UNITED PRESS INTERNATIONAL

Outside View: Bush lacking broadband

By Lawrence J. Spiwak
A UPI Outside View commentary
Published 8/7/2004 2:03 AM

WASHINGTON, Aug. 7 (UPI) -- Friedrich von Hayek, the Nobel-prize winning father of conservative economics, was a very wise man. Sixty years ago, he warned that an economic policy that deliberately facilitates the creation and maintenance of monopoly "will, in the end, defeat the potential for competition and deregulation because as monopolies become stronger, it is inevitable that people will become united in a general hostility to competition" and, "once competition continues to erode, then the only alternative to a return to competition is control of the monopolies to the state - a control that, if it is to be made effective, must become increasingly more complete and more detailed."

In late October 1992, George Herbert Walker Bush learned this lesson the hard way with the 1992 Cable Competition and Consumer Protection Act.

By all accounts, this was one of the most poorly drafted laws ever passed, as it micro-regulated the cable industry (including forcing the FCC to draft rules on how many times the phone could ring at a cable company before they picked it up). Moreover, it did nothing to improve the economic performance of the cable industry.

Although the president correctly vetoed it, Al Gore -- the 1992 act's primary author and the Democratic vice presidential candidate at the time -- tapped into the huge public anger toward the cable companies and successfully led the charge to override the veto in the height of the election season.

Needless to say, we know how the 1992 election turned out.

Unfortunately President George W. Bush is now in the same political mess regarding broadband policy in 2004. The only difference is that rather than be squeezed by a Democratic Party-controlled Congress like his father, the current President Bush could have avoided the entire issue if his advisers had provided him with accurate information.

The epicenter of this debacle stems from the Bush administration's failure this summer to seek Supreme Court review of a deeply flawed D.C. Circuit case throwing out the FCC's rules implementing the competitive framework established by the 1996 Telecommunications Act.

Federal law and the FCC regulations were grounded in the obvious notion that in exchange for being allowed back into long distance, the regional Bell monopolists must make unbundled elements of their networks available to rivals at wholesale rates.

By letting the FCC's rules lapse, however, these wholesale costs are expected to rise by 300 percent, thereby making new entry cost prohibitive. As a result, industry stalwarts such as AT&T, MCI, Z-Tel and Winstar are exiting the consumer space, layoffs are imminent, and several Wall Street analysts predict that by the end of 2005 the Bells will recapture 80 percent of the approximately 20 million unbundled access lines now used by competitors.

It's hard to argue that you are improving the economy when the press is filled with reports about how phone rates going up, CLEC market caps are dropping through the floor, and people are being laid off from technology and telephone jobs as firms exit the market.

Notwithstanding, proponents of this policy defend the administration's decision by claiming that the 1996 Act was hatched under the Clinton-Gore administration and forces the incumbent Bell companies to rent their networks to competitors at supposedly below-cost prices which, in turn, supposedly undercut the profit incentive for the incumbents to invest in their networks and creates an obstacle to broadband rollout.

The facts just don't support this position.

First, while it is true that President Clinton signed the 1996 Act into law, it was the inaugural Republican-controlled "Contract with America" 104th Congress that overwhelmingly passed it. Thus, to the extent there has been an explosion of new broadband, we actually have Newt Gingrich and Bob Dole to thank, rather than Al Gore.

Second, the U.S. Supreme Court specifically held that the FCC's pricing methodology did not produce confiscatory rates, and there has not been one shred of evidence that current unbundling rates are below cost.

To the contrary, empirical research shows that rates were still on the high side, thus leaving quite a bit for wholesale rate reductions.

Third, the 1996 act was working: empirical research proves conclusively that consumers are saving more than $10 billion annually, current employment levels in the wireline telecoms sector remain 17 percent above historical trends and, in response to competitive forces, incumbent average net investment has increased by $759 per year for each unbundled line they provided, or about 6.4 percent per year in the aggregate.

For this reason, it should come as no surprise that the U.S. Supreme Court declared that the argument that unbundling stymied new investment "founders on fact."

The automatic retort to this evidence is that the miracle of technology going to force Adam Smith's invisible hand.

But guess what? Despite the tech hype, the re-creation of a vertically integrated monopoly is unfortunately where we are headed - and fast.

Look at the facts:

-- The Bells are already the overwhelmingly dominant firms in local, long distance and, believe it or not, the wireless industry. (Here's a little fun fact: should the FCC approve the Cingular's proposed acquisition of AT&T Wireless, then about 70 percent of wireless subscribers served by national wireless carriers will in the hands of the Bells. Intermodal competition? How about intermodal collusion.)

-- Moreover, while Voice-over-the-Internet technology is poised to be the next "killer app," because VoIP is so inter-linked with, and dependent upon, broadband deployment for the proverbial "last mile'" even this technology is at risk unless cohesive pro-entry policies are in place. Right now, consumers essentially only have two choices for broadband: either the cable company or the local Bell phone company, and duopolies are not known for their vigorous competition.

But don't take my word for it: last month several major private investment firms - Kohlberg Kravis Roberts & Co., Centennial Ventures, Columbia Capital, Madison Dearborn Partners LLC and M/C Venture Partners -- that have major stakes in companies such as Time Warner Telecom NuVox Communications, Allegiance Telecom, and XO Communications Inc., wrote to the FCC that because CLECs "operate on thin margins in highly price sensitive markets ... they simply (can) not absorb such dramatic cost increases or pass them along to customers in the form of increased rates"; as such, the expected radical "increase in the price of the embedded base of high capacity loops and transport likely would cause some (competitors) to violate loan covenants." Indeed, the Wall Street Journal reported that many competitors are actively conserving cash and consulting with bankruptcy attorneys as the Bells continue to squeeze them out of the market by raising wholesale rates and slashing retail offerings.

In sum, if we Republicans are truly in favor of less government and a market economy, then we have to demonstrate by both word and deed that problem is neither "competition" nor "de-regulation" but that the problem remains one of monopoly. Accordingly, so long as the GOP permits dogmatic zealots to prevail and to sacrifice rigorous pro-market economic analysis on the altar of naïve ideology, then we do a disservice to the U.S. consumer, our own party's stated economic objectives, and -- most egregious of all -- to our Nobel prize-winning intellectual heritage.

So let's be quite clear here: when the cacophony of consumer rage over high phone bills and technology jobs loss becomes too loud to ignore (and it inevitably will) and liberals demand a government intervention far more onerous than we have now just as with the 1992 Cable Act, then we will only have ourselves to blame.

--

(Lawrence J. Spiwak is president of the Phoenix Center for Advanced Legal and Economic Public Policy Studies, an international non-profit think tank based in Washington. The views expressed in this article do not represent the views of the Phoenix Center, its adjunct fellows, or any if its individual editorial advisory board members.)

--

(United Press International's "Outside View" commentaries are written by outside contributors who specialize in a variety of issues. The views expressed do not necessarily reflect those of United Press International. In the interests of creating an open forum, original submissions are invited.)

Copyright © 2001-2004 United Press International

Want to use this article? Click here for options!
Copyright 2004 United Press International

Copyright © 2001-2004 United Press International. All rights reserved.