

**REMARKS OF FCC COMMISSIONER AJIT PAI
AT THE CTIA WIRELESS FOUNDATION SMART CITIES EXPO**

WASHINGTON, DC

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I want to thank the CTIA Wireless Foundation for hosting today's Smart Cities Expo. The exhibits and demos showcase the ways that the Internet and Internet-connected devices can transform communities for the better and improve how Americans live, work, and play.

Earlier this year, the IEEE named Kansas City the first Core Smart City. I recently had the chance to visit Kansas City, where groups like Think Big Partners and companies like Cisco are collaborating to create an innovative digital environment. Think sensors on energy-saving LED streetlights that will brighten lights automatically when more than six people pass by and will alert the city to cars parked in the path of the city's new streetcar. Think routers attached to lampposts that will provide free wireless Internet. Think traffic lights will use advanced computing to keep vehicles moving to avoid congestion. Think sensors in city garbage cans that can monitor trash levels and let waste management know when it's time to collect. Think connected kiosks that feature local news, attractions, and public transit information.

What I've seen there, what we'll see today here at the Smart Cities Expo, is an exciting glimpse of the digital future—of the potential for technology to improve the way cities run and citizens live.

Today's event is a reminder that the public sector must embrace that same innovative spirit. A smart city requires a lot of broadband infrastructure. And for that to happen, we need forward-thinking policies that will incentivize providers large and small to deploy broadband networks.

We all know that building, upgrading, and deploying broadband networks isn't easy. And the simple truth is that governments at all levels often make the task harder than it needs to be. Permitting processes can drag on, access to rights-of-way can be delayed, review processes designed for large macrocells can be applied to small cell deployments, and exorbitant fees can be imposed.

No one level of government has a monopoly on regulatory inertia. That's why federal, state, and local governments all need to adopt a broadband deployment agenda that will bring 21st century digital opportunity to American communities. We can't let unnecessary regulations be the bottleneck that slows our march toward 5G and smart cities.

That's why I have proposed a Digital Empowerment Agenda—a plan that will allow all Americans, no matter their race, religion, gender, or sexual orientation, no matter where they live, no matter their personal background, to access broadband and improve their lives.¹ There are many parts to that Agenda, but today, I want to focus in on just one of them: removing barriers to broadband deployment. This part of the plan includes five concrete steps that governments can and should take to promote digital deployment.

First, the FCC must aggressively use its statutory authority to ensure that local governments don't stand in the way of broadband deployment. In section 253 of the Communications Act, for example, Congress gave the Commission the express authority to preempt any state or local regulation that prohibits or has the effect of prohibiting the ability of any entity to provide wired or wireless service. We should use it.

¹ See, e.g., Remarks of Commissioner Ajit Pai on A Digital Empowerment Agenda (Sept. 13, 2016), *available at* <http://go.usa.gov/xBbZG>; see also Summary of Commissioner Pai's Digital Empowerment Agenda (Sept. 13, 2016), *available at* <http://go.usa.gov/xBb9P>.

Where states or localities are imposing fees that are not “fair and reasonable” for access to local rights of way, the FCC should preempt them. Where local ordinances erect barriers to broadband deployment (especially as applied to new entrants), the FCC should eliminate them. And where local governments are not transparent about their application processes, the FCC should require some sunlight. These processes need to be public and streamlined.

Section 253 isn’t our only source of authority. In section 332(c)(7) of the Communications Act and in section 6409 of the Spectrum Act, Congress clearly and specifically granted the Commission the power to remove barriers to infrastructure deployment. It is time for us to use that authority to preempt unwarranted municipal barriers to broadband deployment. For example, the FCC has already established a shot clock within which local governments are supposed to review wireless infrastructure applications. But if a city doesn’t process the application in that timeframe, the broadband builder’s only remedy is to file a lawsuit. We should give our shot clock some teeth by adopting a “deemed-grant” remedy. That way, if a local government does not act on a wireless facilities application by the end of the FCC’s shot clock, that application would be considered approved and an ISP could start building right away.

Second, the FCC needs to reform its rules governing pole attachments. Remember, before ISPs can offer service to customers, they must string fiber optics, coaxial cables, and/or other wires on utility poles and through underground conduit. Congress has given the FCC the power to regulate the rates charged for these attachments as well as the process for gaining access to the poles.

If we want more affordable broadband and more competition, we need to take a fresh look at our pole attachment rates. We should reduce those rates by excluding capital expenses from the pole-attachment formula (currently, ISPs have to pay for a pole owner’s capital expenses even when the pole owner has already recovered them separately). And we should start a rulemaking to review the reasonableness of costs charged by pole owners for preparing poles, ducts, conduits, and rights-of-way for pole attachments.

Congress should also expand the Commission’s authority over pole attachments. Right now, we don’t have jurisdiction over poles owned by government authorities, whether federal, state, or local, nor poles owned by railroads. Unsurprisingly, I’ve heard from ISPs that many pole-attachment disputes arise from these particular pole owners, who may have little interest in negotiating just and reasonable rates for private actors to access their rights of way. Congress could easily fix this gap.

Third, the FCC should develop a model code for cities and towns that want to encourage broadband deployment and competitive entry. To do this, we should establish a new advisory committee, a Broadband Deployment Advisory Committee, and ask it to draft for the Commission’s consideration a model code covering local franchising, zoning, permitting, and rights-of-ways regulations. Its approach should be forward-looking and fair, balancing the legitimate interests of municipalities with the ever-growing demands of the American public for better, faster, and cheaper broadband.

The committee should recommend to the FCC an appropriate shot clock for local action. It should consider what fees are reasonable to compensate cities for processing permits. It should recommend allowing ISPs to hire certified, private safety inspectors to speed up the work of deployment. It should examine how to ensure new entrants get speedy access to poles and conduit without disrupting the existing services already deployed. It should identify categories of deployments for which there should be minimal regulatory hoops for providers to jump through. And for inspiration, it should survey which policies have worked in broadband-friendly communities across our nation. Once the Advisory Committee has completed its process, the full Commission should review the model code to ensure that it places a firm enough thumb on the scale in favor of faster deployment.

Fourth, it’s time for the federal government to do its part to speed up the deployment of broadband on federal lands. While some progress has been made on this issue recently, including the streamlined procedures adopted by the Department of the Navy, much more needs to be done. Federal

agencies should survey and consolidate the information they have about federal assets that could be used to aid broadband deployment. Maps of these federal assets should be made available to ISPs in a manner that respects security and law enforcement considerations. The federal agencies most often involved in broadband buildout—the Department of the Interior, the Bureau of Land Management, the Forest Service, the Fish and Wildlife Service, and the Department of Defense—should adopt reasonable internal shot clocks for processing applications and negotiating leases to build on federal lands. At a minimum, they should establish a firm deadline so that no matter how many federal agencies need to review an application, an applicant will receive a final answer within one year. Federal agencies should minimize and standardize any fees for permits and for leasing rights of way. And federal agencies should issue longer-term leases or easements with renewal expectancies, so that providers have the certainty necessary to deploy on federal lands.

Fifth, we must make “dig once” a central tenet of our nation’s transportation policy. The concept is simple enough: every road and highway construction project should include the installation of the conduit that can carry fiber optic cables. Trenching new conduit is the most expensive part of any new broadband deployment, so why not leverage construction that will take place anyway to install it? Cities like Seattle enacted dig-once policies long ago and now have extensive public conduit that the private sector has used to lower the cost of deployment. I hope other cities and even states will soon follow suit.

Congress has shown interest in dig-once policies as well. The bipartisan Broadband Conduit Deployment Act of 2015 would require the Department of Transportation to work with states to evaluate whether covered highway construction projects could be potential avenues for the buildout of new conduit and requires that conduit be built wherever there is a need. I hope Congress acts soon to make dig-once the law of the land.

With these five steps, policymakers can do their part to ensure that next-generation broadband networks—and the smart cities they support—will become a reality. Citizens may not notice it if we modernize our rules, they may not even notice the networks of the future being built—but they’ll certainly notice and appreciate their communities becoming smarter, safer, cheaper, better places to live.