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**Bells Ring a Deregulatory Tune at FCC**



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Multichannel News  
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Want to know why the telecom sector is flat on its back? The Baby Bell phone companies have one explanation: the Federal Communications Commission.

The Baby Bells, the four regional Bell operating companies that dominate local phone service, argue that they are being forced to sell their competitors access to their networks at below-cost rates under a formula imposed by the FCC.

Unless the formula is abolished, the Bells say, they have no economic incentive to invest in their networks — a result that can't be good for them or the companies they are required to serve.

"You cannot sell your principal product at below your cost and remain in business," said Walter McCormick, president of the United States Telecom Association, which lobbies for the Bells and hundreds of smaller carriers.

Not surprisingly, new entrants don't put the onus on the FCC but on the RBOCs, whom they accuse of using obstructionist tactics to snuff out upstarts with weak funding. Bell lobbying of the FCC to change its rules is an effort to raise consumer rates and "end local telephone competition," said AT&T Corp. general counsel and executive vice president James W. Cicconi.

This is not the first time since passage of the Telecommunications Act of 1996 the USTA and the Bells have complained about FCC rules and policies.

**Warm reception**

During the Clinton Administration, FCC leaders made it clear that they preferred



to focus on helping new entrants, rather than incumbents.

The Bush Administration and the FCC, under Republican chairman Michael Powell, have been receptive to the Bells' arguments that new policies are needed — especially rules that promote facilities-based competition over network sharing.

Last week, Republican FCC member Kevin Martin said facilities-based competition needed to be the FCC's goal, because large-scale network sharing would always involve a big role for government.

"To get to true deregulation, we need facilities-based competition. Without it, you will always need a regulatory body setting wholesale and retail rates," Martin said.

In recent weeks, McCormick and Baby Bell executives have huddled with just about every important person at the FCC, in the White House and on Capitol Hill to make their case.

"I want you to know we have received a very favorable response to the meetings that we have had," said McCormick, an ally of White House chief of staff Andrew Card from their days at the Transportation Department under the first President Bush.

Evidence for McCormick's boast came last week, when nearly 100 House members from various points on the political spectrum urged the FCC to overhaul its local phone competition rules.

In the Sept. 16 letter to Powell, the House lawmakers said current FCC policies have inflicted harm on the economy, because they require the Bells to lease network elements at below-cost rates and give no incentive to RBOC competitors to go out and buy their own gear.

"It simply makes no economic sense for these companies to spend the billions of dollars necessary to invest in their own networks if they can instead rent access to Bell company networks and resell their service at an enormous profit," the two-page letter said.

### **Recession helps**

The sluggish national economy and the telecom sector's plunge are aiding the Bells' cause. In just the last few years, telecommunications firms have lost \$2 trillion in market value and have shed 500,000 workers. Another \$1 trillion in debt hangs on the industry like a millstone.

McCormick attributes the industry's woes to the FCC's recent habit of favoritism toward new entrants. He refers to those firms as "parasites" that want "to feed off the host and weaken the host."

The FCC has several open rulemakings designed to address issues of competition in the voice and data markets. AT&T and trade associations for the telecom upstarts are fighting to ensure that the FCC preserves their access to the Baby Bell networks on reasonable and nondiscriminatory terms.

"The FCC and Congress need to stand tall and tell the Bells to live by the law," said H. Russell Frisby Jr., president of CompTel, a competitive-carrier association in Washington.

For his part, Powell — like Martin — has repeatedly stressed his support for facilities-based competition. In the proposed rulemakings, the FCC is reviewing several options that would limit competitors' access to Bell facilities at regulated rates, for the provision of either voice or data services.

The political battle at the FCC is expected to be fierce.

"I think once people understand what Powell is doing, they should be outraged. What he has proposed is outrageous," said Lawrence Spiwak, president of the Phoenix Center in Washington, who worked on telecom competition issues at the FCC during the Clinton years.

The USTA and BellSouth Corp. have laid out in great detail how they are denied the right to recover network costs under FCC rules. But Spiwak claims state commissions have not been setting rates at below cost.

"I think it's hogwash. There is no evidence that I am aware of that rates have been confiscatory. In fact, the rates have been found high and lowered," Spiwak said.

The FCC has the job of sorting out the conflicting data.

Citing a report from UBS Warburg, BellSouth claims it needs to capture 5.4 long-distance customers to recover the revenue for each local customer lost to a competitor that gained access to its network at below-cost rates.

WorldCom Inc., which says the UBS Warburg report was flawed, told the FCC that a Baby Bell "need gain just over one long-distance customer for each customer lost ... in order to maintain current levels of profitability."

#### **Aid to WorldCom**

Current FCC policies have been a boon to WorldCom, despite its bankruptcy filing. The company's "The Neighborhood" program, sold under the MCI brand — which bundles all-you-can-eat local and long-distance service at a flat rate — has yielded 1 million subscribers in the first six months.

Access to the entire Bell network — the so-called unbundled network-element platform, or UNE-P — is critical to the success of The Neighborhood.

Perhaps with tongue in cheek, WorldCom suggested that the Bells can't be serious about really seeing rivals build their own networks and take complete control of a customer.

"In the case of the UNE-P-based competitor, the [Baby Bell] at least would still receive the UNE-P revenue," WorldCom told the FCC last week.



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