Turn Telecom Companies Loose

By TERRENCE BARNICH

Two recent developments — AT&T's takeover of McCaw Cellular and a federal court ruling allowing Bell Atlantic to own cable television systems in its service territory — punctuate an already compelling argument for a total overhaul of telecommunication regulation.

The current patchwork of state and federal communications rules is a legacy of a 19th century monopoly past. It erects statutory containment walls between telecommunications, broadcast and radio services. Today, though, the "leaky" technologies upon which these services are based ignore politically drawn boundaries. The technologies subvert the very notion of monopoly by spilling over into each others' domain.

As long as conventional regulation retains its public utility bias against competitive entry, regulators will tend to quarantine consumers from the benefits of choice. Government, in other words, will continue to be a deadweight on communications innovation.

It's no coincidence that in the 50 years of government-regulated monopoly, the Bell system displayed all the consumer-pleasing vigor of a Soviet-style regime — a black, rotary dial telephone with a handset that could double as an anchor.

Yet, in the 10 years since the Bell breakup, and with government's role receding, we have seen a rising tide of innovations turn into a flood of competitive information services. The changes threaten to wash away the old regulatory order.

It's not enough, however, simply to cheer on the coming irrelevance of conventional regulation. Forward-looking officials should lead the transition to a competitive future where the customer is regulator and sellers don't need government permission to satisfy consumers. Such a transition could begin with the following changes:

- Lift the regulatory quaranmites among communications competitors. Since the divestiture of AT&T, Congress, the courts and regulators have been allocating markets to communications companies on the basis of technology, content and geography. They then restrict them from freely competing with one another. While some of these restrictions may have helped competition take root, they have outlived their usefulness. They now serve mostly to restrict consumer choice.

- Recent competitive arrangements, like the AT&T-McCaw merger and the Baby Bell partnerships with cable television, are attempts to break the quarantine. But competition won't blossom until, at the very least, governments remove the legal restrictions that prevent local and long-distance telephone companies from competing head-to-head. Government also must permit cable and telephone companies to compete for the same video, voice and data services. As these barriers come down, the only protection consumers will need will be from the stampede of competitors beating a path to their doors.

- Liberalize licensing of the broadcast spectrum. Billions of private investment dollars are betting that America's place in the information age is tied to the success of wireless communications. But consumers have yet to see any of its wonders because the federal government can't decide how much of the usable radio spectrum, over which wireless messages travel, should be made available and when. The answer is all of it, and right now.

Making abundant spectrum easily available to entrepreneurs will produce a wealth of valuable new products, from personal communicators to wireless fax machines, at increasingly affordable prices. Congress and the Federal Communications Commission, therefore, should allocate as much spectrum as possible via auctions, issue a liberal number of competing service licenses and allow underused spectrum to be sold and reallocated.

- Put an end to local franchise restrictions. Many metropolitan areas today enjoy vigorous local competition. The AT&T-McCaw merger and the cable TV-telephone company alliances are a prelude to broader local competition.

Yet, regulation of local telecommunications in most states is based on the public utility franchise monopoly of the 1950s. Defensive state regulators often equate the adequacy of the incumbent company with the protection of the consumer. But, if we have learned anything in the last 30 years, that protection of the consumer is best served by creating open markets accessible to risk-takers offering new products.

- Require the interconnection of networks and the unbundling of basic services. In addition to stimulating competition by simply getting out of the way, state regulators should require interconnection of the local phone company's network with the networks of new competing local service sellers. This promotes competition by allowing a competing local provider to offer new services.

Requiring the local incumbent to "unbundle," or separate out, its basic network services will allow both sellers and customers to tailor their communications needs by building on the phone company's services. Like interconnection, unbundling will spur innovative new services.

- Reform regulation of the local telephone company so it can respond to competition; use market solutions to keep the needy on the network. Current public utility regulation of local phone company profits, which stifles innovation by distorting investment decisions, should be junked in favor of temporary price regulation. This can then be abandoned as competition emerges for the incumbent's services. In the meantime, prices for non-competitive services can be linked to the movement in prices for competitive services. That way, the phone company can respond to the competition and the benefits of competition flow to those who remain customers of monopoly services.

State policies that keep residential rates artificially low by overcharging businesses and urban areas — and subsidize rural areas regardless of need — are unfair and inhibit new competitive alternatives. If phone service must be subsidized to keep needy individuals on the network, market-based, means-tested programs should be used.

Today's technology-driven communications developments are creating new markets that sidestep the old political framework. But to guarantee that the future is truly competitive, regulators must begin a transition now that rejects restrictions in favor of greater choice.

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