



March 11, 2011

Via email

The Honorable Julius Genachowski
Chairman
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

Re: Proposed Rights-of-Way Notice of Inquiry

Dear Chairman Genachowski:

On behalf of the nation's local elected officials, advisors and public works/engineering community, we write to express our concerns regarding the Federal Communications Commission's (FCC) proposed Notice of Inquiry ("NOI") regarding rights-of-way management and broadband deployment. Coming on the heels of the FCC's February 9th symposium discussing these issues, we believed the purpose of the NOI was to look at how the FCC, the communications industry, and local governments could work cooperatively in an effort to ensure timely deployment of affordable broadband. We were hoping that the NOI would be forward thinking and encourage innovative ideas in handling rights-of-way issues and resolve disputes without resort to the FCC or the courts.

We are concerned that the NOI may focus on rights-of-way issues of the past, which have been addressed by the FCC's previous orders dealing with cable franchising and tower siting, and by its upcoming order on pole attachments. A broad brush regurgitation of past "offenses" serves no purpose. Furthermore, if the FCC intends to ask any questions dealing with past or current practices of broadband deployment, we strongly urge the FCC to *require* that any allegations be supported by a recitation of the specific facts of the alleged problem, that the jurisdiction involved be identified, and that a copy of the filing be served by mail on the named jurisdiction. This will recognize fundamental due process protections and permit the jurisdiction an opportunity to respond and provide the FCC with its side of the story. With this requirement, the FCC will be able to determine if there are, indeed, any widespread problems, whether any concerns are limited to a particular area of the country or provider, or whether allegations of delay deal primarily with the deployment of a specific technology.

We are also concerned that the NOI will ask questions about the compensation required by local governments in exchange for the private use of the public rights-of-way. There is simply no evidence that public rights-of-way compensation, whether imposed as a one-time flat fee, a per

linear foot charge, a percentage of gross revenues, or by some other means, acts to delay or prevent broadband deployment. While the FCC has adopted orders affecting the *process* by which local governments manage the rights-of-way, the FCC must not intrude into the *policy* issues of how local jurisdictions are compensated for the private use of the public rights-of-way. To the extent that the FCC intends to address compensation issues, fundamental fairness requires that the FCC seek information on charges for access to rights-of-way by all entities that exercise such control, including the federal government, state governments, railroads, utility companies and Tribal governments.

Cities and counties nationwide rely on rights-of-way revenues to help provide the services their citizens want and need. The FCC must not take any actions that in these difficult economic times further impact local government budgets, leading to layoffs, furloughs, service reductions, and fee increases in order to subsidize private communications companies. The NOI must not be used as a vehicle by which to impose a nationwide, one-size-fits-all compensation formula that will cause irreparable financial harm to local government. We strongly urge the FCC to exclude any questions dealing with rights-of-way compensation from the NOI.

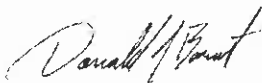
Local governments want and encourage affordable, high-speed broadband services. Indeed, there are many communities that have built their own networks where private industry has failed to provide the services necessary to encourage economic growth, enhance educational opportunities, and improve the delivery of health care. The FCC must not undercut these efforts through the release of a NOI that fails to require specificity and could result in further harm to local budgets.

Collectively, we represent the interests of almost every municipality and county government in the United States. We look forward to working with the Federal Communications Commission as it continues its goal to expand broadband deployment and adoption.

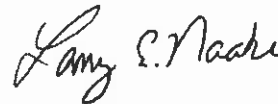
Sincerely,



Tom Cochran
Executive Director
The U.S. Conference of Mayors
Counties



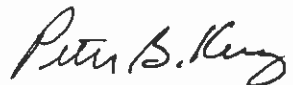
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cc: Commissioner Michael J. Copps
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Commissioner Meredith Attwell Baker
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