

Remarks by Jon Leibowitz
Commissioner, Federal Trade Commission
National Association of Telecommunications Officers and Advisors (NATOA)
25th Annual Conference

I'd like to focus today on municipal broadband and discuss why it is right for consumers, why the arguments advanced by its opponents fail and, why, upon closer examination, these arguments are internally inconsistent. Finally, I'll talk a bit about the Commission's role in opposing legislation that threatens competition – we've done this, for example, in real estate, legal services, and contact lenses – and offer my thoughts on whether municipal broadband is an area that the Commission should weigh in on.

II. The Benefits of Municipal Broadband

The first question policy makers need to ask is this: why is broadband good for consumers? There are many reasons, but the most compelling is that broadband is increasingly vital to our everyday functions and to our economy. It's not just about having the ability to download a movie in almost the blink of an eye, it's about the ability for everyone – business and consumers alike – to be able to access information that is fundamental to survive, grow, and thrive into the 21st Century.

In this day and age, Internet access is even more vital than some traditional government services because the Internet is both a repository of information, like a library, and a shared public space, like a park, to which everyone should have access. However delivered, inexpensive or free high speed Internet access is essential to bridge the digital divide and boost technological literacy. High speed access, particularly wireless access, benefits students, parents, small businesses, emergency workers and anyone else who values the enhanced portability, flexibility and speed that comes from not having to be tethered to a modem. And as the *New York Times* noted just this weekend, a Wi-Fi mesh could be the most promising and reliable emergency communications technology in the wake of a disaster like Hurricane Katrina. Finally, the economic benefits of more broadband are potentially enormous: computer, hardware, software and e-commerce businesses would grow exponentially if we could i

offer wireless Internet access, or Wi-Fi. The city's rationale was straightforward: many of its residents simply did not have access to broadband, and Wi-Fi service would spur economic development, attract tourists and benefit city agencies at lower cost than the cur

company raised obstacles to the plan – and more may be coming before the plan is ultimately implemented. But fortunately, in this case state law was on the side of the city, affirmatively allowing it to build out. When the phone company demanded a referendum, the public responded by clearly voicing its support for broadband: two months ago it approved authority for the city to sell bonds to finance this project by an overwhelming 62-38 percent margin.⁴

Now I am obviously a supporter of municipal broadband. And I clearly oppose attempts by telephone companies to derail it – especially by doing so in the proverbial “smoke-filled room.” But the Lafayette fight does point us toward a more appropriate way to oppose these projects: if you don’t like what a city is doing, you can always try to “throw the bums out.” It is a time tested formula for citizens to ensure that their elected leaders don’t disagree with them too often. My guess, however, is that as long as residents are educated about what the local governments are trying to do, that usually won’t happen.

Many additional cities – small, medium, and large – are considering or implementing broadband networks. (We estimate perhaps 300 municipal broadband projects at present.) They are responding to a basic lack of service, they are seeking to promote business and they are using such networks to ensure public safety, improve educational opportunities and enhance consumer welfare.

And while I don’t think a comparison to other countries is needed to justify municipal broadband, such comparisons are worth noting. According to the OECD, the United States has dropped to 12th place worldwide in the percentage of people with broadband connections. But whether or not we are losing or gaining ground, in a world that is increasingly “flat” – borrowing Tom Friedman’s term⁵ – you cannot stress enough the importance of expanding broadband access across America. This is not only fundamental for education, but also for overall productivity and competitiveness. In any event, adding another competitor to what is now largely a phone and cable broadband duopoly can’t help but move us forward and inject the market with more competition.

III. Arguments to Thwart Municipalities from Providing Broadband

There’s certainly nothing novel in witnessing incumbent providers attempting to keep new entrants out – whether it was railroads fighting off airlines, Ma Bell fighting off long distance providers or, more recently, efforts by travel agents to fend off Internet-based rivals. For many years I worked for a Senator from Wisconsin, Herb Kohl. One of the Senators he revered growing up, Phil La Follette – the son of Wisconsin’s great Progressive “Fighting Bob” and a

⁴ Lesley Cauley, *Towns Battle Big Companies to Expand Broadband*, USA TODAY, July 10, 2005, available at www.usatoday.com/money/industries/telecom/2005-07-10-bellsouth-usat_x.htm.

⁵ Thomas Friedman, *THE WORLD IS FLAT: A BRIEF HISTORY OF THE TWENTY-FIRST*
C

IV. The Commission's Role

So what role can the FTC play? Put differently, why do you care what the FTC thinks? When the Commission was established in 1914, its founders – including President Woodrow Wilson – did not intend for it to serve solely as a law enforcement agency, but vested it with additional statutory authority to conduct industry-wide studies, enabling us to enhance our understanding of how markets operate for the benefit of consumers. In the words of one of the original Commissioners our “duty is quite as much to bring to light what is sound and serviceable in business as what is sinister.”⁶ We have used such authority quite effectively – particularly in

w

the competition and consumer protection issues that state and federal legislatures may want to consider before enacting legislation in this area. But speaking solely for myself as one of four Commissioners – we are eagerly awaiting confirmation of the fifth – the interests of consumers and competition seem squarely aligned with your efforts to provide broadband.

Within the Commission, I have asked our Office of