7.00 Economic Opportunity and Innovation

Local officials have traditionally been leading proponents of the development of new and emerging technologies and NLC supports federal policies that encourage economic development by promoting universal access, technological innovation, competition, and the implementation of new services. For communities, the existence of an affordable and modern communications infrastructure means rapid dissemination of and efficient access to information, increased productivity, new economic development opportunities, improved local government services, and an improved quality of life. Communications and information technology have become integral to providing improved health and social services, public safety, education and job training, transportation and other lifeline services. (In this chapter, unless specifically noted, the word communications shall include voice, video, data, and all other services delivered over cable, telephone, fiber-optic, wireless, satellite and all other platforms.)

A. Access, Adoption, and Affordability of Broadband

Broadband access and adoption help promote economic development and social equity while enhancing public health, public safety, and educational opportunities for Americans around the country. Therefore, the Federal government should ensure that broadband access is universal, affordable, and addresses the nation’s digital divide issues.

1. Access

NLC supports action by the federal government to provide matching grants, technology grants, tax credits, subsidies and other types of aid that would increase broadband deployment. NLC also supports sustained funding of programs such as e-rate.

2. Adoption

Understanding that access alone is not enough to encourage adoption, NLC also supports proposals that would bridge the digital divide and develop programs that would create opportunities to increase broadband adoption.

3. Affordability

Federal policies should be designed to maximize the availability of affordable and competitively priced services throughout the country.

B. Competition

Communications services are no longer bound to a single, exclusive engineering or physical delivery mechanism. Convergence refers to delivering services over non-traditional platforms, utilizing multiple technologies to deliver a particular service, and delivering multiple services over a single platform. A common example is telephone (voice) and data delivered by cable. Past regulatory regimes – applied to specific communications services, delivered via specific technologies – will be irrelevant and unworkable in a market where “cable companies,” “phone companies,” and their competitors deliver packages of comparable services via different technologies.

Implementing the principles of universal availability requires participation from the private, non-profit and governmental sectors. The private sector’s role is to meet consumer demands by innovation and engaging actively in the market through product and service development and support. The non-profit sector may provide support for
individuals that are not adequately served by the market or government programs. Governmental programs are required in this area because the market cannot fully meet local, state and national objectives. Barriers of geography, technology, settlement patterns, poverty and other factors stand in the way. All levels of government have a role in ensuring universal availability. Despite the move to de-regulate services, states, through their public utility regulatory structures, have significant and changing roles in this area. Municipal and other local governments can make significant contributions to universal availability through community needs analysis, regulation, financing, franchising, direct provision of services, progressive management of city properties including rights-of-way and a variety of other means. The federal government must not preempt municipal authority to act in the interest of its citizens, especially where fully competitive and affordable services do not exist.

The federal government, because of its scale and geographic scope, has a unique role in providing redistribution of service costs so that a national system of universal affordable access exists. These roles are critical in order to bridge gaps between universal service and what the private sector provides in response to the market.

C. Broadcasting

1. Support for Low Power Television (LPTV)

Federal LPTV policy must promote and give priority to local government and public service programming, encourage diversity in programming, and maximize opportunity for local competition among LPTV stations.

2. Ownership Opportunities

NLC also encourages LPTV ownership by women, local governments, small businesses and minorities. Federal restrictions on trafficking, the rapid resale of recently acquired broadcasting licenses, should be established to preserve minority, female, small business, and local ownership.

3. Low Power FM Radio

NLC encourages the development of low power FM radio broadcasting service to provide opportunities for new entrants, including those for women and minorities into broadcast ownership. Low power FM radio broadcast programming can address local problems, needs and interests.

D. Fairness Doctrine

The federal “fairness doctrine” and related doctrines such as the “equal time” media access requirement for candidates should be enacted into law and strengthened by requiring full and effective FCC enforcement. The “fairness doctrine” was established in 1949 through federal regulation to foster debate on public issues and ensure the public airing of different points of view on controversial issues, but it was revoked in 1987 by the FCC.

7.01 Local Control and Authority

NLC supports a balanced approach to communications policy that allows new technologies to flourish while preserving traditional local regulatory authority. In particular, federal policies should not undermine the ability of municipal officials to protect the health, safety and welfare of their residents by diminishing local authority to manage public rights-of-way, to zone, to collect just and fair compensation for the use of public assets, or to work cooperatively with the private sector to offer broadband services. Regulation and oversight of basic telecommunication services are important prerogatives for local officials to advance community interests, including the provision of high quality basic services that meet local
needs and are available at affordable rates to all consumers.

A. Land Use and Zoning

1. General
The Federal Government must not preempt or restrict zoning authority and other local land use laws or requirements applied in a non-discriminatory and timely manner that regulate the location, placement, size, appearance, screening or siting of transmission and receiving facilities and any other communications facilities such as satellite dishes, radio towers, broadcast facilities, microwave facilities, equipment housing and similar facilities. (See related policy under the Community and Economic Development Chapter, Section 3.07 (A) Land Use.)

2. Adjudication
Disputes over local zoning and land use matters must be adjudicated by the state courts and not the FCC.

3. Exclusive Remedy for Personal Communications Facilities
NLC supports judicial decisions and legislation that express the clear Congressional intent to preclude application of damages and attorney fee remedies against local and state governments under federal civil rights statutes for violations of section 704 of the Telecommunications Act of 1996.

4. Radio Frequency Radiation Emissions
The federal government has established standards for radio frequency emissions. Local governments must be permitted to monitor and enforce these standards.

The increasing number of wireless sites in communities can increase questions from citizens about the health and safety impacts of these sites. The Federal Communications Commission should update its standards and guidance for safe exposure to radio frequency emissions to account for changes in technology and density of infrastructure.

5. Interference with Public Safety Communications
Local governments must have the authority under federal law to enforce zero-tolerance standards for interference with public safety communications. (See additional related policy in Section 7.03 (D) Standards.)

B. Tower Siting
Municipalities process and deploy the vast majority of wireless broadband infrastructure projects in a timely manner, respecting not only the needs of providers, but also the needs of the communities they serve. Local governments have the right and obligation to ensure wireless siting requests comply with current health, safety, building, engineering, and electrical requirements, as well as comply with tower fall zones and set-back ordinances.

C. Rights of Way Management
Public rights-of-way are properties owned by the citizens of a municipality that are managed by local governments for the benefit of those citizens. Proper management is essential for the transportation of people, goods and services and for utilities including power, clean water, stormwater, sanitary sewer and communications. Municipal governments engage in a variety of activities related to rights-of-way to protect the public safety and welfare, to minimize service disruptions to the public, to protect public investments in rights-of-way, to assure the proper placement of service lines, to regulate the placement of service facilities and to realize the value of this public asset. Underlying these municipal roles and control is the fact that the use of publicly-owned rights-of-way is a privilege, not a right. Use of municipal rights-of-way is not an
entitlement flowing from the Telecommunications Act of 1996. Local governments are legally and ethically obligated to control and charge for the use of rights-of-way. Moreover, the federal government must not mandate to local governments that the various users of rights-of-way be treated in precisely the same fashion, given that these industries place dissimilar demands and risks on the rights-of-way.

Municipalities, authorized to manage and receive compensation for commercial use of the public rights of way, may conduct a number of activities to achieve their management goals, including, but not limited to, the granting of franchises and licenses, the promulgation of construction, restoration and maintenance standards, the levying of taxes, the charging of fees, the levying of rental charges and the issuance of permits. The federal government should take no actions which restrict the authority of municipalities in these areas.

As communications and other services (that utilize public rights-of-way) are offered by different providers, and as services are bundled together or separated (segmented) in different ways, cities need the ability to adjust their regulations to the new provider environment. The federal government should remove federal barriers to this adjustment process by municipalities. Federal law should not preempt municipal regulations which require advance notification to the municipality of the offering of new services (using the rights-of-way) or when the use of existing facilities within the rights-of-way are converted to new uses. In addition service providers should be encouraged to deploy new technologies and not withhold implementation to the detriment of a community. Municipalities must have the authority to assess fees reflective of just and reasonable compensation for the use of public rights-of-way. There should be no federal limitation on the ability of a franchising authority to impose appropriate franchise fees for the provision of non-cable services or the provision of service by any provider of communications services and its affiliates, or multi-channel video programming distributors using public property or public rights-of-ways. Moreover, franchising authorities should be able to assess a franchise fee on all operations of the service provider, or any other provider of cable or any other communications system capacity, as any such use constitutes a valuable right for which a city should receive fair compensation.

Municipal requirements for users of the rights-of-way including but not necessarily limited to the following should be clearly recognized in federal law as appropriate exercises of municipal authority:

- Posting bonds;
- Notifying the municipality of excavations;
- Notifying the municipality of time, place, and manner of entry into rights-of-way;
- Complying with municipality requirements regarding excavation methods;
- Participating in the costs of street reconstruction;
- Qualification requirements for contractors and subcontractors;
- Demonstrating ability to guarantee the quality of restoration work;
- Complying with regulations specifying the frequency of when a street can be excavated; or
- Being subject to special assessments for street paving.
The type of requirements listed above should never be classified under federal law as illegally discriminatory practices or as barriers to market entry.

D. Municipal Broadband
NLC advocates for all levels of government (local, state, and federal) to facilitate the deployment of broadband networks and services through policies and regulations that favor government and private sector investments to further encourage deployment.

NLC supports federal proposals that preempt state barriers and preserve the authority of local governments to act in the interest of their citizens by offering internet access through community/municipal broadband initiatives.

1. Wireline/Fiber Communications
Municipalities must not be prevented from installing and operating municipally owned wireline/fiber communications systems. NLC supports federal policies that facilitate the development of multiple, competitive wireline communications providers.

2. Institutional Networks and Other Government-Use Networks
Communications policies on the national levels should encourage and support municipalities in the development and operation of Institutional Networks (“I-Nets”) or other networks used for governmental services such as transportation and utilities management and public safety. These networks are an integral part of the local communications infrastructure, providing valuable alternative video, voice, and data services to local governments, schools, hospitals, other public institutions, and the public. Furthermore, they can serve as a critical gateway to other communications networks. The creation of innovative services on I-Nets can be a catalyst for the broader deployment of advanced communications services within the community.

E. Wireline Communications Providers
Within this section, the phrase “communications providers” is intended to cover wireline telecommunication providers that historically provided telephony and/or television services. The phrase “municipalities” is intended to cover both municipalities and franchise authorities, other than municipalities, where applicable.

1. Federal/Local Jurisdiction over Wireline Communications Providers
Federal jurisdiction should be limited to matters expressly and unambiguously designated by statute as federal matters. All other matters should be left to local and state control; municipalities should have primary authority over local and other related intrastate matters. Federal laws and regulations should recognize, respect, and not restrict local government authority.

Municipal regulation of wireline communications systems is essential for several reasons:
- To manage use of the valuable and limited public rights-of-way;
- To protect consumer interests;
- To foster public, educational, and government (“PEG”) use of the system; and
- To protect the community’s needs and interests for which their rights-of-way are being occupied.

As authorities exercising police power to promote public health, safety and welfare, municipalities should be responsible for local matters such as:
- Management and control of the public rights-of-way;
• Consumer protection and enforcement of meaningful customer service standards, consumer choice, competitive consumer pricing;
• Continuity of service in cases of transfer, assignment, abandonment or termination;
• The use of municipally-owned/controlled facilities, including, but not limited to municipal services, poles, and conduits (and the fees for such use);
• Determining whether to require universal, nondiscriminatory service availability to subscribers; and
• Determining the use of franchise fees.

2. Franchise Granting Administration (for municipalities who have local franchises)
Municipalities should be permitted to consider any issues affecting the local public interest – including, but not limited to, the ability and willingness to provide service, PEG access requirements and universal service – in determining whether it is “reasonable” to deny a franchise request. Moreover, municipalities should have the right to consider the following issues relating to franchise administration:
• Impact of a franchise decision on competition in the local marketplace, and deny a franchise requests to providers that would restrict competition
• Franchise awards, modifications, time extensions, transfers, renewals, revocations, enforcement and administration;
• Prior approval or disapproval of transfers;
• The inspection of books and accounts, the conduct of audits; and
• Enforcement of service quality standards.

a. Franchise Renewals
Franchise renewals should be handled in accordance with applicable local law.
Federal law should:
• Allow municipalities to consider competitive renewal proposals at the time of renewal and to grant the franchise to a competitor that will better serve the community, provided that a locality is not required to grant an incumbent’s bid;
• Provide municipalities with authority to review all elements of the operators’ past performance without regard to transfers of ownership during the franchise term;
• Limit administrative and procedural complexities and establish an “arbitrary and capricious” standard for judicial review of a locality’s renewal decision;
• Provide adequate time periods for making a renewal decision; and
• Permit municipalities to deny renewal requests if a communications system operator is not in substantial compliance with material franchise requirements or has provided inadequate service, regardless of whether a locality had notice of, or provided a communications system operator notice of, franchise violations or inadequate service of notice of such violations.

b. Franchise Transfers
Federal law should not limit a municipality’s ability to disapprove a proposed transfer upon any reasonable grounds, including, but not limited to: (a) a finding of past failure to comply with the franchise; (b) a refusal by the transferee to agree to reasonable business terms or comply with the terms of the franchise in the future; or (c) a finding of economic non-viability (as reflected in the purchase price and the economic impact of these acquisition costs on the community).
Federal law should not limit a municipality’s ability to collect all information necessary to fully review a buyer’s qualifications, and should not place unreasonably short time limits on such review.

3. Franchise Fees
Municipalities must be paid fair and reasonable compensation for use of their
rights of way. Such amounts should not be limited to the cost of maintaining the rights of way. In addition, payments made for, or in support of the use of PEG facilities, equipment and services, or for institutional networks (I-Nets) should not be considered franchise fees.

With equity and competitive fairness as a framework, municipalities should continue to have the right to own, operate, manage or lease any other voice and data services without a franchise and in competition with franchised providers of such services.

4. Rate Regulation, Rate Structure, and Service Options
All traditional cable video services (including charges for installation, equipment, and other related services), should be regulated except for programming offered on a per-channel or per-program basis that is not supported by revenues from advertisements.

Federal law should allow a municipality to require a uniform rate structure throughout a franchise area on a nondiscriminatory basis. Uniform rates help ensure the availability of a minimum level of service to low-income, disabled and elderly persons.

Federal law should allow a municipality to require video operators to provide lifeline service at regulated rates or to offer discounts on its services to low-income, disabled and elderly persons.

F. Municipal Liability Exposure and Franchise Administration
1. First Amendment
NLC is opposed to challenges of government regulation on First Amendment or other constitutional grounds brought by cable operators, or other communications and information service providers. When municipal regulation is challenged on First Amendment grounds, NLC encourages recognition of the following principles:
- Current television distribution facilities are predominantly a natural monopoly;
- Wireline communications service providers generally make permanent and extensive use of the public’s rights-of-way;
- Public, educational, and governmental (“PEG”) access promotes the First Amendment interests of the public; Universal service promotes the First Amendment interests of the public;
- The First Amendment interests of the public and municipalities, in assuring programming diversity and a vigorous marketplace of ideas, outweigh the communications providers’ First Amendment interest in providing cable service; and
- The Internet is a unique media platform of expression that requires a different First Amendment standard from that applied to the print medium, but similar to that applied to the broadcast medium. Further these unique media of expression are evolving and should be routinely monitored.

2. Damages Immunity
Some local governments have been threatened with extraordinary monetary judgments in lawsuits by communications providers that challenge the fundamental right to exercise regulatory jurisdiction authorized by federal, state or local laws or regulations. NLC supports the damages immunity provisions in the Telecommunications Act of 1996. To the extent that local government damages immunity provisions are not clearly set forth in other sections of the Telecommunications Act of 1996, they should be clarified. For example, the legislation should preclude the award of attorney fees and costs against municipalities.
G. Channel Control and Placement

1. Local Authority over Channels

Municipalities should be permitted under federal law to enforce programming and programming-related requirements contained in franchise agreements, including, for example, the number of channels that must be carried on any tier, requirements for PEG channel capacity, and a lifeline service tier requirement.

2. Must Carry Requirements

NLC feels that federal “must-carry” requirements serve important goals, such as promoting the viewership of public broadcasting systems and preserving the nation’s system of free over-the-air broadcast service.

NLC supports federal law that prohibits broadcasters from using available PEG channels to transmit must-carry signals without a municipality’s approval. Such approval should be obtained in advance of the use of unused PEG channels and such use of PEG channels should be temporary.

3. Channel Placement and Numbering for Cable

Municipalities should not be precluded by federal law or regulation from regulating the placement and numbering of access channels to better protect consumers. Municipalities should also be authorized to prohibit any changes in channel assignments on tiers subject to rate regulation unless approved by the municipality.

Changes in alignment for services not subject to rate regulation (e.g., pay-per-view and premium programming) should be preceded by reasonable notice to the municipality and subscribers.

H. Public Access Channels

Federal law should require communications providers offering channel-based programming, regardless of the means of distribution, to meet PEG access obligations as determined by municipalities.

Federal law should: (a) authorize municipalities to require communications providers to provide both operating and capital support for access facilities, equipment, staffing, and maintenance at levels sufficient to ensure the viability of access without any limitations or credits against franchise fees; (b) not limit franchising authorities ability to designate entities to provide access services; and (c) provide liability protection wherever a municipality, access entity, or communications provider does not exercise editorial control over content.

I. Satellite Services

NLC supports federal efforts requiring satellite companies to meet public interest requirements such as public, education and government (PEG) channels.

7.02 Public Safety

Ensuring dependable, robust, and resilient communications systems for public safety needs is ultimately the responsibility of municipal government and one of its highest priorities. Preserving the local government role in public safety communications systems can help local governments take advantage of technological innovation and result in improved communications efforts and practices.

This section will focus primarily on the communications-related aspects of public safety. For additional public safety policy, please refer to the Public Safety and Crime
**Prevention (PSCP) Chapter of the National Municipal Policy.**

**A. Spectrum Allocation**
Spectrum is a finite non-renewable natural resource owned by the people and managed by the government.

The federal government must allocate sufficient communications spectrum to municipalities for public safety use in order to enhance inter-operable communications among public safety and service agencies, and to ensure the ability of local governments to meet their responsibilities for public safety and emergency services. The federal government must also involve cities as it develops standards for the delivery of emergency information on communications systems.

If federal reallocation of radio spectrum forces a municipality to change frequencies, channels, or both to preserve their public safety and emergency communications services, there should be fair compensation made for transfer costs. Such compensation should include all costs reasonably incurred by the municipality, including, but not necessarily limited to, new equipment and infrastructure for broadcasting under a different frequency, and additional personnel and training.

**B. FirstNet**
The passage of the Middle-Class Tax Relief and Job Creation Act of 2012, provided spectrum and $7 billion in funding to create a nationwide public safety data communications network in the hopes of meeting the needs and requirements of our nation’s first responders. The First Responder Network Authority (FirstNet) Board of Directors has been tasked with the planning, construction, maintenance, and operation of a nationwide public safety wireless broadband network that will allow first responders to achieve better communication in their day-to-day work as well as during disaster response. NLC encourages efforts by FirstNet to work with state and local governments, as well as the first responder community, to identify their needs when it comes to the cost, coverage, and uses of the public safety broadband network.

**C. Interoperability**
Having the capability to transmit vital information to different emergency response personnel among all levels of government without interference and delay is key to communications for public safety. No man, woman, or child should lose his/her life because public safety officials cannot communicate with one another. The federal government should take immediate action to provide local governments with the broadcast channels needed to enhance their communications capabilities. Reliable and interoperable wireless communications are essential to public safety’s mission to protect life and property. *(See related policy under PSCP Section 6.02(C) Public Safety Technology and Intelligence Goals.)*

**D. Standards**
The federal government should encourage regional planning for public safety communication needs and address the current shortage of spectrum channels with a long-term plan that ensures sufficient and appropriate spectrum to meet future public safety needs across the nation, communications equipment with open standards, and funding for the necessary building, operation, and maintenance of a national interoperable emergency communications system. If federal reallocation of radio spectrum forces a municipality to change radio frequencies and/or channels to preserve its public safety
and emergency communications services, there should be prompt and fair compensation made for transfer costs, such as new equipment and additional personnel and training. (See related policy under PSCP Section 6.02(C) Public Safety Technology and Intelligence Goals.)

E. Emergency Notices
The federal government must ensure that homes and businesses have access to the same emergency information as is offered by the Emergency Alert System, without regard to which communications technology is used to serve a location.

7.03 Consumer Protection
Municipalities have a fundamental responsibility to protect the public health, welfare and safety through the exercise of police powers vested in them by action of their residents or the operation of state law. Through such mechanisms as: direct provision of services, franchising, permitting, and licensing, municipal governments have and maintain oversight over multiple communication systems, which are essential to this objective. Federal law should allow municipalities to enact and enforce more rigorous customer service standards than federal standards.

A. Abusive Practices
1. Slamming
NLC supports federal efforts to address the illegal practice of changing consumer communications services without authorization, known as slamming. This unauthorized change can have a negative impact on consumers of communications services who not only lose the right to subscribe to their carrier of choice, but also might be subject to lower quality service or higher rates.

2. Cramming
NLC supports federal efforts to address the illegal act of placing unauthorized charges on wireline, wireless, or bundled communications services bill, a practice known as cramming. This practice tricks consumers into paying for services they did not authorize or receive, or that cost more than the consumer was led to believe.

3. Robo-Calls
NLC supports federal efforts to address robocalling which are unsolicited telemarketing calls to landline or cellular telephones, and all autodialed or prerecorded calls or text messages to wireless numbers. NLC supports the Do-Not-Call Registry and encourages further efforts to expand the program and close loopholes.

4. Spoofing FCC Language
NLC supports federal efforts to address caller ID spoofing, a practice where callers can deliberately falsify the telephone number and/or name relayed as the caller ID information to disguise the identity of the calling party.

5. Unsolicited Communications
NLC supports federal efforts to curtail unsolicited communications, including, but not limited to, cell and landline phone calls, texts, faxes, e-mails, pop-up Internet ads and abandoned phone calls, except in situations where an established business relationship exists. In addition to being a nuisance, the costs of such unsolicited communications are often passed on to consumers and businesses. However, federal actions, such as national “do not call” registries, should not preempt or weaken existing state or local laws.
6. **Reassigned Numbers & Autodialer**

An autodialer is any technology with the capacity to dial random or sequential numbers. NLC encourages federal action to provide consumers an easy way to exempt themselves from autodialer call lists and prevent companies from calling numbers that have been reassigned. NLC also supports federal efforts to restrict the use of this technology.

**B. Truth in Advertising**

NLC supports federal proposals which encourage regulators to develop and enforce strict guidelines to govern advertising and public disclosure of broadband services. Of special interest should be:

- Broadband providers currently use download speed as their primary flagship, while minimizing the disclosure of upload speed, which is the most variable component of current broadband delivery technologies. Carriers should be required to advertise upload/download speeds on an equal basis.
- Carriers heavily advertise their download speeds as rated inside their own networks, without any common measurement indexes that would allow consumers a basis for fair comparison of products between carriers. Carriers should be required to ensure all broadband advertising that includes bandwidth claims to use a common system for speed measurement across the entire Internet.
- Carriers currently contract consumers to multi-year agreements with exit costs that are not indicative of the installation costs or associated discounts for the services provided. Carriers should be required to disclose/contrast termination fees in all advertising that ‘headlines’ a discounted rate based on said contractual agreement.
- Carriers currently contract groups of consumers to lengthy multiyear exclusive contracts to pre-empt the expansion of city/municipality owned networks. To counter this, there should be support for the expansion of municipal broadband by discouraging or legislating against these practices.
- Carriers currently ‘package’ other services with their broadband services to force market these products to consumers that have limited/no options in the broadband market. The use of ‘slam packaging’ in markets with exclusive/limited broadband service options should be banned.

**C. Billing Practices**

Federal requirements should not restrict the ability of any individual subscriber from filing complaints directly with the FCC about expanded basic tier rates.

Federal laws should not permit communications system operators to itemize franchise fees, PEG access and other franchise costs. Existing laws should be repealed or, at a minimum, amended to permit municipalities to require the complete itemization of all costs, including costs attributable to programming, operations and debt service. At a minimum, federal law should be clarified to prohibit communications system operators from passing through as a line item on subscriber bills franchise revenues generated by non-subscriber revenue.

- Franchise fees, PEG access, and other franchise costs should be accurately itemized and classified by federal law as a charge upon the communications system operator’s total gross revenues, and not as an additional charge upon subscribers.
- Communications system operators should be prohibited by federal law from treating such fees or costs as a “pass-through” to subscribers and thus evading...
payment of franchise fees on 100 percent of their gross revenues.

- Communications system operators should be required by federal law to quote rates inclusive of such fees and costs in all communications, including advertisements and other promotional materials.

D. Service Disputes
1. Customer Service and Consumer Protection
NLC supports federal law that would allow municipalities to enact and enforce more rigorous customer service standards.

2. Rate Complaints
NLC supports federal requirements that do not restrict the ability of any individual subscriber from filing complaints directly with the FCC about expanded basic tier rates.

E. Privacy
1. Privacy and Consumer Protection
Federal law must not limit the ability of municipalities to protect consumers from the misuse of personally-identifiable information. The consequences to individuals from the use and misuse of personal information and shifting public expectations for information privacy should be at the forefront of federal policy decision-making. The collection, maintenance, use and dissemination of personal information have been facilitated by the vast capabilities of modern information technology.

2. Privacy and Public Records
Local governments have an important role as collectors and caretakers of vital information about the people and communities they govern. This information is a unique resource used by governments to plan and deliver services and, under state and local guidelines, by citizens and the private sector to enhance educational, social and economic objectives.

NLC opposes any federal law or regulation, which would limit a municipality’s discretion in determining what information, held by a municipality, should be made available electronically.

A municipal government should have no legal exposure under federal law or regulation if a municipality makes information, which is public under its state law, available to any member of the public.

To safeguard municipal interests and promote expanded use of innovative information technologies, municipalities should never be required by federal law or regulation to provide data electronically, or in an electronic format that involves a significant development cost without reasonable compensation for, at minimum, the marginal cost of providing the service. Cities should be allowed to provide information in the format that is generally employed to meet the needs of the municipality, which may not necessarily be in the form that a requester desires.

F. Cybersecurity
NLC supports federal efforts in cybersecurity related to national security, protection of sensitive information and intellectual property, and the availability and continuity of infrastructure. (See related policy under PSCP Section 6.03(I) Protect Against and Respond to Cyber Threats.)

G. Network Neutrality
The federal government should mandate compliance with the following principles by all companies owning networks or offering Internet access, regardless of technology they employ:
• Internet users and creators of services should have unrestricted access to and use of their choice of lawful Internet content, applications, and services;
• Internet users are entitled to connect their choice of legal devices to the network;
• Internet service providers should not engage in prioritization or throttling of content unrelated to public safety needs.
• While network owners define the cost and technical limits of their service, consumers must receive meaningful information regarding their service plans, including but not limited to information about anticipated upload and download speeds;
• Each of these principles should apply regardless of an Internet user’s income, race, geographic location, or disability; and
• Enforcement of these principles and similar principles are essential to ensure that the public receives the maximum diversity of information and the maximum competition among providers of services, equipment, content, and Internet access.
NLC RESOLUTION #41

LOCAL GOVERNMENT SUPPORT OF COMMUNITY/MUNICIPAL BROADBAND NETWORKS

WHEREAS, the universal availability of affordable broadband access for all citizens has been identified as a national priority; and

WHEREAS, community/municipal broadband networks are an essential option for education, healthcare, market competition, consumer choice, economic development, and universal, affordable Internet access nationwide; and

WHEREAS, historically, local governments have ensured access to essential services by banding together to provide those services that were not offered by the private sector at a reasonable and competitive cost. This involvement has included electrification, public libraries, and other important services; and

WHEREAS, according to the Federal Communications Commission, half of American homes only have two options of Internet service providers for basic broadband and for faster speeds, a majority of households only have one choice;\(^1\) and

WHEREAS, the economic health of municipalities depends on public and private investment to connect their communities; and

WHEREAS, attempts continue to be made to limit or stop further local government deployment of municipal broadband services, which has the potential of reducing the ability of local government to provide important information and services to their citizens in a timely, efficient, and cost-effective manner; and

WHEREAS, opponents of community and municipally provided broadband have proposed various administrative procedures that they claim are designed to protect citizens and consumers from unwieldy local governments; however, these safeguards really place over-burdensome requirements on municipalities and act as unnecessary barriers;\(^2\) and

WHEREAS, in the vast majority of community/municipal broadband networks built to date, the private sector has been involved in helping design, build, and operate the network – creating new business opportunities and jobs in the process; and

WHEREAS, local governments should not be preempted by states from being able to offer broadband services, high speed Internet, and other communications services which could advance the deployment of broadband throughout our nation.

NOW, THEREFORE, BE IT RESOLVED the National League of Cities (NLC) urges the federal government to encourage deployment of broadband networks in a competitive manner via a variety of conduits (satellite, wireless, and wireline); and


BE IT FURTHER RESOLVED NLC opposes any actions that seek to burden cities through unnecessary procedural requirements and safeguards that duplicate the democratic process by which cities govern themselves; and

BE IT FURTHER RESOLVED NLC embraces local governments’ ability to work cooperatively with the private sector to offer broadband services and does not believe such public/private partnerships are incompatible with private sector competition; and

BE IT FURTHER RESOLVED NLC supports federal proposals that promote community/municipal broadband, that preserve the authority of local governments to act in the interest of their citizens by offering high speed Internet and other communications services, and preempt states from barring local governments from offering such services in their communities.
NLC RESOLUTION #42

BROADBAND ACCESS: A CALL FOR UNIVERSAL AVAILABILITY, AFFORDABILITY AND WORLD-CLASS QUALITY

WHEREAS, despite the Internet being an invention of the United States, Americans pay the most in the world for broadband access that is not on par with the speeds of other countries\(^1\); and

WHEREAS, according to the Federal Communications Commission, half of American homes only have two options of Internet service providers for basic broadband and for faster speeds, a majority of households only have one choice\(^2\); and

WHEREAS, the federal government has released a National Broadband Map, as directed by the National Broadband Plan, that provides data to support efforts to expand broadband access and adoption in communities at economic risk and help businesses and consumers seeking information on their high-speed internet options; and

WHEREAS, to compete successfully in an increasingly global environment the United States needs to take advantage of all of the technological solutions that high-speed broadband access offers; and

WHEREAS, universal broadband should be considered essential infrastructure that contributes to economic health and survival of communities across the United States; and

WHEREAS, the National League of Cities (NLC) believes that while the Federal Communications Commission’s current aspirational benchmark for broadband speeds has been increased to 25 Megabits actual speed downstream and 3 Megabits upstream, 23 million Americans –10 percent of the population – still lack access to advanced broadband\(^3\); and

WHEREAS, with the proliferation of devices with Internet access, wireless data traffic has grown significantly, placing a greater demand on both licensed and unlicensed spectrum, and adding additional capacity is essential to support continued innovation and achieve the potential to transform many different areas of the American economy by providing a platform for innovation and is likely to have a substantial impact on jobs, growth and investment, and

WHEREAS, the availability and adoption of quality broadband service can vary dramatically from one neighborhood to another, even in heavily populated urban areas, and a substantial number of individuals in poor and rural communities have limited Internet access and where broadband access is limited, citizens have limited access to information, education and tools for economic independence; and

\(^1\) 2014 Cost of Connectivity Report, Open Technology Institute, New America Foundation.


WHEREAS, over 5 million households with children in school currently lack a fixed broadband connection, while the majority of teachers assign homework that requires broadband, leaving millions of students behind in modern education; and

WHEREAS, American households that do not subscribe to broadband cite costs and a lack of need or disinterest, underscoring a need to address the United States’ digital divide and create opportunities to increase broadband adoption; and

WHEREAS, NLC strongly believes that broadband access should be universal, affordable and competitively priced, as universal broadband access would promote economic development, enhance public health and safety and increase educational opportunities for millions of Americans across the country; towns and cities across the country are offering fast, affordable Internet, and states should be encouraging these initiatives, not hindering them; and

WHEREAS, such availability and adoption is insufficient to meet current and future needs, and because the broadband capabilities of other countries accommodate much higher connection speeds and are more widely available and less expensive per megabit than in the United States; and

WHEREAS, NLC supports proposals that promote community/municipal broadband services, and that preserve the authority of local governments to act in the interest of their citizens by offering high speed Internet and other communications services, and

WHEREAS, NLC opposes any attempts which bars local governments from offering community/municipal broadband services in their communities.

NOW, THEREFORE, BE IT RESOLVED NLC asks the federal government to recognize and work to achieve the twin goals of broadband access by providing:

- Affordable and competitively priced broadband access; and
- Appropriate standards for broadband speed, reliability, and connectivity that allow America to compete in the global economy and open more opportunities to deliver robust services more economically and universally; and

BE IT FURTHER RESOLVED NLC supports the Federal Communications Commission’s move to allocate additional spectrum for unlicensed use in order to meet increased demand for wireless technologies; and

BE IT FURTHER RESOLVED NLC supports the Federal Communications Commission revisiting the aspirational benchmarks for broadband speeds on a more frequent basis because of the evolving nature of technology and the varying and changing needs of communities for faster speeds; and

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4 The Numbers Behind the Broadband Homework Gap, Pew Research Center, April 20, 2015.
5 Exploring the Digital Nation, National Telecommunications and Information Administration, U.S. Department of Commerce, October 2014.
BE IT FURTHER RESOLVED NLC opposes any efforts by the FCC to lower the speed benchmarks for broadband or to include mobile broadband as a sufficient replacement for fixed wireless or wireline broadband service; and

BE IT FURTHER RESOLVED NLC encourages the FCC to close the “homework gap” in low-income households through the support of low-cost plans, including access provided by local governments; and

BE IT FURTHER RESOLVED NLC opposes any efforts by the FCC to reverse modernization of the critically important E-Rate and Lifeline programs; and

BE IT FURTHER RESOLVED NLC urges the federal government to take an expeditious role in convening together all interested parties, including, but not limited to, all levels of government (local, state, tribal, and federal), consumer organizations, representatives of underserved communities (rural, urban and suburban), all segments of the communications industry interests, representatives of private sector, and not-for-profit sector organizations, to promote ubiquitous broadband access.
NLC RESOLUTION #43

LOCAL GOVERNMENT SUPPORT FOR FAIRNESS AND TRUTH IN ADVERTISING FOR INTERNET SERVICE PROVIDERS

WHEREAS, the universal availability of affordable high-speed Internet broadband access for all citizens is a national priority; and

WHEREAS, Internet access is a necessity for citizens to enable access to their workplaces, educational opportunities, social media, and community involvement: and

WHEREAS, the Federal Communications Commission has defined ‘broadband’ to be 25 MBps (megabits per second) download speed and 3 MBps (megabits per second upload) speeds as the de-minimis standard where the terminology ‘broadband’ is used,¹ and

WHEREAS, advertising practices in the Internet/broadband industry are generally unmonitored, and

WHEREAS, broadband providers currently emphasize the download speed they provide while minimizing the disclosure of upload speed, which is the most variable component of current broadband delivery technologies, and

WHEREAS, Internet providers that do not meet the Federal Communication Commission standards for broadband use the term ‘broadband’ for their advertised service with no disclosure of their failure to meet the standard.

NOW, THEREFORE, BE IT RESOLVED the National League of Cities (NLC) supports the imposition of a standard for broadband measurement to be required in broadband advertising, allowing the public a fair basis for comparison when purchasing broadband services, and

BE IT FURTHER RESOLVED that this advertising standard should require carriers to advertise upload/download speeds on an equal basis, and

BE IT FURTHER RESOLVED NLC urges the federal government to explore and enact requirements that promote fair and explicit advertising in the broadband industry.

NLC RESOLUTION #44

AFFIRMING SUPPORT FOR LOCAL CONTROL OF BROADBAND INFRASTRUCTURE SITING

WHEREAS, the Federal Communications Commission has recently opened proceedings that challenge local authority to manage rights of way and govern broadband infrastructure under the auspices of accelerating broadband infrastructure deployment,¹ and

WHEREAS, the Federal Communications Commission has also separately opened proceedings proposing to “streamline” the deployment of small cell and distributed antenna system network infrastructure by preempting local governance of that infrastructure,² and

WHEREAS, cities have worked as active partners to site broadband infrastructure in their communities while protecting public safety, neighborhood character, and the integrity of existing infrastructure such as poles, streets, and sidewalks, and

WHEREAS, cities share the Federal Communications Commission’s goal of expanding broadband access to all Americans, no matter where they live, and

WHEREAS, cities have a duty to their taxpayers to protect and manage public property and public rights-of-way for the benefit of all users, and must balance the needs and interests of broadband providers with those of other users of the rights-of-way and residents by appropriately reviewing siting requests and assessing appropriate rent for use of public property, and

WHEREAS, the Federal Communications Commission has also established a new Broadband Deployment Advisory Committee charged with creating model state and local code and identifying obstacles to broadband deployment caused by state and local regulation, and

WHEREAS, this Broadband Deployment Advisory Committee contains only three local officials (Mayor Sam Liccardo of the City of San Jose, Councilmember Andy Huckaba of the City of Lenexa, and City Manager Larry Hanson of the City of Valdosta) among its thirty members, the majority of whom represent the telecommunications industry, despite endorsement of numerous local government candidates by NLC and the National Association of Telecommunications Officers and Advisors.³


NOW, THEREFORE, BE IT RESOLVED THAT NLC opposes efforts by the Federal Communications Commission and Congress to preempt municipal authority over all broadband infrastructure, wired or wireless, including small cell infrastructure, and

BE IT FURTHER RESOLVED THAT NLC calls on the FCC and Congress to protect local police powers over their rights-of-way, municipal authority to protect neighborhood character and public safety, and existing authority to assess fair compensation for private use of public assets, including the rights-of-way and other public lands and facilities, which should not be limited to the cost of maintaining the rights of way, and

BE IT FURTHER RESOLVED THAT NLC calls on the Federal Communications Commission to identify effective collaborative solutions and effective administrative practices for the siting of wireless infrastructure, instead of implementing a one-size-fits-all preemptive regulatory approach, and

BE IT FURTHER RESOLVED THAT NLC calls on the FCC to examine all best practices and potential obstacles to expanded broadband deployment and adoption, including obstacles created by federal or industry practices that stymie local and consumer efforts to expand broadband access.
NLC RESOLUTION #45

SUPPORTING INCLUSION OF BROADBAND INFRASTRUCTURE IN FEDERAL INFRASTRUCTURE INVESTMENTS

WHEREAS, broadband infrastructure has become an economic necessity for American cities, driving education, healthcare, public safety, economic growth, and operating efficiency in a 21st-century economy, and

WHEREAS, sufficient broadband infrastructure has become increasingly necessary to support all forms of infrastructure, from smart-meter electrical grids, to connected traffic management networks, to sensor-enabled water and sewer systems, and

WHEREAS, robust broadband is needed to support the deployment of advances in smart city technologies, as well as autonomous vehicles and unmanned aerial systems, or drones, and

WHEREAS, in-home broadband access has been shown to increase home values by 3%, and up to 7.1% at higher speeds\(^1\), and to boost economic and entrepreneurial activity within communities who gain access to widely available broadband, and

WHEREAS, 10% of Americans, particularly those living in low-income or rural neighborhoods, remain un- or underserved by broadband\(^2\) and lack access to the same kinds of advances in technology that Americans with broadband enjoy, and are unlikely to gain connectivity without meaningful public investment, and

WHEREAS, while smartphone use and access to mobile data has increased, fixed in-home broadband connections remain a necessity to close the digital divide and allow all Americans to fully access the benefits of connectivity.

NOW, THEREFORE, BE IT RESOLVED THAT NLC urges Congress to include and incorporate federal investment in broadband in any federal infrastructure proposal, to strengthen the nation’s infrastructure network while promoting economic development and social equity in our communities.

BE IT FURTHER RESOLVED that NLC calls on Congress to expand the U.S. Department of Agriculture’s Rural Utility Service Broadband program beyond loan guarantees to include grants, and increase the population threshold for eligible areas to at least 20,000 so that more areas may take advantage of this financing,

BE IT FURTHER RESOLVED that NLC calls on Congress to increase funding for Community Development Block Grants and Choice Neighborhood Grants, which allow local governments to fund broadband planning and deployment alongside affordable housing and neighborhood improvement projects,

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BE IT FURTHER RESOLVED that NLC calls on the U.S. Department of Housing and Urban Development to expand its ConnectHome program, to ensure that a growing number of HUD-assisted households and schoolchildren will have access to in-home broadband, and

BE IT FURTHER RESOLVED that NLC calls on Congress to remove state-imposed barriers to broadband investment, such as preemption of municipal broadband networks, and

BE IT FURTHER RESOLVED that NLC calls on Congress to reform and update federal transportation grant programs such as TIGER to ensure that placement of broadband infrastructure through policies such as “dig once” is prioritized in funded projects, and that physical structures that reduce the cost of broadband deployment by private companies such as dark fiber and conduit are eligible expenses in federal grant programs.