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Local Government Reaction is Swift to FCC's Wireless Regulation Actions

By Joseph Van Eaton, Gerard Lavery Lederer and Gail A. Karish

San Jose Mayor Sam Liccardo's resignation from the FCC's [Broadband Deployment Advisory Committee](#) last week signals that communities around the country are facing the imminent prospect of new federal wireless regulations (and possibly more rounds of state legislation).

Liccardo's resignation was one of several actions taken by local governments in response to a BDAC vote on a report on state and local government "barriers" and a planned vote later this spring on proposed model state and local regulations. Many had hoped that the BDAC would discuss ways in which states, localities and vendors could work together to expand and speed broadband deployment. Because the BDAC was heavily tilted toward industry, with little local, tribal, state or worker representation, the BDAC's reports largely ended up as an industry wish list for preemption and public subsidy, while failing to include any requirement that broadband be deployed to underserved areas in return for these benefits. In addition to Liccardo's resignation, a [minority report](#), and a [letter](#) signed by 160 local leaders were also submitted to the FCC.

Within the next few months, the FCC is expected to adopt a series of orders, and perhaps commence a series of new rulemakings, that may restrict state and local wireline and wireless authority, including authority to charge fees for use of the rights of way or other public property. The BDAC "models" may be presented to state legislatures to encourage them to adopt new restrictions on local authority, as if the models reflected a broad consensus of stakeholders.

Localities may wish to support local government responses to BDAC by filing a [supporting letter](#), and contacting Congressional and state representatives to alert them to the community's position, as well as the problems with the BDAC report.

For more information about Liccardo's and others' concerns about the BDAC's actions, read [the BB&K Legal Alert "Red Flags on Wireless: A Recent Resignation Signals Industry-Weighted Regulations Ahead,"](#) which provides

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more information, including how communities can come together and form a coalition to address BDAC issues.

Note: This article originally appeared on the now-defunct BBKnowledge blog, where Best Best & Krieger authors shared their knowledge on emerging issues in public agency law.

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