

FCC Local and State government Advisory Committee
Advisory Recommendation Number 15
Recommendation for Issuance of Notice of Inquiry
Regarding Access to Broadband Networks

The Internet is a "network of networks" that links people, institutions, businesses, and governments around the world. It is a medium of communication that allows any of the tens of millions of people with access to exchange information almost instantaneously. As more people and more institutions gain access, the Internet is becoming an increasingly important method of communication in our society.

Because the Internet provides an easy and inexpensive way to reach a large audience, many state and local governments maintain Web sites to inform their citizens about laws, services and programs. State and local governments also use the Internet to interact and communicate with their citizens. And the services provided over the Internet constitute one of the fastest growing sectors of many local and state economies.

However, the Internet is only useful to people if they are able to access it, and the value of the Internet is more and more dependent on the level of bandwidth available to end-users. The issue of access, especially to services that provide higher bandwidth than traditional telephone lines, is crucial to the development of the Internet as a communications medium that benefits all Americans.

Currently, most residential and small business consumers obtain access to the Internet from Internet service providers ("ISPs") offering relatively slow-speed access through "dial-up" telephone services provided by local exchange carriers ("LECs"). Some cable operators have started providing Internet access services at transmission speeds that are fifty or more times faster than dial-up services. Included in this service are: (1) the underlying transport service over the cable network platform; (2) the Internet access service; and (3) the proprietary content and sometimes browsing capability. Two examples of such services are Tele-Communications Inc.'s ("TCI") @Home, and Time Warner's "RoadRunner" services.

TCI currently requires that any customer who subscribes to its high-speed cable modem service must also purchase Internet access from @ Home. Thus, a TCI customer who wishes to use another ISP to gain access to the Internet using a cable modem would have to pay for both the @ Home service and the other ISP service. Other cable operators have similar requirements.

During the FCC's proceeding addressing the AT&T Corp. and TCI merger, various consumer advocates and local franchising authorities ("LFAs") considered this exclusive requirement by TCI. See Applications for Consent to the Transfer of Control of Licenses and Section 214 Authorization from Tele-Communications, Inc., Transferor, to AT&T Corp., Transferee, CS Docket No. 98-178, FCC 99024 (Cable Services Bur., rel. Feb. 18, 1999). These parties protested that the bundling of @Home's proprietary content with the cable modem transmission services offered to residential customers would undermine

consumer choice, restrict competition and diversity on the Internet, and affect the availability of the range of on-line services.

In addition, several LFAs considered the issue of non-discriminatory access during the transfer of their TCI cable television franchises to AT&T. Specifically, the Portland cable regulatory consortium conditioned its transfer on TCI's promise to provide non-discriminatory access to TCI's cable modem platform for providers of Internet and on-line services. Currently this issue is being litigated in federal court.

During the transfer of the TCI franchises, AT&T-TCI contended that imposing any conditions of nondiscriminatory access would create substantial investment costs and expenses, which would delay and diminish the deployment of its broadband services to residential customers. Further, other parties warned that imposing such conditions might inhibit the deployment of advanced telecommunications infrastructure.

Many LFAs believe the issue of non-discriminatory access should be addressed nationally at the federal level, and should be raised with respect to high-speed broadband networks generally rather than solely in the context of the AT&T-TCI merger.

RECOMMENDATIONS:

1. Because the issue is of great interest and importance to state and local governments, the LSGAC recommends that the Commission commence a Notice of Inquiry addressing access to high-speed broadband networks by providers of Internet and other on-line services, and the protection of consumers' access to all forms of information over the Internet and over high-speed broadband networks.

Adopted by the LSGAC on this ____ day of _____, 1999.

Kenneth S. Fellman
Chairman