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DEBATERS REVISIT 1996 TELECOMMUNICATIONS ACT

EDITORIAL

February 18, 2003

A debate has been raging in the Federal Communications Commission, as well as in Congress and state legislatures, over the issue of how best to maintain competition in telecommunications.

The controversy is rooted in the 1996 Telecommunications Act, enacted to replace a regulated monopoly in telecommunications with competition in both long distance and local service.

At issue are regulations that allow the Baby Bells' competitors to rent access to the Bell networks at heavily discounted rates. Under this arrangement, competitors have been increasingly successful in cracking the Bell monopolies over local phone service, and making stronger inroads into the high-speed Internet market.

The 1996 Act required that Bell monopolies, such as SBC, lease local phone capacity to competitors entering the local phone business, at a reasonable profit. This is the same method of instituting competition that has been used in the past to enforce anti-trust laws, noted John Bryant of Dallas, a former member of Congress and the House Subcommittee on Telecommunications.

SBC and its sister Bells conceded in 1996 such a policy was necessary to open the local phone marketplace to competition, Bryant said. They also conceded the policy was fair, given that the Bell companies' networks were literally handed to them by rate-payers held captive by the old laws. In return for that concession, the law designed to keep Bell from dominating the long distance business by prohibiting them from selling long distance service also was lifted.

Results for telecommunications customers have been mixed, Bryant said. The Bells still control more than 90 percent of the local phone market, but there are indications local competitors are gradually breaking that grip. Meanwhile, thriving competition has lowered long distance rates 70 percent.

Competition in states such as Michigan, Ohio, Illinois, Florida and California has forced SBC and the Bell monopolies to lower their rates, saving consumers millions of dollars.

Now SBC has instituted a strong campaign to re-establish its monopoly in Texas, Bryant said. It claims the 1996 Telecom Act requires it to lease its networks to competitors at "below cost rates."

SBC's own earnings figures belie the claim, Bryant added. The non-partisan Phoenix Center reported that SBC has a 42 percent rate of return. SBC's total revenues were about \$43.8 billion last year, and its total profits were about \$6.57 billion.

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Bryant also pointed out that since the 1996 act went into effect, the Bell companies repeatedly have been fined for violating the rules in an attempt to stifle competition. SBC alone has paid millions in fines, he said.

Officials of the FCC have been debating whether to ease the rules that promote local phone competition, and scale back the power of state regulators to set the wholesale rates and oversee competition in their local markets.

This week a compromise plan was reported gaining ground that would allow the FCC to set numeric criteria for determining whether the discount rates should apply to a specific piece of equipment in a specific market, with the final determination in most cases left to state regulators.

State regulators and the U.S. Congress will likely still be the primary arena for the final resolution of these debates.


The ultimate decisions will determine whether the door remains open for innovative competition or there is a turn back toward the days of a monopoly in telecommunications.

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