. Mr. Chairman, I have an amendment at the desk.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 8 offered by Mr. GUTKNECHT:

At the end of title III of the bill, add the following new section:

SEC. 302. COMPENSATION AND CONTRIBUTION.

(a) RULE OF CONSTRUCTION.—Nothing in this Act (including the amendments made by this Act) shall be construed to exempt a VOIP service provider from requirements imposed by the Federal Communications Commission or a State commission on all VOIP service providers to—

(1) pay appropriate compensation for the transmission of a VOIP service over the facilities and equipment of another provider; or

(2) contribute on an equitable and non-discriminatory basis to the preservation and advancement of universal service.

(b) DEFINITIONS.—As used in this section—

(1) the terms ''VOIP service provider'' and ''VOIP service'' have the meanings given such terms in section 716(h) of the Communications Act of 1934, as added by section 301 of this Act; and

(2) the term ''State commission'' has the meaning given such term in section 3 of the Communications Act of 1934 (47 U.S.C. 153).

The CHAIRMAN. Pursuant to House Resolution 850, the gentleman from Minnesota (Mr. GUTKNECHT) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Minnesota.

Mr. GUTKNECHT. Mr. Chairman, I yield myself 1½ minutes.

Mr. Chairman, I rise on behalf of the Bipartisan Congressional Rural Caucus. The amendment we offer tonight is real simple: It preserves the right of the FCC to require VoIP providers to contribute to the universal service fund and pay appropriate intercarrier compensation fees.

Today, VoIP providers do not contribute to the USF, which is the mechanism that helps build and maintain the communications network that we all rely on, especially in rural America. All other voice providers contribute. Regardless of where you live, we all depend on a vibrant, strong communications network.

So why are we doing this on this bill? Title 3 of the COPE Act is a VoIP title. The language grants VoIP providers all the benefits of being telecommunications carriers, such as the right to interconnect with networks and access to right-of-way. It also gives VoIP providers some of the same responsibilities, such as providing the E–911 service, complying with regulations for the disabled, number portability, et cetera. However, H.R. 5252 does not classify VoIP providers as telecommunications carriers, and therefore they do not have all the same social responsibilities such as USF contributions and intercarrier payments. Our amendment would not mandate that VoIP providers contribute to USF or pay intercarrier compensation fees, nor would it require the FCC to force them to do these things; it merely preserves the FCC's authority to do so. We need to assure the FCC that it is not congressional intent to exempt VoIP providers from the duties required under other communications networks.

Mr. Chairman, I urge passage of this amendment and the underlying bill.

Mr. Chairman, I reserve the balance of my time.

Mr. BARTON of Texas. Mr. Chairman, I rise in opposition to the Gutknecht amendment.

The CHAIRMAN. The gentleman from Texas is recognized for 5 minutes.

Mr. BARTON of Texas. Mr. Chairman, I am not going to object strenuously to this amendment. I do want to make a couple of points. I think the universal service fund needs, at a minimum, to be significantly reformed. I do not think, as we hopefully deploy more technologies and more innovative ways of using those technologies, that we should saddle these new emerging technologies with attacks that, while well-intentioned, was originated in the 1920s and is in need of serious reform. So I do oppose the amendment, respectfully, but I understand those that support it, and am very respectful of the gentleman who offered it, because he has worked with us diligently on it.

I would like to enter into a colloquy with the gentlewoman from Tennessee at this point in time.

Mrs. BLACKBURN. Mr. Chairman, I rise to engage Chairman BARTON in a colloquy.

I would like to pose a question concerning the interplay of the National franchise and the anti-redlining provisions of the bill, particularly as they apply to some of the rural telephone companies that are interested in providing the video competition afforded under the bill.

The committee report language concerning redlining that appears on page 23 provides, and I quote, ''A national franchisee is in violation of the provision if it is offering service to parts of a franchised area identified in its certificate but not to another part of the franchised area because of the income of the area.''

Pursuant to that language, Mr. Chairman, would a telephone company that is not providing video service to a part of a franchise area be in compliance with the Act if the reason for not providing video service is that the provider lacks the facilities to make service available in the area? In other words, if the existing footprint of the phone company does not encompass that portion of the cable franchised area, then the provider's decision is not a case of redlining, because the lack of service is not based on the income of the group but rather the lack the facilities by which to provide the service.

Mr. Chairman, I yield to the gentleman from Texas.

Mr. BARTON of Texas. I wish to acknowledge the important role that you have played in the process of developing this legislation. I also would like to commend you on your support for rural America, and would add that, if this bill becomes law, small rural telephone companies are going to benefit and enter the video business in communities like your community in your congressional district of McMinnville, Tennessee.

In response to the specific inquiry, you are correct, under the legislation if the telephone company identifies a portion of a cable franchise area that it intends to serve with video, there is no build-out obligation nor would there be a redlining violation as long as the telephone company did not refuse to serve a group of potential residential subscribers in that area because of the income of that group.

Mrs. BLACKBURN. I thank Chairman BARTON for his answer, which is important to hundreds of small phone companies. I congratulate you on the bill and look forward to its enactment into law.

Mr. BARTON. Mr. Chairman, I yield back the balance of my time.

Mr. GUTKNECHT. Mr. Chairman, I yield 1 minute to my cochair of the Telecommunications Task Force of the Rural Caucus, Mr. STUPAK of Michigan.

Mr. STUPAK. Mr. Chairman, I rise to offer this amendment on behalf of the Congressional Rural Caucus with my friend, Mr. GUTKNECHT from Minnesota. This amendment makes a good bill better. Our amendment is not controversial, it simply is a savings clause. It preserves the ability of the FCC to extend universal service fund and intercarrier compensation obligation to Voice over Internet Protocol or VoIP providers.

The problem is that the underlying bill extends many new rights to VoIP providers, but extends only some of the responsibility. This leaves out the responsibility to contribute to the universal service system and pay appropriate compensation for use of the network.

These two funding mechanisms have ensured that we enjoy the ubiquitous phone coverage we have today, and USF funds provide affordable broadband access for low income schools, libraries, and rural health facilities.

During our hearings, Jeffrey Citron of the Vonage Holdings Company stated, and I quote: ''As a businessman, I don't get nor do I expect a free ride on anyone's network.'' Kyle McSlarrow, president and CEO of the National Cable and Telephone Association stated, ''The cable industry strongly supports the goals and purposes of universal service fund. Thus, cable operators that offer VoIP services already pay millions of dollars into the current system, and we support making that obligation to everyone.''

Mr. GUTKNECHT. Mr. Chairman, I yield 1 minute to our colleague from Nebraska (Mr. OSBORNE).

□ 2045

Mr. OSBORNE. Mr. Chairman, people in my district, which is largely rural, want and need broadband services just as much as people in urban areas; yet according to a recent report, almost half of rural Nebraska communities only have one broadband Internet provider and some have none.

Without the help of the Universal Service Fund, the average Nebraskan living in a rural area would pay an additional $235 each year for telecommunications services, and this is true across the country in rural areas.

The Gutknecht-Stupak amendment would preserve FCC authority to require VoIP providers to contribute to the Universal Service Fund and pay appropriate fees, just like every other service provider. This commonsense amendment is the result of numerous hearings, briefings and meetings hosted by the Rural Caucus over the last year and a half.

Mr. Chairman, I appreciate their leadership and efforts on this issue. I urge my colleagues to support this amendment.

Mr. GUTKNECHT. Mr. Chairman, I yield 30 seconds to the gentleman from Florida (Mr. BOYD), a very active member of the Rural Caucus.

Mr. BOYD. Mr. Chairman, I thank Mr. GUTKNECHT and Mr. STUPAK for their work on behalf of this amendment. I want to tell you that the Universal Service Fund is designed to ensure telecommunications services to all Americans, no matter where they live, what kind of rural area.

This amendment preserves the authority for the FCC to require the VoIP providers to pay into the USF. I strongly support and encourage the adoption of the amendment.

Mr. GUTKNECHT. Mr. Chairman, I yield 1 minute to the gentleman from Nebraska (Mr. TERRY).

Mr. TERRY. Mr. Chairman, I want to thank the sponsors of this amendment for bringing this forward today, because it is relevant. I agree with the chairman of our committee that the universal service is built on a 1920s or 1930s model, and it is outdated and in need of reform.

I also believe that universal service is as relevant today as it was back then, and maybe even more so. In modernizing universal service so that all people in America can enjoy the services of telephony and its advanced services, broadband, we need to fix universal service.

And one of the areas that we need to fix is that as different technology or VoIP emerges, then companies use this digital process to avoid paying into the universal service, therefore strangling it. This is just one piece of the universal service puzzle. I support these efforts to fix this little piece today and also look forward to working on the total reform of universal service and modernizing it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota (Mr. GUTKNECHT).

The amendment was agreed to.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments on which further proceedings were postponed, in the following order:

Amendment No. 6 by Mr. SMITH of Texas.

Amendment No. 7 by Mr. MARKEY of Massachusetts.

The Chair will reduce to 5 minutes the time for the second electronic vote in this series.

AMENDMENT NO. 6 OFFERED BY MR. SMITH OF TEXAS

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Texas (Mr. SMITH) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 353, noes 68, not voting 11, as follows:

[Roll No. 238]

AYES—353

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Baca
Bachus
Baird
Baker
Baldwin
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Becerra
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp (MI)
Campbell (CA)
Cannon
Cantor
Capito
Cardin
Cardoza
Carnahan
Carson
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Cleaver
Clyburn
Coble
Cole (OK)
Conaway
Cooper
Costa
Costello
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Culberson
Cummings
Davis (AL)
Davis (CA)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
Delahunt
DeLauro
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Doggett
Doolittle
Drake
Dreier
Duncan
Edwards
Ehlers
Emerson
Engel
English (PA)
Etheridge
Everett
Fattah
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Gutierrez
Gutknecht
Hall
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Israel
Issa
Istook
Jackson-Lee (TX)
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kind
King (IA)
King (NY)
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Langevin
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Lynch
Mack
Maloney
Marchant
Marshall
Matheson
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McHenry
McIntyre
McKeon
McMorris
Meehan
Meek (FL)
Meeks (NY)
Melancon
Mica
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Mollohan
Moore (KS)
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neugebauer
Ney
Northup
Norwood
Nunes
Oberstar
Obey
Ortiz
Osborne
Otter
Oxley
Pallone
Pascrell
Pastor
Paul
Pearce
Pence
Peterson (MN)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Royce
Ruppersberger
Rush
Ryan (WI)
Ryun (KS)
Sabo
Salazar
Sanchez, Loretta
Sanders
Saxton
Schiff
Schmidt
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Souder
Spratt
Stearns
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Visclosky
Walden (OR)
Walsh
Wamp
Waters
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wynn
Young (AK)
Young (FL)

NOES—68

Andrews
Blumenauer
Capps
Capuano
Conyers
Davis (IL)
DeGette
Dingell
Doyle
Emanuel
Eshoo
Farr
Filner
Frank (MA)
Grijalva
Harman
Hinchey
Holt
Honda
Inslee
Jackson (IL)
Jefferson
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kucinich
Lantos
Lee
Levin
Lipinski
Lofgren, Zoe
Lowey
Markey
Matsui
McDermott
McGovern
McKinney
McNulty
Millender-McDonald
Miller, George
Moore (WI)
Neal (MA)
Olver
Owens
Payne
Pelosi
Rangel
Roybal-Allard
Ryan (OH)
Sánchez, Linda T.
Schakowsky
Scott (VA)
Sensenbrenner
Serrano
Slaughter
Solis
Stark
Strickland
Tauscher
Thompson (CA)
Thompson (MS)
Tierney
Velázquez
Wasserman Schultz
Watson
Wexler
Woolsey
Wu

NOT VOTING—11

Bono	Gibbons	Nussle
Davis (FL)	Kingston	Peterson (PA)
DeLay	Manzullo	Reyes
Evans	McHugh	

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN (during the vote). Members are advised that two minutes remain in this vote.

□ 2114

Ms. LINDA T. SÁNCHEZ of California changed her vote from ''aye'' to ''no.''

Messrs. LYNCH, GILCHREST, LANGEVIN, GUTIERREZ, HASTINGS of Florida, CLEAVER, CARDIN, BUTTERFIELD, HOYER, MEEHAN, SABO, LEWIS of Georgia and Mrs. MALONEY and Mrs. WILSON of New Mexico changed their vote from ''no'' to ''aye.''

So the amendment was agreed to.

The result of the vote was announced as above recorded.

□ 2115

AMENDMENT NO. 7 OFFERED BY MR. MARKEY

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Massachusetts (Mr. MARKEY) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 152, noes 269, not voting 11, as follows:

[Roll No. 239]

AYES—152

Abercrombie	Engel	Lee
Allen	Eshoo	Levin
Andrews	Farr	Lewis (GA)
Baird	Filner	Lipinski
Baldwin	Fitzpatrick (PA)	Lofgren, Zoe
Bean	Ford	Lowey
Becerra	Frank (MA)	Lynch
Berkley	Gordon	Maloney
Berman	Grijalva	Markey
Bishop (NY)	Gutierrez	Marshall
Blumenauer	Harman	Matheson
Boucher	Herseth	Matsui
Brown (OH)	Higgins	McCarthy
Burton (IN)	Hinchey	McCollum (MN)
Capps	Holt	McDermott
Capuano	Honda	McGovern
Cardin	Hooley	McKinney
Carson	Hoyer	McNulty
Case	Inslee	Meehan
Chandler	Israel	Miller (NC)
Conyers	Jackson (IL)	Miller, George
Cooper	Jones (NC)	Moore (WI)
Costello	Jones (OH)	Moran (VA)
Davis (CA)	Kanjorski	Murtha
Davis, Tom	Kaptur	Nadler
DeFazio	Kennedy (RI)	Napolitano
DeGette	Kildee	Neal (MA)
Delahunt	Kilpatrick (MI)	Oberstar
DeLauro	Kind	Obey
Dicks	Kucinich	Olver
Dingell	Langevin	Owens
Doggett	Lantos	Pallone
Doyle	Larson (CT)	Pascrell
Emanuel	Leach	Payne
Pelosi	Scott (VA)	Udall (NM)
Peterson (MN)	Sensenbrenner	Van Hollen
Pomeroy	Serrano	Velázquez
Price (NC)	Shays	Visclosky
Rangel	Sherman	Wasserman Schultz
Regula	Slaughter	Waters
Reichert	Smith (WA)	Watson
Ross	Snyder	Watt
Rothman	Solis	Waxman
Roybal-Allard	Stark	Weiner
Ryan (OH)	Strickland	Wexler
Sabo	Stupak	Wilson (NM)
Salazar	Tauscher	Wolf
Sánchez, Linda T.	Taylor (MS)	Woolsey
Sanders	Thompson (CA)	Wu
Schakowsky	Thompson (MS)	
Schiff	Tierney	
	Udall (CO)	

NOES—269

Ackerman	Ehlers	LoBiondo
Aderholt	Emerson	Lucas
Akin	English (PA)	Lungren, Daniel E.
Alexander	Etheridge	Mack
Baca	Everett	Marchant
Bachus	Fattah	McCaul (TX)
Baker	Feeney	McCotter
Barrett (SC)	Ferguson	McCrery
Barrow	Flake	McHenry
Bartlett (MD)	Foley	McIntyre
Barton (TX)	Forbes	McKeon
Bass	Fortenberry	McMorris
Beauprez	Fossella	Meek (FL)
Berry	Foxx	Meeks (NY)
Biggert	Franks (AZ)	Melancon
Bilirakis	Frelinghuysen	Mica
Bishop (GA)	Gallegly	Michaud
Bishop (UT)	Garrett (NJ)	Millender-McDonald
Blackburn	Gerlach	Miller (FL)
Blunt	Gilchrest	Miller (MI)
Boehlert	Gillmor	Miller, Gary
Boehner	Gingrey	Mollohan
Bonilla	Gohmert	Moore (KS)
Bonner	Gonzalez	Moran (KS)
Boozman	Goode	Murphy
Boren	Goodlatte	Musgrave
Boswell	Granger	Myrick
Boustany	Graves	Neugebauer
Boyd	Green (WI)	Ney
Bradley (NH)	Green, Al	Northup
Brady (PA)	Green, Gene	Norwood
Brady (TX)	Gutknecht	Nunes
Brown (SC)	Hall	Ortiz
Brown, Corrine	Harris	Osborne
Brown-Waite, Ginny	Hart	Otter
Burgess	Hastings (FL)	Oxley
Butterfield	Hastings (WA)	Pastor
Buyer	Hayes	Paul
Calvert	Hayworth	Pearce
Camp (MI)	Hefley	Pence
Campbell (CA)	Hensarling	Petri
Cannon	Herger	Pickering
Cantor	Hinojosa	Pitts
Capito	Hobson	Platts
Cardoza	Hoekstra	Poe
Carnahan	Holden	Pombo
Carter	Hostettler	Porter
Castle	Hulshof	Price (GA)
Chabot	Hunter	Pryce (OH)
Chocola	Hyde	Putnam
Clay	Inglis (SC)	Radanovich
Cleaver	Issa	Rahall
Clyburn	Istook	Ramstad
Coble	Jackson-Lee (TX)	Rehberg
Cole (OK)	Jefferson	Renzi
Conaway	Jenkins	Reynolds
Costa	Jindal	Rogers (AL)
Cramer	Johnson (CT)	Rogers (KY)
Crenshaw	Johnson (IL)	Rogers (MI)
Crowley	Johnson, E. B.	Rohrabacher
Cubin	Johnson, Sam	Ros-Lehtinen
Cuellar	Keller	Royce
Culberson	Kelly	Ruppersberger
Cummings	Kennedy (MN)	Rush
Davis (AL)	King (IA)	Ryan (WI)
Davis (IL)	King (NY)	Ryun (KS)
Davis (KY)	Kirk	Sanchez, Loretta
Davis (TN)	Kline	Saxton
Davis, Jo Ann	Knollenberg	Schmidt
Deal (GA)	Kolbe	Schwartz (PA)
Dent	Kuhl (NY)	Schwarz (MI)
Diaz-Balart, L.	LaHood	Scott (GA)
Diaz-Balart, M.	Larsen (WA)	Sessions
Doolittle	Latham	Shadegg
Drake	LaTourette	Shaw
Dreier	Lewis (CA)	Sherwood
Duncan	Lewis (KY)	Shimkus
Edwards	Linder	Shuster
		Simmons
		Simpson
		Skelton
		Smith (NJ)
		Smith (TX)
		Sodrel
		Souder
		Spratt
		Stearns
		Sullivan
		Sweeney
		Tancredo
		Tanner
		Taylor (NC)
		Terry
		Thomas
		Thornberry
		Tiahrt
		Tiberi
		Towns
		Turner
		Upton
		Walden (OR)
		Walsh
		Wamp
		Weldon (FL)
		Weldon (PA)
		Weller
		Westmoreland
		Whitfield
		Wicker
		Wilson (SC)
		Wynn
		Young (AK)
		Young (FL)

NOT VOTING—11

Bono	Gibbons	Nussle
Davis (FL)	Kingston	Peterson (PA)
DeLay	Manzullo	Reyes
Evans	McHugh	

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN (during the vote). Members are advised there are 2 minutes remaining in this vote.

□ 2122

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. There being no further amendments, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. ADERHOLT) having assumed the chair, Mr. PRICE, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5252) to promote the deployment of broadband networks and services, pursuant to House Resolution 850, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MS. SOLIS

Ms. SOLIS. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentlewoman opposed to the bill?

Ms. SOLIS. Yes.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Ms. Solis moves to recommit H.R. 5252 to the Committee Energy and Commerce with instructions to report the same forthwith to the House with the following amendments:

Page 13, after line 20, insert the following:

''(6) PUBLIC BENEFITS FOR USE OF PUBLIC RIGHTS-OF-WAY.—A cable operator authorized under this section to provide cable service in a local franchise area is authorized pursuant to subsection (f)(1) to use public rights-of-way in the area if the operator complies with subsection (f)(3).''.

Page 20, after line 7, insert the following:

''(3) SERVICE AREA REQUIREMENTS.—

''(A) CABLE OPERATOR ELECTS FRANCHISE AREAS TO SERVE.—A cable operator that obtains a national franchise shall not be required under this section to offer cable service in any franchise area.

''(B) NO SERVICE AREA REQUIREMENT FOR 5 YEARS.—A cable operator that obtains a national franchise shall not be required under this subsection to offer service in any portion of a franchise area for 5 years after the effective date of the operator's national franchise under this section.

''(C) MARKET-BASED INCREMENTAL EXPANSION.—Beginning on the date that is 5 years after the effective date of a cable operator's national franchise under this section for a franchise area and every 3 years thereafter, if in the portion of the franchise area where the cable operator is offering cable service to at least 15 percent of the households subscribe to such service, the franchising authority in the franchise area may require the cable operator to increase by 20 percent the households in the franchise area to which the cable operator offers cable service by the beginning of the next 3-year interval, until the cable operator is capable of providing cable service to all households in the franchise area.

''(D) HIGH-COST, RURAL AREAS.—The Commission may—

''(i) limit the application of the provisions of this subsection to a cable operator if the operator demonstrates that compliance with such provisions will result in financial distress to the cable operator;

''(ii) permit a cable operator to offer cable service using alternative technologies to rural or high-cost areas within the franchise area if the service offered is comparable in rates, features, functionalities, and programming to the cable service offered by the cable operator in other parts of the franchise area; and

''(iii) grant exemptions—

''(I) to avoid requiring a cable operator that is an incumbent local exchange carrier (as such term is defined in section 251(h)) on the date of enactment of this section from offering cable service in areas that are outside the area in which the operator provides local exchange service;

''(II) to avoid requiring the extension of service to portions of the franchise area that are sparsely populated and geographically remote from the areas within which the cable operator is offering cable service; and

''(III) to any cable operator that the Commission determines is a small cable operator.

Page 23, beginning on line 23, strike subsection (h) and insert the following:

''(h) ANTIDISCRIMINATION.—

''(1) PROHIBITION.—A cable operator with a national franchise under this section shall not deny or offer inferior access to its cable service to any group of potential or current residential cable service subscribers in a manner that has the purpose or effect of discriminating against that group on the basis of income or in a manner contrary to the first purpose set forth in section 1 of this Act.

''(2) ENFORCEMENT.—

''(A) COMPLAINT.—On request of an affected potential residential subscriber, if a franchising authority in a franchise area has reasonable cause to believe that a cable operator is in violation of this subsection with respect to such franchise area, the franchising authority may initiate a proceeding to enforce the requirements of paragraph (1) within its jurisdiction.

''(B) NOTICE BY FRANCHISING AUTHORITY.—To initiate a proceeding under subparagraph (A), a franchising authority—

''(i) shall give notice of each alleged violation to the cable operator;

''(ii) shall provide a period of not less than 30 days after such notice for the cable operator to respond to each such allegation; and

''(iii) during such period, may require the cable operator to submit a written response stating the reasons why the operator has not violated this subsection.

''(C) DECISION.—Within 180 days after a franchising authority initiates a proceeding by providing the first notice for such proceeding under subparagraph (B)(i), the franchising authority shall issue a written final decision setting forth its findings and the reasons for its decision.

''(D) APPEAL TO THE COMMISSION.—A final decision issued by a franchising authority under subparagraph (C) may be appealed to the Commission within 30 days after the date of issuance.

''(E) MOTION TO ENFORCE.—If a final decision issued by a franchising authority under subparagraph (C) is not appealed to the Commission within 30 days after the date of issuance, the franchising authority may, within 180 days after the date of issuance, file a motion to enforce its decision with the Commission. Upon the filing of such a motion and after notice to the cable operator, the Commission shall impose remedies on the cable operator pursuant to subparagraphs (I) and (J).

''(F) NOTICE BY COMMISSION.—Upon receipt of an appeal under subparagraph (D), the Commission shall give notice of the appeal to the complainant and the franchising authority that initiated the proceeding under subparagraph (A).

''(G) INVESTIGATION.—In a proceeding under subparagraph (A), the franchising authority may require a cable operator to disclose to the authority such information and documents as necessary to determine whether the cable operator is in compliance with this subsection. In investigating an appeal under this paragraph, the Commission may require a cable operator to disclose to the Commission such information and documents as necessary to determine whether the cable operator is in compliance with this subsection and shall allow the franchising authority that initiated the proceeding under subparagraph (A) to review and comment on such information and documents. The Commission and the franchising authority shall maintain the confidentiality of any proprietary information or document collected under this subparagraph.

''(H) DEADLINE FOR RESOLUTION OF APPEAL.—Not more than 120 days after the Commission receives an appeal under this paragraph, the Commission shall issue a determination with respect to each violation alleged in the decision of the franchising authority.

''(I) DETERMINATION.—In response to a motion to enforce a franchising authority's decision that a cable operator has violated paragraph (1) with respect to a group, or if the Commission determines in response to an appeal that a cable operator has violated paragraph (1) with respect to a group, the Commission shall ensure that the cable operator extends access to that group.

''(J) REMEDIES.—

''(i) IN GENERAL.—This subsection shall be enforced by the Commission under titles IV and V.

''(ii) MAXIMUM FORFEITURE PENALTY.—For purposes of section 503, the maximum forfeiture penalty applicable to a violation of this subsection shall be $500,000 for each day of the violation.

''(iii) PAYMENT OF PENALTIES TO FRANCHISING AUTHORITY.—The Commission shall order any cable operator subject to a forfeiture penalty under this subsection to pay the penalty directly to the franchising authority involved.

Ms. SOLIS (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from California?

There was no objection.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from California is recognized for 5 minutes in support of her motion.

Ms. SOLIS. Mr. Speaker, this bill has good intentions. We all support more cable competition. Greater competition will inevitably help to create jobs and lower consumer costs for all of us, but I urge caution if competition for the attractive parts of the towns come literally at the expense of everywhere else.

What I am trying to say here is that when we talk about competition, and that is a word that is used very loosely, when we talk about competition, oftentimes we forget about what literally happens to the small towns, to the rural areas and to the low-income, underserved areas. That is what we are talking about tonight.

As the world's leading economy, the U.S. must ensure the universal deployment of broadband networks. That means every community is not left behind. Just like the President says leave no child behind, leave no community like mine behind.

Unfortunately, redlining, if you understand the terminology, the practice of companies cherry-picking which communities they will serve, continues, and in my opinion is a threat to our country and to our Nation because you should not be allowed to come into areas where you know you are going to make a profit and exclude those other areas that are in need of having support and sufficient infrastructure support.

We have not done this, in my opinion, in H.R. 5252 which contains a provision that says that they will prevent redlining. It is weak and may prove ineffective, in my opinion.

Over 30 civil rights organizations and consumer groups agree with this assessment. Our mayors, our cities, even in my hometown in Los Angeles the mayor, Antonio Villaraigosa, has come out and said this is not the right thing to do.

We are giving away so much that we should further discuss and debate this issue more thoroughly, and that has not been given to us.

Our communities have felt the sting of being jumped over and left out when it comes to enhanced telecom and other services.

□ 2130

This motion to recommit gives us one opportunity to ensure that broadband is deployed to every single community, whether it is rural, low-income, or an underserved minority community.

The motion to recommit is simple. It establishes a phased-in, market-based buildout of services so that eventually cable operators become capable of serving all households in a franchise area.

What I am talking about is that we know of instances in the State of Michigan, where our ranking member, Mr. DINGELL, has a community, Inkster, which was excluded from buildout. They purposely went out around his area in Michigan and served the outer surrounding community. That community had a higher income. But when they looked at the little portion, the donut hole, they were low income and minority. That is what happened. There was no services provided there.

My motion, Members, is simple. It establishes a phased-in, market-based buildout service so that eventually cable operators become capable of serving all households. That is what this bill should be doing and it doesn't. It extends the prohibition on discrimination based on income to include discrimination based on race, color, religion, and national origin. It also prohibits a cable operator from offering unequal service, upgrades, and repairs to any group of potential or current consumers.

The motion, in my opinion, addresses numerous flaws in the bill that were outlined today by Ranking Member DINGELL, Mr. MARKEY, and others today. It will correct the bill to ensure more competitive broadband alternatives in every neighborhood so all citizens can reap these benefits. I think that is what we are elected to do, to provide coverage for all our consumers.

As the world's leading economy, the U.S. must ensure that universal deployment of competitive broadband networks, whether they live in east Los Angeles or the San Gabriel Valley or the Bronx, every American, every American should have the benefit of the latest digital and video technologies. Instead, the COPE Act, or the Cop-Out Act, in my opinion, I call it, repeals or weakens the bipartisan and time-honored laws that have helped to ensure that those who provide video services do not discriminate among neighborhoods based on income, race, geography or other factors.

I would like to conclude by urging my colleagues to support the motion to recommit.

Mr. BARTON of Texas. Mr. Chairman, I rise in opposition to the motion to recommit.

The SPEAKER pro tempore. The gentleman from Texas is recognized for 5 minutes.

Mr. BARTON of Texas. Mr. Speaker, I rise in opposition to this motion for two principal reasons: The anti-redlining provisions of the motion are unnecessary because the underlying bill has language that has been carefully crafted with the leadership of such distinguished members of the full committee as Mr. RUSH, Mr. WYNN, Mr. TOWNS, Mr. GONZALEZ, and others. We worked on it for a number of months. We have perfected it, we have changed it, and so I think the bill more than adequately addresses that part of the motion to recommit.

On the second part of the motion to recommit, which deals with the concept called buildout, under existing law when you only have one franchise, only have one franchise, I think it is acceptable public policy to require there be a buildout provision because you have a monopoly. But the premise of this bill is to go from a monopoly situation to a market situation where you could have as many as four or five competitors in the same market. If that is the case, what Adam Smith, in that great book called The Wealth of Nations, called the hidden hand of the market is going to more than adequately take the place of a monopolistic model buildout requirement.

If you are a new entrant into the market and you have a national franchise and you go into Chicago or New York or Los Angeles, or a small community, like Ennis, Texas, or Arlington, Texas, you are not going to want to just serve a little bit, you are going to want to get market penetration. You are going to want to take away customers from an existing cable provider, so you are going to want to reach out to as many people as is possible and there is not going to be a need for a buildout provision.

I would also point out that these new entrants are going to be, in most cases, telephone companies that already have close to 100 percent of market penetration through their phone lines, or wireless providers that are coming into the market with their towers that, again, will have wide penetration. So there is really not a need for a buildout provision.

So I urge a ''no'' vote on the motion to recommit.

To close out debate, I am going to yield the balance of my time to my distinguished sponsor, colleague of the full committee, the distinguished gentleman from Chicago (Mr. RUSH).

Mr. RUSH. I want to thank the gentleman for yielding.

Mr. Speaker, I have heard it all. I have heard every argument against the bill, and I have heard all in this motion to recommit. But I must rise to oppose this motion to recommit. And I don't do it lightly, but I must do it.

I must do it because, Mr. Speaker, what I have heard from the opponents of this bill is so confusing, it is creating a confused state in this Chamber. But I would ask all of my colleagues to not get confused about this bill. This is a good bill. This is a great bill. This bill will do a lot and go a long way to making sure that the cost of cable television throughout America, particularly in underserved areas, that we will have competition and the cost of cable will be reduced.

Mr. Speaker, the opponents of this particular resolution, they are trying to confuse us. They are trying to confuse us. They want us to eat the wrapper and throw the candy bar away. They want us to walk outside when it is bright and the sun is shining with our umbrella over our head, and when there is mist from the rain and the storm, we will walk out with nothing covering our heads. They are trying to confuse us.

Mr. Speaker, I know that this bill will drive the cost of cable down for my community in my district and districts like mine across the country. More than that, this bill, Mr. Speaker, will allow for diversity and ownership diversity in programming. This bill will allow minorities to get into the cable industry and into the telecommunication industry.

I urge my colleagues, don't fall for the confusion. Be clear. Vote against this motion to recommit.

Ms. WATSON. Mr. Speaker, I rise today in support of the Motion to Recommit that I am offering, together with Ms. SOLIS, on H.R. 5252, the COPE Act of 2006. This motion will send this bill back to the Energy & Commerce committee to fix two of the most glaring weaknesses of this bill—the lack build-out provisions necessary to make sure all neighborhoods and communities get service—and the lack of strong anti-discrimination language necessary to prevent redlining.

Our motion will instruct the committee to include language, first to prohibit discrimination based on basis of the race, color, religion, national origin, sex, or income—the same common sense non-discrimination language that has formed the basis of so much legislation here in Congress—and second, to include so-called ''build-out'' provisions, which require the companies building large broadband networks to make sure that they are expanding their networks on a fair basis to all communities.

The COPE Act—as currently written—allows service providers to cozy-up to some neighborhoods while snubbing others. Without build-out provisions that require service providers to reach all households, many Americans will lack quality service—or be deprived of service entirely—simply because they live in the wrong neighborhood. This means that, under the COPE Act, consumers won't choose their Internet provider—Internet providers will choose their customers.

Furthermore, the COPE Act excludes the anti-discrimination language necessary to ensure equal treatment to all people, no matter what their race, ethnicity or economic situation. Americans will have no legal recourse if they receive inferior or no access to vital telecom services. This anti-discrimination language is necessary to protects all Americans from redlining, particularly those who have historically been denied access to services others take for granted.

In short, the COPE Act as written will leave many people behind as we enter a new technological age. It permits and even encourages redlining by failing to require that telecom companies serve all Americans without discrimination. In the words of Doctor Faye Williams, Chair of the National Congress of Black Women, ''Had [this] kind of thinking prevailed during the civil rights movement—the 'don't outlaw discrimination because the situation will take care of itself' claim—we may have never had a Civil Rights Act or Voting Rights Act.''

Mr. Speaker, ladies and gentlemen, my dear colleagues—we can fix this bill. I urge you to vote for the Solis/Watson Motion to recommit, so we can send this bill back to committee, fix

these glaring weaknesses, and give Americans a telecom bill that brings the entire country—not just certain neighborhoods and people—in the broadband age.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Ms. SOLIS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for any electronic vote on the question of passage.

The vote was taken by electronic device, and there were—yeas 165, nays 256, not voting 11, as follows:

[Roll No. 240]

YEAS—165

Abercrombie
Ackerman
Allen
Andrews
Baird
Baldwin
Barrow
Becerra
Berkley
Berman
Bishop (NY)
Blumenauer
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Carnahan
Carson
Case
Chandler
Cleaver
Clyburn
Conyers
Cooper
Costello
Crowley
Davis (AL)
Davis (CA)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle
Emanuel
Engel
Eshoo
Etheridge
Farr
Fattah
Filner
Ford
Frank (MA)
Gordon
Green, Al
Grijalva
Gutierrez
Harman
Hastings (FL)
Higgins
Hinchey
Hinojosa
Holden
Holt
Honda
Hooley
Hoyer
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
Kucinich
Langevin
Lantos
Larson (CT)
Lee
Levin
Lewis (GA)
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Marshall
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Price (NC)
Rahall
Rangel
Rothman
Roybal-Allard
Ruppersberger
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Wexler
Wilson (NM)
Woolsey
Wu

NAYS—256

Aderholt
Akin
Alexander
Baca
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp (MI)
Campbell (CA)
Cannon
Cantor
Capito
Cardoza
Carter
Castle
Chabot
Chocola
Clay
Coble
Cole (OK)
Conaway
Costa
Cramer
Crenshaw
Cubin
Cuellar
Culberson
Cummings
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Edwards
Ehlers
Emerson
English (PA)
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Granger
Graves
Green (WI)
Green, Gene
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Inslee
Issa
Istook
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Larsen (WA)
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Marchant
Matheson
McCaul (TX)
McCotter
McCrery
McHenry
McKeon
McMorris
Meek (FL)
Meeks (NY)
Melancon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Osborne
Otter
Oxley
Paul
Pearce
Pence
Peterson (MN)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Royce
Rush
Ryan (WI)
Ryun (KS)
Salazar
Saxton
Schmidt
Schwarz (MI)
Scott (GA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (NJ)
Smith (TX)
Smith (WA)
Sodrel
Souder
Stearns
Sullivan
Sweeney
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Towns
Turner
Upton
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (SC)
Wolf
Wynn
Young (AK)
Young (FL)

NOT VOTING—11

Bono
Davis (FL)
DeLay
Evans
Gibbons
Kingston
Manzullo
McHugh
Nussle
Peterson (PA)
Reyes

□ 2156

Ms. EDDIE BERNICE JOHNSON of Texas changed her vote from ''nay'' to ''yea.''

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BARTON of Texas. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 321, nays 101, not voting 11, as follows:

[Roll No. 241]

YEAS—321

Ackerman
Aderholt
Akin
Alexander
Andrews
Baca
Bachus
Baker
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Berkley
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp (MI)
Campbell (CA)
Cannon
Cantor
Capito
Cardin
Cardoza
Carnahan
Carson
Carter
Castle
Chabot
Chandler
Chocola
Clay
Clyburn
Coble
Cole (OK)
Conaway
Cooper
Costa
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Culberson
Cummings
Davis (AL)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLauro
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Doolittle
Drake
Dreier
Duncan
Edwards
Ehlers
Emerson
Engel
English (PA)
Etheridge
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastert
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinojosa
Hobson
Hooley
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Inslee
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kind
King (IA)
King (NY)
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Langevin
Larson (CT)
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lucas
Lungren, Daniel E.
Lynch
Mack
Marchant
Marshall
Matheson
McCarthy
McCaul (TX)
McCrery
McHenry
McIntyre
McKeon
McMorris
Meek (FL)
Meeks (NY)
Melancon
Mica
Michaud
Miller (FL)
Miller, Gary
Mollohan
Moore (KS)
Moran (KS)
Moran (VA)
Murphy
Musgrave
Myrick
Neal (MA)
Neugebauer
Ney
Northup
Norwood
Nunes
Ortiz
Osborne
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Pearce
Pence
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad

Rangel	Shaw	Towns
Regula	Shays	Turner
Rehberg	Sherwood	Udall (CO)
Reichert	Shimkus	Udall (NM)
Renzi	Shuster	Upton
Reynolds	Simmons	Van Hollen
Rogers (AL)	Simpson	Visclosky
Rogers (KY)	Skelton	Walden (OR)
Rogers (MI)	Smith (NJ)	Walsh
Rohrabacher	Smith (TX)	Wamp
Ros-Lehtinen	Smith (WA)	Wasserman Schultz
Ross	Sodrel	Watt
Rothman	Souder	Weldon (FL)
Royce	Spratt	Weldon (PA)
Ruppersberger	Stearns	Weller
Rush	Strickland	Westmoreland
Ryan (WI)	Stupak	Wexler
Ryun (KS)	Sullivan	Whitfield
Salazar	Sweeney	Wicker
Sanchez, Loretta	Tanner	Wilson (SC)
Saxton	Taylor (NC)	Wolf
Schmidt	Terry	Wynn
Schwartz (PA)	Thomas	Young (AK)
Schwarz (MI)	Thompson (MS)	Young (FL)
Scott (GA)	Thornberry	
Sessions	Tiahrt	
Shadegg	Tiberi	

NAYS—101

Abercrombie	Kanjorski	Payne
Allen	Kaptur	Pelosi
Baird	Kildee	Peterson (MN)
Baldwin	Kilpatrick (MI)	Price (NC)
Becerra	Kucinich	Roybal-Allard
Berman	Lantos	Ryan (OH)
Blumenauer	Larsen (WA)	Sabo
Brady (PA)	Lee	Sánchez, Linda T.
Brown (OH)	Levin	Sanders
Capps	Lewis (GA)	Schakowsky
Capuano	Lofgren, Zoe	Schiff
Case	Lowey	Scott (VA)
Cleaver	Maloney	Sensenbrenner
Conyers	Markey	Serrano
Costello	Matsui	Sherman
Davis (CA)	McCollum (MN)	Slaughter
DeFazio	McCotter	Snyder
DeGette	McDermott	Solis
Delahunt	McGovern	Stark
Dingell	McKinney	Tancredo
Doggett	McNulty	Tauscher
Doyle	Meehan	Taylor (MS)
Emanuel	Millender-McDonald	Thompson (CA)
Eshoo	Miller (MI)	Tierney
Farr	Miller (NC)	Velázquez
Fattah	Miller, George	Waters
Filner	Moore (WI)	Watson
Frank (MA)	Murtha	Waxman
Goode	Nadler	Weiner
Grijalva	Napolitano	Wilson (NM)
Hinchey	Oberstar	Woolsey
Hoekstra	Obey	Wu
Holden	Olver	
Holt	Paul	
Honda		

NOT VOTING—11

Bono	Gibbons	Nussle
Davis (FL)	Kingston	Peterson (PA)
DeLay	Manzullo	Reyes
Evans	McHugh	

□ 2205

Mr. CLEAVER changed his vote from ''yea'' to ''nay.''

Mr. MORAN of Virginia changed his vote from ''nay'' to ''yea.''

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.R. 4939, EMERGENCY SUPPLEMENTAL APPROPRIATIONS ACT FOR DEFENSE, THE GLOBAL WAR ON TERROR, AND HURRICANE RECOVERY, 2006

Mr. LEWIS of California submitted the following conference report and statement on the bill (H.R. 4939) making emergency supplemental appropriations for the fiscal year ending September 30, 2006, and for other purposes:

CONFERENCE REPORT (H. REPT. 109–494)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4939), ''making emergency supplemental appropriations for the fiscal year ending September 30, 2006, and for other purposes'', having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2006, and for other purposes, namely:

TITLE I

GLOBAL WAR ON TERROR SUPPLEMENTAL APPROPRIATIONS

CHAPTER 1

DEPARTMENT OF AGRICULTURE

FOREIGN AGRICULTURAL SERVICE

PUBLIC LAW 480 TITLE II GRANTS

For an additional amount for ''Public Law 480 Title II Grants'', during the current fiscal year, not otherwise recoverable, and unrecovered prior years' costs, including interest thereon, under the Agricultural Trade Development and Assistance Act of 1954, for commodities supplied in connection with dispositions abroad under title II of said Act, $350,000,000, to remain available until expended: Provided, That from this amount, to the maximum extent possible, funding shall be used to support the previously approved fiscal year 2006 programs under section 204(a)(2) of the Agricultural Trade Development and Assistance Act of 1954: Provided further, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

CHAPTER 2

DEPARTMENT OF DEFENSE—MILITARY

MILITARY PERSONNEL

MILITARY PERSONNEL, ARMY

For an additional amount for ''Military Personnel, Army'', $6,587,473,000: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

MILITARY PERSONNEL, NAVY

For an additional amount for ''Military Personnel, Navy'', $1,321,474,000: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

MILITARY PERSONNEL, MARINE CORPS

For an additional amount for ''Military Personnel, Marine Corps'', $840,872,000: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

MILITARY PERSONNEL, AIR FORCE

For an additional amount for ''Military Personnel, Air Force'', $1,155,713,000: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

RESERVE PERSONNEL, ARMY

For an additional amount for ''Reserve Personnel, Army'', $140,570,000: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

RESERVE PERSONNEL, NAVY

For an additional amount for ''Reserve Personnel, Navy'', $110,712,000: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

RESERVE PERSONNEL, MARINE CORPS

For an additional amount for ''Reserve Personnel, Marine Corps'', $10,627,000: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

RESERVE PERSONNEL, AIR FORCE

For an additional amount for ''Reserve Personnel, Air Force'', $1,940,000: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

NATIONAL GUARD PERSONNEL, ARMY

For an additional amount for ''National Guard Personnel, Army'', $111,550,000: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

NATIONAL GUARD PERSONNEL, AIR FORCE

For an additional amount for ''National Guard Personnel, Air Force'', $1,200,000: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, ARMY

For an additional amount for ''Operation and Maintenance, Army'', $17,744,410,000: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

OPERATION AND MAINTENANCE, NAVY

For an additional amount for ''Operation and Maintenance, Navy'', $2,696,693,000: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

OPERATION AND MAINTENANCE, MARINE CORPS

For an additional amount for ''Operation and Maintenance, Marine Corps'', $1,639,911,000: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

OPERATION AND MAINTENANCE, AIR FORCE

For an additional amount for ''Operation and Maintenance, Air Force'', $5,576,257,000: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.