

Competition, Competition, Competition

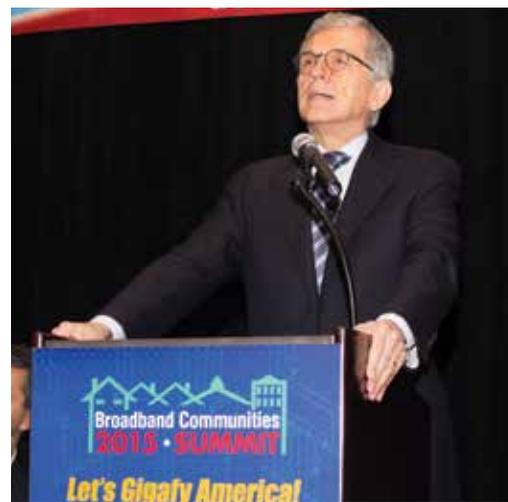
The chairman of the FCC explains what's needed to improve broadband in the United States – and what his agency is doing to help.

By Tom Wheeler / *Federal Communications Commission*

You've selected "Let's Gigafy America" as the theme of this year's conference. Now, I'm no English major, but I'm pretty sure "gigafy" isn't a word. But I'm also pretty sure that I don't care, because, no matter how you say it, promoting ultra-high speed networks is about promoting expanded opportunity for the American people. It is a message we must all wholeheartedly support. It's in our shared interest to make sure that communities across America – large and small – have access to robust broadband networks that deliver the benefits of high-speed connectivity to all citizens.

There are three simple keys to the broadband future: Broadband networks must be fast. Broadband networks must be fair. Broadband networks must be open. Today, I'd like to visit about the commission's recent efforts to promote fast, fair and open broadband, with a look to the future on ways we can collectively build on this progress.

Broadband is the indispensable infrastructure of our 21st-century economy and democracy. High-speed connectivity has already revolutionized the way businesses operate and people communicate. Every day, we rely on broadband to work, learn, shop, share and speak out. As we begin to see the deployment of gigabit networks, which remove bandwidth as a constraint on innovation, we can only imagine what America's inventors will come up with next.



Chairman Tom Wheeler addresses the **BROADBAND COMMUNITIES** Summit.

COMPETITION WORKS

I've become known for the mantra "Competition, Competition, Competition." Perhaps, based on your conference theme, I should start saying, "Gigafy, Gigafy, Gigafy." Come to think of it, the two are interrelated. The discussion of how to encourage faster, better broadband starts with competition. I know it's not an accident that you're meeting in Austin, the city that proves competition works. Back in 2013, Google Fiber announced it was coming to town. Not to be outdone, AT&T

initiated upgrades to its network so it can offer gigabit service for \$70 per month. As if most of you weren't jealous already, a regional carrier, Grande, upgraded its network and is offering gigabit broadband in Austin for \$65 a month.

You see a similar competitive response across the country. Google Fiber has designated Atlanta as one of the next markets it will enter. Just weeks ago, Comcast announced plans to offer 2 Gbps broadband in Atlanta, leapfrogging Google's speeds even though the competition is only hypothetical at this point.

This is hardly a modern phenomenon. Competition benefits not only the customers of the challenger but also the customers of the incumbent in the form of lower prices and higher quality. The history of communications policy teaches us that competition drives deployment and network innovation. To meet the competitive threat of satellite services, cable TV companies upgraded their facilities. When the Internet went mainstream, they found themselves in the enviable position of having greater network capacity than telephone companies. Confronted by such competition, the telcos upgraded to DSL and in some places deployed all-fiber or fiber-and-copper networks. Cable companies further responded to this competition by improving their own broadband performance.

WITHOUT COMPETITION, THE MARKET DOESN'T WORK

Despite good news in places such as Austin, the days of telcos and cable ensuring consumers at least two competitive choices for Internet access are in doubt. The bandwidth demands of U.S. consumers have increased dramatically. The typical connected family of four has seven broadband-powered devices at home and increasingly uses bandwidth-intensive applications such as streaming HD video. The capabilities of copper networks simply aren't keeping up with these growing demands. As a result, traditional DSL is no longer a practical

competitive option to cable.

Too many consumers have gone from having limited choice for broadband to having only one choice – or none at all. At 25 Mbps downstream, which is table stakes for broadband in 2015, just under 75 percent of U.S. homes can choose from only one or fewer wired providers. And, of course, that “or fewer” reference means that about 20 percent have *no* access at that speed.

That reality is simply unacceptable. Where there is no choice, the market cannot work. History suggests that it's the telcos' turn to counter with massive network upgrades. AT&T, in fact, has announced plans to lay fiber in more than 20 markets. However, with both Verizon and AT&T prioritizing investment in their wireless networks, there are serious questions about whether the virtuous cycle of telcos and cable companies making competitive broadband upgrades and offering consumers at least two options will continue. And two options, by the way, is not the traditional definition of vigorous competition.

STEP ONE: PRESERVE ECONOMIC INCENTIVES FOR BROADBAND

So what are we doing at the FCC to promote competition? Step one is preserving economic incentives for competitive investment in broadband infrastructure. This issue was front and center in the commission's work on our new Open Internet rules. Again, we want fast, fair and open networks. We don't get fast networks without private investment. That's why I made it clear that our Open Internet Order must achieve two equally important goals: ensuring consumers' and innovators' right to use the Internet without interference from gatekeepers while creating conditions that enable economic returns as an incentive for infrastructure investment.

Ultimately, we determined that the best way to achieve both goals was to adopt new rules using modernized Title II authority. This light-touch regulatory approach was modeled after

the Title II rules for the mobile voice industry, which went hand in hand with hundreds of billions in network investment. Established Internet companies such as Google and eBay and emerging players such as Etsy and Vimeo have praised the rules, saying strong net neutrality protections will preserve the Internet as an open platform for innovation and free expression.

So how will the use of Title II impact the investment goal? To begin answering that question, let's look at how network investment fared when broadband was previously a Title II service. As it turns out, wireline DSL was regulated as a common-carrier service from the late 1990s until 2005. Interestingly, in this period, under the old heavy-touch approach to Title II, our nation saw the highest levels of broadband infrastructure investment ever. AT&T, Verizon and Qwest actually increased their capital investments as a percentage of revenue immediately after the commission expanded Title II requirements pursuant to the '96 Telecom Act. According to one filing in our Open Internet record, “the average annual investment by telecom carriers was 55 percent higher under the period of Title II's application.”

But because competitive broadband investment is more important now than ever before, the Open Internet Order took pains to create an investment climate that is significantly better than the one carriers experienced during the last buildout boom. That's why our Open Internet Order explicitly states that there will be no retail rate regulation.

The economic underpinnings for competitive infrastructure investment have never been better. The initial response is encouraging. Many ISPs, including such companies as Sprint, T-Mobile, Frontier, Google Fiber and hundreds of rural companies and small, competitive wireless companies, say they can build their businesses within our rules. Even Comcast, AT&T and Verizon, which oppose what we did, continued to invest in their networks even knowing the rule was coming.

When local leaders have their hands tied, local businesses and residents suffer the consequences.

In addition, ISP market capitalization continued to grow even after adoption of the regulations. This shouldn't come as a huge surprise. Many people said investment would crater when the FCC adopted its previous Open Internet Order, but from the time those rules were proposed in 2009 until they were largely overturned, broadband capital expenditures rose steadily.

Even with a friendly regulatory climate, there's no guarantee carriers will invest to expand and upgrade their networks. Last summer, the Washington Post reported that revenue continues to increase steadily for large ISPs, but network investment isn't following suit. The headline read, "ISPs are spending less on their networks as they make more money on them."

Understand the importance of this point: What incentivizes broadband companies the most has little to do with regulation; it's whether they face the threat of competition.

STEP TWO: ALLOW CITIES TO PROVIDE COMPETITIVE BROADBAND OPTIONS

That brings me to my second component of expanding competitive broadband choices. No matter what the commission does to remove barriers to broadband investment, there will be communities that are underserved, or even unserved, by the private market. When commercial providers don't step up to serve a community's needs, we should embrace the great American tradition of citizens stepping up to take action collectively.

Across the country, communities are listening to the needs of their citizens and enterprises, engaging community stakeholders and focusing on delivering competitive broadband services to respond to those needs.

Many communities work with existing private sector providers to facilitate improved broadband service. But when that doesn't work, they seek alternatives, including creating various forms of public-private partnerships and, in some cases, deploying broadband networks themselves. These efforts are reaping dividends, enabling new economic opportunities and improvements in education, health care, and public safety for the communities that take these steps.

For some reason, the examples of Chattanooga, Tenn., and Wilson, N.C., come to mind. In Chattanooga, large companies such as Amazon and Volkswagen have invested in new facilities, citing the city's world-leading network as a reason. And Chattanooga is emerging as an incubator for tech start-ups. In Wilson, the area's top employers all rely on the community broadband network, new companies have located in Wilson because of its network, and residents and businesses in five surrounding counties are all pleading for access to this gigabit-speed connectivity.

These pro-competition efforts are being met with resistance. In Tennessee and North Carolina, and in 17 other states, community broadband efforts have been blocked or severely curtailed by restrictive state laws – laws often passed because of heavy lobbying support by incumbent broadband providers.

Case in point: A Tennessee state senator currently plans to introduce legislation in 2016 that would lift state restrictions and allow municipal broadband providers to expand services. Recent press reports are that AT&T is encouraging its employees to write state legislators opposing the bill. Everybody has First Amendment rights, and as the former head of NCTA and CTIA,

I used to do the same thing, but let's understand what is really going on here: The employees aren't being asked to write in favor of faster, cheaper, more available broadband that's good for consumers but in support for just the opposite.

While these are legal issues, they have a very human face. When local leaders have their hands tied by bureaucratic state requirements, local businesses and residents are the ones who suffer the consequences. I met a man named Richard Thornton who told me about the frustration of living only three-quarters of a mile from Chattanooga's gigabit network but still being in the Internet Dark Ages. Mr. Thornton has to pay \$316 per month for a collage of services, including two mobile hot spots (which require careful monitoring for data usage), satellite TV and phone service. Yet, less than a mile away, gigabit service is available with TV and phone for only \$133 – and the provider would like to extend it but has been prohibited from doing so by Tennessee's bureaucratic requirements.

I also met Eva VanHook from Bradley County, Tenn., who explained how she has to drive her son to their church to watch online material assigned by his biology teacher because state rules have kept her from getting the faster – and cheaper – Internet service that Chattanooga EPB wants to deliver to her.

Just as the people of Chattanooga and Wilson acted collectively to address the lack of competitive broadband choices in their communities, they chose to act when state-level red tape prevented them from expanding their networks. The cities filed petitions with the FCC, asking the commission to pre-empt these restrictive state laws. This February, the commission granted those petitions.

The commission respects the important role of state governments in our federal system, and we do not take the matter of pre-empting state laws lightly. But it is a well-established principle that state laws that inhibit the exercise of federal policy may be subject to pre-emption in appropriate circumstances. My position on this

matter was shaped by a few irrefutable broadband truths:

- You can't say you're for broadband – but endorse limits on who can offer it.
- You can't follow Congress' explicit instruction to "remove barriers" to infrastructure investment – but endorse barriers to infrastructure investment.
- You can't say you're for competition – but deny local elected officials the right to offer competitive choices.

It is also important to recognize that the commission's recent ruling is responding to two specific petitions from two cities. It is enforceable only in those two states. Having said that, this issue extends beyond these two states. I hope it highlights and discourages the efforts of incumbents to block consumer choice and competition.

Looking ahead, we must continue to find additional ways to enable the

extension and expansion of broadband infrastructure. To that end, over the next six years, the FCC will disburse \$11 billion through the Connect America Fund to support infrastructure buildout in rural areas. And we have modernized our E-rate program to support fiber deployment to and Wi-Fi within the nation's schools and libraries.

CITIES AND STATES DO THE HEAVY LIFTING

While the FCC has a role to play in promoting fast, fair and open broadband networks, we can't do it alone. If we want to improve the quality of our broadband infrastructure and close the gaps that have been left open by market forces, the heavy lifting will have to take place at the state and local levels.

From what I can see, you are up to the task. In Connecticut, 46 municipalities representing more than

half the state's population have joined an effort to make Connecticut the first gigabit state. In Montana, the Bozeman City Commission just voted unanimously to approve plans for publicly owned, open-access broadband networks. In Grand Junction, Colo., residents voted overwhelmingly last week to approve the city's right to provide Internet access, and local leaders are now exploring plans for a new community broadband network.

Across the country, community after community is stepping up to write its broadband future. The FCC is proud to be working with you to deliver the benefits of broadband to all Americans. ❖

Tom Wheeler is the chairman of the Federal Communications Commission. This article is a slightly abridged version of a speech he gave at the 2015 BROADBAND COMMUNITIES Summit.



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