



Information Technology and Communications

2023 Congressional City Conference

Liberty Salons NOP (M4)

Saturday, March 25, 2023

1:00-4:00 p.m.

Agenda: Information Technology and Communications

Congressional City Conference
Saturday, March 25, 2023
1:00-4:00 p.m.

Saturday, March 25

<p>1:00 p.m. – 1:20 p.m.</p>	<p>WELCOME, INTRODUCTIONS AND MEETING OVERVIEW</p> <p>The Honorable Kent Keel, Chair <i>Councilmember, City of University Place, Washington</i></p> <p>The Honorable Joseph Goldstein, Vice Chair <i>Councilmember, City of Marietta, Georgia</i></p> <p>The Honorable Bobby Scott, Vice Chair <i>Mayor, City of Center Point, Alabama</i></p> <p>The Honorable David Sander, NLC First Vice President <i>Councilmember, City of Rancho Cordova, California</i></p> <p>Councilmember Keel will lead introductions, provide an overview of expected outcomes from the meeting, and provide time for remarks from a representative of NLC’s Board of Directors.</p>
<p>1:20 p.m. – 1:40 p.m.</p>	<p>RESOURCES FOR LOCAL ELECTION SECURITY</p> <p>Kim Wyman <i>Senior Election Security Advisor, Cybersecurity and Infrastructure Security Agency</i></p> <p>Secure elections are at the heart of strong democracy. CISA will provide an update to local officials on the no-cost and voluntary resources and services available to local election administrators. These resources and services include physical and cybersecurity assistance, information exchanges, trainings, and funding opportunities, all of which are available to help secure election infrastructure and prepare and plan for possible incidents.</p>
<p>1:40 p.m. – 2:30 p.m.</p>	<p>INTERACTIVE EXERCISE: DIGITAL EQUITY FROM CONCEPT TO ENABLEMENT</p> <p>Angela Thi Bennett <i>Digital Equity Director, National Telecommunications and Information Administration</i></p>

	<p>Brett Litzler <i>Digital Equity Advisor, National Telecommunications and Information Administration</i></p> <p>Is your community prepared to take advantage of new federal broadband and digital equity funding from the Bipartisan Infrastructure Law? During this interactive session, NTIA staff will help you identify the barriers to digital equity in your city, town or village, and prepare you to engage local stakeholders in key discussions. Through a series of interactive exercises, walk through the process of creating a digital equity roadmap for your community.</p>
2:30 p.m. – 2:40 p.m.	BREAK
2:40 p.m. – 3:10 p.m.	<p>DISCUSSION: SHAPING NLC’S SMART CITIES RESEARCH</p> <p>Julia Glickman <i>Program Specialist, Urban Innovation, National League of Cities</i></p> <p>NLC is preparing to update its research and resources on smart cities. Join NLC staff from the Center for Municipal Practice to share your questions, concerns, and ideas about the future of smart cities. During this discussion, help to shape the future of NLC’s smart cities work.</p>
3:10 p.m. – 3:30 p.m.	<p>SMART CITY INNOVATIONS FOR A RESILIENT, SUSTAINABLE AND EQUITABLE FUTURE</p> <p>Ryan Dalton <i>Director of External Affairs, Siemens USA</i></p> <p>As a focused technology company, Siemens creates technology that empowers our customers to positively transform critical infrastructure and vital industries which form the backbone of our national, state, and local economies. During this discussion, committee members will learn about the opportunities provided through new federal infrastructure dollars to invest in innovation for a more resilient, sustainable, and equitable future.</p>
3:30 p.m. – 3:50 p.m.	<p>BROADBAND MAPPING UPDATE</p> <p>Eduard Bartholme <i>Deputy Bureau Chief, Consumer and Governmental Affairs Bureau, Federal Communications Commission</i></p> <p>In 2022, the Federal Communications Commission launched its new National Broadband Map. Hear directly from FCC staff about the progress of the new map, how cities and residents can participate in the Broadband Data Collection and challenge process to improve the accuracy of the map, and how the data</p>

	will be used in current and future broadband planning and funding efforts.
3:50 p.m. - 4:00 p.m.	CLOSING REMARKS AND ADJOURNMENT

Next ITC Committee Meeting:
April 28, 2023
2:00PM Eastern
Virtual

Attachments:

- Congressional City Conference Highlights for ITC Committee Members
- NLC Policy Development and Advocacy Process
- NLC ITC Committee Roster
- Congressional Rosters: Senate Commerce Committee, House Energy and Commerce Committee
- NLC Comments to FCC on Digital Discrimination

Congressional City Conference Highlights for ITC Committee Members

Saturday, March 25

- 1:00PM – 4:00PM – Information Technology and Communications Committee Meeting

Sunday, March 26

- 9:00AM – 10:30AM – Opening General Session
- 11:00AM – 12:15PM – ARPA Implementation in Your Community: Sharing Successes and Lessons Learned
- 2:00PM – 3:15PM - Connecting Your City to State-Administered Broadband and Cybersecurity Grants
- 3:30PM – 5:00PM – Afternoon General Session

Monday, March 27

- 8:30AM – 10:00AM – General Session
- 10:30AM – 11:45AM - Federal Support for Digital Equity: Advancing Broadband and Digital Skills for All
- 12:15PM – 2:00PM - Luncheon and General Session
- 2:15PM – 3:15PM - Hill Day Participants Only - MANDATORY Hill Day Training
- 7:30PM – 10:00 – NLC's Sound of the Cities Closing Event

Tuesday, March 28

- All Day – Hill Day, schedules vary (preregistration required)

NLC POLICY DEVELOPMENT AND ADVOCACY PROCESS

As a resource and advocate for more than 19,000 cities, towns and villages, the National League of Cities (NLC) brings municipal officials together to influence federal policy affecting local governments. NLC adopts positions on federal actions, programs and proposals that directly impact municipalities and formalizes those positions in the *National Municipal Policy (NMP)*, which guides NLC's federal advocacy efforts.

NLC divides its advocacy efforts into seven subject areas:

- Community and Economic Development
- Energy, Environment and Natural Resources
- Finance, Administration and Intergovernmental Relations
- Human Development
- Information Technology and Communications
- Public Safety and Crime Prevention
- Transportation and Infrastructure Services

For each of the seven issue areas, a Federal Advocacy Committee advocates in support of NLC's federal policy positions. Members of each Committee serve for one calendar year and are appointed by the NLC President.

Federal Advocacy Committees

Federal Advocacy Committee members are responsible for advocating on legislative priorities, providing input on legislative priorities, and reviewing and approving policy proposals and resolutions. Additionally, Committee members engage in networking and sharing of best practices.

Federal Advocacy Committees are comprised of local elected and appointed city and town officials from NLC member cities. NLC members must apply annually for membership to a Federal Advocacy Committee. The NLC President makes appointments for chair, vice chairs, and general membership. In addition to leading the Federal Advocacy Committees, those appointed as Committee chairs will also serve on NLC's Board of Directors during their leadership year.

At the Congressional City Conference, Federal Advocacy Committee members are called upon to advocate for NLC's legislative priorities on Capitol Hill, as well as develop the committee's agenda and work plan for the year. Committee members meet throughout the year to further the plan, hear from guest presenters, discuss advocacy strategies and develop specific policy amendments and resolutions. At the City Summit, Committee members review and approve policy proposals and resolutions. These action items are then forwarded to NLC's Resolutions Committee and are considered at the Annual Business Meeting, also held during the City Summit.

Advocacy

Throughout the year, Committee members participate in advocacy efforts to influence the federal decision-making process, focusing on actions concerning local governments and communities. During the Congressional City Conference, Committee members have an opportunity, and are encouraged, to meet with their congressional representatives on Capitol Hill. When NLC members are involved in the legislative process and share their expertise and experiences with Congress, municipalities have a stronger national voice, affecting the outcomes of federal policy debates that impact cities and towns.



2023 Information Technology & Communications (ITC) Committee Roster

Leadership

- Chair Kent Keel, Councilmember, University Place, WA
- Vice Chair Bobby Scott, Mayor, City of Center Point, AL
- Vice Chair Joseph Goldstein, Council Member, City of Marietta, GA

Members

- Chris Amorose Groomes, Council Member, City of Dublin, OH
- Kent Back, Council Member, City of Gadsden, AL
- Jesse Barlow, Council President, Borough of State College, PA
- Chrelle Booker, Mayor Pro Tempore Town of Tryon, NC
- Steven Carter, City Manager, City of Albany, GA
- Robert Cowie, City Councilor, City of Chiloquin, OR
- Susan Farber, Council Member, City of Dubuque, IA
- Cliff Hayes, Chief Information Officer, City of Portsmouth, VA
- Susan Honda, Deputy Mayor, City of Federal Way, WA
- Brian Kavanaugh, Council Member, City of Ralston, NE
- Rey LaChaux, Digital Equity Manager, City and County of San Francisco, CA
- Rob Lloyd, Deputy City Manager, City of San Jose, CA
- Dixie Minatra, Council Member, City of Gadsden, AL
- David Neal, Council Member, City of Merriam, KS
- Christopher Nelson, Mayor, Village of West Dundee, IL
- Robert Newell, Chief Information Officer, City of Ardmore, OK
- Susan Norton, Chief of Staff, City of Fayetteville, AR
- Tim Rosener, Mayor, City of Sherwood, OR
- Erik Sickinger, Council Member, Town of Irmo, SC
- Tracy Stefanski, Alderman, City of West Allis, WI
- Mark Stewart, Councilmember, City of Chandler, AZ
- Bryan Terry, Director of IT, City of Arlington, WA
- Lauren Tolmachoff, Council Member, City of Glendale, AZ
- Alexandra Winkler, Chief Information Officer, City of Boise, ID

February 15, 2023

House Energy and Commerce Committee

The Energy and Commerce Committee is one of the most powerful standing committees in the House, with the broadest policy portfolio of any other committee. It has jurisdiction over telecommunications, consumer protection, food and drug safety, public health and research, environmental quality, energy policy and interstate and foreign commerce.



CHAIR

Rep. Cathy McMorris Rodgers, Wash.

2188 Rayburn
Washington DC 20515
202-225-2006



RANKING MEMBER

Rep. Frank Pallone, N.J.

2107 Rayburn
Washington DC 20515
202-225-4671

REPUBLICANS

SUBCOMMITTEE
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MEMBERS

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2161 Rayburn
Washington DC 20515
202-225-7772



Rep. Bob Latta
Ohio

2467 Rayburn
Washington DC 20515
202-225-6405
Communications
and Technology



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202-225-3861
Oversight and
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202-225-8104
Health



Rep. Diana DeGette
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202-225-4431
Energy, Climate
and Grid Security



Rep. Jan Schakowsky
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2408 Rayburn
Washington DC 20515
202-225-2111
Innovation, Data
and Commerce



Rep. Gus Bilirakis
Fla.

2306 Rayburn
Washington DC 20515
202-225-5755
Innovation, Data
and Commerce



Rep. Bill Johnson
Ohio

2082 Rayburn
Washington DC 20515
202-225-5705
Environment,
Manufacturing and
Critical Minerals



Rep. Larry Bucshon
Ind.

2313 Rayburn
Washington DC 20515
202-225-4636



Rep. Richard Hudson
N.C.

2112 Rayburn
Washington DC 20515
202-225-3715



Rep. Doris Matsui
Calif.

2311 Rayburn
Washington DC 20515
202-225-7163
Communications and
Technology



Rep. Kathy Castor
Fla.

2052 Rayburn
Washington DC 20515
202-225-3376
Oversight and
Investigations



Rep. John Sarbanes
Md.

2370 Rayburn
Washington DC 20515
202-225-4016



Rep. Tim Walberg
Mich.

2266 Rayburn
Washington DC 20515
202-225-6276



Rep. Buddy Carter
Ga.

2432 Rayburn
Washington DC 20515
202-225-5831



Rep. Jeff Duncan
S.C.

2229 Rayburn
Washington DC 20515
202-225-5301
Energy, Climate
and Grid Security



Rep. Gary Palmer
Ala.

170 Cannon
Washington DC 20515
202-225-4921



Rep. Paul Tonko
N.Y.

2369 Rayburn
Washington DC 20515
202-225-5076
Environment,
Manufacturing and
Critical Minerals



Rep. Yvette Clarke
N.Y.

2058 Rayburn
Washington DC 20515
202-225-6231



Rep. Tony Cárdenas
Calif.

2181 Rayburn
Washington DC 20515
202-225-6131



Rep. Neal Dunn
Fla.

466 Cannon
Washington DC 20515
202-225-5235



Rep. John Curtis
Utah

2323 Rayburn
Washington DC 20515
202-225-7751



Rep. Debbie Lesko
Ariz.

1214 Longworth
Washington DC 20515
202-225-4576



Rep. Greg Pence
Ind.

404 Cannon
Washington DC 20515
202-225-3021



Rep. Raul Ruiz
Calif.

2342 Rayburn
Washington DC 20515
202-225-5330



Rep. Scott Peters
Calif.

1201 Longworth
Washington DC 20515
202-225-0508



Rep. Debbie Dingell
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102 Cannon
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202-225-4071



Rep. Dan Crenshaw
Texas

248 Cannon
Washington DC 20515
202-225-6565



Rep. John Joyce
Pa.

152 Cannon
Washington DC 20515
202-225-2431



Rep. Kelly Armstrong
N.D.

2235 Rayburn
Washington DC 20515
202-225-2611



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2421 Rayburn
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Rep. Marc Veasey
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107 Cannon
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Rep. Rick Allen
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462 Cannon
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Rep. Troy Balderson
Ohio

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202-225-5355



Rep. Russ Fulcher
Idaho

1514 Longworth
Washington DC 20515
202-225-6611



Rep. Nanette Barragán
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2312 Rayburn
Washington DC 20515
202-225-8220



Rep. Lisa Blunt
Rochester Del.

1724 Longworth
Washington DC 20515
202-225-4165



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2353 Rayburn
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202-225-9889



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167 Cannon
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202-225-6356



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1029 Longworth
Washington DC 20515
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Minn.

2442 Rayburn
Washington DC 20515
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Wash.

1110 Longworth
Washington DC 20515
202-225-7761



Rep. Lori Trahan
Mass.

2439 Rayburn
Washington DC 20515
202-225-3411



Rep. Lizzie Fletcher
Texas

346 Cannon
Washington DC 20515
202-225-2571



Committee Membership List

Please Make a Selection



Committee on Commerce, Science, and

[XML](#)

Transportation

<http://www.commerce.senate.gov/>

Total Members: 27

Subcommittees (7)

Subcommittee on Aviation Safety, Operations, and Innovation

Subcommittee on Communications, Media, and Broadband

Subcommittee on Consumer Protection, Product Safety, and Data Security

Subcommittee on Oceans, Fisheries, Climate Change, and Manufacturing

Subcommittee on Space and Science

Subcommittee on Surface Transportation, Maritime, Freight, and Ports

Subcommittee on Tourism, Trade, and Export Promotion

Majority Members (14)

Cantwell, Maria (WA), *Chairman*

Klobuchar, Amy (MN)

Schatz, Brian (HI)

Markey, Edward J. (MA)

Peters, Gary C. (MI)

Baldwin, Tammy (WI)

Duckworth, Tammy (IL)

Tester, Jon (MT)

Sinema, Kyrsten (AZ)

Rosen, Jacky (NV)

Lujan, Ben Ray (NM)

Hickenlooper, John W. (CO)

Warnock, Raphael G. (GA)

Welch, Peter (VT)

Minority Members (13)

Cruz, Ted (TX), *Ranking Member*

Thune, John (SD)

Wicker, Roger F. (MS)

Fischer, Deb (NE)

Moran, Jerry (KS)

Sullivan, Dan (AK)

Blackburn, Marsha (TN)

Young, Todd (IN)

Budd, Ted (NC)

Schmitt, Eric (MO)

Vance, J. D. (OH)

Capito, Shelley Moore (WV)

Lummis, Cynthia M. (WY)

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**CHIEF EXECUTIVE OFFICER/
EXECUTIVE DIRECTOR**
Clarence E. Anthony

February 16, 2023

Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
45 L Street NE
Washington, DC 20554

Re: In the Matter of Implementing the Infrastructure Investment and Jobs Act: Prevention and Elimination of Digital Discrimination (GN Docket No. 22-69)

On behalf of the nation's more than 19,000 cities, towns and villages, the National League of Cities (NLC) thanks the Federal Communications Commission (Commission) for its work to address digital discrimination through this docket and for this opportunity to provide comments. The inclusion of digital discrimination as a priority in the Bipartisan Infrastructure Law represents an important evolution in policy efforts to close the digital divide. This rulemaking is a critical opportunity to address the historic inequities that have been perpetuated by discriminatory broadband buildout, maintenance or upgrade, and marketing.

Without equitable access to broadband, residents cannot experience full economic opportunity or access to educational, healthcare, governmental, or other services. NLC commends the Commission and the Working Groups of the Communications Equity and Diversity Council (CEDC) for recognizing the role of local government in preventing and ending digital discrimination. Local government, as the level of government closest to the consumer, is in the best position to identify potential or actual digital discrimination and should take a leading role in preventing and addressing it.

As the Commission finalizes its recommendations and regulation to prevent and address digital discrimination, we urge you to bear in mind these key principles:

- Digital discrimination should be defined by the impacts experienced by consumers, not the intent of a broadband provider to discriminate. This definition must be robust and include aspects of broadband access beyond the mere presence of infrastructure or minimal service.

- Local governments, as advocates for residents, must be able to participate in a complaint process that considers the inequities in capacity, connectivity, and technology available to small, rural, or disadvantaged communities.
- Local governments have historically been leaders in the prevention and remedy of digital discrimination, including through the enforcement of buildout and consumer protection requirements in franchises and through local rights-of-way management. These efforts have been hampered by recent state and Commission actions, and those actions should be revisited for their impact on digital discrimination.
- States should be encouraged to remove barriers that make it difficult or impossible for local governments to build, own, or operate broadband infrastructure.

Defining Digital Discrimination

The Commission seeks comment on whether the definition of “digital discrimination of access” should depend on whether the provider *intended* to discriminate based on a protected characteristic. NLC agrees with the Commission’s proposal that this definition should rely on impact, rather than intent. Furthermore, the definition of digital discrimination should be based on disparate impact, rather than disparate treatment. As noted by commenters to the Commission’s Notice of Inquiry, including Public Knowledge and the National Digital Inclusion Alliance,¹ a disparate impact approach both better reflects the Commission’s goal to combat digital discrimination, and better enables fair enforcement by relying on discrete, often publicly available metrics, instead of attempting to divine the intent of a provider. This approach is the only way to effectively capture digital discrimination as it occurs in the real world. NLC vigorously opposes suggestions that the definition should only include intentionally discriminatory acts – a standard that will in practice make it nearly impossible for consumers and their advocates to seek remedy to discrimination.

The Commission also requests feedback on the services, entities, and practices covered by the definition of digital discrimination. NLC encourages the Commission to include quality of service, not just availability of broadband service, in its determination of digital discrimination. Upload/download speeds, network reliability, network maintenance, technology upgrades, infrastructure resilience, and price drive whether a connection is useful and accessible to a household or business, and should be relevant to the definition of digital discrimination.² The

¹ See comments by Public Knowledge, May 16, 2022 and National Digital Inclusion Alliance, May 16, 2022, in response to the Notice of Inquiry on Implementing the Infrastructure Investment and Jobs Act: Prevention and Elimination of Digital Discrimination.

² Ample recent research has uncovered digital discrimination through inadequate service or differential pricing structures. See Communications Workers of America and National Digital Inclusion Alliance, “AT&T’s Digital Redlining: Leaving Communities Behind for Profit,” October 2020, available https://www.digitalinclusion.org/wp-content/uploads/dlm_uploads/2020/10/ATTs-Digital-Redlining-Leaving-Communities-Behind-for-Profit.pdf; The Markup, “Dollars to Megabits, You May Be Paying 400 Times As Much As Your Neighbor for Internet Service,” October 19, 2022, available <https://themarkup.org/still-loading/2022/10/19/dollars-to-megabits-you-may-be->

Commission's work on broadband labeling further demonstrates the importance of these factors in determining whether broadband is being adequately and equitably made available, and the publicly available data generated by the new labeling system should be a valuable mechanism for ensuring accountability. The Commission should also not limit inquiries to a provider's existing service area. While offering a lower-quality service to some neighborhoods and not others should be considered obvious discrimination, so too should failing to offer service at all to lower-income or otherwise vulnerable residents.

The Commission should also therefore consider this proceeding an opportunity to revisit its broadband speed definitions. NLC has long argued that the current definition of broadband is insufficient. Any definition of digital discrimination should reflect a forward-looking approach to broadband speeds. A definition reliant on the current FCC benchmark of 25/3 Mbps, or even the Bipartisan Infrastructure Law's benchmark of 100/20 Mbps, will obscure the inequities between wealthy neighborhoods with access to competitive fiber service, and disadvantaged communities with only out of date technologies.

Local Governments Should Have Access to a Usable Complaint System

We appreciate the Commission's recognition that local governments are key partners in a shared effort to end digital discrimination. Local governments have historically worked to prevent digital discrimination both through pre-deployment negotiations with broadband providers, particularly cable broadband providers through the franchise system, and through consumer protection activity.

A robust consumer complaint process will be a crucial enforcement tool for digital discrimination rules. NLC supports the Commission's proposal to establish a pathway for state, local, Tribal and community organizations to submit complaints. As local leaders have noted during the rollout of the Broadband Data Collection challenge process, individual complaints are frequently an insurmountable barrier for individuals, particularly those with language barriers, limited digital skills, privacy concerns, or limited access to devices or connectivity – the very issues the Commission seeks to remedy in this proceeding. An organizational complaint pathway should user-friendly and not require specialized data formats, and should allow flexibility in the kinds of information, narratives, or data submitted. Many local governments and community organizations have very limited staff capacity and are reliant on solely part-time support to manage a wide range of tasks. The complaint process, both for individual consumers and for organizations, should make available ample support materials in plain language and a variety of languages, usable on mobile

[paying-400-times-as-much-as-your-neighbor-for-internet-service](#); California Community Foundation and Digital Equity Los Angeles, "Slower and More Expensive," October 2022, available <https://static1.squarespace.com/static/6165cb6ecbf6d70401a212f6/t/6345ca9c147af0682276fb3d/1665518251184/Broadband+Pricing+Disparities+Report+-+Oct+2022.pdf>; and Consumer Reports, "You May Be Paying Too Much for Your Internet," November 17, 2022, available <https://www.consumerreports.org/electronics-computers/telecom-services/you-may-be-paying-too-much-for-your-internet-a7157329937/>.

devices, and provide a non-web-based avenue for receiving assistance and submitting complaints. For consumers or communities experiencing digital discrimination, an option to fax, call, or mail materials or ask a question is critical. Unserved and underserved communities cannot be expected to equitably navigate web forms.

Local Oversight Helps Prevent and Address Digital Discrimination

NLC appreciates efforts by the Commission and the efforts of the Communications Equity and Diversity Council to seek out a range of state and local practices that could help prevent and address digital discrimination. NLC urges the Commission to preserve and strengthen local governments' permitting, rights of way management, and franchise processes as an essential component of this effort. As noted by the National Association of Telecommunications Officers and Advisors and other commenters,³ the cable franchise system has a proven record of preventing digital discrimination through buildout requirements. The agreements struck with cable providers by local franchise authorities in decades past have laid the groundwork leading to the widespread availability of cable broadband service in many communities today. The Commission should, as part of its efforts in this proceeding, consider how a franchise model could be applied to broadband service.

The Commission should also revisit prior orders, including the Section 621 Order and Small Cell Order,⁴ which encroach on local governments' leverage to require or incentivize broadband infrastructure deployment by inappropriately limiting local franchises and permitting processes. Local governments are capable of negotiating franchises and master license agreements that meet both broadband providers' business needs as well as the digital equity needs of the community. The Commission should roll back rules that inhibit their ability to do so.

NLC appreciates the work of the CEDC and supports the general recommendations of its report: (1) developing and making available recurring "broadband equity assessments"; (2) facilitating awareness among landlords regarding "tenant choice and competition" in MTEs; (3) identifying ways to "incentivize equitable deployment"; (4) managing public property (such as rights-of-way) "to avert discriminatory behaviors that result in or sustain digital discrimination and redlining"; (5) convening regular meetings of stakeholders to evaluate "areas and households unserved and

³ See comments by the National Association of Telecommunications Officers and Advisors, May 16, 2022, in response to the Notice of Inquiry on Implementing the Infrastructure Investment and Jobs Act: Prevention and Elimination of Digital Discrimination.

⁴ See Declaratory Ruling and Third Report and Order, "In the Matter of Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment and Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment," September 27, 2018 (WT Docket No. 17-79 and WC Docket No. 17-84), and Third Report and Order, "In the Matter of Implementation of Section 621(a)(1) of the Cable Communications Policy Act of 1984 as Amended by the Cable Television Consumer Protection and Competition Act of 1992," August 2, 2019 (MB Docket No. 05-311).

underserved with competitive and quality broadband options”; and (6) encouraging “fair competition and choice.

NLC applauds the CEDC for its observations about the important role that local franchises and rights of way management can play in the prevention and elimination of digital discrimination. We disagree with the notion that this local oversight inhibits broadband deployment or digital equity. To the contrary, local permitting, local franchising, and locally managed rights of way are a critical tool for communities to hold the broadband providers that do business there accountable for their treatment of those communities. Buildout requirements, infrastructure maintenance and resilience requirements, customer service requirements, and usage fees for public property help ensure equitable, reliable service for consumers and contribute to the upkeep of public resources for all users. By allowing and encouraging local governments to proactively manage the broadband services offered in their communities, we can prevent digital discrimination, rather than addressing it after harms have already occurred.

Community Broadband is a Missing Piece of the Puzzle

NLC also believes that a missing element from the CEDC report’s recommendations is discussion of the role of publicly owned infrastructure and community broadband networks. The various forms these networks take – whether as a publicly owned and operated utility, an open-access network operated by private providers, or some other combination of public and private infrastructure owners and operators – provide communities with an enormous amount of flexibility and free networks from the need to rapidly turn a profit on each investment. Those business needs appear to have driven many past instances of digital discrimination, and are often the reason a community pursues public broadband infrastructure in the first place. However, too many states still limit or prohibit communities from building, owning, or operating broadband infrastructure and services.⁵ If states truly want to end digital discrimination, they must be encouraged to eliminate these preemptive laws and allow communities the full range of tools available.

On behalf of the nation’s cities, towns and villages, we thank you for consideration of these comments, and we look forward to partnering with the Commission to further the digital equity work that is already being done by our nation’s local leaders. If you have any questions regarding these comments, please do not hesitate to contact Angelina Panettieri, Legislative Director, Information Technology and Communications at panettieri@nlc.org.

⁵ See Institute for Local Self-Reliance, “Preemption Detente: Municipal Broadband Networks Face Barriers in 19 States,” August 8, 2019 (updated May 25, 2021), available <https://communitynets.org/content/preemption-detente-municipal-broadband-networks-face-barriers-19-states>.