

April 16, 2019

The Honorable Miguel Santiago  
Communications and Conveyance  
Committee  
State Capitol, Room 6027  
Sacramento, California 95814

The Honorable Jay Obernolte  
Communications and Conveyance  
Committee  
State Capitol, Room 6027  
Sacramento, California 95814

Re: AB 1366 - Oppose

Dear Chair Santiago and Vice Chair Obernolte:

We write to inform you that as Internet Service Providers (ISPs) located across the state of California that we are opposed to the state and local governments eliminating their authority to promote broadband deployment.

The legislation, AB 1366, would make permanent the temporary ban on legal authority for the state and local governments to address the anticompetitive practices of the largest players in the broadband market. If the state were to continue to prohibit its own ability to promote the entry of non-traditional ISPs, the Californians we intend to serve will be denied opportunities to gain market choices. As direct competitors to the biggest cable and telephone companies, we have reservations about any legislation that would enhance their market power without any meaningful restraints on their ability to monopolize broadband access.

Furthermore, as ISPs that are not your typical telephone and cable television providers, we regularly encounter barriers to our ability to expand due to the lack of parity with incumbents. For example, incumbents strike exclusives with apartment landlords that prohibit the entry of competitors in exchange for lucrative kickbacks. San Francisco passed an ordinance to ban such a practice and promote competition for broadband, but many cities in California do not have these policies. Furthermore incumbents are often given an advantage from developers when they build new homes and apartments by giving them first access to the infrastructure while foreclosing on competitive entry.

Access to the poles and conduit, the rights of way that are essential facilities to any broadband ISP, are not open to all players in the market that sell broadband service. This is a significant barrier to entry as it is infeasible for new entrants simply to find a new route into residential neighborhoods and businesses. Current law only contemplates traditional telephone and cable companies in regards to rights of way access. These issues and others are the necessary ingredients to competitive entry in the ISP market and establishing legal barriers for the state and local governments to keep them open to competition will be harmful to consumers.

A majority of Californians are stuck with cable broadband as their only choice for high-speed access and we are the ISPs attempting to change that dynamic. The passage of SB 1161 in 2012, which was supported by the incumbents, has done nothing to improve the competitive landscape for broadband access. Passage of AB 1366 will be more of the same and should be rejected.

Sincerely,

Monkeybrains (Serving San Francisco, Oakland, and Berkeley)  
Common Networks (Service Alameda)  
Omsoft and Davis Community Network (Serving Davis)