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The New Realities of the Communications Marketplace

Raymond W. Smith*

It is time for the United States to reinvent communications policy for the digital age.

The convergence of digital technologies is quickly and irrevocably redrawing the map of our industry. It also has altered fundamentally the assumptions that underlie the Communications Act of 1934. Sixty years ago, it was reasonable to assume that, because telephone companies were essentially monopolistic in nature, government regulation was needed to act as a surrogate for market forces in assuring universal telephone service and maintaining reasonable prices.

Today, the phenomenon of convergence has made the notion of a “natural monopoly” obsolete, and has ushered in an era in which competition, not regulation, will be the best protector of the public good. The elaborate system of barriers erected by government between one segment of the industry and another has been overwhelmed by the onslaught of competitive pressures from telephone, cable, and long-distance companies straining against what they perceive to be artificial constraints on their ability to serve their customers. What was once a framework for ensuring the widest possible access to the communications network has become a serious impediment to the development of an open and competitive marketplace.

Therefore, we must have a Communications Act for the *next* sixty years—not one that simply patches up an obsolete system, but rather an entirely new approach to regulation that recognizes the new realities of the communications marketplace. Only a new regulatory paradigm can accommodate the sweeping changes in technology, industry structure, and

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customer requirements that are transforming the face of communications in the United States:

- Advances in fiber optics, microprocessors, digital servers, and operating systems have expanded capacity, lowered processing costs, and permitted the manipulation of huge amounts of data. Bandwidth available for use in the home is doubling every year or two, making the ideas of "scarcity" and "natural monopoly" things of the past.
- The boundaries between once separate businesses are being swept away by the logic of digital technologies. Legal and regulatory distinctions between cable and telephone, long-distance and local exchange companies, are increasingly being recognized as unnecessary barriers to competitive entry that can bring true consumer choice in historically restricted markets.
- We face a newly emerging set of market demands, which reflect the astonishing speed with which consumers and businesses all over the world are embracing new social patterns and modes of communication. Customers want not only "plain old telephone service," they want information at their fingertips, video on demand, a telephone number that follows them wherever they go, and an on-line connection to their bank, their favorite retailer, their video store, and their office. These new customer requirements will dominate the marketplace by the year 2000, but are already driving consumer choices and consumer spending today.

The key point is customer requirements no longer conform to old industry structures. Any communications company that wants to succeed in the next decade is rapidly redefining itself so it can serve the whole range of emerging customer requirements. In fact, this view of the marketplace is driving the new partnerships, joint ventures, and alliances that are reshaping the communications industry. The problem is regulatory structures have not kept pace—outmoded legal definitions and restrictions are introducing layer upon layer of economic inefficiencies into the system and are seriously impeding the speed with which new services reach the American consumer.

So how do we draw a new regulatory blueprint for an industry whose basic products, technologies, and customers are changing daily?

First, let us join the Vice President of the United States and the Chairman of the Federal Communications Commission (FCC or Commission) in stipulating that new technology platforms, declining cost curves, and lower entry barriers have overridden the notion of telephone companies being a "natural monopoly." Let us also agree with Messrs. Gore and Hundt that the goal of federal legislation should be to promote competition,

access, and universal service. Finally, let us endorse the worthwhile objective of streamlining governmental processes and minimizing regulatory intervention in the operating of market forces.

Given these conditions, I respectfully submit that the public interest would be best served by a public policy based on four basic principles:

- (1) *Promote innovation.* Technology advances faster in a single year in the 1990s than it did in an entire decade for most of the duration of the 1934 Communications Act. But, new products and services are often held up for months—even years—because of regulatory delays and procedural snares. Paradoxically, simplicity is the best way to regulate a complex industry. Policymakers should concentrate on removing every possible barrier between a technological advance and its commercial application, thereby putting a premium on innovation and ensuring that American consumers are the first to benefit from rapid advances in technology.
- (2) *Permit competition.* Erecting walls between telephone and cable companies, or between local service and long-distance providers, defies the logic of converging digital technologies and denies consumers the benefits of some of this country's strongest and most innovative companies going head-to-head in communications markets. As FCC Chairman Hundt remarks, only when competing networks offer competing products will consumers reap the benefits of the information age. Therefore, barriers to entry that limit competition in local telephone, long-distance, and cable markets should be lifted at more or less the same time. Likewise, market forces should be the ultimate regulator of prices, not government agencies.
- (3) *Encourage capital investment.* The private sector will build the infrastructure for the twenty-first century—if communications companies have access to the revenue streams that will support the necessary capital investment. By opening markets to competition, permitting market-based pricing, and allowing companies to invest according to market demands, policymakers will ensure the speediest and most efficient deployment of a modern communications infrastructure.
- (4) *Redefine universal service.* The decades-old public policy of “universal service” was predicated on a delicate system of internal subsidies that could only be sustained in a monopoly environment. We need a new definition of universal service suitable for a robustly competitive era, one that spreads the costs of providing subsidies across the whole spectrum of service providers.

It's time to recognize that the biggest threat to the public interest is not *competition*, but stricter *regulation*, which acts as a barrier to investment, innovation, and choice.

It is also worth reminding ourselves that the Communications Act of 1934 was not about arcane economic theories or Byzantine regulatory structures. Its objective was elegantly simple: "to make available . . . to all the people of the United States a rapid, efficient, nationwide, and worldwide wire and radio communications service with adequate facilities at reasonable charges." At the time, fewer than half of American households had telephone service. Today, penetration is more than 96 percent. The mission of the sixty-year-old communications policy has been magnificently fulfilled.

Now it is time to recast the objectives of the 1934 Act for the twenty-first century. We stand at very much the same historical moment in the digital age as the framers of the 1934 Act did in the telephone age. And while our methods must be much different, our aim—to promote "rapid, efficient" service with "adequate facilities and reasonable charges"—is just as important to the economic future of the United States and the well-being of its citizens.