

## **House Telecommunications Subcommittee Approves Internet Freedom & Broadband Deployment Act of 2001: Action Represents Major Victory For Incumbent Bells**

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*WASHINGTON, D.C. - April 27, 2001* - Yesterday, the House Telecommunications Subcommittee approved H.R. 1542, the Internet Freedom & Broadband Deployment Act of 2001. The Act represents a major victory for the incumbent Bell companies as it would remove the current restrictions on the provision of telecommunications services, including data and internet services, across LATA boundaries. Specifically, the Act finds that, "[h]igh speed data services and Internet access services constitute unique markets that are likewise incompatible with the prohibition on Bell operating company provision of interLATA services." On this basis, the Act would, "clarify[] that the prohibition on Bell operating company provision of interLATA services does not extend to the provision of high speed data services and internet access services."

For the purposes of the Act, the term "high speed data service" is defined as "any services that consists of or includes the offering of a capability to transmit, using a packet-switched or successor technology, information at a rate that is generally not less than 384 kilobits per second in at least one direction. The Act defines the term "Internet" as "collectively the myriad of computer and telecommunications facilities, including equipment and operating software, which comprise the interconnected world-wide network of networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocols to such protocol, to communicate information of all kinds by wire or radio."

The Act is extremely controversial as it will eliminate the current interLATA restriction on the Bell operating companies. Not surprisingly, the Bell operating companies strongly favor the Act while competitive carriers strongly oppose it.

The Act's primary sponsor, House Energy and Commerce Committee Chairman Billy Tauzin ILECs explained the thinking behind the Act as follows, "ILECs must provide their facilities, even brand new facilities, on an unbundled basis to competitors at regulated prices. ILECs must resell their broadband services to competitors at wholesale rates, which no other carrier is required to do. In addition, the Bells are prohibited from offering long-distance data services, which deprives them of the efficiencies that can be gained from offering end-to-end services. These restrictions give the ILECs little incentive to deploy new services and facilities. Why spend the money to roll out broadband when your competitors can use your own network to take your customers? These types of rules might have made sense for basic telephone service. But cable companies control 75 percent of the broadband market, so the ILECs cannot be considered dominant by any stretch of the imagination."

Of course, competitive carriers fear that the Act will lead to the "re-monopolization" of a critical portion of the telecommunications market. In a "Legislative Alert" to its members, the Association of Communications Enterprises ("ASCENT"), whose membership includes many competitive telecommunications carriers and internet service providers, described the Act

"disastrous for competitive carriers and their suppliers" predicting that it "would re-monopolize the Bell networks."

Specifically, in the "Legislative Alert" ASCENT's President, Ernie Kelley, argues that "H.R. 1542 threatens competitive carriers three ways:

- 1) The bill gives the Bells the authority to transmit data over LATA boundaries. This 'interLATA data relief' would virtually eliminate the critical quid pro quo established by the 1996 Telecom Act whereby the Bells could not get into long distance until they opened their local markets to competitors. Allowing the Bells to transmit data, which now represents the majority of telecommunications traffic, across LATA boundaries would essentially remove this key market-opening incentive.
- 2) The legislation exempts the Bells from the obligation to provide advanced data services to competitive carriers via unbundled network elements or wholesale discounts. This dangerous provision would take most emerging carriers out of the data market and, in so doing, seriously harm their ability to compete against incumbents.
- 3) The bill would eliminate the obligation of the Bells to permit line-sharing, which allows competitive carriers to provide data services to end-users without ordering separate lines. This anti-competitive provision also would greatly diminish the ability of competitive carriers to provide data services to consumers."

The full House Commerce Committee is expected to vote on H.R. 1542 as early as next week, and the entire House could take up the bill soon after Memorial Day. If you would like additional information on this issue, please feel free to give us a call.

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