Los Angeles Times latimes.com

SEARCH

Home | Home Delivery | Site Map | Archives | Print Edition | Advertise | Contact Us | Help

Hi, lspiwak
Member Services
LOGOUT

MARKETPLACE classifieds and more
careerbuilder find a job post a job
cars.com find a car sell a car
HOMES find a home sell a home
apartments.com find an apt. list an apt.
shopping center newspaper ads merchant ads
lavalife find a date

calendarlive.com
Art, Theater, Night Life
Movies, Music, TV, Dining

DOW 10591.48 86.66
Today's stocks. Your watch.
msn Direct
See it now

Business
Advertising & Marketing
Entertainment Business
Money & Investing
Taxes
Technology
Work & Careers
Other Topics
Business Tools
Calculators
Currency Converter
Glossary
Investor Center
Key Interest Rates
Legal Business Guide
Legal Consumer Guide
Money Library

March 3, 2004

E-mail story Print

Court Tosses Phone Lease Rule

■ The competition that saves local subscribers about $10 billion a year may be jeopardized.

By Jon Healey and Alex Pham, Times Staff Writers

A federal appeals court Tuesday struck down regulations that required local phone companies to lease their networks to competitors at discounted rates, potentially jeopardizing the competition that saved local phone subscribers an estimated $10 billion a year.

A three-judge panel from the D.C. Circuit Court of Appeals said the Federal Communications Commission did not provide adequate justification for the regulations it adopted in August.

The ruling was a victory not only for local phone companies such as California providers **SBC Communications** Inc. and **Verizon Communications** Inc., but also for FCC Chairman Michael K. Powell. Last year, he blasted the rules as legally unsustainable after failing to persuade his fellow commissioners to free the Bells from regulated prices.

"I dissented from the majority's decision on local telephone competition because it was inconsistent with the law and would result in years of regulatory uncertainty and unrealized consumer promise," Powell said Tuesday. "Today, the court agreed and restored the opportunity to bring about new advanced services and true competition that will bring consumers choice and innovation."

Although Powell directed his staff to start working on new rules to address the judges' concerns, three of the FCC's four commissioners said they wanted to appeal the decision to the Supreme Court.

Times Headlines
Ex-CEO of WorldCom Indicted
Eisner May Drop Chairman Post but Continue as Chief Executive
How Eisner's Style Came Back to Haunt Him
Court Tosses Phone Lease Rule
Tenet to Discount Charges to Uninsured
more >

SUBSCRIBE to the Los Angeles Times. click here

ARCHIVESACCESS
Click any related topic(s) below to access free abstracts of Archives articles.
FEDERAL COMMUNICATIONS COMMISSION
GOVERNMENT REGULATION
TELEPHONE INDUSTRY
FEDERAL COMMUNICATIONS COMMISSION TELEPHONE INDUST
COMPETITION
Enter phrase: GO
ProQuest Archiver

advertisement
Seeing small business differently.
SBC

Money Talk Q&A
Mutual Fund Profiles
Press Releases
Reports & Prospectuses
Savings & Loan Rates
Stock Quotes & Charts
Columnists
James Flanigan
Michael Hiltzik
Kathy M. Kristof
Tom Petruno

The World
The Nation
California / Local
Business
Politics
Sports
Travel
Editorials, Op-Ed
Sections
Arts & Entertainment
Books
Chess
Columns
Education
Environment
Food
Health
Highway 1
Home
Kids' Reading Room
Magazine
Obituaries
Outdoors
Real Estate
Religion
Science & Medicine
Style & Culture
Sunday Opinion
Technology
Times Poll
Corrections
Editions
Print Edition
National (PDF)
Wireless
Extras
College Connection
Sweepstakes
Crossword
Horoscope
Lottery
Multimedia
Traffic
Weather
Week in Focus
Archives
Enter Keyword(s):
go
Detailed Search
SITE MAP
Los Angeles Times
HOME DELIVERY
• Subscribe
• Manage My Account
• Gift Subscription
• College Discount
• Mail Subscriptions
IN THE COMMUNITY
• Times in Education
• Reading by 9
• LA Times Books
• Student Journalism
• LA Times Family Fund
• Times-Mirror Foundation
• LA Times Events

The panel delayed its ruling from going into effect for up to two months to leave time for an appeal.

In addition, existing contracts between the Bells and their rivals could delay the effect of the ruling for an additional nine months to a year, experts said, unless the Bells challenge those agreements.

"The FCC had to set forth a rational basis for the rules and the court didn't buy the FCC's arguments," said Blair Levin, a former chief of staff of the FCC who is a telecom analyst for investment house Legg Mason. "No question that this is a big win for the Bells and Powell. The court agreed with Powell on just about every point."

The ruling is just the latest wrinkle in a long-running fight over how to generate more competition in the $100-billion local phone market, which is dominated by the so-called Baby Bells, the regional phone companies that were broken off from **AT&T** Corp. in 1984.

Congress overhauled federal communications law in 1996 to promote competition in the long-distance and the local telephone markets. The Bells, who fought strongly for the law to gain entry to what was then a fast growing long-distance market, were required to share all or part of their local networks with competitors such as AT&T and small start-ups. Once they complied, they were permitted to sell long-distance service.

The Bells, however, repeatedly asked the courts to overturn the FCC's interpretation of the law. Although the Supreme Court upheld the deep discounts ordered by the FCC, the courts have sided with the Bells on which parts of the networks must be shared at those prices.

Spokesmen for SBC and Verizon said their companies were willing to make their lines and switches available to competitors. What they don't want to do, they said, is make a complete network available to competitors at a price set by the government.

Tuesday's decision makes it harder for the FCC to continue that requirement. That's because the appeals panel questioned whether the Bells should be required to share their switches and high-capacity local lines at a discount. The court questioned the FCC's stance that, without low-priced access to the Bells' networks, there were economic barriers that kept competitors out of the local phone market.

The ruling ordered the FCC to take a fourth stab at writing the rules for network sharing, paying more attention to competitors' ability to obtain the equipment they need without a discounted offering from the local Bell.

About 20 million consumers and small businesses subscribe to non-Bell companies for local phone service, making up 15% of the market, according to the Phoenix Center for Advanced Legal & Economic Public Policy Studies in Washington.

AT&T Corp., **Sprint** Corp. and **MCI** said the ruling sets back efforts laid down by the 1996 Telecommunications Act to create competition for local telephone service.

MEDIA CENTER CLICK HERE
About The Times

MARKETPLACE
classifieds and more
• Careers
• Cars
• Homes
• Rentals
• Newspaper Ads
• Personals
• Times Guides
• Recycler.com
Partners

"This decision is not in the public interest, but is in the interest of four Bell monopolies," said AT&T general counsel Jim Cicconi in a statement.

Consumer advocates agreed.

The ruling "will create a lot of delay and uncertainty surrounding telecommunications regulatory policy," said Michael Shames, executive director of Utility Consumers Action Network in San Diego. "This means consumers will not see the proliferation of services and innovations that had been promised" by the 1996 Telecommunications Act.

Spokesmen for the Bells said the ruling would have the opposite effect.

"We absolutely disagree with assertions by our competitors that that will require them to drop out of the marketplace. That's just not true," said James C. Smith, a senior vice president for SBC. He noted that AT&T hasn't raised its price for a package of local and long-distance services even when the rates it paid the Bells jumped sharply.

Other Bell executives argue that the wireless industry, which Verizon, SBC and **BellSouth** Corp. could soon dominate with the merger of Cingular Wireless and AT&T Wireless, competes with them vigorously across the country. But analyst Bruce Fein, a former FCC general counsel and now an antitrust attorney in Washington, pointed out that only 2% of consumers have dropped their local phone lines in favor of cellphones.

Although the Bells disagree, Fein said state regulators could order the Bells to continue leasing parts of their network at a discount if the FCC dropped its rule.

This has been the case in California, where regulators have maintained they have authority to go beyond federal regulations.

"This state has asserted that it has independent authority, and no one has said that it can't," said Natalie Billingsley of the Office of Ratepayer Advocates, an independent arm of the California Public Utilities Commission.

*

Times staff writer Jube Shiver Jr. contributed to this report.

If you want other stories on this topic, search the Archives at latimes.com/archives.

TMSReprints
Article licensing and reprint options

Book now and earn up to 15,000 AAdvantage® bonus miles.

New nonstop service between LAX and Tokyo Narita begins April 4.

AmericanAirlines
>CLICK NOW