



# TELECOMMUNICATIONS

## SNAP UPdate<sup>SM</sup>

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### **FCC Considers Preempting State Laws Limiting Internet Access Operated by Cities**

In an effort to increase competition and coverage of broadband internet service in their communities, Wilson, North Carolina and Chattanooga, Tennessee have petitioned the FCC to preempt state laws that limit cities' ability to build publicly-run broadband services. Tennessee passed a law forbidding cities from building high capacity networks beyond a certain geographic area. In North Carolina, publicly run broadband carriers may not set their prices lower than the prices offered by private carriers. These state laws limit Internet access services operated and sold by cities, making deployment of broadband in smaller companies extremely difficult and effectively blocking competition to the broadband services offered by large providers such as Comcast and Verizon.

Laws such as these are not unique to North Carolina and Tennessee. 20 other states have similar limits on Internet providers. As a result, these laws have become a national concern as they are limiting the available of affordable broadband across the nation.

Section 706 of the Communications Act authorizes the FCC to promote the deployment of broadband services on a nationwide basis. If the FCC concludes that these state laws have the effect of improperly limiting the availability of broadband services, it could use Section 706 to preempt their enforcement.

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As with many issues relating to broadband deployment and access, there is a wide gulf between the major political parties. The Obama administration and the Democratic legislators generally favor measures that ensure the widespread and non-discriminatory availability of broadband services to all segments of the population. Republican legislators are more hostile to policies favoring full net neutrality and to policies that would allow governmental involvement in providing broadband services. Thus, it is not surprising that Congressional Republicans have moved to block the FCC's ability to act on the Chattanooga and Wilson petition through legislation that would restrict the FCC's authority under Section 706.

President Obama has weighed in on the issue, urging the FCC to take the steps necessary to remove state barriers that block competition in the broadband market. The FCC has yet to respond to this petition.

We welcome your thoughts on this issue. If you have questions, please feel free to contact us.

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