

IMPROVING RURAL CALL QUALITY AND RELIABILITY ACT
 OF 2016

NOVEMBER 14, 2016.—Committed to the Committee of the Whole House on the
 State of the Union and ordered to be printed

Mr. UPTON, from the Committee on Energy and Commerce,
 submitted the following

R E P O R T

[To accompany H.R. 2566]

[Including cost estimate of the Congressional Budget Office]

The Committee on Energy and Commerce, to whom was referred the bill (H.R. 2566) to amend the Communications Act of 1934 to ensure the integrity of voice communications and to prevent unjust or unreasonable discrimination among areas of the United States in the delivery of such communications, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Improving Rural Call Quality and Reliability Act of 2016”.

SEC. 2. ENSURING THE INTEGRITY OF VOICE COMMUNICATIONS.

Part II of title II of the Communications Act of 1934 (47 U.S.C. 251 et seq.) is amended by adding at the end the following:

“SEC. 262. ENSURING THE INTEGRITY OF VOICE COMMUNICATIONS.

“(a) **REGISTRATION AND COMPLIANCE BY INTERMEDIATE PROVIDERS.**—An intermediate provider that offers or holds itself out as offering the capability to transmit covered voice communications from one destination to another and that charges any rate to any other entity (including an affiliated entity) for the transmission shall—

“(1) register with the Commission; and

“(2) comply with the service quality standards for such transmission to be established by the Commission under subsection (c)(1)(B).

“(b) **REQUIRED USE OF REGISTERED INTERMEDIATE PROVIDERS.**—A covered provider may not use an intermediate provider to transmit covered voice communications unless such intermediate provider is registered under subsection (a)(1).

“(c) **COMMISSION RULES.**—

“(1) **IN GENERAL.**—

“(A) **REGISTRY.**—Not later than 180 days after the date of enactment of this section, the Commission shall promulgate rules to establish a registry to record registrations under subsection (a)(1).

“(B) **SERVICE QUALITY STANDARDS.**—Not later than 1 year after the date of enactment of this section, the Commission shall promulgate rules to establish service quality standards for the transmission of covered voice communications by intermediate providers.

“(2) **REQUIREMENTS.**—In promulgating the rules required by paragraph (1), the Commission shall—

“(A) ensure the integrity of the transmission of covered voice communications to all customers in the United States; and

“(B) prevent unjust or unreasonable discrimination among areas of the United States in the delivery of covered voice communications.

“(d) **PUBLIC AVAILABILITY OF REGISTRY.**—The Commission shall make the registry established under subsection (c)(1)(A) publicly available on the website of the Commission.

“(e) **SCOPE OF APPLICATION.**—The requirements of this section shall apply regardless of the format by which any communication or service is provided, the protocol or format by which the transmission of such communication or service is achieved, or the regulatory classification of such communication or service.

“(f) **RULE OF CONSTRUCTION.**—Nothing in this section shall be construed to affect the regulatory classification of any communication or service.

“(g) **EFFECT ON OTHER LAWS.**—Nothing in this section shall be construed to preempt or expand the authority of a State public utility commission or other relevant State agency to collect data, or investigate and enforce State law and regulations, regarding the completion of intrastate voice communications, regardless of the format by which any communication or service is provided, the protocol or format by which the transmission of such communication or service is achieved, or the regulatory classification of such communication or service.

“(h) **EXCEPTION.**—The requirement under subsection (a)(2) to comply with the service quality standards established under subsection (c)(1)(B) shall not apply to a covered provider that—

“(1) on or before the date that is 1 year after the date of enactment of this section, has certified as a Safe Harbor provider under section 64.2107(a) of title 47, Code of Federal Regulations, or any successor regulation; and

“(2) continues to meet the requirements under such section 64.2107(a).

“(i) **DEFINITIONS.**—In this section:

“(1) **COVERED PROVIDER.**—The term ‘covered provider’ has the meaning given the term in section 64.2101 of title 47, Code of Federal Regulations, or any successor thereto.

“(2) **COVERED VOICE COMMUNICATION.**—The term ‘covered voice communication’ means a voice communication (including any related signaling information) that is generated—

“(A) from the placement of a call from a connection using a North American Numbering Plan resource or a call placed to a connection using such a numbering resource; and

“(B) through any service provided by a covered provider.

“(3) INTERMEDIATE PROVIDER.—The term ‘intermediate provider’ means any entity that—

“(A) enters into a business arrangement with a covered provider or other intermediate provider for the specific purpose of carrying, routing, or transmitting voice traffic that is generated from the placement of a call placed—

“(i) from an end user connection using a North American Numbering Plan resource; or

“(ii) to an end user connection using such a numbering resource; and

“(B) does not itself, either directly or in conjunction with an affiliate, serve as a covered provider in the context of originating or terminating a given call.”.

PURPOSE AND SUMMARY

H.R. 2566 requires intermediate providers of covered voice communications to register with the Federal Communications Commission (FCC) and comply with service quality standards set by the Commission. In addition, the Act requires that covered providers may not use any intermediate provider that does not register and meet the service standards.

BACKGROUND AND NEED FOR LEGISLATION

The process of directing a call from its origin to its destination is called “routing.” When routing a call to a destination outside of an originating provider’s network, the provider uses third party intermediate carriers to route the call from the calling party to the called party. As part of this process, long-distance providers must pay a local carrier to access its exchange—known as “access charges”—a cost that can be high, particularly in rural and hard to reach endpoints.

In part because of the routing process, rural consumers experience call quality and call failure issues at a much higher rate than their urban counterparts. The problems seem to occur most commonly in areas of the country where long distance and wireless providers use “least cost routers,” or inexpensive third party intermediate providers, to complete calls while minimizing the cost of call termination charges. During the process of routing calls through these intermediate providers, calls are dropped, lost, or the quality is degraded, depriving rural consumers of reliable telephone service. Callers may experience silence or “dead air,” prolonged ringing with no answer, or prerecorded messages that a call cannot be completed. Callers and recipients may also experience poor quality, including bad sound, breaks in connection, and delays. Call failure can create problems for public safety, small businesses, school districts, and many other essential services seeking to place calls to rural consumers.

At the urging of rural telecommunications providers¹ and Congress,² the FCC has taken steps to mitigate call completion and quality issues for rural consumers. First, the Commission took steps to clarify its existing rules. In 2012, the Commission issued a declaratory ruling making it clear that carrier practices that result in call failure could be a violation of the Communications Act’s prohibition on unjust and unreasonable practices.³ Beyond rulemakings, the agency has also taken steps to promote industry-led solutions to the problem of rural call completion by hosting workshops to bring together stakeholders to discuss the problem and potential solutions.⁴

Finally, the FCC has taken steps to address rural call completion through new rules. In 2013, the agency adopted rules that required more detailed data collection regarding rural telephone companies’ ability to complete long distance calls.⁵ In addition, it adopted rules that gave carriers incentives to reduce reliance on least-cost routers and prohibited “phantom ringing.”⁶ In addition, as part of reforms to the intercarrier compensation regime, the FCC has made changes to its rules that eventually eliminate terminating access charges,⁷ which will remove economic incentives for bad call routing.

Despite these efforts by both legislators and regulators, the problem persists. A recent survey indicated that a majority of the telephone providers that responded had received consumer complaints in the past 12 months.⁸

As part of the Subcommittee on Communications and Technology’s ongoing efforts to address the rural call completion issue, it examined H.R. 2566, the Improving Rural Call Quality and Reliability Act of 2015. H.R. 2566, introduced by Rep. David Young (R-IA), Rep. Peter Welch (D-VT), and Rep. David Loebsack (D-IA), amends the Communications Act of 1934 by adding a new section to require intermediate providers who offer the capability of transmitting covered voice communications to register with the FCC. The bill also requires the Commission to establish service quality standards for intermediate providers to ensure the integrity of voice communication and prevent unjust or unreasonable discrimination among areas of the United States. Considering that the investigation into the rural call completion problem has not yet revealed a clear cause, the Commission should avoid placing unneces-

¹In the Matter of Rural Call Completion, Report and Order and Further Notice of Proposed Rulemaking, WC No. 13–39, October 28, 2013, see e.g. footnote 2, https://transition.fcc.gov/Daily_Releases/Daily_Business/2013/db1108/FCC-13-135A1.pdf. (“Rural Call Completion R&O”)

²H. Res. 234, *Expressing the Sense of the House of Representatives that telephone service must be improved in rural areas of the United States and that no entity may unreasonably discriminate against telephone users in those areas*, <http://lis.gov/cgi-lis/query/z?c114:H.RES.234>.

³In the Matter of Developing a Unified Intercarrier Compensation Regime et al, Declaratory Ruling, CC No. 01–92, WC No. 07–135, February 6, 2012, https://apps.fcc.gov/edocs_public/attachmatch/DA-12-154A1.pdf.

⁴Rural Call Completion Workshop, October 18, 2011, video available at: <https://www.fcc.gov/news-events/events/2011/10/rural-call-completion-workshop>.

⁵Rural Call Completion R&O

⁶Id.

⁷In the Matter of Connect America Fund et al, Report and Order and Further Notice of Proposed Rulemaking, WC No. 10–90, October 27, 2011, para. 34, https://apps.fcc.gov/edocs_public/attachmatch/FCC-11-161A1.pdf.

⁸In the Matter of Rural Call Completion, Ex Parte by NTCA—The Rural Broadband Association, June 2, 2016, <http://www.ntca.org/images/stories/Documents/Advocacy/ExParteLetters/05.31.16%20fcc%20ex%20parte-ntca%20meeting%20with%20fcc%20staff%20re%20rural%20call%20completion,%20wc%2013-39.pdf>.

sary burdens on carriers that are not the source of the problem. The Commission should craft service quality rules that are minimally burdensome on registered providers that route traffic consistent with industry best practices.

The bill also prohibits the use of any intermediate provider that is not registered with the Commission. H.R. 2566 provides some transparency in the provision of intermediate routing by requiring the Commission to establish a database of registered intermediate providers and to make it available on the Commission's website. In addition, the bill exempts carriers from these requirements who have certified under the Commission's existing Safe Harbor rules. To minimize the regulatory burdens on carriers that are not causing the rural call completion problem, the Commission should make efforts to ensure that carriers providing service in good faith in the marketplace be allowed to avail themselves of the Safe Harbor exemption, including by expanding the scope of the Safe Harbor if appropriate.

HEARINGS

On September 8, 2016, the Subcommittee on Communications and Technology held a hearing on H.R. 2566 and received testimony from:

- Eric LeBeau, General Manager, Dakin Farms; and
- Lance Miller, President, McClure Telephone Company.

COMMITTEE CONSIDERATION

On September 12 and 13, 2016, the Subcommittee on Communications and Technology met in open markup session and forwarded H.R. 2566, as amended, to the full Committee by a voice vote.

On September 20 and 21, 2016, the full Committee on Energy and Commerce met in open markup session and ordered H.R. 2566, as amended, reported to the House by a voice vote.

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the record votes on the motion to report legislation and amendments thereto. There were no recorded votes taken in connection with ordering H.R. 2566 reported.

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee held a hearing and made findings that are reflected in this report.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

The goal and objective of H.R. 2566 is to improve the reliability and quality of calls, particularly those made rural endpoints.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX
EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee finds that H.R. 2566 would result in no new or increased budget authority, entitlement authority, or tax expenditures or revenues.

EARMARK, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

In compliance with clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives, the Committee finds that H.R. 2566 contains no earmarks, limited tax benefits, or limited tariff benefits.

COMMITTEE COST ESTIMATE

The Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the following is the cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 12, 2016.

Hon. FRED UPTON,
*Chairman, Committee on Energy and Commerce,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2566, the Improving Rural Call Quality and Reliability Act of 2016.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Stephen Rabent.

Sincerely,

KEITH HALL.

Enclosure.

*H.R. 2566—Improving Rural Call Quality and Reliability Act of
2016*

The Federal Communications Commission (FCC) is an independent agency that regulates various aspects of wireline (telephone, for example), wireless, cable, and satellite communications. H.R. 2566 would require certain providers of voice communication services to register with the FCC. It also would require the FCC to issue rules establishing service quality standards for those providers.

Based on an analysis of information from the FCC about the effort needed to create those service standards, CBO estimates that implementing H.R. 2566 would cost \$3 million over the 2017–2021 period. However, under current law the FCC is authorized to col-

lect fees sufficient to offset the cost of its regulatory activities each year. Therefore, CBO estimates that the net cost to implement H.R. 2566 would be negligible, assuming annual appropriation actions consistent with the agency's authorities.

Enacting H.R. 2566 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

CBO estimates that enacting H.R. 2566 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2027.

H.R. 2566 contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would not affect the budgets of state, local, or tribal governments.

The bill contains private-sector mandates as defined in UMRA. Specifically, the bill would require all intermediate providers of voice communications services to register with the FCC and to comply with service quality standards established by the agency. (Intermediate providers contract with other telecommunication providers to transmit voice calls from one destination to another.) The bill also would require telecommunications providers that contract with intermediate providers to use only those providers that are registered with the FCC. Lastly, if the FCC increases annual fee collections to offset the costs of implementing its additional regulatory activities, the bill would increase the cost of an existing mandate on commercial entities required to pay those fees. On the basis of information about current industry and regulatory practices, CBO estimates that incremental cost to comply with the requirements of the bill would not be substantial. Further, any increase in fees would amount to no more than \$3 million over the 2017–2021 period. Therefore, CBO estimates that the aggregate cost of the mandates in the bill would probably fall below the annual threshold established in UMRA for private-sector mandates (\$154 million in 2016, adjusted annually for inflation).

On September 16, 2016 CBO transmitted a cost estimate for S. 827, the Improving Rural Call Quality and Reliability Act of 2016, as ordered reported by the Senate Committee on Commerce, Science, and Transportation on June 29, 2016. The two bills are similar and CBO's estimate of their budgetary effects is the same.

The CBO staff contacts for this estimate are Stephen Rabent (for federal costs) and Logan Smith (for private-sector mandates). The estimate was approved by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

DUPLICATION OF FEDERAL PROGRAMS

No provision of H.R. 2566 establishes or reauthorizes a program of the Federal Government known to be duplicative of another Federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section

21 of Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

DISCLOSURE OF DIRECTED RULE MAKINGS

H.R. 2566 directs one rule making within the meaning of 5 U.S.C. 551.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title

This section provides that the Act may be cited as the “Improving Rural Call Quality and Reliability Act of 2016”.

Section 2. Ensuring the integrity of voice communications

This section amends the Communications Act to require that all intermediate providers of covered voice communications register with the FCC and comply with the service standards set by the Commission. This section also prohibits covered providers from using any intermediate provider who is not in compliance with this Act. This section requires the FCC to promulgate rules to establish a registry within 180 days, and rules establishing minimum service standards within one year of enactment.

This section clarifies that this Act does not preempt, expand, or change the authority of State agencies or commissions. In addition, it clarifies that this Act does not affect the regulatory classification of any service.

This section creates an exception for providers who have been certified as Safe Harbor providers under the agency’s rules and continue to meet the requirements of the Safe Harbor exemption. This section also defines several terms used in this Act.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italic and existing law in which no change is proposed is shown in roman):

COMMUNICATIONS ACT OF 1934

* * * * *

TITLE II—COMMON CARRIERS

* * * * *

PART II—DEVELOPMENT OF COMPETITIVE MARKETS

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SEC. 262. ENSURING THE INTEGRITY OF VOICE COMMUNICATIONS.

(a) *REGISTRATION AND COMPLIANCE BY INTERMEDIATE PROVIDERS.*—An intermediate provider that offers or holds itself out as offering the capability to transmit covered voice communications from one destination to another and that charges any rate to any other entity (including an affiliated entity) for the transmission shall—

- (1) register with the Commission; and
- (2) comply with the service quality standards for such transmission to be established by the Commission under subsection (c)(1)(B).

(b) *REQUIRED USE OF REGISTERED INTERMEDIATE PROVIDERS.*—A covered provider may not use an intermediate provider to transmit covered voice communications unless such intermediate provider is registered under subsection (a)(1).

(c) *COMMISSION RULES.*—

(1) *IN GENERAL.*—

(A) *REGISTRY.*—Not later than 180 days after the date of enactment of this section, the Commission shall promulgate rules to establish a registry to record registrations under subsection (a)(1).

(B) *SERVICE QUALITY STANDARDS.*—Not later than 1 year after the date of enactment of this section, the Commission shall promulgate rules to establish service quality standards for the transmission of covered voice communications by intermediate providers.

(2) *REQUIREMENTS.*—In promulgating the rules required by paragraph (1), the Commission shall—

(A) ensure the integrity of the transmission of covered voice communications to all customers in the United States; and

(B) prevent unjust or unreasonable discrimination among areas of the United States in the delivery of covered voice communications.

(d) *PUBLIC AVAILABILITY OF REGISTRY.*—The Commission shall make the registry established under subsection (c)(1)(A) publicly available on the website of the Commission.

(e) *SCOPE OF APPLICATION.*—The requirements of this section shall apply regardless of the format by which any communication or service is provided, the protocol or format by which the transmission of such communication or service is achieved, or the regulatory classification of such communication or service.

(f) *RULE OF CONSTRUCTION.*—Nothing in this section shall be construed to affect the regulatory classification of any communication or service.

(g) *EFFECT ON OTHER LAWS.*—Nothing in this section shall be construed to preempt or expand the authority of a State public utility commission or other relevant State agency to collect data, or investigate and enforce State law and regulations, regarding the completion of intrastate voice communications, regardless of the format by which any communication or service is provided, the protocol or format by which the transmission of such communication or service is achieved, or the regulatory classification of such communication or service.

(h) *EXCEPTION.*—The requirement under subsection (a)(2) to comply with the service quality standards established under subsection (c)(1)(B) shall not apply to a covered provider that—

(1) on or before the date that is 1 year after the date of enactment of this section, has certified as a Safe Harbor provider under section 64.2107(a) of title 47, Code of Federal Regulations, or any successor regulation; and

(2) continues to meet the requirements under such section 64.2107(a).

(i) *DEFINITIONS.*—In this section:

(1) *COVERED PROVIDER.*—The term “covered provider” has the meaning given the term in section 64.2101 of title 47, Code of Federal Regulations, or any successor thereto.

(2) *COVERED VOICE COMMUNICATION.*—The term “covered voice communication” means a voice communication (including any related signaling information) that is generated—

(A) from the placement of a call from a connection using a North American Numbering Plan resource or a call placed to a connection using such a numbering resource; and

(B) through any service provided by a covered provider.

(3) *INTERMEDIATE PROVIDER.*—The term “intermediate provider” means any entity that—

(A) enters into a business arrangement with a covered provider or other intermediate provider for the specific purpose of carrying, routing, or transmitting voice traffic that is generated from the placement of a call placed—

(i) from an end user connection using a North American Numbering Plan resource; or

(ii) to an end user connection using such a numbering resource; and

(B) does not itself, either directly or in conjunction with an affiliate, serve as a covered provider in the context of originating or terminating a given call.

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