
CLIC Statement Re: Sixth Circuit Decision to Reverse FCC's Order Removing State Broadband Barriers

1 message

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Statement from the Coalition for Local Internet Choice (CLIC) Concerning the Sixth Circuit Decision to Reverse the FCC's Order Removing State Law Barriers to Local Internet Choice

On February 26, 2015, the Federal Communications Commission (FCC) preempted North Carolina and Tennessee laws that prevented the cities of Wilson, NC, and Chattanooga, TN, from expanding their high-capacity broadband networks to serve their unserved and underserved neighboring communities. Today, the United States Court of Appeals for the Sixth Circuit overturned the FCC's Order, finding that the FCC lacked the authority to preempt state barriers to public broadband initiatives.

The Sixth Circuit decided that Congress did not speak clearly enough in Section 706 of Telecommunications Act to persuade the Court that Congress intended to authorize the FCC to preempt North Carolina's and Tennessee's restrictions on local Internet choice. Notably, the Court did not dispute the FCC's extensive factual findings about the benefits of local Internet choice. In fact, the court stated:

“Our holding today is a limited one. We do not question the public benefits that the FCC identifies in permitting municipalities to expand Gigabit Internet coverage.”

Although CLIC is disappointed with the court's decision, as it will make the fight for local Internet choice more difficult, time-consuming, and costly in the future, CLIC pledges to continue this fight whenever and wherever necessary. Communities everywhere should have the right to acquire affordable, high-capacity broadband, whether by working with willing incumbents, partnering with the private sector, or building a network themselves.

For today, however, we pause to applaud the cities of Wilson and Chattanooga for standing up against unwise and counterproductive barriers to broadband investment and competition. We also applaud the FCC for its bold decision and for compiling a massive public record on the benefits of local Internet choice, on the pernicious ways that such laws actually work in practice, and on the harm they cause to the communities involved, to the private sector, and to America's global competitiveness.