1-25-2015

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Kenneth Eng
Cardozo Arts & Entertainment Law Journal

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BY KENNETH ENG / ON JANUARY 25, 2015

Since the inception of the Internet, users have demanded faster download and upload speeds in order to quickly access and share webpages, news, photos, and videos. During the 1990s, most Internet users accessed the web through "dial-up" modems, where access was limited to 56 kilobits per second (Kbps). Today, technological progression allows some users to access the Internet at speeds of up to 1000 megabits per second (Mbps), but the average download speed in the United States hovers around 32 Mbps. This dramatic increase in Internet speeds has allowed users to peruse and explore the web in a significantly different fashion than early Internet users. For example, a High-definition copy of a two-hour movie like *The Interview*, starring Seth Rogen and James Franco, is roughly five gigabits in size. Using a 56k dial-up modem, it would have taken a user more than eight days to download the movie. Contrastingly, with a 1000 Mbps Internet connection, the same movie can be downloaded in less than one minute.

Few people would be surprised to learn that Hong Kong, Seoul, Tokyo, and Paris are among the world's cities with the fastest Internet connections. However, which cities within the United States have the fastest available Internet connection? Perhaps New York or San Francisco? Nope. But if you somehow guessed Chattanooga, Tennessee or Cedar Falls, Iowa, you would be absolutely correct. According to the Open Technology Institute's *Cost of Connectivity 2014* report, Hong Kong, Seoul, Tokyo, Paris, Chattanooga, and Cedar Falls offer Internet users blazing connection speeds of 1000 Mbps. Comparatively, Internet service providers (ISPs) in New York and San Francisco only offer speeds up to 500 Mbps and 200 Mbps respectively. Smaller American cities, like Cedar Falls and Chattanooga, have been able to create access to 1000 Mbps broadband connections through a *municipal broadband* network (also commonly called, *community broadband*). In a municipal broadband network, communities band together to invest municipal dollars to create an Internet service infrastructure that serves the local community.

On January 14, 2015, President Obama announced an executive action to expand broadband Internet access and create municipal broadband networks as an alternative to private ISPs. In the President's televised Cedar Falls address, he called upon the Federal Communications Commission (FCC) to override state laws that prohibit communities from providing their own broadband Internet. President Obama stated, "Today, high-speed broadband is not a luxury, it's a necessity. This isn't just about making it easier to stream Netflix or scroll through your Facebook newsfeed." A related White House report titled, *Community-Based Broadband Solutions: The Benefits of Competition and Choice for Community development and Highspeed Internet Access*, found that some rural American communities lacked access to any form of

broadband Internet. As a result, some rural communities still rely on antiquated 56k, dial-up Internet connections. Furthermore, the report found that many consumers with access to broadband were limited to only a handful of ISPs. Consequently, the lack of competition allows ISPs to charge relatively expensive prices in exchange for mediocre Internet connection speeds and customer service. The report also found that the average cost of broadband in the United States was significantly more expensive, than the international average at all connection speeds. Private telecommunications companies and ISPs choose not to serve a geographic market based on a cost-benefit analysis. Some companies are simply unwilling to compete; an ISP is unlikely to invest in building an expensive fiber-optic network infrastructure in a geographic area where another ISP already dominates the market. Relatedly, rural areas may not have enough customers per square mile to make a network infrastructure investment profitable.

Municipal broadband networks work to mitigate the lack of broadband Internet access and high prices by generating public investment in network infrastructure and encourages competition by providing an alternative choice to consumers. Communities that are not served by any ISP can create their own networks. Additionally, the implementation of municipal broadband networks encourages private ISPs to keep prices reasonable and provide better service in the face of competition. For example, after Wilson, North Carolina implemented a municipal broadband network, Time Warner Cable stabilized their subscription prices and increased the connection speed from 10 Mbps to 15 Mbps, "because of the competitive environment."

Although the President has garnered extensive support in favor of implementing municipal broadband networks, nineteen states have laws that prohibit municipal broadband. The issue still remains as to whether the FCC has the authority to utilize its regulatory powers to preempt state laws that prohibit municipal broadband, especially after the Court of Appeal's ruling in *Verizon v. F.C.C.*, 740 F.3d 623 (D.C. Cir. 2014). FCC Chairman, Tom Wheeler, argues that the FCC gets its authority to preempt these state laws through § 706 of the 1996 Telecommunications Act, which states that the FCC "shall encourage the deployment on a reasonable and timely basis of advanced telecommunications capability to all Americans." Contrastingly, Lawrence J. Spiwak, president of the Phoenix Center for Advanced Legal & Economic Public Policy Studies, argues that the FCC does not have the power to preempt state prohibition of municipal broadband because the exercise of § 706 must be tied to a specific delegation of authority.

The implementation of municipal broadband raises other issues besides the limit of the FCC's powers as an independent agency. Telecommunication companies have been quick to point out whether the construction of municipal broadband networks equate to the misappropriation of taxpayers' dollars. While a private telecommunication company has "willing" risk-takers in the form of shareholders, a municipality would risk taxpayers' dollars in

order to construct a broadband infrastructure. Additionally, a government-controlled entity serving as an Internet service provider raises new data privacy concerns.

Despite these concerns, fast and reliable Internet service is surely necessary for technological innovation to continue. In reference to Chattanooga's 1000 Mbps connection speed, the former mayor stated, "It's like being the first city to have fire. We don't know all of the things we can do with it yet." One thing is certain; we all want our Netflix videos to stop buffering and our Facebook streams to load quickly.

Kenneth Eng is a second-year law student at Benjamin N. Cardozo School of Law and a Staff Editor of the Cardozo Arts & Entertainment Law Journal. He can be contacted at eng.kenn@gmail.com.