



10 Things That Ought To Scare The Hell Out Of You

By David P. McClure ■ *US Internet Industry Association (USIIA)*

Whether your broadband services are based on telephone wires, cable wires or wireless signals through the ether, all of us live or die by the whims of regulators. Our access to facilities and services depends on regulators. The prices we pay are generally dictated by regulators. Even the size of our companies will, eventually, be dictated by legislative or regulatory fiat.

As an industry lobbyist for broadband in Washington, I am often asked by smaller broadband operators why they should take valuable time and resources to try to affect the Congress, the FCC and the adminis-

tration. From where I sit, that's the wrong question. I'd be inclined to ask: "Why don't you wake up in a cold sweat every single night over what might happen to you today in Washington or in your state capitol?"

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I know that there is just too much to worry about, and that in the crush of daily business it is nearly impossible to focus on the Chicken Little, sky-is-falling world of public policy. But there are some very real threats that will require even the smallest of PCOs, rural telephone operators and broadband providers to pay attention. Today, there are 10 things underway that ought to scare the hell out of you.

1. The taxman. The failure of the Senate to pass a meaningful tax moratorium for broadband this year

means that you may soon be subject to new taxes—heaps of them. City taxes, county taxes, state taxes, gross receipts taxes, sales taxes, multiple and discriminatory taxes could be just the beginning. Unless we can get the logjam cleared this year, your cost to supply broadband may increase by 50 percent or more—in the first year.

2. It isn't local anymore. Back in the early days of telephones and electricity, utilities of every kind were locally regulated. But in today's global economy, the regulatory base is shifting to Washington. That means that you'll have to work harder and commit more resources just to be heard.

3. The States Attorneys General. What if you could be prosecuted as a child pornographer for acts over which you have no control and that you did not even know were occurring? That's already been the case in New York and Pennsylvania, where zealous state attorney generals have tried to hold broadband providers liable for content from as far away as Spain and Russia.

4. Hollywood. The entertainment industry is frustrated about Internet piracy. Granted, there's no real evidence that pirated films and music online are hurting their sales. But the Hollywood crowd is both neurotic and money-obsessed. In their minds, the best solution to the piracy problem is to find someone—anyone—with deep pockets and shake them down for some

loot. In case you haven't noticed, their "deep pockets" target is you.

5. The US Department of Justice. Tying together the neuroses of Hollywood and the power of the government, legislation pending in the House and Senate would give the DOJ new powers to investigate and bring civil lawsuits against copyright infringers online—to become Hollywood's private legal department — their best weapon in this fight? Force broadband service providers to open their systems to surveillance and sniffers looking for...well, whatever they want to look for.

6. Senator Ted Stevens. This powerful Republican from Alaska is set to become the chairman of the Senate Commerce Committee next year, and he has an agenda. He thinks that all of you should be subsidizing low-cost telephony, cable and broadband for the people of Alaska—the ones who get annual subsidy checks from the oil pipeline and pay no state income taxes. If he gets his way, you'll be paying into the Universal Service Fund within the year. The leading democrat on the committee, Sen. Daniel Inouye of Hawaii, will back his play.

7. The FBI. For much of the past year, the "Fibbies" (as they are called in DC) have been lobbying hard for the right to force you to add all kinds of new hardware to your systems in order to make it easier for them to wiretap your subscribers. Never mind that the FBI's wiretap authority, granted in 1979, was supposed to be temporary. And never mind that it isn't supposed to apply to broadband or Internet browsing. The FBI wants it. Now.

8. The major players. Small companies have more clout in Washington

than the big ones, in spite of the fact that the major players—MSO, satellite and telephone—all have major lobbying operations and budgets in both Washington and in the states. As long as the little guys sit on the sidelines, they win. And part of their business strategy is to build their market share—at your expense.

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9. The Courts. Service providers are protected from unwarranted lawsuits by the Telecom Act of 1996, right? Not quite. We’ve started to see some quirky jurisdictional rulings of late not only from the European Union and Australia but in the US as well. You may be protected, but unless case law remains clear you could find yourself the next test case—and winning won’t help if you are bankrupted by the cost

of the fight.

10. Other Service Providers. Not everyone in the broadband industry has built out networks and infrastructure, and those that do not own their own hardware want to make sure they have access to the networks of others. That’s all fine and good, if they operate under commercial contracts with the network

owners under fair market values. But some service providers, large and small, want the government to dictate the leasing terms and ensure their profitability. That means they ride on your network at your expense, taking your customers.

As long as you are content to sit on the sidelines, these forces become stronger. Over the past three years, the Internet industry has gone from major

policy victories to policy defeats. And these defeats will ultimately cost you money and market share.

Regardless of your size or your business, some portion of your attention, energy and resources must be directed to public policy in Washington and the states. The easiest way to do this is to join together—to leverage your strength and economize on your resources as part of the US Internet Industry Association. If you can’t, or don’t belong, you risk losing what you have built to regulatory or legislative whims, or to policies crafted by your competitors. ■

About the Author

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