

Post-Divestiture Telecommunications Policy Making

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A considerable amount of attention has been focused on the existing boundaries of the telecommunications marketplace as drawn by the terms of the Modified Final Judgment (MFJ) and the rules of the Federal Communications Commission (FCC). The message of the Regional Holding Companies (RHC's) of the Bell Operating Companies (BOC's) is that many of the existing rules of the MFJ and the FCC are obsolete, anti-competitive, frustrating the applications of modern technology, and unfair to the public, is now being exposed by some government policy makers in Washington, D.C. The divorced offspring of the former Bell System, the BOC's, should receive the primary credit for this discussion. The response from the rest of the telecommunications industry has been quite understandable; basically, the rest of the industry has expressed serious concerns about the BOC proposals being made by some of these government policy makers.

Surprisingly, the proponents of the BOC proposals have not been willing to address three rather fundamental questions before attempting to proceed with the BOC proposals. First, what changes have occurred in the three years since divestiture that warrant a transfer of MFJ's jurisdiction or a change in the fundamental role outlined for this nation's seven dominant suppliers of local bottleneck facilities, that is, local telephone services? Second, what are the public interest objectives that are reasonably expected to be accomplished by adopting these BOC proposals? Finally, does the FCC have the resources, both human and technical, expertise, and will to adequately fulfill its existing jurisdiction, let alone additional burdens such as overseeing the terms of the MFJ and the other aspects of the BOC proposals?

Long distance service suppliers, information service suppliers, equipment vendors, some local service suppliers, state regulators, and residential and business telecommunications users have all united in their concern that the BOC proposals, in particular legislation (S. 2565) in the U.S. Senate introduced by Senator Dole during the 99th Congress, do not balance the requirements for a viable telecommunications industry with the desires of the BOC's. This common concern drew together the most diverse group ever assembled within the telecommunications industry in order to ensure that government policy makers were educated about the concerns of the majority of the industry, not just the desires of this nation's seven most dominant suppliers of local telephone services—the BOC's. After months of effort, this diverse body of businesses and associations was able to sufficiently educate congressional members and staff so that not only did the BOC bill (S. 2565) not receive any action during the 99th Congress, but that key members of the House of Representatives and Senate began to propose alternatives and amendments to the BOC bill in an attempt to balance the desires of the BOC's with those of the rest of the industry.

What does the 100th Congress hold for these issues? The new Congress will have changes in leadership. In the House of Representatives, the subcommittee of the Committee on Energy and Commerce with jurisdiction over telecommunications will have a new chairman, with the election of Timothy E. Wirth, its most recent chairman, to the Senate. In the Senate, the changes will be more dramatic since the Democrats have regained control for the first time during the Reagan administration. While it is quite likely that some of the same telecommunications issues will be considered during the 100th Congress, it is also quite likely that the concerns of the rest of the telecommunications industry, as opposed to the BOC's, will be more prevalent in these legislative efforts than they were in the 99th Congress.

Telecommunications users will participate in these policy making deliberations. Whether they do so in concert with others has not yet been determined, but their concerns are quite clear. Government policy makers must first see that the Congress rigorously utilizes its authority to oversee the FCC in order to gain a clear understanding of how well the FCC is actually coping with its statutory mandate in the post-divestiture era. Only after such a thorough investigation, is it appropriate to review the MFJ and the desires of the BOC's.

Since divestiture, the telecommunications user community has been forced to cope with the following problems: 1) rate claims caused by rapidly changing prices, 2) confusion because of increased rate restructuring, 3) service migration caused by the BOC attempts to influence customer choice by creating economic disincentives for certain services, in particular non-switched services, with unattractive (that is, non-cost based) pricing schemes, 4) supplier turnover, 5) increased variations in service and equipment quality, 6) more complicated procedures for ordering, maintenance, and other support services, 7) service provisioning delays, 8) increased turnover of user investment because of the rapid emergence of new technologies, and 9) prices for local service that are higher than used to be because of excessively high authorized rates of return for the BOC's. These problems make it difficult for American businesses to plan their use of telecommunications resources, forecast costs, prepare budgets, and implement new technologies according to recognized financial and engineering criteria. This is particularly troubling to the user community and the nation at large since telecommunications has become a heavily used tool by American businesses to reach the cutting-edge of competition within their various industries.

Because of the importance of telecommunications to American businesses, the user community views all telecommunications issues from two rather simple perspectives: 1) will the action result in prices being closer to cost, and 2) will a decision increase user choice in a more competitive arena? The BOC's are the dominant suppliers of local service

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Table of Contents Telecommunications In The Post Divestiture Era

1. Understanding the eBook Telecommunications In The Post Divestiture Era
 - The Rise of Digital Reading Telecommunications In The Post Divestiture Era
 - Advantages of eBooks Over Traditional Books
2. Identifying Telecommunications In The Post Divestiture Era
 - Exploring Different Genres
 - Considering Fiction vs. Non-Fiction
 - Determining Your Reading Goals
3. Choosing the Right eBook Platform
 - Popular eBook Platforms
 - Features to Look for in an Telecommunications In The Post Divestiture Era
 - User-Friendly Interface
4. Exploring eBook Recommendations from Telecommunications In The Post Divestiture Era
 - Personalized Recommendations
 - Telecommunications In The Post Divestiture Era User Reviews and Ratings
 - Telecommunications In The Post Divestiture Era and Bestseller Lists
5. Accessing Telecommunications In The Post Divestiture Era Free and Paid eBooks
 - Telecommunications In The Post Divestiture Era Public Domain eBooks
 - Telecommunications In The Post Divestiture Era eBook Subscription Services

- Telecommunications In The Post Divestiture Era Budget-Friendly Options
- 6. Navigating Telecommunications In The Post Divestiture Era eBook Formats
 - ePub, PDF, MOBI, and More
 - Telecommunications In The Post Divestiture Era Compatibility with Devices
 - Telecommunications In The Post Divestiture Era Enhanced eBook Features
- 7. Enhancing Your Reading Experience
 - Adjustable Fonts and Text Sizes of Telecommunications In The Post Divestiture Era
 - Highlighting and Note-Taking Telecommunications In The Post Divestiture Era
 - Interactive Elements Telecommunications In The Post Divestiture Era
- 8. Staying Engaged with Telecommunications In The Post Divestiture Era
 - Joining Online Reading Communities
 - Participating in Virtual Book Clubs
 - Following Authors and Publishers Telecommunications In The Post Divestiture Era
- 9. Balancing eBooks and Physical Books Telecommunications In The Post Divestiture Era
 - Benefits of a Digital Library
 - Creating a Diverse Reading Collection Telecommunications In The Post Divestiture Era
- 10. Overcoming Reading Challenges
 - Dealing with Digital Eye Strain
 - Minimizing Distractions
 - Managing Screen Time
- 11. Cultivating a Reading Routine Telecommunications In The Post Divestiture Era
 - Setting Reading Goals Telecommunications In The Post Divestiture Era
 - Carving Out Dedicated Reading Time
- 12. Sourcing Reliable Information of Telecommunications In The Post Divestiture Era
 - Fact-Checking eBook Content of Telecommunications In The Post Divestiture Era
 - Distinguishing Credible Sources
- 13. Promoting Lifelong Learning
 - Utilizing eBooks for Skill Development
 - Exploring Educational eBooks
- 14. Embracing eBook Trends

- Integration of Multimedia Elements
- Interactive and Gamified eBooks

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