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Hon. Fred Upton
Chairman
Energy and Commerce Committee
US House of Representatives
2125 Rayburn House Office Building
Washington, DC 20515

Hon. Greg Walden
Chairman
Communications and Technology Subcommittee
Energy and Commerce Committee
US House of Representatives
2125 Rayburn House Office Building
Washington, DC 20515

Re: Communications Act Update

As an American researcher working in Europe, I am dismayed by the "Europe is better" detractors in the US who claim that Europe has better broadband and communications policies. I study communications infrastructure investment and observe that there has been a near decade decline in EU communications investment per capita when compared to the USA. Ten years ago the EU accounted for over one-third of the world's investment in capital equipment (CAPEX); that amount has plummeted to less than one-fifth today.

Meanwhile the US has kept a commitment of investing in America's communication infrastructure at a consistent rate, nearly 25% of the total global outlay. Americans who are just 4% of the world's population enjoy one fourth of its broadband investment. Per capita this amount is twice that of the EU.

EU communications policy is best described as a tortured approach. Managed access and wholesale price ceilings have created a terrific regulatory edifice but not investment in next generation broadband technologies. Having plenty of data from this continent-wide experiment, one can find a few exceptional successes, but the the conclusion is clear. There is a tradeoff: regulated low prices mean no profits and hence underinvestment. No incumbent provider wants to invest if it can't recover a profit, and no new entrant will invest in infrastructure if it can lease the incumbent's infrastructure at a low wholesale rate. Thus Europeans have mortgaged their digital future in exchange for short term comfort.

An even more depressing story for Europeans is they fell behind in mobile and Internet innovation. In 2002 there were six European phone makers making up 50% of the world's phones, but now with the Microsoft acquisition of Nokia, there are none. Of the top 25 Internet companies, 15 come from the USA, but just 1 from the EU. America's venture capital market is six times larger than Europe's. Even the fact that I work in Europe today is on account of a shortage of local highly-skilled workers. It's no surprise that many EU leaders call for the abandonment of the European approach in favor of that of the American.

Meanwhile the US has transformed its economy because of broadband. While measuring the Internet economy is difficult, as Internet enabled services and efficiencies have long been internalized in many traditional companies, the Internet economy drives at least 4-5 percent of America's gross domestic product. A more specific number is exports of digital goods and services. This amounted to more than $350 billion in 2011 according to the US International Trade Council, making broadband-based exports America's third-largest category of exports after industrial supplies and capital goods. Indeed, Europe is the top location for America's digital exports, and there is concern that the lack of broadband investment in the EU could inhibit the growth for some digital exports to Europe in the future.

It seems that America's greatest success stories and innovations come from things that regulators had nothing to do with. Who knew that coaxial cables laid in 1948 could become a foundation for broadband? Or that copper wires could be recalibrated to conduct data at speeds of 100 Mbps? Did Motorola have a vision in the 1970s that its $10,000, two-pound mobile phone would be miniaturized and mass-produced to be in the hands on nearly every human being on earth? What of the patents for fiber optics that came from a 150 year old glass and ceramic company? Is the fact that the US has the highest concentration of LTE devices and networks the result of enlightened regulatory policy, or rather an accident of history that the US happens to be a large single market where mobile providers have scale? America seems to succeed not because of regulation, but *in spite* of it.

To that end, I implore you to minimize the regulatory footprint. The Communications Act need not be longer than one page. Retire the obsolete classifications for communications networks. Make a level playing field for services. Favor no technology. Rely as much as possible on evidenced-based, ex post competition law and not "enlightened" regulatory foresight to address issues of consumer protection and abuse of power. A fully empowered and resourced Federal Trade Commission (FTC) can enforce competition and consumer protection if and when abuse occurs.

I commend you for this bi-partisan effort and wish you endurance and steadfast resolve in the years ahead.

Sincerely,

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Please note that this letter is a reflection of my views and not necessarily that of Aalborg University or its affiliates.