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Will the future of the Internet be determined by what happens in a small town in North Carolina? Perhaps.

Wilson, N.C., once a hub for local tobacco growers, now styles itself the state's Gigabit City. Wilson has a municipally owned broadband system called Greenlight that provides lightning-fast Internet services to the community. Greenlight has been such a success that businesses and residents in neighboring rural counties want to sign up. So what's the problem? North Carolina is one of 20 states with a law on the books that restricts or bars local governments from offering broadband service. In 2011 the Tar Heel State's General Assembly passed substantial restrictions on municipal broadband, including limits on introductory prices and onerous tax requirements. Proponents claimed that competition from public networks could hamper private providers.

In July, Wilson petitioned the Federal Communications Commission to pre-empt the state barriers, as did Chattanooga, Tenn., whose broadband service Electric Power Board offers customers speeds as fast as one gigabit a second, about 50 times faster than the U.S. average. The FCC will soon decide whether to lift restrictions on these services, a decision that has implications for the cost of and accessibility to the Internet across the country. Reliable, high-speed Internet access has become indispensable, but many major broadband service providers simply do not make infrastructure investments in rural and poor communities. The FCC estimated in 2012 that about 19 million Americans lack access to basic broadband sufficient to send and receive high-quality voice and video. Some communities have only one broadband provider, and almost half of Americans have a choice between just two. This lack of competition has

Pittsburgh Tribune-Review
No matter who wins the Pa. governor's race, gridlock will continue in Harrisburg

Philadelphia Inquirer
Harrisburg holding its breath over indecorous e-mails

raised concerns about high prices and poor service.

In response, enterprising municipalities like Wilson have stepped in to provide high-quality broadband. This is nothing new: Local governments have a long history of providing services such as power and water when the market doesn't adequately serve residents. Local governments are investing in state-of-the-art networks to expand consumer choice, promote job creation and foster innovation. FCC Chairman Tom Wheeler has argued that these community broadband providers should be allowed to enter the market. At a meeting of the National Cable & Telecommunications Association in April, Mr. Wheeler made himself clear: "I believe the FCC has the power—and I intend to exercise that power—to pre-empt state laws that ban competition from community broadband." Now he has the chance to follow through.

Broadband providers have been instrumental in getting these state laws enacted, arguing that municipal entry would deter innovation and undermine investment in their networks. One irony is that Greenlight only exists because these providers declined to build state-of-the-art fiber networks for residents in Wilson. Greenlight simply stepped in to fill the gap. The major providers will not accept defeat without a fight and have a seemingly potent legal weapon: the Supreme Court's 2004 Nixon v. Missouri Municipal Leaguedecision, which held that federal efforts to check state barriers to municipal competition might be unconstitutional. In 1997 Missouri passed a law that barred local governments from providing telecommunications services at the behest of the state's major providers. The Missouri Municipal League asked the FCC to block the statute by issuing a federal rule, but the agency refused.

The case went to the Supreme Court, where the justices determined that the Telecommunications Act of 1996 did not authorize the FCC to intrude on state control of its local governments, citing the potential for "strange and indeterminate results" if the FCC were empowered to foster municipal entrepreneurship. It is largely on these legal grounds that broadband service providers filed responses to the Wilson and Chattanooga petitions this week. The FCC should reject these arguments, for at least two reasons. First, the *Nixon* case was about telecommunications services, not access to the Internet. That is an important distinction under current law, and the two relevant statutory provisions should be distinguished. Second, there is nothing strange or indeterminate—let alone unconstitutional—about federal authority to allow local authorities to provide residents with competitive broadband service. Municipal broadband is not about federalism. It is about bringing competition to local markets that desperately need it. Congress recognized this when it asserted in the Telecommunications Act that states could not erect barriers to competition in local markets for broadband service.

Federal courts have recognized the FCC's authority to promote the availability of high-quality Internet access. In January, the D.C. Circuit Court of Appeals did so in FCC v. Verizon. The court rejected some FCC policies but affirmed the commission's broad authority to promulgate network neutrality rules for the Internet. Support for community broadband initiatives are part of the agency's focus on "competition, competition, competition," as Mr. Wheeler put it in an April speech. Whatever power the states have to supervise their local governments cannot override the imperative to build out the signature communications technology of our times. The federal government has in the past stepped in to limit parochial state restrictions on local governments when necessary to advance important national interests. The same is true for the Internet and the competitive, high-quality broadband service it requires. ***– Wall Street Journal*** (And in the ***Denver Post***: **Should Colorado broadband law be revoked? A college professor says no.**)

Comcast Corp. executive and chief lobbyist David Cohen testified in Washington in April and May that the cable giant was a friend to independent cable networks, saying that Xfinity customers have access to more than 160 small or independent channels. The founder and chairman of one of those channels, Patrick Gottsch, of the rural network RFD-TV, in Omaha, Neb., has a different take on it. "It sounds wonderful. But when you peel back the onion . . . it's really nothing at all," Gottsch said. "Very few [independent] channels have full distribution, other than BBC World News and Al Jazeera."

Other independent networks that Comcast cites as supporting on its cable systems cost extra monthly fees that subscribers have to pay, Gottsch said. These extra fees of $8 a month or more limit their popularity and audience. The fate of independent networks - a hot-button political topic in Washington for decades - has arisen as one of many issues in the federal government's sweeping regulatory review of Comcast's proposed $45.2 billion acquisition of Time Warner Cable Inc.

Independents can range from regional news channels to lifestyle and foreign-language networks. Some of these independents warn that a combined Comcast/Time Warner Cable could act as a giant TV gatekeeper, keeping them from a critical mass of viewers and protecting Comcast-owned cable channels. The Tennis Channel, an independent, has battled Comcast for years at the Federal Communications Commission and the federal appeals courts. Courts have granted cable companies broad editorial discretion to decide which channels to place on their systems.

Comcast says it treats independent channels fairly and gives them a ride on its cable systems if they deserve it, adding that the independents are inappropriately clamoring now for the attention of regulators during the Comcast/Time Warner Cable review. Comcast and other cablecasters have finite capacities in their systems as regards televising channels, whether large and well-watched ones or smaller independents. Comcast's Cohen said the cable company has expanded carriage of independent networks by more than 50 million subscribers through new channel launches and adding independent channels to new TV markets since 2011, calling it a stellar record.

Comcast spokesman John Demming said Friday that many independent channels had regional or targeted audiences - thus it made sense that they're distributed only regionally or to specific TV markets. In April, Comcast submitted to the Senate Judiciary Committee a list of 179 independent networks available on its cable systems as part of the Time Warner Cable merger review. According to an Inquirer analysis of the list: Roughly half, or more than 80, were foreign-language or ethnic cable channels. These include the networks Latele Novela, Playboy en Espanol, CTI Zhong Tian, TV Polonia, and Deutsche Welle. They typically cost an extra monthly fee.

Roughly 15 independents were niche sports networks, such as those for horse racing (HRTV), rugby (Six News Now), international cricket (Willow Plus), basketball (NBA TV), and tennis (Tennis Channel). These also can cost extra. Many regional news channels and lifestyle channels were distributed in specific geographic areas. BlueHighways TV, a Tennessee independent that televises bluegrass music and dramas, can be watched by 1 percent of Comcast's TV subscribers, or about 210,000 homes, according to an official at BlueHighways TV. Prominent and widely distributed independents include the Home Shopping Network, QVC, Bloomberg TV, BBC World News, and the EWTN Catholic channel.

The federal government has decreed the need for diverse voices on independent networks, and the FCC generally defines independent networks as those not owned by entertainment conglomerates. Those conglomerates are Comcast/NBCUniversal, the Walt Disney Co., Hearst Corp., Twenty-First Century Fox Inc., Time Warner Inc., Discovery Communications Inc., and Scripps Network Interactive Inc., according to industry experts. As an FCC condition on the NBCUniversal deal in 2011, Comcast agreed to launch 10 independent networks. Five have already launched: BBC World News, Aspire,

BabyFirst Americas, Revolt, and El Rey. Aspire, BabyFirst Americas, Revolt, and El Rey are minority-owned networks. BlueHighways TV is one of those independents that would dearly like to expand the number of Comcast subscribers that see its channel. But so far, with no luck.

The network won an honorable mention for its *Dry Creek* drama series at the 2012 Cablefax program awards and offers its channel free to cable systems, said Denise Hitchcock, part-owner of the network and its head of marketing. It's difficult to expand its distribution on the Comcast system, she said, because the channel bundles offered by the entertainment conglomerates "use all the space" on cable systems. In addition to the 210,000 Comcast subscribers that can watch BlueHighways, the network is available to 1.5 million Time Warner Cable subscribers. "Comcast has been open to talking with us," Hitchcock said. "They have been friendly. They have not been rude to us, or any of our people." **– *Philadelphia Inquirer***

Time Warner Cable Inc. filed Friday proxy materials concerning Comcast Corp.'s pending $45 billion purchase of TWC. The filing outlines potential "golden parachute" compensation payable to certain top executives under conditions including resignation for a designated "good reason" or termination after a change of control. Chief Executive Rob Marcus would receive $81.8 million, including $22.4 million in cash and $56.5 million in equity. Time Warner Cable said a special shareholder meeting will take place in New York on Oct. 9. The deal was announced in February and is now being reviewed by regulators. Critics of the deal have included Univision Communications and Dish Network Corp. **– *Wall Street Journal***

GreatLand Connections Inc. will be the name of the new publicly traded company spun out of Comcast Corp. as part of its giant acquisition of Time Warner Cable Inc. Comcast has agreed to divest itself of millions of cable-TV customers to satisfy federal regulators as part of the deal. GreatLand will operate former Comcast cable systems with 2.5 million customers in the U.S. Midwest and Southeast. **– *philly.com***

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