Lawrence Lessig

Why your broadband service sucks

You'll be pleased to know that communism was defeated in Pennsylvania last year. Governor Ed Rendell signed into law a bill prohibiting the Reds in local government from offering free Wi-Fi throughout their municipalities. The action came after Philadelphia, where more than 50 percent of neighborhoods don't have access to broadband, embarked on a \$10 million wireless Internet project. City leaders had stepped in where the free market had failed. Of course, it's a slippery slope from free Internet access to Karl Marx. So Rendell, the telecom industry's latest toady, even while exempting the City of Brotherly Love, acted to spare Pennsylvania from this grave threat to its economic freedom.

Let's hope this is just the first step. For if you look closely, you'll see the communist menace has infiltrated governments everywhere. Ever notice those free photons as you walk the city at night? Ever think about the poor streetlamp companies, run out of business because municipalities deigned to do completely what private industry would do only incompletely? Or think about the scandal of public roads: How many tollbooth workers have lost their jobs because we no longer (since about the 18th century) fund all roads through private enterprise? Municipal buses compete with private taxis. City police departments hamper the growth at Pinkerton's (now Securitas). It's a national scandal. So let the principle that guided Rendell guide governments everywhere: If private industry can provide a service, however poorly or incompletely, then ban the government from competing. What's true for Wi-Fi should be true for water.

No, I haven't lost my mind. But this sort of insanity is raging across the US today. Pushed by lobbyists, at least 14 states have passed legislation similar to Pennsylvania's. I've always wondered what almost \$1 billion spent on lobbying state lawmakers gets you. Now I'm beginning to see.

The telcos' argument isn't much more subtle than that of the simpleton who began this column: Businesses shouldn't have to compete against their governments. What the market can do, the government shouldn't. Or so the fall of the Soviet Union should have taught us.

Although this principle is true enough in most cases, it is obviously not true in all. The government should certainly not do what private enterprise can do better (e.g., make computers). And the government should not prohibit private enterprise from competing against it (e.g., FedEx). But the government also should not act as the cat's paw for one of the most powerful industries in the nation by making competition against that industry illegal, whether from government or not. This is true, at least, when it is unclear just what kind of "good" such competition might produce.

Broadband is the perfect example. The private market has failed the US so far. At the beginning, we led the world in broadband deployment. But by 2004, we ranked an embarrassing 13th. There are many places, like Philadelphia, where service is lacking. And there are many places, like San Francisco, where competition is lacking. The result of the duopoly that currently defines "competition" is that prices and service suck. We're the world's leader in Internet technology—except that we're not.

The solution is not to fire private enterprise; it is instead to encourage more competition. Communities across the country are experimenting with ways to supplement private service. And these experiments are producing unexpected economic returns. Some are discovering that free wireless access increases the value of public spaces just as, well, streetlamps do. And just as streetlamps don't make other types of lighting obsolete, free wireless access in public spaces won't kill demand for access in private spaces. In economoid-speak, these public services may well provide positive externalities. Yet we will never recognize these externalities unless municipalities are free to experiment. That's why the bipartisan Silicon Valley advocacy group TechNet explicitly endorses allowing local governments to compete with broadband providers.

City and state politicians should have the backbone to stand up to self-serving lobbyists. Citizens everywhere should punish telecom toadies who don't. Backwater broadband has been our fate long enough. Let the markets, both private and public, compete to provide the service that telecom and cable has not.

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