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# Why North Carolina Should Restrict Municipal Broadband Schemes

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For years, municipalities around the country have tried and ultimately failed to either set up their own communications networks or to partner with private companies to get into the business of cable and telecommunication services, usually limited to Wi-Fi. The reasons for the failures are numerous, including bankruptcy of a private "partner," often resulting in taxpayer funds being wasted. And while some would nitpick the details of the failures, the fact remains that taxpayer money was put at risk, often without approval of taxpayers, and often squandered.

Nonetheless, in North Carolina some municipalities want to take things one step further and undertake providing not only Wi-Fi but also a whole package of telecommunications services, from voice to broadband to video, which would put these municipalities in direct competition with private companies. But adopting the failed model of municipal provision of communications services is the wrong idea, as many municipalities across the country can attest.

## A History of Problems

In 2004, IPI cautioned municipalities of the risks of municipal broadband networks, and in particular, local Wi-Fi projects. We explained that governments chronically underestimate the cost of building out and maintaining networks, and chronically overestimate adoption rates, and we described the hazards of government entities "competing" with private sector companies. But even by 2004, municipal broadband networks had already failed or were losing money in a number of cities across America. In 2007, IPI updated our findings and described subsequent failings in Tempe (Arizona), Chicago, Philadelphia, Portland, Ashland (Oregon), Lompoc (California), and Orlando.

There are several inevitable problems with municipal broadband systems. First, technological innovation continues to far outpace the speed of government, which simply cannot compete with the market. In other words, about the time the municipal system is up and running, private networks will offer something better, cheaper, and faster. Technology infrastructure investment is not for the faint of heart or the partially committed. One must jump in with both feet, update and innovate both the technology and the business models. And that is just to stay even with competitors.

Further, as online services continue to become more sophisticated, customers have become accustomed to regular upgrades, challenging the ability of governments to keep up with demand. The challenges are multiplied a hundred fold when the complications of delivering video and voice are added. Video services alone are in a constant state of upgrade, either in providing more channels, more programming, or providing services to customers to allow them to customize their own video experience, such as video on demand.

Of course as a greater variety of more complicated technology and services is offered, the more expensive the building of the system and overall operations becomes. In turn this places even more taxpayer money at risk because when these systems fail it is not investors who lose money but taxpayers. When local and state coffers are depleted because of these sorts of risky government bets, the cry is for more tax revenue or for a bailout.

## Morality Tale?

But these arguments miss a far larger, and perhaps more appropriate point. While municipalities in the Tar Heel State apparently can enter into the communications marketplace with taxpayer money, should they be doing so?

Should a government entity be in the business of using taxpayer funds to enter into competition with private enterprises? If these governments have that much extra revenue, so much extra that they can invest the millions or even billions of dollars necessary to start and then maintain a competitive communications business, shouldn't that money be returned to taxpayers or tax rates reduced? Should a government, which after all, takes revenue from its citizens ultimately under threat of force, risk that capital on a business venture?

## A Better Option

And frankly, couldn't the same goals be reached in much more efficient manner? Certainly governments have a range of options.

If the concern is making sure that everyone has access to broadband communications services, then couldn't the state, or county or town incentivize the private sector in particular geographic areas at lower costs and certainly with less exposure to taxpayer liability?

The answer is yes. So IPI has suggested a market-friendly idea for encouraging broadband buildout to unserved areas based on the proven success of enterprise zones over the past thirty years.

In areas designated as "Broadband Enterprise zones" (based on broadband mapping), broadband providers would receive state tax credits which could be used to offset the company's overall state tax burden. And vouchers could be issued to homeowners to pay for installation and setup within the Broadband Enterprise Zone. There are a number of ways in which states and municipalities can find better, less risky means of encouraging the rollout of broadband services without putting taxpayers on the hook.

## A Current Proposal – S.87/H.129

Currently, there is a legislative proposal in North Carolina that addresses municipal involvement in broadband provision. The legislation does not create an outright ban, which would be far more preferable to us, but rather imposes certain requirements intended to provide a level playing field with any competing private sector participant.

This would seem to be a minimum standard. At the very least, governments entering into competition with the private sector should have to play by the same rules and not rig the game in government's favor.

So what would a level playing field look like? The proposal allows communities in North Carolina to provide phone, cable and broadband services in competition with private providers, but they must:

1. Comply with laws and regulations applicable to private providers—including the payment of taxes;

2. Not cross-subsidize their competitive activity using taxpayer or other public monies;

3. Not price below cost, after imputing costs that would be incurred by a private provider;

4. Not discriminate against private providers in access to rights-of-way;

5. Those funding the venture, the citizens, must be allowed a vote before incurring debt, when the venture competes against a private sector company.

6. Have a local government commission evaluate the competitive environment before approving loans for a competitive purpose, as a further taxpayer protection.

The proposal does unfortunately grandfather in some communities which are already in competition, exempting them from provisions that might affect their ability to repay loans. Instead, we would suggest that all provisions that directly address operations going forward should apply to these entities as well, if for no other reason to protect the citizens of those communities.

Surprisingly, some people actually object to these restrictions on the grounds that they somehow restrict a "free market." But by "free," they mean the freedom of government to openly, and without any protections for citizens, compete with private companies on a playing field tilted in government's favor. Only through the most tortured logic could "free market" be twisted to fit this definition. In fact, government should be limited in its scope and should not be permitted to compete with the private sector at all.

If policymakers must sponsor any initiative to encourage broadband deployment, they should instead support the expansion of broadband into unserved areas using incentives for private sector companies that risk their own capital.

When municipal broadband networks fail, it is the taxpayers who must pay for the loss. Municipal broadband systems have been expensive failures in cities including (but not limited to) Philadelphia, Chicago, Portland and Orlando. Why add a host of cities in the Tarheel State to the list of failures?

Municipal entry into the provision of communications services has a demonstrated risk to taxpayers, and causes havoc to the limited role of government envisioned by our Founders. Therefore, it is entirely appropriate for states to place taxpayer protections and restrictions on municipal broadband schemes.

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