

Principles to Guide Broadband Infrastructure Build-Out

May 2021

tl;dr

Background... The COVID-19 pandemic has highlighted the resilience of U.S. broadband infrastructure, the extent to which we rely on that infrastructure, and the geographies and communities where broadband build-out lags behind. As the extent and impact of the digital divide has been made clearer, there is renewed interest in the best ways to expand broadband access to better serve all Americans.

But... Policymakers should eschew calls to address the digital divide simply by throwing vast sums of money at the problem. Moreover, they should take account of the dynamic nature of broadband markets and avoid highly prescriptive mandates. They should, instead, pursue a principled approach designed to encourage entry in new regions, while avoiding poorly managed subsidies and harmful price controls that would discourage investment and innovation by incumbent internet service providers (ISPs).

However... As Congress and the White House prepare to debate infrastructure proposals that include potentially more than \$100 billion in spending on broadband, the International Center for Law & Economics (ICLE) proposes the following principles to guide legislative deliberations to expand broadband access.

KEY TAKEAWAYS

FOCUS ON THE UNSERVED

Internet access with 25 Mbps download speed and 3 Mbps upload speed—considered a base-level definition of “broadband”—is available to approximately 95.6% of the U.S. population, while 91.7% of the population has access to 100/10 Mbps. Public investment in broadband infrastructure should focus on providing internet access to those who don’t have it, rather than subsidizing competition in areas that already do.

A COOPERATIVE PATHWAY FOR ENTRY AND BUILD-OUT

Firms that take government funding to provide access in unserved areas should be subject to the minimal regulatory obligations necessary to ensure public support is used in ways that further basic deployment and access policies. But such constraints are unnecessary and costly once markets become competitive. Competitive markets should be subject to lighter-touch obligations.

A TECHNOLOGY-NEUTRAL APPROACH

Highly prescriptive mandates—like requiring a particular technology or requiring symmetrical speeds—are needless and costly and they are likely to skew infrastructure spending away from those in unserved areas. To the extent

policymakers want to ensure core network infrastructure can support future needs, technology-specific appropriations should be limited to requiring conduit or dark fiber to be installed along roads supported by broader infrastructure spending.

END INDUSTRY-SPECIFIC FUNDING AND SUPPORT CONNECTIVITY VOUCHERS

Closing the digital divide requires modernizing not only our infrastructure but also the funding mechanisms that support it. The Universal Service Fund (USF) mechanism—a fee on telephone service used to support build-out of both telephone and internet service—is an ineffective anachronism from the era of analog telephony. Industry-specific funding is no longer sufficient and broadband subsidies should be funded from general revenue. Consumer-directed subsidies, rather than supply-side subsidies, should be used to incentivize broadband buildout and, where necessary, guarantee the availability of minimum levels of service.

A SENSIBLE APPROACH TO MUNICIPAL BROADBAND

Municipal broadband is a highly subsidized service, often relying on revenues from other parts of a local government’s budget to support it. There may be very limited cases where municipal broadband is a viable solution to a complete absence of broadband infrastructure. But policymakers must narrowly tailor any such proposals to avoid displacing private investment or undermining competition. Thus, municipal providers should focus on only a basic tier of service. And it is crucial to ensure that service provision doesn’t exacerbate the digital divide by curtailing private investment in exurban and rural areas just outside the municipal service area.

REMOVE EXISTING REGULATORY BARRIERS

Outdated or demonstrably ineffectual regulations that needlessly drive up the costs of deployment should be removed or reformed. These include outdated Eligible Telecommunications Carrier (ETC) requirements that impose exorbitant and unnecessary costs and may deter some potential providers from seeking USF funds. Legislation to remove ETC requirements was introduced in the 116th Congress as the Expanding Opportunities for Broadband Deployment Act. Congress should also consider preempting local pole-attachment requirements that can impede build-out by imposing disproportionate costs on providers.

For more on this topic, see the ICLE Issue Brief “[ICLE’s Principles for the Future of Broadband Infrastructure](#)” by Geoffrey Manne and Kristian Stout.

CONTACT US



Geoffrey A. Manne
President & Founder
gmanne@laweconcenter.org



Kristian Stout
Director of Innovation Policy
kstout@laweconcenter.org



International Center
for Law & Economics