

# Broadband Gatekeepers

*How ISP Lobbying and Political Influence Shapes the Digital Divide*



## About Common Cause and Common Cause Education Fund

Common Cause is a nonpartisan, grassroots 501(c)(4) organization founded in 1970. Common Cause Education Fund is a 501(c)(3) sister organization founded in 2000. We work to create open, honest, and accountable government that serves the public interest; promote equal rights, opportunity, and representation for all; and empower all people to make their voices heard in the political process. We use research, public education, and innovative programs to increase public understanding of the democratic process and, where appropriate, the need for change; and empower citizens and promote their effective participation in all aspects of the democratic process at the local, state, and federal levels.

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## EXECUTIVE SUMMARY

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Broadband connectivity has never been more important to a functioning 21st-century democracy than it is now as the nation continues to face an unprecedented emergency caused by the COVID-19 pandemic. Broadband enhances civic engagement, participation in the democratic process, and a responsive government. It facilitates access to employment, education, health care, and a host of other essential services. Yet the private sector alone has failed to deliver universal broadband connectivity. The pandemic has painfully exposed many of the disparities in connectivity we face today, particularly for marginalized communities. For example, students are using parking lot Wi-Fi to do schoolwork,<sup>1</sup> and households are getting left behind in the vaccination sign-up process, which has moved primarily to online formats.<sup>2</sup>

To address the existing gaps in connectivity, congressional leaders and the Biden administration have introduced a broadband infrastructure proposal that seeks to bridge all aspects of the digital divide.<sup>3</sup> House Majority Whip James Clyburn (D-SC) and Senator Amy Klobuchar (D-MN) have introduced the Accessible, Affordable Internet for All Act (H.R. 1783/S. 745), Democrats' flagship broadband infrastructure bill in the 117th Congress.<sup>4</sup> This bill would create good jobs and help close the digital divide by investing a total of \$79.5 billion to build high-

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**In the 116th Congress alone, these corporations spent an astounding \$234 million on lobbying and federal elections[.]**

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speed broadband infrastructure in unserved and underserved communities and subsidize connectivity for underserved households and students. This bill would provide funding to deploy “future-proof” broadband infrastructure

to communities that lack it, enable affordable options to connect low-income households, and create digital equity programs to address the long-standing disparities in connectivity disproportionately impacting marginalized communities.<sup>5</sup> President Biden has incorporated provisions based on the Accessible, Affordable Internet for All Act into his American Jobs Plan, the administration's comprehensive infrastructure proposal.

Federal legislation like the Accessible, Affordable Internet for All Act would transform broadband availability throughout the nation, giving more households access to high-speed networks, meaningful choices for service, affordable options, and consumer safeguards. In the face of bold ideas, the largest internet service providers (ISPs) and their trade associations are engaged in lobbying efforts to derail the provisions they don't like in order to maintain their market power.<sup>6</sup>

Major broadband providers, both telecom and cable, have chosen not to build their networks to areas they deem less profitable and not to upgrade many existing customers left behind by outdated technology. These choices entrench the far too wide digital divide and mean Americans pay some of the highest prices for service.<sup>7</sup> At the same time, the largest ISPs have used their outsized influence in Congress to block any legislation that would undermine their

stranglehold over the broadband marketplace. In the 116th Congress alone, these corporations spent an astounding \$234 million on lobbying and federal elections, as detailed next. This report examines the political spending and lobbying of the largest ISPs and their trade associations and how these activities have shaped the digital divide. The report connects the dots on how ISPs and their trade associations use political spending and lobbying to block or derail legislation that would bridge the gaps in connectivity we face today. Specifically, the report provides a snapshot of ISP political spending and lobbying during the 116th Congress on broadband-related legislation. The report highlights the real-world impact of ISP political spending and lobbying on broadband access and affordability. Finally, the report makes recommendations on how to bridge the digital divide and rein in the oversized political influence of ISPs in Congress, including the following:

- Taking steps to close the digital divide and hold ISPs accountable:
  - » Pass the Accessible, Affordable Internet for All Act (H.R. 1783/S. 745), which would invest a total of \$79.5 billion to build high-speed broadband infrastructure in unserved and underserved communities, subsidize connectivity for under-served households and students, and support digital equity projects to address systemic disparities in broadband connectivity.
  - » Strengthen the Federal Communications Commission's (FCC) Lifeline program and digital inclusion initiatives to ensure that low-income and marginalized communities are not left behind in adopting broadband to participate in our democracy and economy. The plan must have a sustainable source of funding by reforming the Universal Service Fund to support low-income affordability and adoption and incorporate safeguards to ensure ISP accountability, consumer protection, and program eligibility.
  - » Restore net neutrality and the FCC's authority to oversee the broadband marketplace. A credible net neutrality framework must ensure the FCC is an empowered advocate for people that can hold ISPs accountable for discriminatory practices.
  
- Strengthening federal lobbying disclosure laws:
  - » Pass the For the People Act, which would expand the scope of reportable lobbying to include paid counseling services in support of lobbying contacts (e.g., strategy consulting), reduce the threshold percentage of time spent lobbying for a client that triggers disclosure from 20% to 10%, require lobbyists to disclose their status as lobbyists when contacting public officials, and create a single online portal for easy public access to all congressionally mandated reports, including lobbying disclosure reports.
  - » Amend federal law to require disclosure of specific bills lobbied on, congressional offices and committees contacted, and grassroots lobbying expenditures.
  - » Strengthening campaign finance laws by passing the For the People Act, which would fortify disclosure requirements, create shareholder disclosure provisions, expand public campaign financing, strengthen restrictions on coordination, and restructure the Federal Election Commission.
  - » Holding ISPs accountable through shareholder resolutions that require greater disclosure of corporate lobbying and political spending.

## INDUSTRY'S INFLUENCE ON CONGRESS HAS SHAPED THE DIGITAL DIVIDE

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High-speed broadband is essential infrastructure for the 21st century.<sup>8</sup> It provides access to news and information, education, employment, health care, civic participation, and a host of other services.<sup>9</sup> For more than a year, the COVID-19 pandemic has put a spotlight on the critical role broadband plays in our democracy and economy.<sup>10</sup> Now more than ever, households are relying on connectivity for nearly every aspect of daily life, such as teleworking, virtual learning, seeing a doctor through telemedicine services, and staying in touch with friends and family.<sup>11</sup>

But the pandemic has also exposed many of the long-standing disparities in connectivity where high-speed broadband remains unavailable for millions of households.<sup>12</sup> Data from the FCC shows 18 million people lack access to broadband,<sup>13</sup> while third-party studies indicate that this number is significantly higher.<sup>14</sup> Cost is consistently cited as the primary barrier to broadband adoption, particularly for low-income, people of color, and other marginalized communities.<sup>15</sup> Further, those who do have connectivity may not have acceptable speed tiers necessary to meet their needs or may experience outages, high latency, or other service disruptions that limit their access.<sup>16</sup> These existing gaps and disparities in connectivity illustrate how the digital divide is multi-layered<sup>17</sup> and where a variety of factors determine whether or not households have high-speed broadband access.

Millions of households remain on the wrong side of the digital divide today as a result of market failure. Large ISPs are responsible for connecting much of the nation, but their objective is to achieve monopoly markets with unchecked power.<sup>18</sup> Most Americans have no meaningful choice when it comes to high-speed broadband.<sup>19</sup> Without robust competition and public oversight, broadband providers have no incentive to upgrade their networks while increasing the prices they charge.<sup>20</sup> Further, large providers have failed to invest in unprofitable areas, leaving parts of rural America unconnected and redlining low-income neighborhoods in urban areas with substandard service.<sup>21</sup>

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Over the years, policymakers have introduced reforms not only to close the digital divide but also to hold providers accountable. However, the industry is on Capitol Hill spending hundreds of millions of dollars to fight against legislation that would fund the deployment of future-proof networks, promote competition,<sup>22</sup> mandate higher minimum speed thresholds,<sup>23</sup> and require pricing transparency.<sup>24</sup> Almost the entirety of their lobbying efforts is dedicated to fighting regulation to ensure that they can maintain their market power. Incumbent providers oppose

“overbuilding” with public dollars, even where there is no competitive option.<sup>25</sup> Where there is a competitive choice, the status quo when it comes to pricing transparency prevents consumers from comparison shopping and leaves them stuck with their current provider.<sup>26</sup>

As you read this report, it is important to keep in mind that the extent of the ISPs’ attempts to influence legislation and further entrench themselves goes far beyond hiring lobbyists. The major ISPs and their trade associations frequently conduct massive public relations campaigns<sup>27</sup> and commission studies,<sup>28</sup> testify on Capitol Hill,<sup>29</sup> publish opinion pieces,<sup>30</sup> engage with the FCC, and create the appearance of grassroots support by creating groups on Facebook, buying ads on Instagram, and/or creating shell organizations.<sup>31</sup> As a result, even the astonishing sums spent by ISPs and their trade organizations revealed by this report are an incomplete estimate of the total spending by industry to enact their preferred telecommunications policy and maintain their power.

## BACKGROUND ON LAWS REGARDING SPECIAL INTEREST MONEY IN POLITICS

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### Lobbying Disclosure Laws

Congress has recognized that “responsible representative Government requires public awareness of the efforts of paid lobbyists to influence the public decisionmaking process in both the legislative and executive branches of the Federal Government” and “effective public disclosure of the identity and extent of the efforts of paid lobbyists to influence Federal officials in the conduct of Government actions will increase public confidence in the integrity of Government.”<sup>32</sup>

To this end, Congress has passed laws requiring some disclosure of money spent on lobbying. But there are no limits on the amount of money wealthy special interests can spend to influence government decision-makers.

Federal law requires disclosure of money spent on certain “lobbying activities,”<sup>33</sup> which includes not only lobbying contacts but also “efforts in support of such contacts, including preparation and planning activities, research and other background work that is intended, at the time it is performed, for use in contacts, and coordination with the lobbying activities of others.” “Lobbying contact” is defined as “any oral or written communication (including an electronic communication)” to a covered legislative or executive branch official that is made on behalf of a client (i.e., any person or entity that pays another person to conduct lobbying activities) with regard to the “formulation, modification, or adoption of Federal legislation (including legislative proposals),” the “nomination or confirmation of a person for a position subject to confirmation by the Senate,” and executive branch rulemaking and other administrative actions beyond the scope of this report.<sup>34</sup>



However, federal law defines “lobbyist” only to require registration and reporting by an individual who makes two or more lobbying contacts and whose lobbying activities constitute at least 20% of their time engaged in services provided to a client over a three-month period.<sup>35</sup> As the American Bar Association Task Force on Federal Lobbying Laws (“ABA Task Force”) explained in its 2011 report, the 20% rule renders the lobbying disclosure laws “significantly under-inclusive.”

For example, a law firm might divide work between a partner who engages in lobbying contacts, but spends less than twenty percent of her time on lobbying activities, and an associate who spends a great deal of time on the subject, but does not personally engage in any direct contacts with covered officials. Similarly, the firm might engage in considerable lobbying contacts, but divide up the work so that none of the individual employees exceeds the twenty percent threshold.<sup>36</sup>

Additionally, some important tactics for influencing federal legislation are excepted from the legal definition of “lobbying contact,” including communication distributed through radio, television, cable television, or other media of mass communication, testimony given or submitted in a congressional hearing, and information provided in writing in response to a request by a legislative branch official for specific information.<sup>37</sup>

Registered lobbyists must file quarterly reports with the secretary of the Senate and the clerk of the House for each client the lobbyist represents that contain a list of the specific issues the registrant lobbied on, including, “to the maximum extent practicable,” a list of bill numbers.<sup>38</sup> In the case of a lobbying firm, the quarterly report must contain a “good faith estimate of the total amount of all income from the client” during the quarterly period related to lobbying activities.<sup>39</sup> In the case of an in-house lobbyist, the quarterly report must contain a “good faith estimate of the total expenses that the registrant and its employees incurred in connection with lobbying activities during the quarterly period.”<sup>40</sup> These estimates of funds spent on lobbying are rounded to the nearest \$10,000.<sup>41</sup>

Lobbyists are not required to itemize in any way the amount of funds spent lobbying on different issues or legislation, nor are they required to report the amount of funds spent lobbying Congress versus executive branch officials. This lack of detail in lobbying disclosure reports makes it impossible to document precisely how much a specific corporation or trade association spends lobbying Congress on a specific bill or issue.

In addition to quarterly reports on lobbying expenditures, lobbyists must also file semiannual reports with the secretary of the Senate and the clerk of the House of Representatives that disclose information about certain contributions by the lobbyist or a political action committee (PAC) the lobbyist controls, including the following:

- the name of each federal candidate or officeholder, leadership PAC, or political party committee to whom aggregate contributions of \$200 or greater were made by the lobbyist or lobbyist’s PAC within the semiannual period and the date and amount of each such contribution and

- the date, recipient, and amount of funds contributed or disbursed during the semiannual period by the lobbyist or lobbyist’s PAC
  - » to pay the cost of an event to honor or recognize a covered official,
  - » to an entity that is named for a covered legislative branch official or to a person or entity in recognition of such official,
  - » to an entity established or controlled by a covered official or an entity designated by such official, or
  - » to pay the costs of a meeting, retreat, conference, or other similar event held by, or in the name of, one or more covered officials.<sup>42</sup>

At best, lobbying disclosure reports paint a rough picture of the source and amounts of money spent to influence policymaking. The reported amounts are “good faith estimates.” The specific bills lobbied on are disclosed only to the “maximum extent practicable.” The reported

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dollars spent are not linked to contacts with legislative versus executive branch officials—the reported lobbying expenditures reflect legislative and executive branch lobbying combined. Lobbyists don’t disclose

which members of Congress and congressional staff they lobby. And the required political contribution disclosure relates only to committees controlled by members and party committees—not super PACs and dark money groups closely associated with and spending unlimited money to reelect the members.

On top of the fact that the lobbyist disclosure requirements are incomplete, a 2020 Government Accountability Office (GAO) report makes clear that compliance with the meager requirements is low and enforcement actions for noncompliance are even lower.<sup>43</sup> For example, 45% of semiannual reports audited by the GAO were missing reportable contributions.<sup>44</sup> Yet the U.S. Attorney’s Office for the District of Columbia reported to the GAO that it has only one part-time civil attorney assigned to lobbying disclosure enforcement<sup>45</sup> and that no suits had been initiated or cases settled since the GAO’s 2018 lobbying report.<sup>46</sup>

For these reasons, the staggering influence wielded by ISPs and their trade associations over members of Congress through lobbying and election spending that’s detailed in this report is likely an underestimate of their true power.

## Campaign Finance Laws

Although the laws shining a light on ISP lobbying activities are weak, the laws regulating their campaign finance activities are even weaker.

For more than a century, federal campaign finance law prohibited corporate political contributions in connection with federal elections.<sup>47</sup> In 1947, federal law was amended to likewise

prohibit corporate political expenditures in federal elections.<sup>48</sup> But everything changed in 2010, when a bare 5–4 conservative majority of the U.S. Supreme Court in *Citizens United v. Federal Election Commission*<sup>49</sup> declared unconstitutional the federal law prohibition on corporate political expenditures, resulting in the rise of “dark money” groups and laying the legal foundation for so-called super PACs (i.e., political committees not subject to any limits or restrictions on funds they receive).

Under *Citizens United* and its progeny, ISPs, trade associations, and other corporations can make unlimited expenditures in federal elections and unlimited contributions to super PACs and dark money groups to be spent on supporting or opposing federal candidates.

In addition to making unlimited political expenditures and contributions to outside groups, ISPs and trade associations can set up corporate PACs.<sup>50</sup> Employees and shareholders of an ISP can contribute up to \$5,000 per year to the corporate PAC.<sup>51</sup> Corporate PACs can contribute up to \$5,000 per election directly to a member of Congress’ campaign committee,<sup>52</sup> up to \$15,000 per year to a political party committee’s election account,<sup>53</sup> and up to \$45,000 per year to each of multiple party committee accounts for party conventions, recounts and legal expenses, and party headquarters buildings<sup>54</sup>

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Finally, ISP shareholders, executives, and other employees are free to contribute \$2,900 per candidate per election directly to congressional campaign committees, \$36,500 per year to a political party committee’s election account, and up to \$109,500 per year to each of multiple party committee accounts for party conventions, recounts and legal expenses, and party headquarters buildings.<sup>55</sup>

In short, ISPs, together with their shareholders, executives, other employees, and trade associations can spend unlimited amounts supporting members of Congress—and contribute huge (albeit limited) sums directly to members of Congress. Some of this campaign finance activity is transparent to the public, and some of it is not. All of it buys access and influence and favor—or at least its appearance—with the members supported by the ISPs. Threatening the financial support of an opponent can have just as much influence, without the ISP even needing to write a check. In the following section, we detail as much of this campaign finance activity that is knowable from public disclosure reports.

## INTERNET SERVICE PROVIDER MONEY IN POLITICS DURING THE 116TH CONGRESS (2019–2020)

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ISPs and their trade associations spend big money in politics—their customers’ money, our money—to pass legislation they like and block legislation they don’t like, all to grow their present and future profits regardless of the impact on everyday Americans who rely on broadband access for work, school, medical care, shopping to meet essential needs, entertainment, and countless other purposes. Americans have little choice in ISPs and little hope of competing with

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the deep pockets of ISPs when it comes to influencing members of Congress—unless we educate ourselves and join together in grassroots action.

As explained in the preceding section, lobbying disclosure and campaign finance laws fail to provide the level of transparency necessary to identify precisely how much ISPs spent to influence specific bills and members of Congress during the 116th Congress (2019–2020).

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These corporations spent more than \$234 million on lobbying and federal elections during the 116th Congress—an average of more than \$320,000 a day, seven days a week!

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But public records do tell us how much ISPs spent lobbying and what issues and bills they lobbied on. Public records also reveal much of the money ISPs spent to influence the 2020 federal elections.

In this section, we present lobbying and campaign finance data compiled by [OpenSecrets.org](https://www.opensecrets.org) for the 15 biggest, most influential ISPs and related trade associations. The dollar amounts are shocking. In total, these corporations spent **more than \$234 million** on lobbying and federal elections during the 116th Congress—an average of more than \$320,000 a day, seven days a week! Comcast was the biggest spender at more than \$43 million. AT&T was a close second at \$36 million. Trade associations that most people have never heard of are also big spenders on Capitol Hill. A trade association named “NCTA—The Internet & Television Association”—whose board of directors includes representatives from the nation’s largest cable and media companies—spent more than \$31 million during the 116th Congress. And CTIA, a trade association for the wireless communications industry, spent more than \$25 million during the 116th Congress.

	<b>Lobbying Expenditures 2019</b>	<b>Lobbying Expenditures 2020</b>	<b>Political Contributions and Expenditures 2020 Cycle</b>	<b>Total</b>
<b>Comcast</b>	\$13,360,000 <sup>56</sup>	\$14,280,000 <sup>57</sup>	\$15,369,401 <sup>58</sup>	\$43,009,401
<b>AT&amp;T</b>	\$11,590,000 <sup>59</sup>	\$11,370,000 <sup>60</sup>	\$13,396,989 <sup>61</sup>	\$36,356,989
<b>NCTA</b>	\$14,220,000 <sup>62</sup>	\$15,460,000 <sup>63</sup>	\$1,775,456 <sup>64</sup>	\$31,455,456
<b>CTIA</b>	\$12,448,477 <sup>65</sup>	\$12,431,000 <sup>66</sup>	\$437,444 <sup>67</sup>	\$25,316,921
<b>Verizon</b>	\$10,043,000 <sup>68</sup>	\$9,614,000 <sup>69</sup>	\$5,165,441 <sup>70</sup>	\$24,822,441
<b>Charter Communications</b>	\$9,880,000 <sup>71</sup>	\$11,010,000 <sup>72</sup>	\$3,558,252 <sup>73</sup>	\$24,448,252
<b>T-Mobile USA/ Deutsche Telekom</b>	\$8,916,000 <sup>74</sup>	\$9,940,000 <sup>75</sup>	\$2,672,856 <sup>76</sup>	\$21,528,856
<b>CenturyLink/ Lumen</b>	\$3,700,000 <sup>77</sup>	\$2,430,000 <sup>78</sup>	\$1,118,550 <sup>79</sup>	\$7,248,550
<b>SpaceX/Starlink</b>	\$2,380,000 <sup>80</sup>	\$2,220,000 <sup>81</sup>	\$1,259,935 <sup>82</sup>	\$5,859,935
<b>Sprint (prior to its merger with T-Mobile)</b>	\$3,490,000 <sup>83</sup>	\$1,480,000 <sup>84</sup>	\$114,635 <sup>85</sup>	\$5,084,635
<b>USTelecom Association</b>	\$2,170,000 <sup>86</sup>	\$2,420,000 <sup>87</sup>	\$170,578 <sup>88</sup>	\$4,760,578
<b>ViaSat</b>	\$1,010,000 <sup>89</sup>	\$700,000 <sup>90</sup>	\$211,618 <sup>91</sup>	\$1,921,618
<b>Wireless Infrastructure Association</b>	\$830,000 <sup>92</sup>	\$730,000 <sup>93</sup>	\$22,620 <sup>94</sup>	\$1,582,620
<b>Frontier Communications</b>	\$268,944 <sup>95</sup>	\$268,944 <sup>96</sup>	\$246,206 <sup>97</sup>	\$784,094
<b>HughesNet/ Echostar</b>	\$90,000 <sup>98</sup>	\$280,000 <sup>99</sup>	\$126,000 <sup>100</sup>	\$496,000
<b>Total</b>	\$94,396,421	\$94,633,944	\$45,648,001	\$234,676,346

Source: [OpenSecrets.org](https://www.opensecrets.org)

## A CLOSER LOOK AT SPECIFIC BROADBAND LEGISLATION

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In this section, we analyze ISP lobbying expenditures to influence specific broadband-related legislation introduced in the 116th Congress. Each of the bills examined in this section seeks to address one or more of the existing disparities in broadband connectivity we face today.

Although federal law requires lobbying disclosure reports to include a list of specific bill numbers “to the maximum extent practicable,”<sup>101</sup> many of the disclosure reports examined in this study listed no specific bills and instead simply described the lobbying in general terms. For this reason, it’s likely that several of the ISPs and trade associations we studied did in fact lobby on bills examined in this section but failed to report the lobbying with specificity. In addition to the industry’s massive spending to influence telecom policy, this report illustrates the inadequacy of lobbying disclosure required by federal law.

Frontier Communications, for example, failed to report its lobbying on specific bills but did report paying lobbyists \$537,888 during the 116th Congress to lobby on topics that included “rural broadband deployment and adoption” and “broadband mapping issues.” Similarly, HughesNet didn’t report lobbying on any specific legislation but paid lobbyists \$370,000 to lobby on “broadband infrastructure” and “issues related to satellite broadband legislation.” SpaceX reported lobbying on “satellite broadband policy and matters related to satellite spectrum” in every reporting period but didn’t disclose lobbying on any specific broadband bills. Sprint Corporation didn’t report lobbying on any specific broadband bills but did report lobbying on “Broadband Facility Siting” in all five quarters examined. And the Wireless Infrastructure Association didn’t report lobbying on any of the specific bills examined in this section but did lobby on “wireless broadband deployment” in every quarter of the 116th Congress.

Other ISPs reported lobbying on some specific broadband legislation but also used broad categories to describe some of their lobbying. Comcast, for example, did not report lobbying on the Broadband DATA Act, a broadband mapping bill but reported lobbying on “*rural broadband deployment and mapping*.”<sup>102</sup> Similarly, Comcast didn’t report lobbying on the RESILIENT Networks Act but did report lobbying on “network resiliency.”<sup>103</sup>

Furthermore, because federal law does not require reporting of the amount of money spent lobbying on specific legislation—instead only requiring reporting of the total dollar amount spent in a quarter and the bills or issues lobbied on that quarter—it’s impossible to state with precision how much a specific interest group has spent lobbying on a specific bill.

Nevertheless, the lobbying disclosure data provides insights into the legislative priorities of our nation’s largest ISPs and their trade associations—at least to the extent they bothered to comply with the requirement that they report specific bills they lobbied on. In this section, we examine five of the most important broadband access bills in the 116th Congress and some of the ISPs and trade associations that prioritized these bills in their lobbying.

## Save the Internet Act (H.R. 1644/S. 682)

When the FCC adopted strong net neutrality rules in 2015, it created a framework to oversee ISPs by classifying broadband as a telecommunications service under Title II of the Communications Act of 1934.<sup>104</sup> This provided the FCC with the tools to ensure that consumers are protected in regard to broadband and universal service advances.<sup>105</sup> When the FCC repealed net neutrality in 2017, it also removed Title II classification and completely abdicated its authority over broadband.<sup>106</sup> One of the most notable examples of the consequences of this is Verizon's throttling of the Santa Clara County Fire Department's broadband access during a natural disaster.<sup>107</sup> With no FCC oversight, the fire department had nowhere to turn for legal recourse and was forced to pay a higher price for Verizon to stop throttling.<sup>108</sup> Without Title II authority, consumers everywhere are vulnerable and at the mercy of their ISP.

The Save the Internet Act codifies the three net neutrality bright line rules—no blocking, no throttling, and no paid prioritization—and empowers the FCC to prohibit unjust, unreasonable, and discriminatory practices.<sup>109</sup> It also ensures consumers can make informed decisions when shopping for internet plans and restores the FCC's authority to fund broadband access and deployment.<sup>110</sup>

ISPs have opposed net neutrality and Title II authority at every opportunity. For example, they sued the FCC in 2010 after the agency adopted open internet rules.<sup>111</sup> Then, they sued the FCC again after the passage of the 2015 Open Internet Order.<sup>112</sup> When the Trump FCC repealed net neutrality and deregulated broadband in 2017, they praised the Commission for “restor[ing] the careful balance needed between ensuring internet freedom while continuing to attract private investment in broadband facilities.”<sup>113</sup> When the House voted to pass the Save the Internet Act, ISPs condemned lawmakers for advancing “a highly controversial, partisan proposal that puts the internet under heavy-handed government control.”<sup>114</sup>

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Polling showed 77% of Republicans and 87% of Democrats support net neutrality principles.

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Given this historic opposition to net neutrality and Title II authority, it is no surprise why the Save the Internet Act did not even receive a vote in the Senate, despite bipartisan passage in the House and polling that showed 77% of Republicans and 87% of Democrats support net neutrality principles.<sup>115</sup> Further, ISP trade associations released statements opposing the bill after it passed the House.<sup>116</sup>

ISPs' strong opposition to net neutrality is demonstrated by the prioritization of lobbying on the Save the Internet Act. Eight of the 15 interest groups we studied reported lobbying on this bill. AT&T, Comcast, NCTA, and the United States Telecom (USTelecom) Association each reported lobbying on the Save the Internet Act in all eight quarters of the 116th Congress. AT&T paid lobbyists more than \$22 million,<sup>117</sup> Comcast more than \$27 million,<sup>118</sup> NCTA more than \$29 million,<sup>119</sup> and USTelecom Association more than \$4 million<sup>120</sup> during the reporting periods in which they lobbied on the Save the Internet Act.

## Accessible, Affordable Internet for All Act (H.R. 7302/S. 4131)

Over 13.6 million urban households do not have an internet connection while 4.6 million rural households lack access to broadband.<sup>121</sup> It is critical to recognize the digital divide in America's cities and the long-standing disparities in broadband connectivity that disproportionately impact marginalized communities. A recent study by the Pew Research Center found that only 71% of Black households and 65% of Latino households have home broadband compared to 80% of white households.<sup>122</sup> The study also found that cost was the number one reason for not having a broadband subscription at home.<sup>123</sup> This is consistent with previous research that showed affordability of service as the primary reason why households do not subscribe to broadband.<sup>124</sup> This data illustrates why addressing affordability is critical to closing the digital divide.

The Accessible, Affordable Internet for All Act invests \$79.5 billion to build future-proof high-speed broadband infrastructure in unserved and underserved communities.<sup>125</sup> In addition, the Accessible, Affordable Internet for All Act takes steps to ensure affordability by directing the FCC to collect pricing data, promote municipal broadband, and provide funding for digital equity.<sup>126</sup> The bill also includes strong labor protections to promote good jobs and workers' rights.<sup>127</sup>

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The Accessible, Affordable Internet for All Act seeks to address the digital divide, and ISPs want to define both the divide and its solutions to their benefit. Industry lobbyists have persistently disseminated talking points at the federal

and state levels advocating for lower speed requirements and “technology neutrality,” both of which aim to limit the preference given to fiber-optic broadband in publicly funded deployment, despite the clear superiority of that technology.<sup>128</sup> ISPs have also been incredibly effective over the years, lobbying at the state level to prohibit municipal broadband<sup>129</sup> and cooperatives from serving communities that have been abandoned by existing providers. Further, the industry has resisted calls for price transparency, another aim of the Accessible, Affordable Internet for All Act.<sup>130</sup> After fighting government involvement in broadband for years, it is no surprise that the major ISPs and their trade associations opposed the Accessible, Affordable Internet for All Act, and in part owing to the successful efforts of ISP lobbyists, the Accessible, Affordable Internet for All Act did not even receive a vote in the House or Senate during the 116th Congress.<sup>131</sup>

Six of the 15 ISPs and trade associations we studied reported lobbying on the Accessible, Affordable Internet for All Act. During the reporting periods in which they lobbied on the Accessible, Affordable Internet for All Act, AT&T paid lobbyists nearly \$6 million,<sup>132</sup> Charter Communications paid lobbyists more than \$8 million,<sup>133</sup> NCTA paid lobbyists nearly \$12 million,<sup>134</sup>



T-Mobile USA paid lobbyists more than \$5 million,<sup>135</sup> USTelecom Association paid lobbyists \$1.3 million,<sup>136</sup> and Verizon Communications Inc. paid lobbyists nearly \$5 million.<sup>137</sup>

## **RESILIENT Networks Act (H.R. 5926)**

In August of 2020, Hurricane Laura struck the Gulf Coast, leaving hundreds of thousands of people without telephone or internet services.<sup>138</sup> This incident was not an anomaly, as natural disasters like hurricanes and wildfires frequently cause major telecommunications outages.<sup>139</sup> Network resiliency has become increasingly important as our country has become more dependent on broadband.<sup>140</sup>

The RESILIENT Networks Act amends the Communications Act of 1934 to require coordination from providers of communications services during times of emergency and empowers the FCC to adopt rules to assist with this coordination and requires the FCC to improve how networks share outage information with first responders.<sup>141</sup>

CTIA was on record opposing provisions of the bill related to information sharing, disclosure of network status, and under what circumstances the provisions of the bill would go into effect—all at the heart of the legislation.<sup>142</sup> Although many of the ISPs did not oppose the bill outright, opposition to core provisions of the legislation certainly impacted its chances of passage.

Despite the pressing need to safeguard our communications systems in times of emergency, the RESILIENT Networks Act did not even make it out of the House Committee on Energy and Commerce.<sup>143</sup>

Seven of the 15 ISPs and trade associations we studied reported lobbying on the RESILIENT Networks Act. During the reporting periods in which they lobbied on the RESILIENT Networks Act, AT&T<sup>144</sup> and Charter Communications<sup>145</sup> each paid lobbyists more than \$11 million, CenturyLink paid lobbyists \$570,000,<sup>146</sup> CTIA paid lobbyists \$3 million,<sup>147</sup> NCTA paid lobbyists more than \$15 million,<sup>148</sup> and USTelecom Association<sup>149</sup> and Verizon Communications each paid lobbyists \$2.4 million.<sup>150</sup>

## **Continuing Online Networking, Negating Economic Conditions on Technology (CONNECT) at Home Act (S. 3695)**

The COVID-19 pandemic showed the many ways broadband is essential to everyday life, from receiving health care services to attending school and working.<sup>151</sup> Although the FCC urged providers to sign a voluntary pledge to halt

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service suspensions, hundreds of customers have complained to the FCC that their service was cut off, likely representing thousands of others who did not know they could complain to

the federal government.<sup>152</sup> This means thousands of Americans were likely forced to choose between money for essentials like groceries and having their internet access restored.<sup>153</sup> Meanwhile, broadband providers are increasing prices and growing their profits to record levels.<sup>154</sup>

The CONNECT at Home Act prohibits an ISP from terminating service to a customer during the COVID-19 pandemic and up to 180 days after the pandemic is declared to be over.<sup>155</sup> Providers who terminate service during the pandemic are required to pay a forfeiture penalty and the proceeds of any such penalties collected shall be used to provide assistance to low-income individuals who lack access to affordable broadband service because of COVID-19.<sup>156</sup>

Although major carriers like AT&T, Verizon, and Comcast committed to FCC's Keep America Connected Pledge and promised not to terminate their customers' service, their actions proved to be merely lip service as their lobbyists worked to kill this legislation. It is often said that silence speaks louder than words, and that is certainly the case here. While advocacy groups praised Senator Jeff Merkley for introducing the bill and urged passage of the legislation, the ISPs left their lobbyists and money to do the talking.<sup>157</sup> Even as consumers all over the country had their broadband service suspended, the CONNECT at Home Act could not even receive a vote in the Senate Commerce, Science, and Transportation Committee.<sup>158</sup>

AT&T paid lobbyists nearly \$6 million during the reporting periods in which it lobbied on the CONNECT at Home Act.<sup>159</sup> Lobbying on this legislation was also a priority for Charter Communications, which paid lobbyists \$8 million,<sup>160</sup> and NCTA,<sup>161</sup> which paid lobbyists nearly \$12 million, during the reporting periods in which they lobbied on the CONNECT at Home Act.

## **Broadband DATA Act (S. 1822)**

Accurate broadband maps are critical to understanding broadband availability and the full extent of the digital divide. Current maps are reliant on industry-reported data that overstates broadband availability, leaving many unserved and underserved communities in the dust.<sup>162</sup> Take Lincoln County, Washington, for example. The FCC lists the county of roughly 10,000 people as having 100% broadband availability, while Microsoft data shows only 5% of households connecting at broadband speeds.<sup>163</sup>

The Broadband DATA Act requires the FCC to collect granular service availability data from wired, fixed wireless, and satellite providers and permits the FCC to consider whether to collect verified data from state, local, and tribal governments.<sup>164</sup> In addition, the Broadband DATA Act establishes a crowdsourcing process that allows the public to participate in data collection and strengthens enforcement against providers that willingly and knowingly or recklessly submit materially inaccurate broadband data.<sup>165</sup>

Unlike the other pieces of legislation in this section, the Broadband DATA Act passed the House, passed the Senate, and was signed into law by the president.<sup>166</sup> In this case, industry interests align, to some degree, with the public interest. Seeking to avoid the serious flaws in how recent FCC funds were awarded under the first round of the Rural Digital Opportunity Fund, AT&T Executive Vice President of Federal Regulatory Relations Joan Marsh said, "Accurate maps will more precisely target areas where gaps in broadband remain and are an imperative before the

Commission can launch the second phase of the Rural Digital Opportunity Fund auction.<sup>167</sup>

Despite the industry's support for more accurate broadband maps, large ISPs played a significant role in influencing this legislation to focus strictly on collecting more granular deployment data while ignoring other metrics critical to assessing broadband availability and painting an accurate picture of the digital divide. First, the Broadband DATA Act closely modeled USTelecom's broadband mapping deployment-focused proposal<sup>168</sup> and received praise from the trade association after passing the Senate.<sup>169</sup> Further, despite advocacy from public interest groups, the Broadband DATA Act lacks any requirements for ISPs to report on key metrics, including actual speeds, latency, and pricing data.<sup>170</sup> Indeed, large ISPs have opposed mapping

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efforts that seek to include nondeployment-related data. For example, the industry openly criticized<sup>171</sup> the Biden administration's recently released interactive broadband map, which includes publicly available data on speeds, pricing, and other metrics.<sup>172</sup> While the Broadband DATA Act will get us much closer to granular deployment data, ISP lobbying was successful in limiting Congress' ability to require more data collection across other broadband-related metrics.

Lobbying on the Broadband DATA Act was a high priority for ISPs and trade associations. Eight of the 15 we studied reported lobbying on the legislation. During the reporting periods in which they lobbied on the Broadband DATA Act, AT&T paid lobbyists \$11.7 million,<sup>173</sup> CenturyLink paid lobbyists \$2.4 million,<sup>174</sup> Charter Communications paid lobbyists \$7.5 million,<sup>175</sup> CTIA paid lobbyists more than \$9 million,<sup>176</sup> NCTA paid lobbyists \$26.4 million,<sup>177</sup> T-Mobile USA paid lobbyists \$4.6 million,<sup>178</sup> USTelecom Association paid lobbyists \$3.6 million,<sup>179</sup> and Verizon Communications Inc. paid lobbyists \$12.4 million.<sup>180</sup>

## RECOMMENDATIONS AND CONCLUSION

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Broadband connectivity is vitally important to a functioning 21st-century democracy. But the private sector has failed to deliver universal broadband deployment, with the 15 ISPs and trade associations studied in this report spending more than \$100 million every year on lobbying and elections, prioritizing profits over people. As a result, millions of households, particularly in marginalized communities, lack access to affordable, high-speed broadband and continue to face significant barriers to getting online.

We can and must do better. For 50 years, Common Cause has worked on systemic reforms to build a better democracy. The digital divide makes clear that Common Cause's core programmatic work is needed now more than ever, both to pass legislation that increases access to affordable high-speed broadband and to reform our lobbying and campaign finance laws that allow ISPs and their trade associations to wield such disproportionate political power.

## Broadband Reforms

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Political spending by AT&T, Comcast, Verizon, and other major ISPs has profoundly shaped the contours of the digital divide. But the fight is not over. There are a number of steps our elected officials can take to give power back to the people and begin to close the digital divide.

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Political spending by AT&T, Comcast, Verizon, and other major ISPs has profoundly shaped the contours of the digital divide. But the fight is not over. There are a number of steps our elected officials can take to give power back to the people and begin to close the digital divide.

Congress should pass the Accessible, Affordable Internet for All Act, which takes significant steps to address all aspects of the digital divide, including broadband access, affordability, and digital equity.<sup>181</sup> Passing this landmark legislation will enable millions of households to participate in our democracy and economy, thus leveling the playing field and helping to connect households ISPs have ignored or underinvested in for years.

Congress should also support the FCC to strengthen Lifeline and digital inclusion initiatives to ensure that all communities, particularly those who are underserved, have access to affordable, reliable, high-quality communications services. In 2020, Congress passed the Emergency Broadband Benefit program, which the FCC rolled out in March of this year.<sup>182</sup> The program provides a \$50 monthly discount for eligible low-income households (\$75 for those on Tribal lands) to purchase a broadband connection.<sup>183</sup> The program is an important emergency response by Congress that made clear that affordable connectivity is a top priority. However, the program is only temporary and will end once the funding is depleted.<sup>184</sup> The temporary nature of the program makes it even more urgent for the FCC to reform the Universal Service Fund to ensure a sustainable source of funding to support low-income affordability and adoption and incorporate safeguards to ensure ISP accountability, consumer protection, and program eligibility. While Universal Service Fund reform is critical, supplementary support through the Emergency Broadband Benefit and other funding mechanisms dedicated to low-income affordability are important to enact in the interim. Congress should also support permanent funding for digital inclusion activities, such as digital literacy trainings and access to connected devices that help households successfully adopt broadband.<sup>185</sup> A sustainable Lifeline subsidy and a digital inclusion plan will ensure that no one is left behind in the use of connectivity to participate in our democracy and economy.

Lawmakers and regulators must also take steps to restore net neutrality and the FCC’s authority over broadband. The repeal of net neutrality and the abdication of the FCC’s authority over broadband during the Trump administration paved the way for large ISPs to engage in discriminatory practices that prioritize their profits over the public interest.<sup>186</sup> In the last four years, we have seen broadband prices increase,<sup>187</sup> a lack of transparent billing practices,<sup>188</sup> and reports of mobile carriers selling their customers’ real-time location data.<sup>189</sup> A credible net neutrality framework must ensure that the FCC is an empowered advocate for people that can hold ISPs accountable for discriminatory practices.

## Lobbying Disclosure Reforms

Federal lobbying disclosure laws provide valuable information to the public but leave considerable room for improvement. As the ABA Task Force wrote in its 2011 report, “[t]his information is very basic and conveys only a barebones outline of lobbying activities undertaken.”<sup>190</sup>

The For the People Act, which passed the U.S. House of Representatives in March 2021 and is presently before the Senate, contains important lobbying reforms that should be adopted, including expansion of the scope of reportable lobbying to include paid counseling services in support of lobbying contacts (e.g., strategy consulting) and a reduction in the threshold percentage of time spent lobbying for a client that triggers disclosure from 20% to 10%.<sup>191</sup> The For the People Act would also amend disclosure laws to require lobbyists to disclose their status as lobbyists when they make lobbying contacts with legislative or executive branch officials.<sup>192</sup> Lastly, with respect to lobbying disclosure, the For the People Act would create a single online portal for easy public access to all congressionally mandated reports, including lobbying disclosure reports.<sup>193</sup>

Further, Congress should amend the Lobbying Disclosure Act to more explicitly require quarterly lobbying reports to disclose specific bills lobbied on. Current law requires such disclosure “to the maximum extent practicable,”<sup>194</sup> but many of the disclosure reports examined in this study listed no specific bills; instead, they simply described the lobbying in general terms, such as “broadband mapping issues” and “broadband infrastructure.” Such nonspecific disclosure makes it impossible for the public to track lobbying expenditures on specific legislation. The fix is simple. Congress should strike the phrase “to the maximum extent practicable” from the statute.

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The Lobbying Disclosure Act should also be amended to require lobbyists to disclose the specific congressional offices and congressional committees contacted. Under current law, a lobbyist need only disclose which chamber of Congress they contacted—meaning there is no way to determine which members of Congress (and their staff) were lobbied on a bill. As the ABA Task Force noted in recommending this reform, “[m]ore extensive disclosure as

proposed would directly serve the social interest in tracing the impact of lobbying on public decisionmaking.”<sup>195</sup>

Finally, like the ABA Task Force, Common Cause recommends that federal law be amended to require lobbyists and their clients who otherwise meet lobbying registration and reporting thresholds to disclose grassroots lobbying expenditures (e.g., expenditures for the production and dissemination of public communications urging the public to contact members of Congress about legislation).<sup>196</sup>

## Campaign Finance Reforms

The For the People Act packages together the most important campaign finance reform proposals from the past two decades, including strengthened disclosure requirements for elec-

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tion spending by outside groups such as trade associations,<sup>197</sup> shareholder disclosure provisions for corporate political spending,<sup>198</sup> public campaign financing for federal elections,<sup>199</sup> strengthening restrictions on coordination between

candidates and outside groups,<sup>200</sup> and restructuring and strengthening the Federal Election Commission.<sup>201</sup>

These campaign finance reforms would shine more light on ISP and other special interest money in politics, limit the corrupting influence of big corporate money in politics, and enable everyday Americans who are not wealthy or connected to wealthy special interest groups to run competitive campaigns for federal office. In short, these campaign finance reforms would serve as building blocks to a democracy that works for everyone.

## Shareholder Corporate Accountability

Legislative reforms are not the only way to rein in the political power of ISPs. Shareholders can take direct action through shareholder resolutions that call on corporate boards to grant greater disclosure of corporate lobbying and political spending. The *New York Times* reports that “companies have never faced as much scrutiny over political spending as they do now.... Investors are battling with corporate boards, filing shareholder resolutions that demand more transparency and accountability about political donations. Increasingly, they’re winning.”<sup>202</sup> Although in 2019 there were 51 political spending proposals at S&P 500 companies and none passed, corporate accountability advocates partnering with the nonpartisan Center for Political Accountability began winning last year and the trend has grown stronger this year. “Last year, of 55 similar proposals, six passed and average support rose to about 35 percent.... So far this year [they have] advanced 30 resolutions, and five of the seven that have been put to a vote won majority support.”<sup>203</sup>

Advocates for high-speed, affordable broadband access might similarly use shareholder resolutions to check the lobbying and political spending that ISPs and their trade associations use to stop policy reforms to expand broadband access.

## Conclusion

Enactment of these substantive broadband reforms and process-oriented lobbying and campaign finance reforms would help deliver on America's promise of a functioning 21st-century democracy that's open, accessible, responsive, and accountable to the American people. We need your support and your activism to pass these and other democracy-strengthening reforms. Together, we can build a democracy that works for everyone.

## METHODOLOGY

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Our methodology for this report was to examine each quarterly lobbying report filed for 2019 and 2020 with the clerk of the House of Representatives<sup>204</sup> by 11 of our nation's largest broadband internet providers and four of their trade associations to calculate the total amount these entities spent on lobbying during the 116th Congress and to identify the quarters in which these entities reported lobbying on five specific broadband bills. We built a dataset of lobbying expenditures for each of these 15 entities and then double-checked our calculations against the summary lobbying expenditure data compiled by [OpenSecrets.org](https://www.opensecrets.org) for each of these 15 entities. And while [OpenSecrets.org](https://www.opensecrets.org) understandably includes lobbying expenditures by subsidiaries in its summary lobbying data for parent companies, we did not include in our totals any lobbying expenditures by subsidiaries that did not lobby on broadband issues. For example, [OpenSecrets.org](https://www.opensecrets.org) includes in its 2019 lobbying expenditure total for AT&T \$1.2 million in lobbying by its subsidiary Warner Media Group. But Warner Media Group reported lobbying on intellectual property and other entertainment-related policy issues not relevant to this report, so we did not include this \$1.2 million in our lobbying expenditure total for <sup>AT&T.205</sup>

Next, we examined each of these 15 entities' 2019–2020 disclosure reports for mention of any of the five broadband bills detailed in this report, as well as any more general references to lobbying on broadband legislation. Our dataset notes each quarter during the 116th Congress in which these 15 entities mentioned one of the five broadband bills studied in this report or any more general references to broadband legislation. Each lobbying expenditure dollar amount in this report has a corresponding endnote that lists the reporting quarters used for the calculation.

Several specific aspects of federal lobbying disclosure requirements, and compliance with those requirements by disclosure registrants, impact our methodology. Federal law does not require those engaged in lobbying to report how much they spent to lobby on specific legislation. Instead, a registrant need only report a “good faith estimate” of the total amount spent lobbying in a quarter and in a separate section of the report list specific issues the registrant lobbied on, including, “to the maximum extent practicable,” a list of bill numbers.<sup>206</sup> Although

registrants sometimes list specific bills they lobbied on, sometimes they simply report lobbying on issues such as “rural broadband deployment and adoption” and “broadband mapping issues” without listing specific bills lobbied on. Consequently, it is impossible to determine precisely how much an interest group spent lobbying on a specific bill. Nevertheless, we can glean important insight into the political power and legislative priorities of ISPs and trade associations by studying their political spending and issues lobbied on.

Finally, to paint a more complete picture of the political power and influence these ISPs and trade associations wield on Capitol Hill, we also include in this report [OpenSecrets.org](https://www.opensecrets.org) summary data for federal political contributions and expenditures by these ISPs, trade associations, and their PACs during the two-year 2020 election cycle that corresponded with the 116th Congress, with corresponding endnotes to the source data on [OpenSecrets.org](https://www.opensecrets.org).

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805 15th Street, NW, Suite 800  
Washington, DC 20005  
202.833.1200  
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