

25 March 2009

Broadband Technology Opportunities Program
U.S. Department of Commerce
Room 4812
1401 Constitution Avenue, N.W.
Washington, DC 20230

This letter is in response to the joint request for information regarding Section 6001 of the American Recovery and Reinvestment Act of 2009 (Recovery Act) which requires the National Telecommunications and Information Administration (NTIA) to establish the Broadband Technology Opportunities Program (BTOP).

The Institute for Policy Innovation (IPI) is a market-oriented public policy think tank with headquarters in Lewisville, Texas. IPI is recognized by the IRS as a 501(c)(3) non-profit organization. IPI has been involved for several years with in-depth evaluation of the communications marketplace. Specifically, we have worked on policy development with regard to opening, expanding, and preserving markets for video, voice, and Internet access, including broadband.

In this letter IPI submits our input on the issue of the allocation of funds related to broadband deployment project within the administration's efforts to stimulate the economy.

In general, we find that markets do the best job of serving the needs of consumers and most efficiently allocating scarce resources. We are confident in the ability of markets to deploy services such as broadband to consumers in the most efficient manner.

Given the federal government's decision to use taxpayer funds to expand access to broadband technology, *we urge extra care to make sure that government actions do not hinder or displace the competition that currently exists in the broadband marketplace.*

1. Avoid Waste Through Haste

While an unprecedented level of funding has been appropriated toward the goal of expanding broadband access across the country, the funds are still finite and the resources limited. Therefore, to avoid waste, fraud and abuse, due care must be paid to every expenditure, and priorities must be set.

Decisions about where and how to allocate funds simply cannot be done responsibly before we understand where needs are greatest. The Recovery Act directs NTIA to establish "a comprehensive nationwide inventory map of existing broadband service capability and availability in the United States that depicts the geographic extent to which broadband service capability is deployed and available from a commercial provider or public provider throughout each State." Such mapping is the necessary and critical starting point for effective, efficient, and responsible use of taxpayer's money.

Once the mapping is complete then resources can be allocated effectively to meet the goal of deeper broadband penetration, but also of transparent deployment of funds. But funds should not be allocated to specific proposals until a comprehensive mapping project has been completed.

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2. Avoid Undermining Existing Competition

Critics of the existing broadband marketplace have focused on an alleged lack of broadband competition (despite clear evidence that broadband technology is being deployed significantly faster than previous critical infrastructure technologies). But if competition is lacking, *the worst possible use of federal broadband stimulus funds would be to undermine existing competition*. Of course, the mapping project will aid in avoiding investing public funds in areas with existing competition, but because the available funding is finite, the best possible use of the funds would be to create new networks in unserved areas. We strongly urge that unserved areas be the highest priority for public investment, and ideally unserved areas would be the only areas of public broadband investment.

Today, telecom, wireless and cable companies are aggressive, competitive risk-takers. They are making enormous investments and offering new products and services. *It is critical that the injection of taxpayer funds into the broadband marketplace not result in a drastic devaluation of the existing capital investment of private broadband companies*. The worst use of the current allocation would be to have government enter markets, or to prop up long term subsidized entities, to compete directly where there is already a functioning marketplace.

In truly unserved areas a justification could be made to make it easier for competitive enterprises to enter into and serve the market. This is not completely different than justifying government support for ubiquitous voice communications service. The broad language is intentional. For too long various states, in an effort to make sure everyone had access to communications, narrowly construed the view of a “provider of last resort.” In many cases, wireless technology was not included in the definition of provider – again demonstrating that innovation moves faster than regulation. Moreover, government could not seem to innovate, sticking with old models of subsidies for no better reason than that it is the way things had always been done.

The provision of service in currently unserved areas should allow for the best technologies -- best being a function of availability, cost, ease of use, etc. In addition, once systems are built out government should step away from the situation. *Regulators should not use a one-time use of taxpayer funds for capital expenditures as an excuse for ongoing federal regulation of these networks*.

3. Avoid Creating Permanent Dependency

Taxpayer funds should be used exclusively for capital expenditure, and not for operating expenses. It would be a terrible mistake to create a situation where taxpayer funds would be perpetually needed to operate networks. So long as technologies are not dictated by government, viable business models should exist for even remote rural areas through Wi-Fi and cellular technologies. We do not believe that it was the intention of either Congress or the American people to create permanent taxpayer subsidies for broadband networks as a result of this legislation.


4. Avoid Funding Failed Broadband Models

One suggested approach has been to turn over some of the money to local municipalities and to have them invest in and operate so called public/private partnership broadband systems. But as IPI has recently pointed out in *We Told You So! Continue to Say ‘No’ to Municipal Broadband Networks*, authored by IPI Senior Research Fellow Barry Aarons (please see attached), these municipal broadband experiments do not have a track record of success.



In summary, the agencies involved in the allocation of taxpayer dollars must take particular care to set appropriate priorities for its use. Monies should be used first to extend broadband systems to unserved areas. Once the monies have been allocated, government must step back and allow the market to operate.

Thank you for your attention to these comments. If you have any questions, please do not hesitate to call upon IPI.

Sincerely,

A handwritten signature in black ink, appearing to read 'Bartlett D. Cleland', is positioned above the typed name. The signature is fluid and cursive, with a prominent initial 'B'.

Bartlett D. Cleland
Director
Center for Technology Freedom
Institute for Policy Innovation
Dallas, Texas



ISSUE BRIEF

WE TOLD YOU SO! CONTINUE TO SAY “NO” TO MUNICIPAL BROADBAND NETWORKS

Barry M. Aarons

Synopsis: The history of municipal broadband projects, especially municipal wireless programs, is a history of hubris, mismanagement and failure. Such projects have been plagued by (among other things) underestimates of costs and overestimates of subscriber take up. As federal officials consider disbursing billions of taxpayer dollars to extend broadband coverage to unserved and underserved areas, they should be wary of funding municipal broadband programs.

In our December 2004 IPI Ideas entitled, “Just Say ‘No’ to Municipal Broadband Networks” we cautioned that city and county governments needed to be careful not to sponsor communications ventures like municipal broadband networks and, in particular, local Wi-Fi projects. We noted in particular that the expense to the cities and counties would likely make these government owned projects expensive failures. We said even back in 2004, “some states have already recognized . . . the dangerous economic ramifications of municipal networks.”¹

We also observed, “There is an inherent limit to just how much the public should be required to subsidize. Further let’s remember that change in technology make existing systems obsolete almost at their point of introduction.” Nonetheless, we watched several communities go ahead with their local Wi-Fi plans. Time and experience have proven us correct.

Municipal Wi-Fi has been plagued by failure since the heady days four or five years ago when it was “the next big thing.” Most cities and vendors failed to gauge the proper number of wireless antennas that would be needed to properly run the systems. For example, in Tempe, Arizona there were three times as many antennas required at a cost of over \$1 million or twice the original cost.²

And, of course, there are always limits to what can be accomplished. The ability of Wi-Fi to penetrate walls and glass have limited what the customers had available to them, which customers accept and understand from the private sector, but which seems an affront when Wi-Fi access is a quasi- government entitlement.

Providers have now begun to admit that challenges in meeting customer expectations have been difficult. As on-line services become more sophisticated and the need for additional speed becomes more and more necessary, customers have become accustomed to regular upgrades, challenging the ability of governments to keep up with demand.

We also questioned the very basic need for municipal Wi-Fi expansion beyond some limited or concentrated applications. Taking into account underestimates of startup and operating costs and overestimates of the ability for municipal systems to attract and keep customers, it is easy to understand why many municipalities regret their leap into this arena.

And now that analog television broadcasting has been eliminated it is likely that portions of that spectrum may become available for expanded wireless competition. We suspect that several companies are poised to take advantage of that opportunity.

The increased likelihood of private competition in the development and deployment of new wireless products and services suggests that municipalities limit their entry into the broadband business. If there are existing needs in certain areas then we suggest that incentives to private sector development are a better option. Clearly the authority to provide those is already in state law and municipal code.

Lawmakers have recognized the problems with municipal broadband systems. Legislation in no less than 16 states would place significant limitations on municipal broadband authority. These efforts are a continuation of the strong communications deregulation efforts going on across the country.

Still, some communities’ municipal wireless projects are, in fact, alive and well. And there still appears to be an appetite for such programs as evidenced by the estimated \$900 million invested to this point. But softness in the existing economic models and the setbacks observed in example after example suggest that all is not well in the world of municipal broadband.

Specifically, a few examples of where municipal Wi-Fi projects were either aborted, have run into trouble, or have failed to meet original or customer expectations tell the tale.

Chicago – Enthralled with the prospect of instituting a city-wide Wi-Fi system in 2006, Chicago found soon after they started planning for their project that “technology (was) advancing and the cost of online access for consumers (was) declining so dramatically that Chicago (had) other avenues to promote more use of the Internet.”³

Further problems erupted from a disagreement between the two companies that wanted to contract with the city. Both AT&T and Earthlink submitted proposals to the city but neither was able to come to an agreement. It was apparent that there was so much competition in broadband access that pursuing this project would no longer make sense.

Chicagoans recognized that the snags experienced by other cities in their Wi-Fi projects, in light of falling wired Internet prices and higher speed availability, might make the need for a municipal Wi-Fi system an unnecessary extravagance. Even now, as the Sprint/Nextel WiMAX⁴ project in the Windy City area takes shape, the need for municipal Wi-Fi further deteriorates.

Philadelphia – With great fanfare in 2005 the City of Philadelphia embarked on a plan to transform much of its municipal infrastructure into a gigantic Internet hotspot. Hailed by consumer groups as the solution to the so called digital divide, city officials thought they could get existing companies to let them use refurbished gear and could build the entire project with “non-city” financial resources. City officials even went as far as suggesting that they would not be competing with existing private sector carriers and could actually sell back excess capacity to them.⁵

Originally constructed as the nation’s largest municipal system covering 135 square miles, the project only offered low cost 1mbps service that, by today’s standards, is relatively slow. At its peak the service that serves the sixth largest city in America had a paltry sign up of 5,034 residential customers and 908 business customers.⁶

What a difference three years can make. EarthLink, the provider that Philadelphia contracted with to offer the Wi-Fi service, has now, “pulled the plug” on its Philadelphia network. And the cost for the City of Philadelphia to continue to operate the system would be millions of dollars annually. As Earthlink CEO Rolla Huff told Associated Press as reported by Time.com, “It was a great idea a few years ago . . . but it’s an idea that simply didn’t make it.”⁷ EarthLink officially closed down this project on June 12, 2008.

Huff concluded his comments by calling continuation of the system that operates on an old model “. . . simply unworkable.”

Philadelphia’s experience was considered the flagship of government projects covering huge amounts of area with a system that was considered in 2005 to be the cutting edge. But technology continues to expand and the city did not leave itself any room for modernization or updating. Conceived without regard to warnings at the time, the Philadelphia system proved to be unworkable.

Portland – And then there is Portland, Oregon, a system that crashed and burned from the start. The city hired a start up company to construct and install its municipal Wi-Fi system. But Portland Deputy City Attorney Kalei Taylor told contractor MetroFi in a May 6th 2008 letter that they were, “in default of contract,” for a plethora of offenses including failure to submit maintenance reports, failure of their maintenance schedule to guarantee equipment condition, not completing the system in the required 24 months and other charges.⁸

So MetroFi is in default and millions of dollars are yet to be spent to finish a system that is at best 20 to 30 percent completed. The probability is that the project will not be completed at all. The contractor apparently can't afford to complete it and the city is not likely to step in with the additional public funds given the city's previous financial commitment.

So what in Portland went wrong? MetroFi found that municipal government ultimately was unwilling to provide the subsidy that would be necessary to support the system. Venture capitalists were also not going to intervene given the competitive environment of existing private providers—they had thought that they could undercut the pricing of the traditional network providers.

In other places the situation actually ended up much worse. In Toledo, Ohio, for example, MetroFi asked the city to infuse over \$2 million into the project to enable completion. But when the city balked MetroFi was forced to sell to Cincinnati Bell.

Further, the technological impediments that they ran into were impossible to overcome.

Portland has now moved into a new system of self-organized and self-funded projects that share existing broadband services. These so called Viral Networks may signal the commencement of a new economic model in municipal broadband projects.

Ashland, Oregon – Not to go unmentioned are the problems in the 8-year-old Ashland, Oregon Ashland Fiber Network (AFN). Begun in 2000, it was originally financed with \$5.8 million in bank loans and buttressed by an additional \$6.5 million in municipal loans. After only one year, losses stood at \$6.6 million projected over a five-year period. And after an attempted \$15.5 million bond issue that would have raised property, utility and other taxes failed, the city began to lease out its network.

Lompoc, California – Underestimating take-up rate and new competition led this municipal endeavor down the primrose path. When Lompoc started their system several years ago they were the only game in town. But private sector competition using better and more up-to-date equipment got into the act before the Lompoc system was complete.⁹

The network that the city constructed covered almost 95 percent of the community making it available to virtually all of the 44,000 residents. But three years into the project there were only 281 subscribers. Lompoc officials claim that there was no competition when they commenced

their municipal project but almost instantly after construction started competitive construction began. But that really shouldn't surprise anyone. When the private sector saw an emerging market they figured they could provide a better alternative. Now Lompoc citizens have several options for a variety of services.

Yes, the Lompoc system is still up and running. They have a variety of plans for ongoing and temporary connections but one has to ask whether the investment and expense (both start-up and maintenance) to the city was worth the *de minimis* take-up given the highly competitive nature of the industry and the technological advances being made. By their own admission the LompocNET website says that when it comes to improvements in their system, "the majority of the major changes have been completed. We are continuing to monitor the network and are making adjustments as necessary." Not exactly a ringing endorsement for technological advancement.

Orlando – One of the first experiments into the Wi-Fi arena was also one of the first to be discontinued. As reported in Forbes.com on June 23, 2005, Orlando, ". . . cancelled a pilot program that offered free wireless internet access to visitors at a downtown park, saying that the service wasn't popular enough to justify the cost."¹⁰ The project was begun in January 2004 and was designed as a pilot program to offer free Internet service to people in the downtown area. The program was originally supposed to be able to handle as many as 200 users simultaneously but usage rarely exceeded a couple dozen.

Although originally intended as a six-month trial, Orlando kept the project going for a full 17 months. But they determined with low usage they could not justify the \$1,800 per month that it cost to keep it going. To many it seems, that taxpayer-funded system, that had limited use, wasn't an investment that was necessary, especially when private Wi-Fi was already becoming available.

Fast forward a couple of years and a plethora of private Wi-Fi hotspots throughout Orlando and neighboring communities abounded. The website Florida Creatives¹¹ listed literally dozens of private locations at a variety of restaurants and coffee shops. Americantowns website¹² listed 114 free Wi-Fi locations in Orlando by late 2008. And that does not include the pay-for-service sites and the availability of wireless PC cards that sell for less than \$100.

It seems that as time went on the need for a taxpayer-funded system was made irrelevant in Orlando as private hot spots proliferated. And as more people in need of on-the-go access grew, the availability of wireless broadband grew with it. Oh, and one more thing—the price of wireless broadband came down as the quality improved.

Just as we suggested four years ago, and now with additional experience in hand to prove our thesis, "just say 'no' to municipal broadband networks!"

ENDNOTES

1. Barry M. Aarons, "*Just Say 'No' to Municipal Broadband*", Institute for Policy Innovation, December 2004
2. Fox News.com "*Municipal Wi-Fi Networks Run Into Financial Technical Trouble*", May 23, 2007

3. CED Magazine.com August 28, 2007
4. WiMAX covers significantly larger areas of territory with a wireless Internet signal that is delivered over radio spectrum.
5. Jim Hu and Marguerite Reardon CNET news.com April 7, 2005
6. Lawson, *Macworld*, May 2008
7. Debroah Yao, AP, Time.com, May 13, 2008
8. The Silicon Forest Blog, *The Oregonian*, April 21, 2008
9. Fox News.com, Associated Press, May 2007
10. Forbes.com David M. Ewalt June 23, 2005
11. <http://floridacreatives.com/wiki/florida/orlando-Wi-Fi>
12. <http://www.americantowns.com/fl/orlando-Wi-Fi>

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ABOUT THE INSTITUTE FOR POLICY INNOVATION

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