

How The BOCs Work Washington And Why It Matters

Enterprise user IT/telecom executives understand networks and technology, but they often don't appreciate the influence of government oversight on the availability and prices of services. As a consequence, they often can't distinguish a vendor telling the truth from a vendor "blowing smoke."

In subsequent columns we'll take a look at the major telecom issues actually pending in Washington. But we start with a tutorial on how Washington makes telecom policy, and how the BOCs (the Bell Operating Companies, once seven in number but now reduced to AT&T, Verizon, and Qwest) "help" the process. The focus is on the federal government simply because enterprise users typically spend a lot more on interstate and international telecommunications (both federally regulated) than on intrastate telecommunications.

Influencing Decisions

For most of the 20th Century, the Federal Communications Commission (the FCC) pervasively regulated telecommunications carriers—controlling market entry and exit and regulating the rates and terms pursuant to which the carriers offered their services. Regulation was necessary because the telecom market simply wasn't competitive—the Bell System (composed of AT&T and 20+ local exchange carriers, most of which were wholly owned by AT&T) accounted for 80 percent of the nation's lines, customers and revenue.

Regulated carriers fully appreciated the effect of regulation on their profitability, and they covered the FCC like a blanket. Then and now, they communicated almost daily with virtually every level of the Commission, "educating" and "telling their story." One of our partners, who had been a senior staff person at the FCC, tells of daily phone

calls and visits from virtually all the carriers—of having, in fact, a professional at each carrier dedicated to communicating with her about issues of interest to her. The vendors were always anxious to provide information, make experts available and, of course, arrange dazzling technology tours. The level of attention she received was by no means unique.

Even though the FCC is an "independent" regulatory agency, only the sublimely naïve believe that the Commission is unaffected by Congressional communications and preferences. Congress controls the FCC's budget, has oversight jurisdiction over the FCC and can pass legislation defining its mission and revisiting its decisions. On occasion the FCC will "buck" Congress, but

there has never been a time when the Commission was unmindful of Congressional preferences.

For that reason, among others, the carriers have always devoted substantial resources to establishing and nourishing relationships with members of the relevant Congressional committees. They make substantial political contributions, support candidates and visit often to "educate" and "tell their story." The carriers understand the importance of the relationships that develop as the result of frequent face-to-face meetings.

Despite the influence of AT&T and its progeny, during the last third of the 20th Century, the FCC, the U.S. Department of Justice, and the federal courts made decisions that facilitated competition in the telecommunications equipment and long distance markets. In important cases, such as Hush-A-Phone and Execunet, appellate courts (which were not as deferential to administrative agency decisions as they are today) pushed the FCC further than the agency chose to go on its own. The Justice Department, during the Reagan



Lobbying has always been one of the telcos' core competencies. They're looking to build on past successes

Administration, and the U.S. District Court for the District of Columbia sought and oversaw the dismantling of the Bell System. More competition spurred innovation, better service and equipment, and lower prices.

A Different Time And A Different Result

Then Congress declared in the Telecommunications Act of 1996 that it wanted the entire domestic telecom market, not just the long distance and equipment markets, to be competitive. But Congress left to the FCC much of the work of implementing a fully competitive telecommunications market.

When confronted with the possibility that local markets might become competitive, the post-divestiture Bell Operating Companies played the system hard and well. They beefed up their DC offices, hired first rate lobbying and legal help, contributed to “think tanks” that publish studies that support BOC positions, and worked ceaselessly to influence political and regulatory decision-makers.

The BOCs have also been persuasive with their suppliers. Not surprisingly, companies with whom they spend substantial amounts of money either supported the BOCs’ positions on major issues or chose silence. In the post ’96 Telecom Act era, few companies have spent more on influencing public policy than the BOCs.

What did the local exchange companies get for their efforts? For one thing, the FCC authorized their entry into the long distance market after finding that they had taken the necessary steps to open their local exchange and access service business to competition. At the same time, most of the would-be competitors in the local exchange and access service markets vanished.

To be sure, some had poor business plans and/or executed their business plans poorly. But others bit the dust because of the BOCs’ unrelenting (and ultimately effective) assaults on decisions that compelled them to share their plant with competitors.

After the change of political control in DC that followed the 2000 general elections, the FCC came to see local exchange competition issues mostly the BOCs’ way. Finally, and in significant part as a result of setbacks at the hands of the BOCs, the two companies who were in the best position to compete with the incumbents—AT&T and MCI—were themselves bought by the two largest surviving BOCs.

Enterprise customers are left with almost no competition in the access service market and diminished competition in long distance.

Going Forward

There are major issues pending at the FCC that will significantly affect the BOCs, enterprise customers and other players. In future columns, we’ll discuss these—which include special access pricing,

switched access charge reform, universal service reform, the 700-MHz spectrum auction and the openness of carrier wireless networks. So do your deals and manage your networks, but understand that Washington policy-making will affect both.

The winds seem to be changing in Washington. Careful analysis coupled with effective advocacy once again could make a difference. But if enterprise customers don’t engage on these issues, they should accept the consequences of their inaction. Count on the BOCs working hard □

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