U.S. Telecommunications Bill Fails to Serve the Public Interest

Computer Professionals for Social Responsibility
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A bill that will change the way we use telephones, television, and electronic networks is currently being considered by the U.S. Congress. The bill claims to promote industry growth, competition, and technological progress, but may well simply end up reducing diversity and public debate. It also sets precedents that we expect to be mirrored in other countries. So non-U.S. residents also have good reason to be concerned with the outcome of this bill.

There are four major problems in the bill:

1. It allows oligopolies to form that control the information we receive on radio, television, newspapers, and electronic networks.
2. It allows gaps to widen between segments of society (rich and poor, educated and uneducated).
3. It censors public discussion on electronic networks.
4. It lets rates rise too fast and too much.

This paper will examine each of these problems, after some introductory background. We may still have time to make significant changes.

Why is the telecom bill important?

Electronic media are not just another industry like shipping or manufacturing. They deal with the very stuff our minds are made of: the information we use to take political positions, the choices we have in educating ourselves, the cultural resources through which we define ourselves. The struggle over electronic media is a struggle for our thoughts and actions.

Electronic media cover a range of giant industries, including radio, broadcast and cable TV, telephone companies, wireless communications and satellites, computer networks, and traditional news and publishing companies that are moving online. The category even touches on financial institutions and electrical utilities.

The industries involved are eager to loosen restrictions on their behavior. They have poured large sums of money into influencing Congress, and lobbied intensively for the current versions of the bill: the Telecommunications Competition and Deregulation Act of 1995 in the Senate (S. 652) and the Communications Act of 1995 in the House (H.R. 1555). Unfortunately for the public, in removing these restrictions the telecom bill also removes historic protection for diversity of opinion and reasonable rates.

The intent of the bill

The stated purpose of telecom reform is to increase technology in homes and institutions. While we definitely support an expansion of electronic networking (the information infrastructure or information superhighway, as it is often called) we ask, “What will it be used for?”

Many broadcasting and telecommunications companies seem to view their customers purely as consumers of entertainment or information. But we want individuals and institutions to generate content as well as receive it.

We want to see advances in telecom improve public debate on important issues, provide a wealth of culture, and increase our links with one another. If Congress takes its role seriously in managing communications as a public resource, industry growth is quite compatible with universal service and providing an infrastructure for democracy. But currently, we see this bill restricting options and opportunities. Let us look at the problems.

Problem 1. The bill allows oligopolies to form that control the information we receive on radio, television, newspapers, and electronic networks.

The wave of highly-publicized mergers (along with less sensational but still important takeovers) that have reduced the number of people in control of broadcasting will continue after this bill is passed. Although the bill prohibits mergers between telephone companies and cable TV companies, the House version contains many exceptions, waivers, and exemptions that erode this protection against monopolies. For instance, mergers are permitted in communities with less than 50,000 population, and the two types of company are permitted to share some transmission facilities.

Local telephone companies are allowed to enter the long-distance market too soon, before competition is likely to enter their traditional local market. Local telephone users may end up bearing the costs of expansion.

The bill allows cooperation between companies that should be competitors, assuming that abuses will be stopped by anti-trust laws that are not adequate or appropriate for this kind of oversight.

In a direct blow to diversity, the bill raises the percentage of national audience that a single person or company can reach from 25% to 35%. A larger foreign ownership of broadcast media is also permitted. Limits are removed on the number of radio stations that an individual can own. The bill makes it easier for broadcasters to keep their licenses indefinitely, without the hearings that are currently held. Finally, it gives existing broadcasters a large amount of unused television spectrum, instead of opening up the spectrum in an auction.

Problem 2. The bill allows gaps to widen between segments of society (rich and poor, educated and uneducated).

The 1934 communications act guaranteed universal service, meaning that everyone in the country could get telephone service at reasonable rates. The new bill contains protections for rural areas and the disabled, but leaves loopholes in the universal service guarantee. Some of the advanced information services could well become available only to affluent people or to institutions in privileged areas.

Moreover, while there are some sections supporting access for schools and public agencies, these are vague and need stronger guarantees. Public libraries, the traditional place where all members of the public can get information, are given special rates in the Senate bill but not the House.

Problem 3. The bill censors public discussion on electronic networks.

Both houses of Congress have inserted sections in the bill criminalizing a broad range of information under the claim that it harms children. These clauses of the bill, while supposedly aimed at pornography, have such vague language (“indecency” and “ or excretory activities”) that they could be used to censor literary classics and public health information.

Given the open nature of networks such as the Internet, restrictions on sending material that children might look at ends up keeping everyone from speaking freely. The fear of being caught in the law’s net will force many networks to shut down. Thus, the free flow of views we now have on the information highway could be replaced by a controlled set of ideas dished out by corporate broadcasters and monitored by prosecutors all over the country.

By approving censorship, the Senate rejected a petition signed by 107,000 Internet users. The House voted overwhelmingly to reject government censorship, but sections imposing it were inserted into the bill almost at the last minute as part of a complicated amendment.

We do not dismiss the concerns of parents who want to shield their children from inappropriate material. The whole point is that each parent defines what is “inappropriate” differently. There are more flexible and effective ways to screen what children see, than to have the government impose censorship on everybody.

Problem 4. The bill lets rates rise too fast and too much.

Cable TV rates for upper tier services (those offered for extra cost) are deregulated in the bill before there is adequate assurance of competition to keep the rates down. Cable operators are also effectively allowed to deregulate any services they choose by moving them from the basic tier to the upper tier. This would reverse the consumer protections passed in 1992.

In other media, states can let rates for services rise with little justification. Both the Department of Justice and the FCC are severely restricted in their traditional powers to review competition and rates.

As mentioned under Problem 2, rates are not regulated for advanced information services. These services could end up costing far more than necessary, just as cable TV companies now charge premiums for popular channels. Loopholes allow companies that own media (cables and phone lines) to charge artificially high rates to others who wish to lease them, or restrict the people leasing them to ineffective competitors.

What we want

Our communications channels are a public resource. As the telecom bill prepares to go into conference committee, we call on Congress to safeguard the public interest.

- Promote diversity of programming by requiring carriers to provide services to other companies at reasonable rates.
- Protect the free marketplace of ideas by preventing yet larger media monopolies and oligopolies. Keep regulatory safeguards in place until proof of true competition emerges. If telephone companies and cable companies merge in sparsely-populated areas that lack competition, continue price regulation.
- Do not raise the limits on the percentage of markets owned by one firm or on foreign ownership.
- Keep the requirements for interconnection and interoperability (the ability of different services to use each others lines and identical protocols) so that users anywhere can reach each other. Ensure that users can keep telephone numbers when switching companies.
- Reject censorship, which is a big step backward and is totally unacceptable. Leave it up to parents make their own choices. Strip out the provisions on “Obscene or harassing use” and “Protection of Minors.”
- Ensure equitable access by all segments of the population, including rural areas, low-income areas, and the disabled. Make the Federal-State Joint Board overseeing universal service a permanent institution.
- Maintain reasonable rates for enhanced cable services as well as basic service, either through robust competition or through continued regulation.
- Make telephone companies return to consumers some of the savings achieved through greater efficiencies.
- Preserve preferential access for public, education, and government organizations.
- In exchange for the extra television spectrum that broadcasters can profit from, require extra services such as public interest programming or more diversity in programming.

What to do now

Legislators have to hear from you. They need to know that this bill will not slide quietly through Congress, but that the eyes of the public are on them.

Write to your own legislators, to the people on the joint committee, and to President Clinton. Make the points listed in the "What we want" section of this paper. If the bill is not substantially changed in the right direction, write to President Clinton and ask for a veto.

Familiarize yourself with how your representatives voted, and tell your friends and colleagues about it. Let them know that this bill will affect them, and ask them to write too. Contact your local newspaper and ask them to cover the bill.

Key legislators

These are the Senators and Representatives on the conference committee that is merging the Senate and House telecom bills. If you live in one of their states, write to the legislator and strongly indicate that censorship is unconstitutional and will be ineffective in protecting children. Also write to Senator Robert Dole and Speaker of the House Newt Gingrich, who have a great deal of power to influence the committee, and to President Clinton, who has said he might veto the bill.

Senate	
Conrad Burns (R, Montana)	J. James Exon (D, Nebraska)
Wendell Ford (D, Kentucky)	Slade Gorton (R, Washington)
Ernest Hollings (D, South Carolina)	Daniel Inouye (D, Hawaii)
Trent Lott (R, Mississippi)	John McCain (R, Arizona)
Larry Pressler (R, South Dakota)	John D. Rockefeller IV (D, West Virginia)
Ted Stevens (R, Alaska)	

House of Representatives	
Bob Barr (R, Georgia)	Joe Barton (R, Texas)
Howard L. Berman (D, California)	Thomas J. Bliley (R, Virginia)
Rick Boucher (D, Virginia)	Sherrod Brown (D, Ohio)
John Bryant (D, Texas)	Steve E. Buyer (R, Indiana)
John Conyers (D, Michigan)	John D. Dingell (D, Michigan)
Anna G. Eshoo (D, California)	Jack Fields (R, Texas)
Michael Flanagan (R, Illinois)	Daniel Frisa (R, New York)
Elton Gallegly (R, California)	Bob Goodlatte (R, Virginia)
Bart Gordon (D, Tennessee)	J. Dennis Hastert (R, Illlinois)
Martin Hoke (R, Ohio)	Henry Hyde (R, Illinois)
Sheila Jackson-Lee (D, Texas)	Scott L. Klug (R, Wisconsin)
Blanche Lambert Lincoln (D, Arkansas)	Edward Markey (D, Massachusetts)
Carlos J. Moorehead (R, California)	Mike Oxley (R, Ohio)
Bill Paxon (R, New York)	Bobby L. Rush (D, Illinois)
Robert Scott (D, Virginia)	Dan Schaefer (R, Colorado)
Patricia Schroeder (D, Colorado)	Cliff Stearns (R, Florida)
Rick White (R, Washington)	

For more information

If you are not online, information is hard to get. The traditional media find this issue boring, so they don't report on it. Write your local radio stations and newspapers and tell them the bill has serious consequences for the public and should be covered. One fine article in print is "The Robber Barons of the Information Highway" by Joshua Wolf Shenk, which appeared in the *Washington Monthly* in June 1995.

If you are online, you can read some World Wide Web pages and join several mailing lists that distribute information and discuss the telecom bill.

Mailing lists

To get on one of the lists below, send mail to the address shown and include the information in the required format. Capitalized words should be written exactly as shown here; italic lowercase words should be replaced with your full name.

Cyber Rights—discussion of civil liberties and rights on electronic networks.

mail to: LISTSERV@CPSR.ORG

Put in body of message: SUBSCRIBE CYBER-RIGHTS *your name*

Telecommunications Policy Roundtable Forum—discussion of telecommunications issues from a public-interest standpoint.

mail to: LISTPROC@CNI.ORG

Put in body of message: SUBSCRIBE ROUNDTABLE *your name*

Voters Telecommunications Watch (VTW) Billwatch—announcements about bills and actions to take.

mail to: LISTPROC@VTW.ORG

Put in Subject line of message: SUBSCRIBE VTW-ANNOUNCE *your name*

Telecomreg—discussion of technical, legal, and policy issues in telecommunications.

mail to: LISTSERVER@RELAY.DOIT.WISC.EDU

Put in body of message: SUBSCRIBE TELECOMREG *your name*

com-priv—discussion about commercial use of the Internet.

mail to: com-priv-request@lists.psi.com

Request to be added to the mailing list (mail is read by a person)

Web pages

The Center for Media Education offers a Web page about the bill at:

http://www.access.digex.net/˜cme/bill.html

The CPSR Cyber Rights group provides several documents on our ftp site. Look particularly at ACLU-Censorship-Challenge, AllComMed-PEG-campaign, Clinton-Telecom-Position, Cox-Wyden-Protection, Shenk-Telecommunications-Bills, Telecom-Post-on-Bills, and Valovic-re-Telecommunications-Bill.

ftp://jasper.ora.com/pub/andyo/cyber-rights/CYBER-RIGHTS/Re-Legislation

The Benton Foundation maintains a general page about the bill at:

http://cdinet.com/cgi-bin/lite/Benton/Goingon/HR1555.html

and other pages about one issue, TV spectrum allocation, at:

http://www.cdinet.com/benton/Catalog/Working13/working13.html
http://cdinet.com/cgi-bin/lite/Benton/Goingon/spectrumalloc.html

The Clinton administration has placed statements on the bill at:

http://ntiaunix2.ntia.doc.gov:70/0/congress/1555sap.html
http://ntiaunix2.ntia.doc.gov:70/0/congress/s652pos.txt
http://ntiaunix2.ntia.doc.gov:70/0/congress/lis652.txt

Analyses from Ralph Nader and the Consumer Project on Technology are at:

http://www.essential.org/cpt/telecom/telecom.html

The Campaign for Broadcast Competition offers a page about TV spectrum allocation at:

http://campaign.com/

Many organizations and individuals have Web pages about censorship; one up-to-date page at the time of this writing is:

http://jasper.ora.com/andyo/cyber-rights/free-speech

Industry has not had much to say online about the bill. Two opposing viewpoints from Regional Bell Operating Companies and LDDS WorldCom, a long-distance telephone company:

http://www.bell.com/1025.html
http://www.iquest.net/cgi-bin/gate2?|33cC9kkP://WWW.WgykEy.COM/COl-POltk/PlEeelEy.9kMy3x3SMKkG

Documents available by electronic mail

The Center for Media Education has made several fine analyses of the bill available by electronic mail. Write to *bill@cme.org* and put one of the following words in the subject line to get a position papers on the subject shown:

alert	call to action with summaries of issues
clinton	President's critique of House bill
own	industry concentration
rates	rates, industry concentration, related issues
spectrum	spectrum give-away
update	frequently-changing news

Redistributing this document

This paper may be freely distributed if kept in its entirety.

A special short version is available which lacks contact information for legislators and pointers to further information. (The short version is intended for distribution to the media and political figures.)

You can obtain the paper as a text file (so you can email it to friends or post it on appropriate bulletin boards and newsgroups) and as a PostScript file (so you can print and distribute it in hard-copy form). Contact Andy Oram at *cr-owner@cpsr.org* or 617-641-1261 (during U.S. East Coast business hours) to obtain either of these formats. On the Web, the paper is at:

http://jasper.ora.com/andyo/cyber-rights/telecom.html

This paper was written by Andy Oram with help from members of Computer Professionals for Social Responsibility and other people in the public interest community. Computer Professionals for Social Responsibility has been in educating the public and the government for 12 years in the socially safe and beneficial use of computers and related technologies. Special thanks goes to Craig Johnson of Transnational Data Reporting Service, Inc. for his expert analysis of the bill.