

Are You Better Off Today Than You Were Five Years Ago?

Residential Consumers and Telecommunications Reform

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Anniversary dates and Presidential elections are occasions for reflections on the past and hopes of a better tomorrow. As we approach the 5th Anniversary of the Telecommunications Act of 1996, it is a fair question for consumers, meaning in this instance, primarily residential consumers to ask, "Am I better off today than I was five years ago?" And, "What promises for a better tomorrow should I really believe?"

If these questions were actually asked about telephone service, the vast majority of American residential consumers would say: *"I am worse off, much worse off. My bills are higher and the whole mess is a lot more confusing. And I don't have all those choices that people talked so much about."* To some extent, they would be right. In most cities, residential telephone users have fewer choices for long distance carriers than they did five years ago (Qwest bought Frontier; Worldcom bought MCI and a dozen other carriers). While there are a growing number of new competitors for local service (remember that there was only one such company before), the competition for local plain old telephone service is almost always focused on big business users. It is true that the cost of some services has gone down, but overall consumers perceive that their total bills for telecommunications services – because in part they buy more things – has probably gone up.

The conventional wisdom is just the opposite of the aforementioned negative view. Conventional wisdom says long distance rates have plummeted and that all consumers have access to a growing array of new services for everything.

Conventional wisdom says that on balance everyone is better off today than they were five years ago. However, the conventional wisdom does not tell the whole story either.

The Telecommunications Act of 1996 was an analog bill. The "Zen" of the 1996 Act is radio waves, not digital 1s and 0s. Its core codified the key provisions and regimen of the 1984 divestiture order, known as the "modified final judgment (MFJ)." In other words, the 1996 Act cemented in place structures and rules designed to assure that the analog world of telephone as reorganized by the Courts for antitrust purposes remained in place during a transition to a competitive system that was itself based on an analog world view.

The Telecom Act of 1996 presents two problems. First, the original break-up order of the Bell System got it largely wrong for residential consumers. The 1996 Act itself simply blessed that wrong decision and codified it into law. Second, the Act was written based on the non-digital world and is not working well to promote the growth and expansion of advanced, digital services to consumers.

The distinction between local and long distance services that should have been eliminated in the Act remained intact. So, instead of seven "local-only" companies competing against AT&T and MCI, it would have made more sense to have seven integrated companies, each competing nationally. Moreover, the so called "break-up" was essentially illusory as long as AT&T owned Western Electric (now Lucent), with the local

companies as their biggest customer and the local companies getting nearly all of their "access revenues" from AT&T.

In those markets, New York and Texas, where the ban on long distance competition has been lifted, residential customers are beginning to see real rate reductions and real competition. New York residential customers are saving nearly 250 million dollars a year (and probably more) through enhanced local and long distance competition. It makes sense. The marginal cost of adding long distance calls to telephone service and to a consumer's bill is very small and there are logical economic reasons for the local phone company to offer cheap long distance to an existing customer. It does not make sense, however, for a long distance company with no other relationship with a customer to offer just cheap long distance. The experience in Texas and New York suggest that residential consumers will benefit from the elimination of the local/long distance distinction – specifically, an elimination of the long distance prohibition on local phone companies.

Residential phone competition is not the only problem with the 1996 Act. During the time the Act was being debated, many advocates focused on promoting the deployment of next generation, high-speed, broadband services to the public. The Alliance for Public Technology argued at that time and continues to argue today that the primary purpose of the Act should have been to encourage broadband deployment. Unfortunately, the only real mention of this idea in the Act was Section 706. Section 706 could have been read as requiring the FCC to consider the impact on broadband deployment of every action they took in implementing the Act. A three-year review would have then let the FCC decide whether more aggressive actions were necessary to promote universal broadband deployment.

Unfortunately, the FCC didn't see it that way. They waited three years before even looking into

the status of broadband deployment. They then equated Section 706 to promoting narrow-band advanced services, rather than true broadband capabilities and applications. The result is, in effect, a national commitment to digital subscriber line and cable modem technologies and services rather than true broadband to the home that supports capabilities sufficient to support two-way, interactive video applications for every home in the country – 200kbps is not broadband, 20 Mbps is!

Perhaps this is too negative a view of the 1996 Act. Long distance and other telecommunication costs for big business and heavy residential users have in fact gone down substantially, but light users and rural consumers haven't done as well. In addition, there is no doubt that in the last five years a number of dramatic changes have occurred in telecommunications. Wireless competition has exploded. The Internet is nearly universal and its capabilities continue to grow. It is interesting that these are the areas where the 1996 Act were most silent.

It is clear, that it is time now to take a closer look at the Act and consider revising it for the 21st Century. We need to re-think how the government tries to manage this industry. Complete deregulation of everything does not make sense, as this industry is too important to the public interest to put at risk. But, we do need public policy to promote changes that will hopefully result in more rapid deployment of advanced services to all Americans at affordable prices. We need governmental agencies to provide reasonable oversight of those policies. We need to assure reasonable consumer protections that the marketplace will work not only for the suppliers, but also for the buyers.

Unfortunately, the competing industry interests that resulted in the 1996 Act might suddenly realize that they have a mutual interest in a new public policy regime. AT&T and Worldcom, which account for nearly 90% of the residential long distance market, have basically said it is a dead

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business. They know that their futures are going to be in provider-integrated services to customers. The local phone companies want to offer integrated services as well, but need to be able to offer them inside single enterprises. Cable companies are also angling for more opportunity and regulatory freedom.

It is possible that telecommunications companies and their warring lobbyists could sit down at the peace table. And so long as effective consumer representation is at the table, it just might result in a much better deal for everyone.