

Austin Broadband Interest Group

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Google Inc.
1600 Amphitheatre Parkway
Mountain View, CA 94043

Dear Google,

The Austin Broadband Interest Group enthusiastically supports the City of Austin, Texas proposal for Austin as a trial location for the Google "Fiber for Communities" initiative.

We believe that national broadband penetration is being hampered by defects in current broadband policy and uncompetitive markets. American consumers would be best served by ultra-high-speed, open access, fiber-to-the-home (FTTH) broadband networks.

Hip, educated, and tech-savvy Austin is the ideal place to prove this. Moreover, there are some unique facts about Austin that are pertinent to this effort.

A successful trial in Austin will demonstrate:

- Limitations of a communications duopoly are hampering efforts to foster effective competition in broadband markets.
- Competitive service providers will enthusiastically embrace an open network.
- Artificial scarcity, implemented with broadband caps and metering, is harmful and unnecessary.
- Regulation that protects incumbents and hampers municipal networks simply suppresses demand that fosters broadband growth.

Who We Are

The Austin Broadband Interest Group is an alliance of local technologists and communication business leaders. Our mission is to support improved broadband service in Austin, Texas.

We formed in April 2009, in response to the Time Warner Cable announcement that Austin was selected as one of four cities in the nation in which broadband service would be capped and metered. Our efforts contributed to the suspension of the plan in Texas, and, eventually, the plan in its entirety.

We continue to advocate for improved broadband service in Austin at the local, state, and Federal level. We have participated in the FCC national broadband plan process by submitting comments in GN Docket No. 09-51.¹

Our co-founder Chip Rosenthal previously helped create SaveMuniWireless.org, which, in 2005, successfully overturned the legislative effort to prohibit municipal Wi-Fi in the State of Texas.

Limitations of communications duopoly are hampering efforts to foster effective competition in broadband markets.

Residents of most urban communities have a choice of two incumbent broadband providers. We believe this is insufficient to produce an effectively competitive market. The Google "Fiber for Communities" trials could prove that point. The demonstration would be even more poignant if Google were to select one of the rare markets with more than two incumbent broadband providers, such as Austin, Texas.

Some Austin residents have a choice of as many as three wireline broadband providers. The primary cable video provider is Time Warner Cable, providing Road Runner broadband service. The primary telephone provider is AT&T, offering DSL and U-Verse broadband. Grande Communications has "overbuilt" a network that services a relatively small portion of the city.

We do not believe this level of competition is sufficient. For instance, Time Warner Cable has resisted upgrading their Austin infrastructure to the faster DOCSIS 3.0 standard.² We suspect that if Google chooses to deploy a test network in Austin, the incumbent providers would choose to upgrade, thus demonstrating that the market currently lacks competition to drive performance and price improvements.

Competitive service providers will enthusiastically embrace an open network.

At one time, there was a vast competitive market for Internet service providers in Austin. Our residents had a choice of hundreds of available ISPs, including many who were locally owned and operated. In 2002³ and 2005⁴, the FCC reclassified

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- 1 "Comments of Austin Broadband Interest Group, GN Docket No. 09-51." Available at <http://fjallfoss.fcc.gov/ecfs/document/view?id=6520220275>
 - 2 "Still Waiting On Time Warner Cable DOCSIS 3.0." DSL Reports. (Jul. 1, 2009) Available at <http://www.dslreports.com/shownews/Still-Waiting-On-Time-Warner-Cable-DOCSIS-30-103220>
 - 3 In re High-Speed Access (Cable Modem Order), 17 FCC Rcd 4798 (FCC 2002). Available at http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-02-77A1.pdf
 - 4 In the Matters of Appropriate Framework for Broadband Access to the Internet over Wireline Facilities, et al. (DSL Order), 2005 FCC LEXIS 4492 (FCC 2005). Available at http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-05-150A1.pdf

the dominant providers' transmission service as an "information service", not subject to common carriage rules. The dominant ISPs immediately excluded the smaller competitive ISPs, such as Earthlink and Covad, from their networks and established unregulated duopoly broadband markets across the country. With the collapse of the competitive market, America has fallen far behind the rest of the developed nations in measures of broadband speeds and penetration. Austin has been hit particularly hard by the end of open access.

Evidence of a once robust Austin ISP market can be found at the moribund Texas ISP Association (TISPA) web site (www.tispa.org). TISPA was founded by and included significant membership from Central Texas service providers. At its peak, TISPA meetings would fill auditoriums on the University of Texas at Austin campus. Many of the TISPA leaders are still around Austin, driven out of the consumer services market by the competitive market failure. We have reached out to some former TISPA members, and they have expressed interest in being possible partners with Google in provisioning consumer services on an "open" broadband network. Some of them still have infrastructure in place, albeit reoriented towards commercial services, that could be rapidly re-deployed for consumer services.

Should Google choose Austin as a trial site, we are confident that our community will successfully demonstrate the virtues of open access, including rebuilding a competitive ISP market.

Artificial scarcity, implemented with broadband caps and metering, is harmful and unnecessary.

As noted previously, in April 2009, incumbent video provider Time Warner Cable proposed implementing metering on their Road Runner service in Austin. For the standard service (up to 7 Mbps), a cap of 40 GB/month was proposed, with a \$1/GB overage charge.⁵ Austin was undoubtedly chosen as a market for metered service because the "competing" DSL provider (AT&T) was also considering the expansion of its own usage caps and metered service trial. Both companies were conducting usage cap and metered service trials in Beaumont, Texas.

These limits, whether intentional or not, preclude the emerging use of broadband video services, or, at least, ensure the incumbent provider obtains a revenue stream from customers that transition their video consumption from standard cable video service, which they monetize, to Internet based video, which they currently do not.

To put these numbers in perspective, standard definition video requires about 1 GB per hour. This means a user could typically expect to get about 40 hours of video

5 "Statement from Landel Hobbs, Chief Operating Officer, Time Warner Cable." (Apr. 9, 2009) Available at <http://a.longreply.com/109511>

service before incurring overage charges. That works out to 1.3 hours per day, or 9.1 hours per week. By comparison, Nielsen reports that average TV viewing in Q3 2009 was 31 hours per week⁶, which would consume 134GB bandwidth per month, and incur an overage charge of \$94/month under the cap proposed by TWC. Move from standard definition to high definition video, and the consumption and costs more than double.

By comparison, on a network that achieved 80% of the speed of a full gigabit/sec, the full 40GB monthly allotment proposed by TWC could be consumed in just 6.6 minutes. The sorts of caps and metering proposed by incumbent providers become nonsensical on a high-speed network with plentiful bandwidth.

The press and active community helped raise the local broadband metering issue to national prominence. A successful "Fiber for Communities" trial would achieve similar prominence, and would stand in stark contrast to the events of 2009, where the community had to fight back against measures that were intended to force Austinites to consume less broadband.

Regulation that protects incumbents and hampers municipal networks simply suppresses demand that fosters broadband growth.

In 1995, the City of Austin launched an initiative to build a municipal fiber to the home (FTTH) network.⁷ A "Request for Strategic Partner" was successfully executed. Unfortunately, before the plan could come to fruition, the Texas Legislature stepped in, at the behest of incumbent telecommunications providers, and passed a law to prohibit municipalities from involvement (direct or indirect) in providing services that require PUC certification.⁸ Texas municipalities regard this law as a prohibition of municipal broadband service and have since undertaken no projects to provide robust, fixed point broadband communications to their residents.

We believe that the State action has failed to serve the market, and instead protected the incumbent broadband service providers from pressure to upgrade their product offerings.

6 "Three Screen Report: TV Remains Strong as DVR and Online Video Show Most Growth." Nielsenwire. (Dec. 7, 2009) Available at http://blog.nielsen.com/nielsenwire/online_mobile/three-screen-report-tv-remains-strong-as-dvr-and-online-video-show-most-growth/

7 "Staff Recommendation for a City-Wide Open Broadband Network." City of Austin Department of Telecommunications and Regulatory Affairs. (March 1996) Available at <http://www.ci.austin.tx.us/telcommission/downloads/20090812bk-rfsp96-recs.pdf>

8 "Texas Utilities Code. Section 54.202. Prohibited Municipal Services." Available at <http://www.statutes.legis.state.tx.us/Docs/UT/htm/UT.54.htm#54.202>

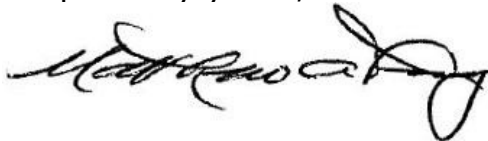
We believe the demand for a high performance FTTH network still exists in Texas, particularly in Austin, but has been neglected by the entrenched duopoly ISPs, which have been further insulated from competition by state regulation.

Thus, should Google choose Austin as a location for the "Fiber for Communities" initiative, it would provide the strongest evidence possible that protectionist legislation and regulation hampers broadband markets, and through this private initiative, demonstrate how municipal involvement could be an effective remedy when commercial providers fail to satisfy market demands.

Austin is an ideal location to trial new policy and market practices.

We view the "Fiber for Communities" experiment as an opportunity to trial not only technologies and applications, but also policies and markets. We believe that Austin, Texas provides an ideal and unique opportunity to make the trial a success on all these areas. Austin is a tech-savvy community, with a young and highly-educated population that would make a great test market for FTTH. Should Google choose Austin as a trial site, we offer to bring all our community resources to bear to make the project a success.

Respectfully yours,

A handwritten signature in black ink, appearing to read "Matthew Henry". The signature is fluid and cursive, with a large loop at the end.

Matthew Henry
Policy Director
Austin Broadband Interest Group