

- My name is Michael Santorelli. I am a director of the Advanced Communications Law & Policy Institute (ACLP) at New York Law School. At the ACLP, we explore the benefits of broadband connectivity and offer recommendations for removing barriers impeding more widespread deployment and adoption of high-speed internet access.
- The ACLP is regularly sought out as a resource by federal, state, and local policymakers. We have served on the FCC's Consumer Advisory Committee and the FCC's Removing State & Local Barriers to Broadband Deployment Working Group. We were also members of the New York State Broadband Task Force about a decade ago when the state was designing its previous broadband grant program. We have also testified previously before this body on broadband-related issues.
- For example, last year, we testified during the budget process and warned about the likelihood of the state squandering precious public resources on overbuilding broadband networks via Empire State Development's Municipal Infrastructure Program (MIP). Overbuilding occurs when governments choose to subsidize the buildout of duplicative broadband infrastructure in markets that are already served. This is wasteful spending in the best of times, and inexplicable when tens of thousands of New Yorkers remain without any broadband connectivity options.
- Our predictions turned out to be prescient. In the first round of the MIP, ESD grants resulted in overbuilding across 86% of locations passed by MIP-funded networks.¹
- The ACLP has sought public records to assess whether subsequent rounds of the MIP have yielded similarly extensive overbuilding. ESD, however, has not been as responsive to our most recent data request as it was to our initial data request regarding Round 1.
- Respectfully, spending oversight should be the province of the legislature. To date, however, it does not appear that the legislature has convened oversight hearings on anything related to ESD's broadband programming outside of these pro forma budget hearings. Oversight is needed to hold these programs – and the officials overseeing them – accountable.
- The waste evident in the MIP is a symptom of a more worrying disease plaguing the state. New York, unfortunately, has become a state defined by unnecessary government intervention into the broadband market.

¹ <https://broadbandexpanded.com/posts/nymip>

- The governor’s proposed middle-mile fiber network via the NYS Thruway is one of the latest examples of this. Statewide middle-mile networks have a poor track-record, with many such networks costing more than predicted, taking longer to complete, and rarely, if ever, achieving anywhere near the lofty goals espoused by its supporters when the project was announced.
- New York’s project is likely to face a similar fate given the robustness and extensiveness of broadband across the state.
- New York’s broadband affordability law is another unfortunate example of this dynamic. Once the law started to be enforced, a major ISP pulled its offerings from the state. That should give everyone here pause because it signals to businesses and investors that New York State is not open for business.
- State Legislatures rarely, if ever, set prices for goods and services. It almost never happens when the service at issue is delivered via a competitive marketplace. The law has inspired policymakers in several other states to introduce copycat bills. Further adoption of state broadband affordability laws will be disastrous. If New York wishes to regain its leadership position for broadband policymaking, the legislature should repeal the broadband affordability bill immediately.
- In closing, the ACLP respectfully submits that New York’s broadband policymaking has become far too centralized in nature. Rather than engage in central planning for a competitive market – and risk destroying that market – the legislature should focus on addressing the myriad other legal, regulatory, and public policy issues that need attention. The legislature did this before when it repealed the state’s fiber tax. It could do so again by adopting legislation to streamline local permitting, modernize legacy regulatory frameworks, and clarify that the state will not meddle unnecessarily in the broadband market.
- The ACLP appreciates the opportunity to offer testimony and will submit supplemental information shortly.