

The Telecommunications Act of 1996 Five Years Later

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Commentators who focus on the status of local competition use the wrong benchmark to evaluate the 1996 Telecommunications Act. We should evaluate the 1996 Act by the goals Congress spelled out in the preamble: “to promote competition and reduce regulation *in order to* (emphasis added) secure lower prices and higher quality services for American telecommunications consumers and encourage the rapid deployment of new telecommunications technologies.”

Congress passed the Act to provide specific benefits to consumers: lower prices, higher quality services, and accelerated deployment of advanced services. Congress understood that competition was a means, among others, toward those goals, but not an end in itself. Further, Congress understood that competition alone would not advance those goals for *all* Americans, and therefore included universal service mandates in the Act.

How well, then, has the Act worked to advance its stated goals?

Prices: Stable in Telephony, Skyrocketing in Cable

Continued local rate regulation and declining long distance prices for many (though not all) consumers have kept consumer expenditures for wireline telephony relatively flat over the past five years, even as use has increased. According to the FCC, consumers spent, on average, \$51 in 1996 and \$55 in 1999 for both local and long distance telephony, even as the number of households with second lines increased by 11 percent and long distance minutes increased 22 percent. Average local residential rates remained

stable at just under \$20 for residential lines and \$40 for single-line businesses. Cable rates, however, rose more than 30 percent. Although average prices never tell the whole story, it appears that most residential and small business consumers benefited from stable local rates, declining long distance rates, but experienced sticker shock from monopoly cable rates.

Quality: Blocking the Low-Wage Path to Competition

Quality telecommunications services depend on two primary factors: adequate investment in physical plant and in the employees who install, maintain, and provide customer service. Historically, high-skilled, career union workers built, maintained, and serviced what was regarded as the best telephone network in the world. In contrast, cable companies and most of the new competitors have adopted a low-wage, high turnover labor policy, choosing to compete by reducing labor costs and fighting their workers' desire for representation. The result is a well-deserved reputation for poor service.

Local telephone customers began experiencing service quality problems in the mid-1990s as incumbent local telephone companies cut employment levels, substituted contract workers for career employees, and reduced investment in local networks in order to prepare for competition. Since passage of the Act, and under scrutiny of federal and state regulators, most of the Bell Companies have hired more technicians and customer service personnel to reduce service backlogs, while significantly increasing local network investment. As a result, there has been some improvement in local service quality in many states, but downward competitive

pressure remains, with resulting service quality problems.

Quality service remains a problem for cable customers. The roll-out of cable telephony has been plagued with problems, as AT&T discovers the poor quality of the plant it bought from TCI and fails to invest in its cable workforce. Long distance consumers find it harder and harder to reach a human voice or a permanent employee, as long distance companies compete to cut costs as they abandon the residential market.

Union representation has served as an important protection for workers and consumers against this cost-cutting race to the bottom. Since passage of the Act, a growing number of workers in the wireless, cable, competitive local exchange, and dot.com industries have sought union representation. Despite often fierce employer resistance, CWA now represents a growing minority of workers in these industries.

Accelerated Deployment of Advanced Services: E-Rate Success, but Many Barriers to Market Incentives

Here progress has been mixed. Let me start with a success story, the E-Rate. Recognizing that market forces alone would not ensure universal, affordable access to the Internet in the immediate future, Congress established and then the FCC implemented a program of subsidies to schools and libraries.

In its first two years, the E-Rate provided nearly \$4 billion to schools and libraries, with funding targeted to poor school districts. The E-Rate has helped assure that today virtually all schools and 63 percent of classrooms have Internet connections, compared to only 65 percent of schools and 14 percent of classrooms in 1996. But the job is not done. Poor schools still lag far behind wealthier schools in classroom Internet connections—39 percent versus 71 percent. We must continue to build upon this progress by continuing the E-Rate program.

There has been some progress in accelerating Internet access at home, although a digital divide remains. In August 2000, 41 percent of homes were connected to the Internet compared to 19 percent four years earlier. While the number of minority, low-income, and disabled households with Internet connections is growing, so has the gap between information haves and have-nots, with less than one-quarter of Black, Hispanic, poor, and disabled persons with Internet access at home.

Internet connection is still largely narrowband; there were only 4.3 million broadband lines in June 2000—2.2 million through cable modems, 1 million through DSL connections, and the remainder through wireless technologies. The broadband market demonstrates a demographic gap as well. These inequities are significant because broadband technologies have the potential to improve educational opportunities, provide greater access to public services and health care, increase social and economic participation by people with disabilities, stimulate economic development in disadvantaged communities, and enhance civic participation, among other benefits.

While there are many reasons to explain the slow deployment of broadband technologies, misguided regulation serves as one important factor that dampens or distorts incentives for carriers to invest in universal, end-to-end broadband networks serving all classes of customers. For example:

- The FCC's interconnection network element pricing methodology promotes resale competition rather than investment in new networks.
- The FCC's reluctance to regulate cable Internet access as a telecommunications service imposes regulatory burdens on DSL providers that cable broadband carriers do not bear. Moreover, a closed model for broadband over cable will stifle consumer

demand and sacrifice the Internet as an open, democratic communications platform.

- The continued separation of the long distance and local wireline markets slows return on investment in broadband networks by breaking the digital network at an artificial LATA boundary. With AT&T and WorldCom in recent months signaling their retreat from the consumer long distance business, it is time for policymakers to re-visit the statutory and regulatory framework that has kept the Bell Companies out of the long distance market in all but four states.

Conclusion

Five years since the 1996 Telecom Act, many challenges remain to ensure that all Americans have affordable, access to quality telecommunications networks. While it is important to ensure that regulation does not distort or deter investment incentives, it is also important to maintain regulatory oversight over service quality to block the low-road competitive path while maintaining strong programs to protect and advance universal service.