

blog the progressive fix

Oregon Grapples with Broadband Regulation

03/12/2015 | Blog | By Michael Mandel

The FCC's "Open Internet" order was just released today. Plenty of people are hashing it over, including PPI (see statement [here](#)).

However, what's less appreciated is how the FCC's action puts the spotlight squarely on states and municipalities. No longer constrained by federal "light-touch" policies, state and local politicians and regulators must decide: Will they act in a way to encourage private investment in broadband networks? Or, instead, will they choose to discourage private investment in their region by regulating broadband prices and excessively taxing broadband providers?

Here's the simple fact: States and municipalities that choose to place excess regulations and taxes on broadband providers will find themselves losing out on private investment in new networks, with negative long-term economic consequences.

One state struggling with this decision is Oregon. The Oregon situation is both complicated and illuminating, because it brings together so many different strands. Oregon currently has a set of rules for property tax called "central assessment." As applied in Oregon, these rules mean that broadband providers such as Comcast pay property taxes based not just on the value of their facilities in Oregon, but on a tax base including intellectual property and other intangibles worldwide. This rule had the effect of driving up Comcast's tax payments in Oregon by a factor of six, according to the company. The state legislature is considering a bill that allows the central assessment rule to be partly but not fully rolled back, leaving providers such as Comcast still exposed to substantially higher taxes.

The same high-tax rule would also apply to Google, if and when the company follows through on potential plans to build a gigabit fiber network in Portland, Oregon. The bill does offer potential relief for Google and other potential builders of gigabit broadband networks, with a tough caveat: They would have to meet certain build-out, price and performance characteristics in order to qualify for deeper tax reductions. In particular, the provider would have to

.... offer communication services at or above a speed of 1 gigabit per second symmetrical service and at a price to customers that does not exceed 150 percent of the United States average price for the same speed of symmetrical service. The Public Utility Commission shall determine the maximum price of service and may update the standards for speed, type and price of service as the commission considers appropriate. The commission shall recertify each qualified project under this subparagraph every five years

In effect, the bill gives the PUC a mandate to set rates for gigabit networks—a return to the old-style top-down utility regulation that once helped throttle innovation. Rate regulation would make it much more difficult for providers to put together packages that would work for consumers and support investment. What's more, because the regulators can change the price and speed standard at will, companies who build gigabit networks and qualify under this clause have no assurance that their tax bill won't suddenly skyrocket, even if they have met their original promise. Indeed, regulators will be under political pressure to raise speed standards and lower maximum prices.

Now, the partial tax rollback, combined with the conditional tax reduction for gigabit providers, is better than the original tax rules. But if Oregon state legislators really want to attract private broadband investment and spur innovation and growth, they shouldn't boost taxes on broadband providers and encourage regulators to micromanage prices and services. After the FCC's open internet decision, that's a lesson that all states and municipalities are going to have to learn.

subscribe to ppi!

Sign up to receive newsletters and event announcements from PPI!

subscribe

events

[MORE »](#)

UPCOMING EVENTS

MAR
26
The Future of
Public Education
Governance
Progressive Policy Institute,
Washington DC

PAST EVENTS

MAR
2
Innovation in a
Rules-Bound
World: How
Regulatory
Improvement Can
Spur Growth
The Reserve Officer
Association Building,
Washington DC

FEB
25
Mandel to Testify
Before Senate
Homeland Security
and Governmental
Affairs Committee
Dirksen Senate Office
Building SD-342,
Washington DC

JAN
29
Weinstein to speak
at The Atlantic Live
event on US Tax
System
The Newseum Knight
Conference Center,
Washington DC