



August 16, 2023

The Honorable Anthony Portantino  
 Chair, Senate Appropriations Committee  
 California State Capitol, Room 412  
 Sacramento, CA 95814

RE: Assembly Bill 41– Oppose as Amended

Dear Senator Portantino:

On behalf of the statewide CA Alliance for Digital Equity (CADE) and the LA County-based Digital Equity LA coalition (DELA), we respectfully and regretfully submit an Oppose position on Assembly Bill 41, as amended on July 10, 2023.

CADE and DELA consist of cross-sectoral equity and justice organizations serving communities across California as advocates and direct-service providers. Together, we represent more than three dozen equity advocates working across geographies, constituencies, and issues to advance equity and ensure every California resident has access to the fast, reliable, and affordable internet necessary to participate in today’s economy and society.

We were wholeheartedly in support of AB41 prior to amendments that effectively gutted it. Three of our organizations were co-sponsors of the bill (CA Community Foundation, NextGen

Policy, and Common Sense Media). We worked tirelessly to support AB41 as well as bills in previous sessions (AB2748 in 2022, SB28 in 2021) to make long overdue and much-needed reforms to the Digital Infrastructure and Video Competition Act (DIVCA), the 2006 law that eliminated all local input and control over cable franchises and vested the authority instead with the California Public Utilities Commission (CPUC).

Our efforts included extensive work with the author's office to accommodate the demands of the cable broadband industry while remaining faithful to the communities we serve. We accommodated extensive compromises, including some that put the preferences and profits of the cable industry over the priorities of these communities, in the interest of getting to a bill that, while imperfect, would advance our shared goals of making progress toward closing the digital divide.

While our aims are expansive - truly equitable access to what is in effect a utility - our hopes with respect to modernizing DIVCA are relatively modest: bring California franchise law up to par with the dozens of states and hundreds of jurisdictions whose residents enjoy far more comprehensive consumer protections and far more extensive accountability for the cable broadband industry.

Unfortunately, AB41 as amended fails to meet even those modest hopes and in fact, may do harm to the cause of digital equity by removing some of the limited authority the CPUC has available to it under DIVCA to enforce anti-discrimination and, more importantly, cementing in place the DIVCA framework and limitations that are widely recognized as detrimental to localities and consumers. Thus, we must now oppose it.

Specifically, the July 10th amendments to AB41:

- **Strike all antidiscrimination benchmarks and requirements**, leaving instead a mere statement of intent without accountability or enforcement mechanisms;
- **Strike all buildout requirements - the only meaningful remedy for "donut holes" in service**, where communities are left without access while those around them enjoy it;
- Establish a strict timeline for the CPUC to hold "any public hearings," but **strike a public hearing requirement and specific timelines and benchmarks for input from the public and localities**;
- Revert fine amounts to DIVCA's flawed 2006 set point, rendering them meaningless as either deterrent or remedy;
- Maintain DIVCA policy placing the burden on localities to police and enforce franchise holder operations in their borders without granting any new resourcing or authority to those localities;
- Further restrict the commission from doing its job as the sole franchise authority in the state to well below the limits set by the federal government;
- Double down on the cable broadband industry's claims that they should only be considered as video providers, despite the reality that nearly all (97.7%) of Californians with a broadband subscription get that service through a franchise holder, and that

these same companies have claimed an intent to claim some of the millions of state and federal dollars available for broadband infrastructure.

In short, AB 41 as amended makes California franchise policy worse for communities and localities, and makes it harder for the state to address the digital divide. Much like DIVCA before it - which, for nearly two decades, has failed to produce the more competitive, consumer-friendly, thriving market for broadband service it promised - AB41 will move the state further from digital equity with these amendments. AB 41 as amended diminishes equity and protects the status quo at the expense of the communities our coalition is dedicated to representing. As such, we must continue to stand with and for the communities we serve and oppose it.

Sincerely,

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cc: Members of Senate Appropriations Committee, Committee Consultant Ashley Ames