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Rewrite Of The Telecommunications Act Of 1996

Carriers Look To Provide Telephone, Internet And Television Services

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The importance of communications technologies and service offerings has continued to rise in the collective consciousness of those who monitor business patterns, trends, as well as successes and failures. Not surprisingly then, the current buzz about the rewrite of the Telecommunications Act of 1996 has taken on tremendous significance.

For people in traditional telecommunications industries, and businesses that didn't previously fall under the broad category of "having something to do with phones," but do now, this rewrite is much more than another exercise in watching paint dry.

What happens in legislative sessions, courtrooms and at public utility commissions throughout the country in the next few months, ostensibly regulating those in the land-line, wireless, cable, and broadcast businesses (or those businesses that support them), will have a great deal to do with how we, as consumers, receive information, including programming. It will also affect how we, as shareholders stand to win or lose going forward.

One current hot topic that has lobbyists atwitter is a recent action (or, more precisely, inaction) by the Texas legislature involving whether traditional local service providers — in this case both Verizon and SBC — can secure, on a statewide basis, the franchise rights necessary to provide television services over their telephone lines. Carriers and cable companies alike are fighting to deliver the triple play of telecommunications — telephone, Internet and television.

As of this moment, the cable companies are in a better position to accomplish this triple play than are the local phone companies for the following reasons. Cable companies, although regulated, are not subject to the same intense regulatory burdens, obligations and scrutiny that the telephone companies are. Secondly, in most cases, customers that have cable service (legally), have, by definition, a high capacity line which can support both voice and Internet.

Not surprisingly, the broadband (high speed) marketplace has been the largest source of growth in the cable industry over the past few years. While the broadband market isn't completely saturated (according to recent Nielsen/NetRatings data, as of July 2005, 50 percent of households in the United States will have a broadband connection, www.websiteoptimization.com/bw/0406/), as cable and telephone providers look ahead to their next opportunity, it's clear that what each is after is the other's share.

Think about it — if using voice over internet protocol (VoIP) enables internet users to make phone calls over their cable-based internet connection, why should the traditional phone companies be prevented from offering HBO or the Bingo Channel to their customers?

Most recently, during the last weekend in May, the Texas legislature, which had a bill before it which would have permitted telephone companies obtain statewide (as opposed to locality by locality) franchises to provide television services. Rather than deal with the issue, despite heavy lobbying by both SBC and Verizon, the Texas legislature took no action on the issue before ending its session. This inaction is viewed as a huge setback particularly for SBC, which is not only Texas-based, but which has also deployed more than one lobbyist for every two legislators.

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The Texas legislature's inaction doesn't preclude the phone companies from providing video services, but what it does do is tie their hands. It requires each company to apply for franchise privilege on a municipality by municipality basis, a process which will be both time consuming and costly. (As a side note, SBC has made an argument that any good lawyer would be proud of. SBC claims that because it is using "Internet" and not "cable" technology, it isn't required to obtain cable franchises before offering video services. SBC still hasn't had any luck with this line of reasoning, but its efforts are certainly worthy of style points, if nothing else.)

While the non-legislation in Texas is seen as a major setback, according to an article in the June 1 *Washington Post*, in anticipation of eventual regulatory changes, Verizon has been laying high capacity fiber optic cable (optical fiber has the ability to transmit a great deal of data at very high speeds) and has spent approximately \$1 billion to connect 1 million of its residential customers to video programming, it expects to connect another 2 million homes in 14 states this year.

SBC is planning in the short term is to use its existing internet infrastructure to broadcast video signals. By its own assessment, it is expected to spend \$5 billion to connect customers in a 13 state area over a three year period.

This is the 24th column that I've written for *The Daily Record*, and in more than a handful, I've commented on the shift of power in the telecommunications industry from the long distance, interstate providers to the local ones. This is of particular interest because as the statewide cable franchise issue has yet to be resolved in favor of the local carriers, the respect formerly bestowed on these carriers by the doyens of Wall Street, has waned.

Recall that the local telephone companies were successful last year in eliminating the requirement that they provide network access to their rivals at a discount. At this news last year, their stock prices rose accordingly.

However, since the beginning of this year, stock prices have, on average, dropped approximately 10 percent. The drop can be attributed to a number of factors, but certainly one of the most compelling is the increased capital spending (and therefore decreased earnings growth) they are spending today to ready the local phone providers to offer video services tomorrow.

As we spend these next few months basking in what I think of as the best summer weather in the world, in Washington, where the summer isn't quite so pleasant, many people will be working to revise the landmark Telecommunications Act of 1996. This rewrite is necessary for many reasons, the most basic of which is that, simply put, the laws as they currently exist don't accurately reflect either the state of the current telecommunications marketplace or, for that matter, the technology that drives the market.

As one clever copywriter quipped, "when telecom law (referring to the Telecommunications Act of 1934) was written, a blackberry was a fruit."

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