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# Bad tech advice for the president


**By Lawrence Spiwak, President, Phoenix Center**
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**Somebody within the Bush administration is giving the president some very bad advice on broadband policy.**

Despite its flaws, the Telecommunications Act of 1996--whereby the regional Bell telephone companies must sell unbundled elements of their networks to rivals at just and reasonable rates--is a success: Consumers are saving more than $10 billion annually, current employment levels in the wireline telecommunications sector remain 17 percent above historical trends and, in response to competitive forces, incumbent average net investment has increased by $759 per year for each unbundled line they provided, or about 6.4 percent per year in the aggregate.

Still, under lobbying pressure from the Bells, the Bush administration recently turned its back on this successful policy by declining to seek Supreme Court review of an appeals court case striking down the Federal Communications Commission's unbundling rules.

In a recent speech, President Bush said this decision was a "smart thing" because the FCC's rules did not require the incumbents to unbundle new fiber to the home, and having an appeals court reach a contrary conclusion would destroy the Bells' investment incentives.

However, somebody apparently forgot to tell the president that this court case was not about the Bells' efforts to implement fiber to the home: The issue at bar is the Bells' obligation to unbundle the existing copper infrastructure (plus other essential elements).

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FCC Chairman Michael Powell says we need not be concerned about this lack of unbundled access to the existing network, because "competition from wired, wireless and voice over the

Internet is accelerating and it is going to be even better." With all due respect to Chairman Powell, this statement is mere "techno babble" and bears no nexus to the true economic structure of the market.

Like it or not, so-called fixed-mobile competition simply doesn't exist. While Americans love their mobile phones, there is no empirical evidence that the majority of consumers view their mobile phones as a substitute for fixed line service. Not only has this point been proven empirically, but Cingular's economic expert for its proposed takeover of AT&T Wireless conceded this very fact under oath at the FCC. As SBC President Ed Whitacre once admitted: Wireless is "not going to displace the wireline network. It's certainly going to be a big product, but it's never going to be the substitute. Reliability is one reason."

Equally as important, you can't have meaningful "intermodal" fixed/mobile competition when, in the glib words of BellSouth President Duane Ackerman: "That's OK. We tend to own both." Indeed, should the FCC approve Cingular's proposed acquisition of AT&T Wireless, about 70 percent of wireless subscribers served by national wireless carriers will be in the hands of the Bells. Intermodal competition? How about intermodal collusion.

Similarly, claims that voice over Internet Protocol (VoIP) is going to mitigate the incumbents' market power are premature, at best, and may also be overstated. VoIP over the public Internet is an incredibly inefficient use of bandwidth, and therefore relatively poor quality of service is inherent to the product. Yet for those companies willing to invest in "managed" VoIP services--for example, developing sophisticated backbone VoIP platforms that address the quality issues--the Bells have convinced the FCC that this is still a "telecommunications service" and therefore is subject to billions of dollars a year in access charges.

We also need to remember that VoIP is not a facility but only a service provided over a broadband facility. Thus, even if VoIP takes off, consumers still have a choice of only two facilities-based broadband providers--the incumbent Bell monopolist or the incumbent cable operator.

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Finally, even if the issue was about promoting Bell fiber to the home, both the press and Wall Street analysts report that Bell efforts are more rhetoric than economic reality. Look at SBC's track record, for example.

Several years back, SBC announced its "Project Pronto" to implement fiber to the home efforts in their service territory. Then, less than a year ago, Whitacre stated that he just did not "see the incentive for FTTP," particularly as costs will exceed $2,000 per customer. Instead, SBC acquired $500 million in EchoStar convertible debt to facilitate joint marketing for phone and video service. Yet, as part of its political deal with the Bush administration, SBC just announced that it changed its mind and is going to implement fiber to the home to deliver "integrated video, data and voice services," which means, by definition, that SBC now plans to strand its $500 million-plus Echostar investment. It doesn't take a Harvard MBA to realize that there's something rotten in Houston.

In sum, President Bush has consistently argued that we should have a choice in broadband providers. It is unclear how policies that rip the rug out of the competitive telephone industry in favor of incumbent monopolists achieve this laudable policy goal, however.

Indeed, if this anticompetitive policy is really supposed to create “regulatory certainty,” then the only thing that is certain is that we are traveling fast back to a world of vertically integrated (albeit regional not national) monopolies for all of U.S. consumers’ “one stop shopping needs.” Responsible public policy requires more, and therefore when Powell and his colleagues at the FCC sit down to write the next go-round of rules, the least they should do is to develop a cohesive set of transition rules based upon economic facts rather than technological rhetoric.