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Connecting Your Community:
Bringing Broadband to Town

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Overview

- Status of Community Broadband
- Drivers for Community Broadband
- Legal Overview
- Wireless
- Virginia Wireless Service Authorities Act

Burgeoning Interest in Community Broadband

“There are an estimated 800 towns and cities currently operating or planning broadband operations in the United States. . . . [T]he mainstream media have been in a deep slumber, failing to cover what will be a landmark shift in American technological history.”

– Karl Bode, “Media Ignores History in the Making,”
BROADBAND REPORTS, 9/28/04

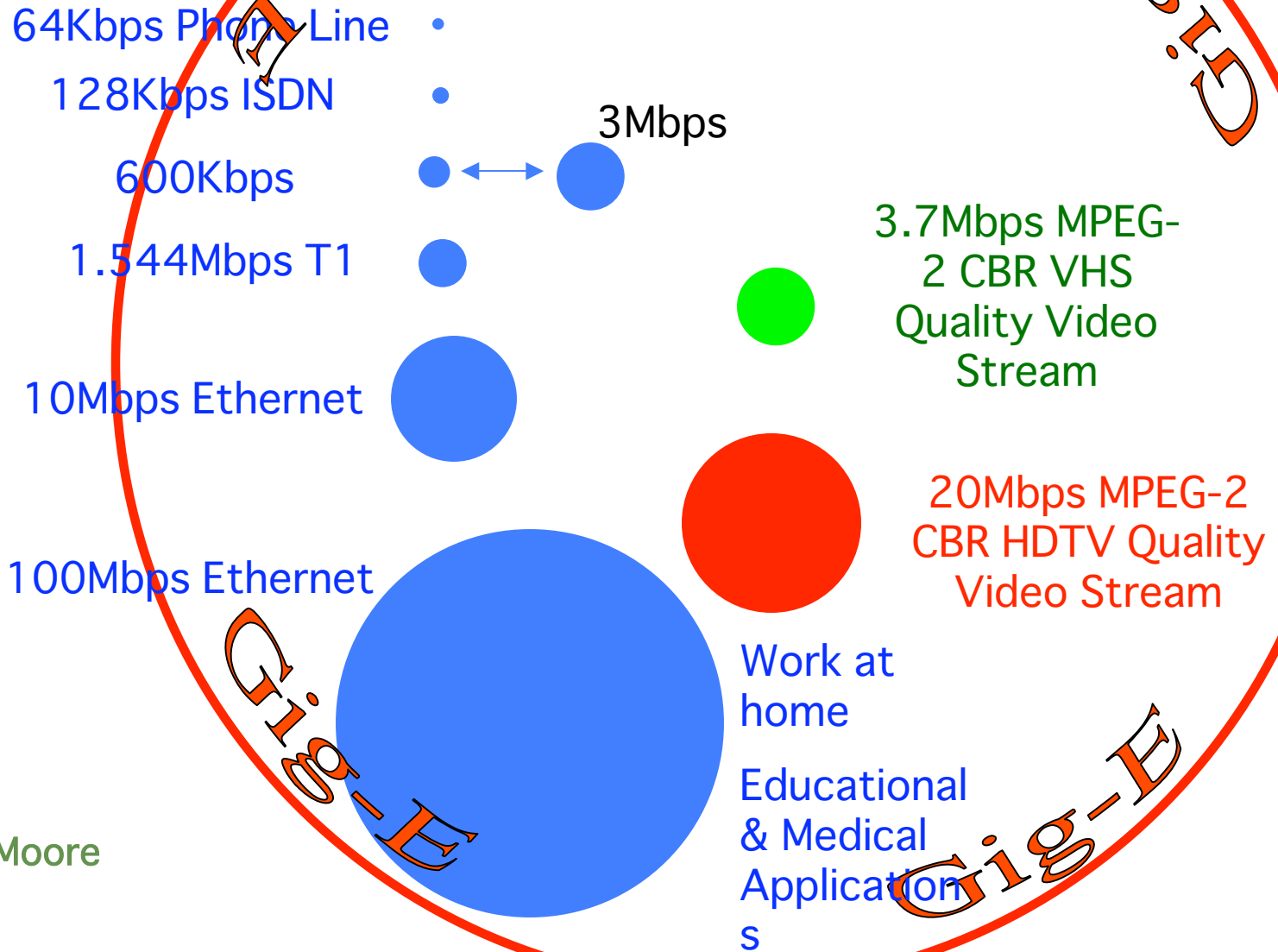
Status of Community Broadband

- Variety of involvement models, technologies
- Municipal utilities (www.appanet.org)
- High % of FTTH (www.ftthcouncil.org)
- FTTH success stories: Bristol; Dalton; Kutztown; etc.
- Many more FTTH projects coming
 - Jackson, UTOPIA, Provo, Truckee Donner...
- Virginia: Bristol, Danville, New River Valley, Blacksburg, Manassas, Central Va Electric Coop ...
- Explosion of activity in wireless in 2004

What's Driving Community Broadband?

- Economic development
- Educational and occupational opportunity
- Affordable modern health care
- Homeland security
- Reduced traffic/environmental harms
- Higher quality of life
- Poor prospects for incumbent provider(s) to meet these needs

Bandwidth Comparisons



By
Jonathan Moore

Structural Options

- Parts of municipal governments
- Separate municipal boards
- Special boards, authorities, commissions
- Coops and condos
- Multi-government interlocal projects
- Public/private partnerships ...

Birdseye View of Legal Issues

– Key Entry Issues

- Barriers to entry
- Procedural issues
- Business model and organizational structure
 - cable, telecom, or Internet? All 3?
- Financing and tax issues

– Post-entry Issues

- Federal, state and local regulatory requirements
- New rules – e.g., IP-enabled services

Entry Issues (Public)

- Federal law encourages, but does not authorize, public entry into communications
- Public entities need state/local authority
 - State authority can be express or implied
 - State laws and interpretations differ widely
- Most states either expressly authorize entry or allow localities to decide for themselves

The *Missouri* Case

- Telecom Act § 253 bans state laws that prohibit “any entity” from providing any telecom service
- In *Nixon v. MML*, Supreme Court held that “any entity” not clear enough to cover public entities
 - Decision not on merits of public entry
 - Public entities have “respectable position”
 - FCC “denounced” laws such as Missouri’s
 - Ten *amici* briefs supported public entry

Implications of *Missouri* Decision

- No effect in most states
- Existing barriers stay in effect (but read with care!)
 - AR, FL, MN, MO, NE, SC, TX, UT, VA, WA, WI
- Battles in 2004 in state legislatures and PSCs
 - FL, GA, IA, LA, NE, UT, VA, WA, WI
- Vicious local fights (www.tricitybroadband.com)
 - Palo Alto, CA; Concord, MA; Lafayette, LA; TriCities, IL

Wireless

- “Wi-Fi” - “Wireless Fidelity” – IEEE 802.11x
 - Wireless LAN standard, using unlicensed 2.4 and 5 GHz spectrum
 - Faster than cable modem (up to 11 Mbps)
 - Mobility, public safety, community/business development
 - Range limited: 50’ – 200’ (more with cognitive radios, or if directed, or fewer structures, etc.)

Wireless

- “WiMAX” – IEEE 802.16a
 - Wireless “MAN” standard
 - Targeted average bandwidth: 70Mbps, peak to 268Mbps
 - Standards not quite ripe – current deployments are “pre-WiMAX”, mostly geared for backhaul from WISPs

Others: EV-DO, 3G, UWB, iBurst...

Major Trend in 2004: Municipal Wireless

- Explosion of municipal wireless projects since 2Q (see list in handout)
- Chaska, MN:
 - \$16 wireless broadband service, operated by and billed as part of city utility service
 - “Demand for service has far surpassed our most optimistic projections”
- Philadelphia:
 - Plans free wireless service over 135-mile footprint
 - Public-private partnership

Virginia Wireless Service Authorities Act

(§§ 15.2-5431.1 – 15.2-5431-37)

- Virginia is a Dillon's Rule state...
- VWSAA: authorizes creation by locality of separate "Authority", the purpose of which is to provide "qualifying communications services" under Art. 5.1 (§ 56-484.7:1)
 - High-speed data service and Internet access service
 - excludes cable television
 - arguably *not* limited to wireless

Virginia Wireless Service Authorities Act

(continued)

- VWSAA provides a streamlined process
 - Substitute for Art. 5.1 substantive review by SCC
 - Shorter timeframe
- Other considerations:
 - Many procedural requirements
 - Referendum generally not required
 - Must make facilities avail. to private sector

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