

# TELECOMMUNICATIONS AND TECHNOLOGY

## STATEMENT OF BASIC PHILOSOPHY

Counties play a major role in the nation's communications system as regulators, service providers, and consumers of communications services. County officials have a responsibility to ensure that the public interest is being served by communications providers, regardless of the delivery platform. The social goals and public good expected from our citizens must be ensured. This includes public educational government access, public and homeland security matters, and protecting the interests of special needs citizens.

Expanding communication has become a critical component of a successful economic development policy. Access to affordable high-speed internet is critical to attract and retain labor and industries. Additionally, homeland security requires an integral role for counties in securing the Nation. Adequate communications systems and information access are vital to meet this important responsibility. It is therefore imperative that county officials play key role in the future of communications policy.

Technology has changed the future of county governance, and the evolving opportunities for counties to utilize technology to provide timely and effective service are immense.

Faster computer networks, wireless internet access, enhanced broadband services, new public safety systems, geospatial information applications and technologies not yet deployed, will make the county of the future more responsive and meaningful to county residents. County officials must be prepared to adapt to this changing environment.

## POLICIES AND PRACTICES

- A. Encouraging Competition and Development of New Technologies:** Competition among internet service providers (ISPs) has a direct and lasting benefit to consumers as ISP's race to provide a competitive price point for their quality of service. Additionally, an array of technologies – including fiber, cellular and satellite – is necessary to address the unique factors contributing to the digital divide. Federal, state, and local resources should promote competition among communications and technology providers and to support the development of new technologies for government and public use.
- B. Preemption of Local Authority:** Counties need to be concerned about retaining authority as trustees of public property and as protectors of public safety and welfare. The 1996 Telecommunications Act acknowledges the balance among federal, primarily through the Federal Communications Commission (FCC), and state and local authority.

NACo opposes any actions that would undermine this shared responsibility and any federal or state preemption of counties' traditional powers in these areas. NACo opposes efforts to restrict or prohibit, at state and federal levels, county or municipal ownership of communications facilities.

- C. Financial Assistance for Enhanced Communications Capacity:** Communications play an important role in county government operations and the delivery of services. Counties use advanced telecommunication systems for a full range of public and law enforcement services. Nothing in

federal policy should undermine the ability of counties to develop such infrastructure through partnerships with network providers.

NACo believes state and federal governments should provide financial assistance for these initiatives and should encourage efforts to improve coordination across jurisdictions and systems, especially for public safety and homeland security issues. Access charges for completion of calls on the local public switched telephone network need to continue in some form to assure rural counties retain adequate communications services.

- D. Interoperability:** Communications interoperability, for both voice and data, is critical to coordinate the response to disasters and joint law enforcement efforts. This is important among agencies of local government, as well as, the various local, state, and federal agencies. A broad interpretation should be made as to which entities should be included in an interoperability plan. NACo supports efforts to improve interoperability for public safety purposes, and believes the state and federal governments should assist counties with the costs associated with migrating to viable interoperability standards. Congress should provide funding to local governments, as part of a comprehensive strategy, to improve public safety and emergency management interoperability.
- E. Wireless Communications Facilities Siting:** Counties have a regulatory role regarding the siting of tower and antenna facilities. With the exception of decisions based on the health effects of radio frequency (RF) emissions, local authority is preserved with minimal limitations supporting nondiscriminatory, timely action. Even in the case of RF emissions, the law clearly requires that the facilities operate in compliance with RF emission standards.

NACo believes any disputes between counties and the industry should continue to be resolved in the courts on a case-by-case basis. No federal actions should undermine local government's zoning authority.

Counties have an obligation to their constituents to ensure that, to the extent possible, the public health, safety and welfare are not endangered or otherwise compromised by the construction, modification or installation of broadcast facilities/towers. NACo believes nothing should preempt local government authority to reject new siting applications upon finding of adequate existing facilities.

NACo supports policy and/or legislation giving more consideration to public health and safety needs when locating cell towers and broadcast facilities on public lands in rural areas with little or no service.

- F. Emergency Services Communications, Cross Ownership and Local Services:** Counties' ability to communicate with citizens during a public safety emergency, whether natural or man-caused, is critical. Media consolidation, particularly in the radio sector, has raised serious concerns about the ability of local stations to meet their public safety obligations. The FCC should review the requirements on broadcasters to ensure the needs of local government to contact their citizens are met.

Along with concerns raised by media consolidation for public safety, county officials are concerned about the loss of local content, civic discourse, and advertising opportunities for local business. As a

matter of economic development, local media outlets are important vehicles for promoting local opportunities and business. Local media outlets are an important component of the community and as so, should participate in the civic aspects of the community. County officials should work with media outlets to assure ample opportunity for public debate. Congress and the FCC should review limiting media diversity through cross ownership of media outlets including newspapers and their online offerings.

- G. Rights-of-Way:** Counties own substantial amounts of public rights-of-way, which many communication providers use extensively to construct their own communications networks. These are valuable local government real estate assets worth billions of dollars that are held in trust by local governments to benefit the local community.

Federal and state governments must recognize the authority of local governments to protect the public investment, to balance competing demands on this public resource and to require fair and reasonable compensation from communications providers for use of the public rights-of-way on a nondiscriminatory (but not necessarily identical) basis. Rights-of-way disputes between communications companies and local governments should be resolved in local jurisdictions.

In order to use the right-of-way, private communications companies should be required to enter into an agreement with local government that sets the terms and conditions of such use/access. Local governments must be able to require universal services that include nondiscriminatory pricing and equal access to all its citizens as a requirement. Like services should be treated alike.

Because disruption to streets and businesses can have a negative impact on public safety and industry, local governments should have control over allocation of the rights-of-way and be able to ensure that there is neither disruption to other “tenants” or transportation nor any diminution of the useful life of the right-of-way. Local governments must have the right to analyze the legal, financial, and technical qualifications of any communications provider wanting to use the public right-of-way and shall have the right not to issue a franchise to an unqualified applicant.

The ongoing construction of public property and rights-of-way also provides an opportunity for federal, state, and local governments to assist with the future deployment of fiber-based broadband networks through effective dig-once policies and practices. To ensure the scalability of these efforts, conduit should be able to accommodate fiber lines with a minimum 432 strand fiber bundle and should be of multi-duct variety to ensure adequate separation of provider assets. Any dig-once policy imposed on local governments should also be supported by federal and state resources to ensure local governments are not held solely responsible for the costs associated with the construction. Additionally, federally funded transportation projects should also require the incorporation of state and local broadband plans prior to construction. When providers are not interested in installing conduit when municipalities are performing street work, the agency itself should look to install municipally-owned conduit, which can be leased back to providers in the future.

- H. Video Services:** Counties have come to rely on video services as a vital communication link to constituents. This includes cable, fiber to the home, IPTV and internet services.

Under existing federal law, it is clear that counties may, through the franchising process, monitor the performance of existing cable television operators to ensure that the operators provide quality service to consumers in all sections of a franchise area. The ability of local franchising authorities should be enhanced through action by the Congress and Administration to protect the interest of consumers in quality, yet affordable, video services, and to enact laws which encourage greater competition for the video franchises and in the cable industry, and which encourage the availability of other technologies as rapidly and as widespread as possible.

Video franchising authorities must continue to have the ability to require through the franchise process the following components:

- Explicit approval to transfer a franchise.
- The ability to deny a renewal application for cause, i.e., renewals cannot be considered automatic.
- The right to solicit competitive bids from other video service providers.
- Immunities from monetary damages when local government actions are consistent with the Cable Act of 1984.
- The ability to terminate a video service provider for cause to ensure that it is not more profitable for an operator to violate a franchise agreement than to follow it.
- The ability to require cable operators to carry all local broadcast signals.
- The ability to define reasonable notice to subscribers of rate and service changes.
- The ability to regulate the equipment or any transmission technology such as system capacity, extent of use of fiber optic cable, homes per node, bandwidth for digital carriage, or amplifiers per cascade. While the FCC retains the authority to develop technical standards, Congress retained for local franchise authorities the ability to enforce these standards. Retaining this authority will go a long way to ensure uniform customer service and signal reliability in rural and suburban areas.
- Video service providers must lease cable to whomever wants to offer competitive programming.
- All programming that is available on cable must be available to other technologies such as IPTV, fiber to the home, and satellite.
- The ability to require PEG (Public, Education, and Government) channels as part of the franchise agreement.
- The ability to require universal cable video service. This is particularly important to rural and low-income residents who traditionally have been denied service.

Franchise fees are, in part, the rent cable operators pay for the use of public rights-of-way. Operators should not pass through to basic subscribers those rental expenses associated with non-subscriber services. NACo also strongly opposes the pass through to cable video customers of “non-subscriber” revenue, such as advertising and other commissions, and opposes the itemization of franchise fees stemming from such actions.

- I. **Consumer Protection:** Counties have a major role to play in protecting consumer interests, including a strong consumer protection process. Congress should protect consumers from monopoly pricing power in the absence of effective competition. Every effort should be made to promote competition between providers to ensure consumers are receiving an appropriate range of services at the lowest possible cost. Companies wishing to provide communications or video services, including traditional telephone companies or cable operators, must be subject to safeguards to protect consumers against

cross subsidies. NACo believes counties have the right to review mergers and acquisitions when such activity might result in the reduction of competition in the local marketplace.

**J. Broadband Deployment and Adoption:** NACo strongly supports legislation and administrative policies that help counties rapidly expand public-private partnerships and to attract affordable, abundant, redundant and reliable high-speed broadband services that meet or exceed federal broadband speed definitions regardless of population or technology used. NACo supports legislation and/or policy that:

- Streamline federal ROW and permitting processes for structures on lands controlled by any federal agency;
- Provides access to federally owned dark fiber for use by government or quasi-governmental organizations;
- Creates location maps and open access to broadband infrastructure deployed with public funds;
- Mandates middle-mile broadband systems to be open networks;
- Enforces a fair refusal of service process requiring incumbent providers to provide service within 180 days at the same level as a new deployment or release the rights to the proposed service area;
- Requires coordination between local governments and ISPs with an emphasis on locally collected and verified data;
- Encourage the utilization of fiber optic broadband infrastructure, where practical, where public funds are used by implementing a sliding scale of awarded grant funds with fiber projects receiving the most;
- Demands a minimum broadband speed requirement of 25Mbps down and 3Mbps up but incentivizes 1gbps symmetrical network by implementing a sliding scale of awarded grant funds with Gigabit networks receiving the 100% funding;
- Provides tax credits to telecommunications providers that develop broadband in rural and underserved communities;
- Provides for broadened eligibility and additional federal agency loan authority to deploy broadband in rural communities;
- Creates a graduated distribution model for federal grants/loans/subsidy programs based on performance (speed, need, latency, and cost).
- Allows for local control of franchise agreements for providers operating within their communities to ensure that customer service standards are upheld and that access to service is consistently available.

NACo believes all levels of government should work cooperatively with the private sector, nonprofits, and academia to develop robust awareness, adoption, and use programs for broadband. Additionally, broadband is as essential to our health and wellbeing as water or electricity. Therefore, NACo believes broadband should be classified as a Title II Utility allowing the Federal Communication Commission to ensure common carriers provide affordable and reliable service by preventing price gauging and discriminatory deployment practices. Unbundling local networks and price regulations would open access and allow other service providers to provide competitive and affordable service alternatives to residents.

**K. Universal Service:** NACo supports the current principles, six of which were originally codified in the Telecommunications Act and two later adopted by the FCC. At the heart of these principles lie the affordability, accessibility, reliability, competitiveness, and non-discriminatory access to communication related services to all Americans regardless of any circumstance. NACo opposes any federal actions to preempt state universal service programs and any efforts to redefine, modify, and/or expand technological services of any type that does not include local government input and guidance.

Given recent technological advances in both the quality and delivery of communication related services, these fundamental principles should continue to survive both now and in the future by shifting the focus of current program support mechanisms toward the expansion of advanced technological services that a good majority of Americans are afforded today.

In general, NACo supports efforts that continue to promote these principles such as:

- Updating and modernizing the “Schools and Libraries” program to provide funds in the form of discounts, grants, and/or reimbursements to local governments that ensure schools and libraries have access to the technology services of today in an affordable manner;
- Expansion of the “Schools and Libraries” program to allow for flexibility of local governments to collaborate and create partnerships with schools, libraries, non-profit organizations, and the private sector through innovative efforts to provide infrastructure such as fiber and outside cable plants that will assist in extending access throughout rural areas. These efforts should not be limited to the thinking of the past as many students and citizens alike need access to these services from their homes;
- Stronger support and equal funding methodology expected from service providers of all types is strongly encouraged as the federal government looks to expand broadband access through the “Connect America Fund”;
- Focused and concerted efforts among all governing bodies and agencies must continue to be streamlined to ensure that broadband expansion and adoption efforts are carried out in the most timely and efficient manner as possible with specific emphasis on rural underserved areas.

**L. Online Privacy and Security:** As counties expand their “e-governance” initiatives, more personal information will be collected, stored, and potentially, made available to the public. Consumers are becoming more aware of the potential uses of personal information for purposes other than those intended, and are becoming more concerned about how counties are going to respond. Because of security compromises in the private sector, constituents expect counties to protect their private information. County privacy policies should be reflective of community values, and should follow best available practices to meet those values.

NACo also supports initiatives and systems to secure personal and county information from “hackers” or other illegitimate uses. While every effort should be made to protect private information, NACo supports reasonable liability limits for counties if information that counties control is compromised. If information is compromised, counties should have procedures and policies for notifying affected individuals.

Third party vendors should be expected to conform to county privacy policies and practices to maximize the security of private information. Franchise and other agreements should allow for

contractual requirements for maintaining privacy. At the same time, counties should consider policies that protect the public's private information from the misuse by public employees. Counties should also consider adopting "Freedom of Information Act" policies that provide for public disclosure without compromising private information.

**M. Taxation:** The Telecommunications Act of 1996 did not change or impair any state or local government authority to tax telecommunications providers. NACo needs to ensure:

- No actions are taken by Congress, the FCC, or the courts to preempt local authority on either fees or taxes or land use authority.
- Any federal action that affects communications fees or taxes must be revenue neutral to the locality generally, between providers, and allow for a growth in tax revenue as the service or industry grows.
- County tax policy should be technology neutral for like services.
- Tax policy must recognize the cost to local government of the use of public property or facilities.
- Use of advanced communications services should not be a means of escaping local taxation.
- There must be recognition of local diversity in the taxation of communications services.
- Tax simplification should not be a vehicle used by the federal government to undermine county government's ability to retain taxing authority and revenue streams.
- Fees for specific uses, such as 911 centers and rights-of-way should not be considered taxes when considering modifications to tax structures.

**N. Geospatial Information Systems:** Geospatial Information Systems (GIS) are critical tools and infrastructure for county officials to make appropriate land-use decisions, manage existing infrastructure, and maintain adequate linkages between the county's land base and its government and maximize the use of resources as first responders to homeland security threats and events. NACo encourages member counties, other local governments, states, tribal entities, and the private sector to engage in a coordinated effort that will lead to standardized best practices and land record modernization as well as a solid digital infrastructure, in particular cadastral data.

NACo supports the effort of the federal government to coordinate the collection and dissemination of GIS data (based on common interoperable data standards) by the federal, state, local, and tribal governments through programs. The common data standards should be designed to:

- maximize the degree to which unclassified GIS data from various sources can be made electronically available; and
- promote the use of GIS for better governance due to increased data sources and sharing of geographic data by all levels of government. Congress should provide funding to facilitate this effort

**O. CyberSecurity:** NACo recognizes the evolving and continuous cyber threats that our nation faces from multiple sources. The threats are ever-increasing in sophistication and, in turn require costly proactive measures to minimize the potential loss of data and/or damage to our nation's critical infrastructure. Understanding this, local governments carry a significant burden of responsibility in

ensuring that our citizens' personal information, priceless historical records, and critical infrastructure are adequately protected, recoverable, and secured in the event of any potential breach. In efforts to ensure that local governments provide the stability, integrity, and security expected of protecting such critical infrastructure and digital assets, NACo supports the following:

- Funding assistance in any form deemed necessary to provide for critical cybersecurity tools and resources required to adequately protect the county security infrastructure at all levels;
- Implementation of MFA, DMARC, DotGov, Monitoring tools, IT Assessments, certification of third party providers, regional IT expertise, end-user education and cybersecurity incident policy and procedure development;
- Funding assistance for basic security awareness training of employees and advanced security training for information technology professionals within local government, including assistance in the completion of advance certification and degree programs;
- Cooperative efforts in information sharing among all federal, state, and local governments in addition to private sector organizations regarding breaches, potential threats, threat levels, and any techniques that would assist in the prevention or mitigation of cyber-related threats;
- Collaborative efforts in the form of committees or task forces that are inclusive of local government membership with federal agencies such as the Department of Homeland Security and subprograms such as NCC, US-CERT, MS/EI-ISAC, CISA and ICS-CERT;
- Creation of programs and initiatives that designate local government Cybersecurity liaisons and/or representatives that serve in conjunction with federal agencies such as the Department of Homeland Security.

## **TELECOMMUNICATIONS AND TECHNOLOGY RESOLUTIONS**

### **Resolution to Ensure the Participation of County Governments in the Development and Implementation of Broadband Expansion Efforts**

**Issue:** Members of the National Association of Counties (NACo) are uniquely positioned to advise and help facilitate digital connectivity for urban, rural, and tribal jurisdictions for which long-standing connectivity inequities have been made more acute by the COVID-19 pandemic. The expansion of broadband internet will require resources from all levels of government, but foremost will require the integration of local government in establishing the programmatic components that will successfully implement connectivity for all communities.

**Policy:** The National Association of Counties urges Congress and involved Federal agencies to commit to the inclusion and engagement of NACo members in the earliest phases of the strategic planning and expansion of broadband services and access.

**Approved | July 12, 2021**

### **Resolution Calling for The Federal Communications Commission to Address the Lack Of Cellular Phone Coverage For Unserved And Underserved Areas Of The United States**

**Issue:** Many areas of the United States, particularly in rural areas, are either underserved or not served at all by cellular phone carriers preventing residents and visitors from accessing emergency services through E-911.

**Policy:** NACo urges the Federal Communications Commission (FCC) to direct additional funding for the build-out of additional cellular communications capabilities in the unserved and underserved areas of the United States through the High Cost Program administered by the Universal Service Administrative Company.

**Approved | July 12, 2021**

### **Resolution in Support of Empowering Counties to Be Active in the Deployment and Operations of High-Speed Internet**

**Issue:** High-speed internet is an essential element of modern commerce, but local governments in many states are prohibited from being active participants in the deployment of these services.

**Policy:** The National Association of Counties (NACo) supports the removal of barriers to counties supplying infrastructure to the private sector, partnering with the private sector or operating internet services as a public utility when no commercial service is available.

**Approved | July 12, 2021**

## **Resolution Encouraging Congress to Undertake a Systemic Rewrite of the Telecommunications Act of 1996**

**Issue:** The Federal Telecommunications Act has not been updated by congress since 1996. Since that time, there have been substantial changes in not only the telecommunications technology in use but also the manner it is used in daily life. The lack of congressional attention to this matter has placed an inordinate burden on the Federal Communications Commission (FCC) to set policy that is better suited to our elected representatives.

**Policy:** The National Association of Counties (NACo) believes that the time has come for Congress to engage in a systemic rewrite of the Telecommunications Act of 1996. We believe this action is necessary to realign the telecommunications policies of the United States to match current and developing technologies. Such a systemic review should occur periodically and in a timely manner.

Additionally, we believe that NACo can be a valuable resource during this process due to our unique relationship with this issue. NACo and its members are not only critical users of these Telecommunications systems, elected representatives of the consumers of these systems, facilitators of deployment of these systems but also, in some states, regulators of these systems.

**Approved | July 12, 2021**

## **Resolution Encouraging Congress to Pass Legislation That Would Ensure Local 911 Service Fees Are Only Used for Emergency Communications**

**Issue:** Funding for 911 comes from a variety of sources, including monthly fees that are set by the state and paid on consumers' telephone bills. Yet this rate may vary by phone type within a state. As consumers shift their telecommunications preferences from wired to wireless phones, some states have seen a dramatic decrease in dedicated 911 funding as existing statutes have not been updated to account for these shifts. Subsequently, it is not uncommon for the revenue from 911 fees to fall short of the cost of running a 911 call center, also known as a public safety answering point (PSAP). Additionally, many states collect 911 fees and remit the revenues to local governments. However, in 2015 over \$220 million in 911 fees were diverted by states throughout the country for purposes other than maintaining and upgrading PSAPs. As counties receive less in dedicated 911 revenue due to both states withholding funds and shifts in telecommunications preferences, they must turn to general fund money.

**Policy:** The National Association of Counties (NACo) encourages Congress and the Federal Communications Commission (FCC) to adopt legislation or take regulatory action that ensures that fees collected for local 911 services are only used to repair, replace or improve 911 communications technology and services at our nation's public safety answering points or call centers.

**Approved | July 12, 2021**

## **Resolution Encouraging Congress to Pass Legislation to Formalize the Process Through Which Data Gathered by the TestIT App is Used to Modify the Broadband Coverage Maps**

**Issue:** The National Association of Counties (NACo), through efforts from NACo's

Telecommunications and Technology Steering Committee and the Rural Action Caucus (RAC), is at the forefront of the issue of creating accurate broadband coverage maps. The current maps tend to inflate the availability of service across the nation but particularly in more rural areas. These maps are an important source document in the development of national broadband deployment policy and the deployment of federal funds for broadband development. Having accurate coverage maps is essential to the development of good federal policy on broadband deployment.

**Policy:** The National Association of Counties (NACo) encourages Congress and the Federal Communications Commission (FCC) to create a formal process by which crowd-sourced data gathered by applications such as the TestIT app can be used to create new or update the existing FCC broadband coverage maps. Further, NACo believes that such legislation should require the FCC to test and certify the accuracy of these crowd-sourcing applications.

**Approved | July 12, 2021**

### **Resolution to Support Federal Solutions to the “Homework Gap”**

**Issue:** Given the ever-increasing need for digital connectivity for children to successfully complete their schoolwork, the “homework gap” is leading to inequities in education in counties across America, which negatively impacts child development, the success of our economies and the quality of living in our communities.

**Policy:** To address internet affordability and adoption issues in K-12 education known as the “homework gap,” NACo urges Congress to establish a permanent program providing high quality, subsidized and discounted internet and computer access to low-income K-12 students through a shared cost formula spread between providers, families, and the federal government.

**Approved | July 12, 2021**

### **Resolution to Support a Permanent Federal Broadband Assistance Program**

**Issue:** The digital divide disproportionately impacts low-income households, who, due to affordability issues, have lower rates of technology adoption and access to broadband internet at home. This disparity creates additional barriers to accessing public benefits, employment opportunities, digital learning, telehealth services and opportunities for civic engagement, negatively impacting county economies, health outcomes and quality of life.

**Policy:** NACo urges Congress to establish a permanent program that helps low-income families afford internet service. A permanent broadband benefit program must include measures holding Internet Service Providers accountable to increasing access and providing affordable service to qualifying households. Additionally, such a program should incorporate relevant data, best practices and any key policy lessons learned during the Federal Communications Commission’s implementation of the Emergency Broadband Benefit (EBB) Program established under the American Rescue Plan Act.

**Approved | July 12, 2021**

## **Resolution Calling on Congress to Actively Engage Counties Prior to Developing 5G Wireless Infrastructure**

**Issue:** As Congress works on legislation to help grow our nation’s wireless broadband infrastructure, it is imperative that they engage local leaders to ensure that new wireless infrastructure built on locally owned property is done so with the prior approval of the governing jurisdiction, and does not preempt or limit local zoning authority.

**Policy:** The National Association of Counties (NACo) urges Congress to work with local officials when drafting legislation that would encourage the use of state or county owned land, including public rights-of-way, to build new wireless infrastructure, including fifth (5G) wireless networks, to expand service to rural areas, or to promote digital equity. NACo has long advocated for universal access to reliable wireline and wireless high-speed broadband service – as crucial for education, employment, and economic development – and NACo further urges Congress to oppose any legislative or regulatory proposals that would limit or preempt local zoning authority or the ability of local governments to charge reasonable fees for the use of publicly owned land to build wireless infrastructure.

**Approved | July 12, 2021**