

**DIRECTORATE FOR FINANCIAL AND ENTERPRISE AFFAIRS  
COMPETITION COMMITTEE**

**Working Party No. 2 on Competition and Regulation**

**FINANCING OF THE ROLL-OUT OF BROADBAND NETWORKS**

-- Note by United States --

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## MUNICIPAL BROADBAND PROJECTS IN THE UNITED STATES

1. Affordable, ubiquitous broadband at sufficiently high speeds promotes each community's ability to create jobs and economic opportunities, improve education and health care services, protect the public, and increase government efficiency. These outcomes contribute both to local success and to the nation's global competitiveness, innovative spirit, and continued growth as a leading digital economy.
2. A lack of infrastructure development across communities can delay wide-scale broadband adoption and hinder innovation and economic growth in communities across the nation.
3. Community anchor institutions, such as government facilities, hospitals, and universities, require large bandwidth capacity to provide their multiple users with high-speed connections for their various needs, including video conferencing and large data file transfers.
4. Affordable, high-capacity broadband is not yet available in many communities. As of June 30, 2013, 42.5% of rural and 89.6% of urban residents lived in areas where maximum download speeds of at least 50 megabits per second (Mbps) are available.<sup>1</sup> The risks of private investment, caused by high capital expenditures in conjunction with demand uncertainty, as well as externalities from the public benefits of broadband adoption that private providers cannot capture fully in the price of service, can lead to situations where markets underinvest in high-speed broadband deployment.<sup>2</sup>
5. Some unserved or underserved municipalities that have not attracted adequate private investment for high-speed broadband have pursued, or are exploring, constructing and/or operating their own local broadband networks, either in partnership with private enterprise or independently.
6. Hundreds of communities have built publicly owned fiber-optic or cable networks, serving diverse constituencies ranging from community anchor institutions to residential communities.<sup>3</sup> Many such broadband networks developed in municipalities that had previously established electrical utilities of their own or as a cooperative with other localities to bring electrical service to their communities. In some communities, these networks are the only broadband service provider. In other communities, the municipal network functions as one of the available choices among broadband providers, along with cable and DSL providers.
7. Financially, some municipal networks have been successful while others have struggled to pay off bonds or loans used for capital investment. Municipalities' experiences successfully developing and managing broadband networks have differed over time and may provide useful insights for other communities.

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<sup>1</sup> NTIA & FCC, Broadband Statistics report: Broadband Availability in Urban vs. Rural Areas (data as of June 2013), February 2014.

<sup>2</sup> OECD, Developments in Fibre Technologies and Investment, April 3, 2008. In addition, where the consumer surplus in a market may justify investments in new service or technology upgrades, private providers' inability to extract enough of the surplus may prevent the investments from taking place.

<sup>3</sup> See Government Accountability Office, Federal Broadband Deployment Programs and Small Business, GAO-14-203 (February 2014).

8. Municipal networks can contribute to local job creation and public savings, as well as providing consumers with additional choices and spurring competition that can bring down prices and increase customer service.

9. Bristol, Virginia provides a good example of the potential of community broadband projects. This small town of about 18,000 residents, which also operates the local electric utility, initially deployed a fiber-optic network to connect its government, electric utility and school buildings. Local businesses and residents expressed interest in connecting to this high-speed network, so Bristol made plans to build a fiber-to-the-home (FTTH) network. After clearing a series of state legislative hurdles and legal challenges by incumbent providers, Bristol launched a FTTH service. Today 62% of Bristol's residents and a number of businesses have chosen to subscribe to the service as an alternative to the incumbent telephone company and cable providers. Similarly, Chattanooga, Tennessee founded a high-speed FTTH network in connection with its public utility's electricity smart grid project, and now offers one of the world's most affordable broadband services with speeds over 1,000 Mbps. Nearly 80 percent of the city's households and more than 5,000 businesses subscribe to the services at various speeds.

10. A number of states have laws or regulations that place limits on municipalities' ability to provide broadband service. Most of the laws fall into a few broad categories. Certain states allow only an existing local government's electric utility to enter. Other states have statutes that set up procedures for a municipality to enter into telecommunications services only after soliciting existing private companies to provide the service. In still other states, restrictions impose a number of financial requirements on municipal broadband providers, such as prohibiting cross-subsidizing or requirements to impute fees, taxes and other charges that private Internet service providers would face, restrictions on financing that limit repayment of bonds to revenues from specific services, limits on the use of taxpayer funding, or other regulatory restrictions.

11. Inappropriate restrictions could hinder the efficient expansion of broadband infrastructure or reduce pressure to lower rates to competitive levels. Some states are considering legislation that would adopt limitations on municipal broadband entry. While earlier statutes placed an absolute ban on municipal entry into retail telecommunications services, in recent years state legislatures increasingly work with various stakeholders to balance interests in a manner that makes municipal broadband entry easier while increasing oversight aimed at ensuring that municipal broadband projects are financially sustainable and have the support of voters in the community. Policymakers also should consider any potential impact of municipal broadband projects on the incentives of private firms to invest in enhancing services.

12. The United States is exploring whether there are steps that can be taken to empower localities to pursue creative, community-specific solutions to broadband deployment. The United States Congress appropriated funds for programs that provide grants and loans for the construction and upgrade of broadband infrastructure.<sup>4</sup> Congress appropriated funds for (1) the Broadband Technology Opportunities Program, administered by the National Telecommunications and Information Administration (Department of Commerce), which awarded competitive grants to public and private sector entities in 2009 and 2010 focusing on building middle mile infrastructure, and (2) the Broadband Initiatives Program, administered by the Rural Utilities Service (Department of Agriculture), which awarded grants and loans to public and private sector entities in 2010 for targeted last-mile infrastructure. This has facilitated the successful entry of a number of municipal broadband projects.

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<sup>4</sup> Pub. L. No. 111-5, 123 Stat. 115 (2009).