



Carolyn McIntyre  
President

September 17, 2020

Ms. Amy Tong  
Director, California Department of Technology

**SUBJECT: GOVERNOR'S EXECUTIVE ORDER N-73-20  
STATE BROADBAND ACTION PLAN**

Dear Ms. Tong:

The California Cable & Telecommunications Association ("CCTA") is reaching out to extend the support of the cable industry in connection with the Governor's Executive Order N-73-20 on broadband issued August 14, 2020 ("EO"). Specifically, CCTA seeks to engage and offer expertise on issues identified in the EO and to support your role in both monitoring implementation of the EO overall and leading the California Broadband Council ("CBC") in creation of a new State Broadband Action Plan by December 31, 2020.

State Broadband Action Plan

CCTA attended the August 26 meeting where the CBC adopted an initial roadmap for creating a new State Broadband Action Plan and is pleased that the CBC is embracing an open, transparent process with multiple opportunities for stakeholder input. CCTA and its member companies that provide broadband internet access service in California and nationwide stand ready to collaborate, share technical expertise with the CBC, and participate in working groups and drafting. Based on the EO and the initial roadmap for creating a plan adopted at the CBC meeting, the following are some *initial* points on key issues that CCTA would like to address:

- Broadband Infrastructure Deployment – The EO directs that the State Broadband Action Plan include a roadmap to accelerate broadband deployment, including infrastructure deployed with private investment and with public funds. For all infrastructure investments, expedited and streamlined permitting by state and local governments, and expedited processing of electric utility pole attachment applications, are essential to accelerate deployment. In addition, the plan should strictly prohibit any use of public funds/customer surcharges to overbuild existing infrastructure built with private

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investment that meets or exceeds the 25 Mbps down/3 Mbps up speed standard established by the FCC for determining if an area is served. The top priority for public funds should be deployment to connect households that have no Internet service or service with speeds that do not meet the FCC 25/3 standard.

- Download and Upload Speeds – The EO directs that the State Broadband Action Plan incorporate the EO’s goal that infrastructure investments enable broadband service with a minimum download speed of 100 Mbps. The CBC discussed also incorporating a minimum *upload* speed into the plan even though that is not identified in the EO. On this issue in particular, CCTA strongly urges the CBC to rely on evidence and data related to usage of the broadband network and reject unsupported assertions that symmetrical speeds are necessary. The cable industry has highly qualified and experienced network engineers who can provide expertise on real world network usage patterns and upload speeds that meet functional needs both now and well into the future based on consumer demand models.
- Scope of the Plan – Although the EO directs that the State Broadband Action Plan seek to accelerate both broadband *deployment* and *adoption*, CCTA encourages the CBC to keep a laser focus on infrastructure deployment, especially in completely unserved areas. As discussed at the August 26 meeting, the state’s recent distribution of hotspots to facilitate distance learning led to many complaints based on the fact that hotspots and devices do not work if the broadband infrastructure is inadequate. In addition, CCTA appreciates the CBC’s discussion to avoid “scope-creep” in its roadmap beyond what the EO identifies. For example, the CBC document should exclude “visualizations of quality of service and cost,” which far exceeds the scope of the EO and would also raise federal regulatory preemption issues, undermining the EO’s primary focus on accelerating broadband deployment.

### EO Direction to State Agencies

The EO includes multiple orders and requests for state agency action on issues for which CCTA is already engaged and/or can provide additional collaboration and expertise. As key principles for implementing the EO generally, CCTA suggests that it is critical to (1) not simply duplicate existing programs or initiatives, (2) avoid any regulatory overreach that fails to recognize that internet service is an interstate service subject to federal regulation, (3) ensure that government subsidies are not used to overbuild existing infrastructure built with private investment, (4) maintain technology neutrality, and (5) ensure flexibility to account for innovation and rapidly changing technologies and customer preferences. The following are CCTA’s initial points of discussion regarding each category in the EO:

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- Mapping and Data – Orders 3 and 4 – The EO requests the CPUC to lead data aggregation and mapping of existing broadband infrastructure and directs CDT, Go-Biz and DGS to convene private sector companies to “understand and predict” broadband demand. CCTA urges recognition of key principles related to information gathering about private networks. First, do not duplicate existing state and federal data gathering regimes and processes or require data in incompatible formats or levels of granularity. Second, recognize the highly competitive nature of communications service markets and security risks of critical infrastructure and guarantee confidential treatment of company-specific information. Third, gather only the information necessary to ensure that public funds do not overbuild existing infrastructure.
- Funding – Orders 5 and 6 – CCTA appreciates that the EO recognizes the need to identify new funding sources and more effectively maximize California’s draw on federal broadband funds. It is simply not sustainable – or fair – to continue to rely on funding state broadband initiatives through monthly surcharges on communications services. These customer surcharges operate as a regressive tax and overburden low-income Californians who are already suffering from economic impacts of the pandemic. California should shift to a state general fund appropriations approach to funding broadband deployment in unserved areas. Moreover, achieving funding goals requires a commitment that public funds be used efficiently and not to overbuild existing infrastructure.
- Deployment – Orders 7 through 12 – Many of the deployment directives build on efforts already underway, and CCTA will continue to engage in each where applicable. To the extent the directives seek to identify new broadband projects, it is critical that each also identify a corresponding funding source, including funding to sustain ongoing operation and maintenance costs. CCTA also requests that Order 7 include a discussion of how to expedite state and local permitting issues, which is a well-documented barrier that must be addressed to accelerate broadband deployment. It should be a priority to expedite permitting by all applicable state and local agencies and to expedite electric utility processing of pole attachment applications.

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- Adoption – Order 13, 14, and 15 – CCTA appreciates the focus on promotion of low-cost internet service offers by multiple state agencies to supplement ISP outreach and advertising. Government promotion should not favor any particular technology or provider. CCTA urges the agencies to avoid seeking to convert the EO directives into attempts to unlawfully regulate the rates or terms of internet service. In addition, the ISP low-cost offers should be positioned as additional options, not a replacement for, the CPUC LifeLine service for eligible low-income consumers. It is essential to recognize that consumers must be able to choose a service option that meets their individual needs.

In closing, CCTA looks forward to engaging with the CBC and with all the state agencies responsible for implementing the EO in order to achieve the state's broadband goals. As a first step, we respectfully request that the CBC accept our offer for cable industry technical experts to make a presentation on broadband usage during the pandemic, with a focus on which speeds of service are meeting the functional needs of Californians. Thank you for your consideration.

Sincerely,

*Carolyn McIntyre*

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President

Cc: See attached list

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