THE DAILY RECORD

LAW, REAL ESTATE, FINANCE AND GENERAL INTELLIGENCE SINCE 1908

Inequality In Telecom Industry Must Be Election Issue

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If there was any question that the power in the telecommunications marketplace has shifted from the long distance providers to entities who provide local service, the Solicitor General's decision in June not to seek to overturn a March ruling from the D. C. Circuit court governing terms and rates that regional Bell Operating Companies must charge their competitors for local service has erased any doubts.

The big losers will be consumers — residential, corporate and government — who will have fewer choices and will likely pay significantly higher prices. AT&T, Sprint and MCI, among others players, who formerly dominated the industry, have now taken the "way back" seat to the four surviving regional Bell Operating Companies (Verizon, Bell South, SBC and Qwest), known as RBOCs, because based upon this most recent decision, and the direction that it sends to the FCC, the former "big boys" of the telecom marketplace will be effectively precluded from the local service arena.

Given that the long distance market is shrinking as a result of improved technologies, including, most notably wireless and Voice over Internet Protocol (VoIP), carriers that expressed a real interest in competing in the local arena will basically be out of luck. Further, while consumers may have a hard time showing any sympathy for giants AT&T, Sprint and MCI, time may show that what's bad for these behemoths is also bad for many of the smaller Competitive Local Exchange Carriers (CLECs) including, in this area, ChoiceOne and PAETEC, among others.

What's particularly galling is while prices are expected to soar for local service (according to some estimates by as much as $50 per month), these rate increases won't occur until early next year, after the election has been decided, and after the configuration of the FCC and Congress may have changed.

Eight years ago, Congress passed the Telecommunications Act of 1996 which addressed a number of complex issues affecting telecommunications. At the time, Congress attempted to level the playing field for those companies, many of which were fledglings to compete in the local telecommunications arena. After having seen the successes that competition brought to long distance with the divestiture of AT&T, there was reason to believe consumers would really benefit if local service was pried open to enable to new market entrants as well.

At that time, there were seven Bell Operating Companies, each "owning" a certain amount of American landscape where that local carrier was the only game in town. It was hoped the Telecom Act's provisions, which required the incumbent local exchange companies to lease their facilities to competitors at wholesale prices, would force the existing RBOCs to enter each other's areas and compete. It was also anticipated that smaller players would seize this opportunity to provide local service at competitive prices.

While many start-ups were willing to take the risk and attempt to compete with the big boys (and yes, some did survive), the most unanticipated result was that rather than competing with each other as expected, the big players merely bought each other. In one case, a Regional Bell Operating Company, USWest, was purchased by a CLEC, Qwest, a CLEC. Thus, rather than creating big league competition, what was spawned was a huge influx of business for mergers and acquisitions lawyers and financiers who put these deals together.

The RBOCs were never happy about being forced to sell capacity on their networks at a discounted rate to their competitors. Their collective argument, which is easy to understand, has been that by forcing this kind of unnatural competition the government left the RBOCs with no incentive to invest in new technologies and facilities since they would only be forced to sell such services to their competitors at discounted rates. This, they've argued, is bad for consumers.

In addition, they have maintained that the highly complex methodology used to calculate those rates (called TELRIC, for Total Element Long Run Incremental Cost) was not only unfair, but didn't provide an accurate mechanism for their cost recovery let alone return for their shareholders. In my opinion, these are rational arguments.

However, it's not that clear cut. While the RBOCs have borne the cost of investment to provide service to almost all telephone customers, they have done so with monopoly protection.

These embedded carriers respond that while the monopoly protection was nice, since they've been forced to sell their capacity and network elements to their competitors, the competitors have chosen only to "cherry pick" the most profitable areas in which to compete. No one is beating down the door to compete in rural Warsaw, while in downtown Buffalo and Rochester, there are at least several carrier options.

While some carriers like ChoiceOne have now built their own network facilities in the areas they serve, some providers — those who were not part of the telecom roadkill of the past few years — are still relying, in whole or in part, upon the physical plant owned and installed by the RBOCs.

The FCC is currently working to revise the rules that govern which products and services, and at what cost, the RBOCs must provide to their competitors. As the regulatory agency works feverishly to get the details hammered out in advance of the election, the key question for consumers to consider is whether artificial competition is better for consumers than no competition at all.

The current FCC's policies reflect the belief that the market alone should dictate telecom. That sounds fair and democratic except what's getting lost in the noise is that under the current approach, supported by the current administration, local prices will rise, in a very dramatic way, but only after the election.

No one's talking about that now, but they should be. This issue should matter to Americans as they decide how to vote. It will definitely matter as they budget their telecom expenses for the coming year.

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