Communications Policy for the Future—And for the Present

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The technological revolution in computer and communications technology has already transformed our society, dramatically changing the way in which information is created, processed, and made available to individuals and institutions in the United States and around the world. It promises to provide all citizens with greater capacity to participate in the life of their communities—and even to create a global community based upon the free and fair exchange of information and ideas. It could accelerate the orderly development of communications networks in all nations and lead to an international communications market ruled by robust, fair and open competition among nations.

But the technological explosion creates new dangers as well. It could exacerbate existing national and international divisions between the information rich and the information poor. It could speed up the trend toward an unfair international trading system in high technology that would restrict U.S. access to the world market, thereby costing us technological leadership, market share and jobs at home.

The challenges posed by the new technology must be met by a pragmatic communications policy free from the distorting lens of ideology. Policy formulated in terms of the black and white ideological extremes of competition versus monopoly, regulation versus deregulation, and “free” trade versus protectionism, fails to take into account the complex realities of domestic and international communications markets that are being battered by the forces of change.

Yet, the current Administration and its ideological soulmates at the Federal Communications Commission (FCC) embrace the view that government has no positive role to play at all in domestic and international communications markets. This nihilistic view permits no genuine discussion, debate or analysis of specific issues. The answer to all questions is the same: the government should do nothing. Rigid adherence to the philosophy of government-as-bystander ties the hands of policymakers, preventing them from constructing practical solutions to critical problems, and forcing them to rely instead on laissez-faire slogans that in themselves benefit no one.

The Chairman of the FCC has launched a simplistic and ill-conceived crusade to deregulate all local service rates, leaving captive ratepayers to the tender mercies of their local monopolists. This “back to the future” program sounds like an exciting science-fiction adventure, but it ignores the most elementary lesson of the past: that monopolists must be regulated in the public interest in order to provide captive customers with essential service at reasonable rates.

The reality is that the local communications market has begun to separate into two unequal segments. Large

users—who generate significant portions of local telephone company revenue—can turn to an increasing array of alternative suppliers for most of their sophisticated communications needs. Deregulation of some of these competitive services might, therefore, be appropriate. For average customers, however, only the local telephone company will provide service for the foreseeable future, and only regulatory oversight can protect these captive ratepayers from monopoly abuse.

The preposterous “back to the future” program is oblivious to these facts. It is a textbook illustration of how rigid ideology is incapable of drawing the careful distinctions needed to formulate practical solutions to complex problems.

Blind adherence to an ideology transforms policy mechanisms such as deregulation—which can be useful in a particular context to achieve particular aims—into ends in themselves. But communications policy must be realistic and flexible in its choice of means, careful about its choice of goals, and clear about the distinction between means and ends.

A communications policy for the future should aim to achieve broad, public interest goals, including:

Universal Telephone Service—High quality, reliable basic communications networks, accessible and affordable to all, must continue to unite this country and should be extended throughout the world.

Access to the Information Age—New services and products made possible by the new technology must be made available to ordinary citizens at affordable prices.

Fairness—Those who benefit from public communications networks must pay their fair share of the costs of maintaining these networks, and those who do not use new services should not be unfairly burdened with the costs of developing and delivering them.

International competitiveness—the U.S. communications industry must receive fair market access abroad and continue to be a vital source of innovation, exports, growth and jobs in the U.S.

When Congress passed the Communications Act of 1934, only 30 percent of all households had telephone service. At the time, the goal of bringing the benefits of this new communications technology to all Americans was visionary and progressive. A combination of cost sharing, protection of monopoly markets, and cost-saving innovations in communications technology ultimately produced the world's finest communications system, readily accessible to over 90 percent of the nation's households. Indeed, a policy of destructive, cutthroat competition was specifically rejected as being unsuited to achieving the national goal of universally

available, affordable telephone service.

Despite the successes of the 1934 Act, some Americans are still unserved or underserved. In New York City, a fifth of all blacks and a third of all Hispanics do not have a telephone. In the South Bronx, 40 percent of all households do not have a telephone. Maintaining and extending basic service remains a primary goal and should not be subservient to the more glamorous and forward-looking mission of bringing new technology to the public.

Yet several years ago, the FCC devised an access charge plan that would have reduced the availability of basic service by requiring local customers to bear all the fixed costs of the local public network on the untested theory that the average consumer ultimately would benefit from a "technological trickle-down" that this cost-allocation might trigger. Strong Congressional action forced the Commission to beat a hasty retreat from this blatantly unfair plan, and to cap access charges for residential and small business customers at \$2 per month. Before increasing access charges beyond this point, the Commission has promised a full study of the effect of the \$2 access charge on stemming bypass of the public switched network.

Basic telephone rates continue to increase much faster than inflation. In 1984, flat rate local service increased by 19 percent, measured service rose 26 percent, and the average cost of telephone installation rose 27 percent. In contrast, the general increase in prices in 1984, as measured by the Consumer Price Index, was a mere 4 percent.

State regulators must protect ratepayers from unnecessary and unfair rate increases through innovative rate structures that assure affordable basic service for all. But these protective measures must proceed hand-in-hand with policies designed to disperse the benefits of information age communications technology as broadly as possible throughout society.

The goal of providing access to the information age requires measures to upgrade local public communications systems. Without such measures, public networks might become stagnant technological backwaters, while all the new service enhancements are placed in customer-premises equipment or in private systems at prices that only the rich and big business can afford.

This development would privatize the communications revolution, and could create a two-tier information society. A democratic society is at risk if it allows only an elite few to reap the benefits of the information revolution. Access to the information services, made possible by the new technology, will be increasingly essential to enable an informed citizenry to participate fully in the economic, social, cultural, and political life of this country.

State-of-the-art local communications networks would allow the public to receive a wider range of lower-cost information-age services such as bank-at-home, shop-at-home, videotext, facsimile, computer-to-computer data communications, and information retrieval services. Entry into this wider communications market would benefit local telephone companies as well, enabling them to obtain additional revenues to keep basic service rates affordable, to lower their capital costs, and to attract highly qualified management to a dynamic growth business.

Improved local public systems will also promote economic development. The amount and nature of business investment will depend increasingly upon the availability of advanced communications services. A region which uses the public-switched network to provide low-cost communications services on the cutting edge of the new technology will attract more business investment, and consequently, more jobs and amenities for its citizens, than regions lacking this advantage.

Upgrading local communications systems will also meet an international competitive challenge. Other countries may already be ahead of us in providing advanced new services through their communications systems. Japan's Nippon Telegraph and Telephone, for instance, expects to begin commercial implementation of their Information Network System by 1988. This system will provide facsimile, videotext service, slow scan video, and data communications service, as well as video conferencing, video telephone, ultra-high speed facsimile and color facsimile capabilities.

In France, more than 2 million average telephone subscribers can already access directory information and a multitude of data bases using small videotext terminals in their home. In contrast, in the United States, fewer than 1 million customers nationwide subscribe to videotext services—61 percent less than had been predicted just 2 years ago. The French are also well on their way to providing nationwide high-speed switched service.

It would be the height of irresponsibility for American communications policymakers to sit idly by while other industrialized countries surpass us in the quality of communications services available to the average citizen and business enterprise.

State regulatory commissions have front-line responsibility for creating mechanisms to bring the benefits of the new technology to the public via upgraded local communications networks. This is particularly true in light of recent court decisions rejecting the FCC's usurpation of state jurisdiction over intrastate communications services.

In its Computer III decision, the FCC is properly seeking to provide a national framework which encourages the upgrading of local public networks. The FCC's earlier Computer II decision was intended to provide large private users with technological alternatives outside the public network. However, the Computer II separate subsidiary requirement—an overly stringent antitrust device which forces local telephone companies to provide ancillary communications services through facilities that are physically separate from the local public network—has in fact prevented deployment of new technology, to the detriment of both large and small customers.

The thrust of Computer III is to correct the balance and to allow the public to receive this technology through the public switched network. Computer III does this by replacing the separate subsidiary requirement with accounting and access rules. Properly designed accounting rules would assign a fair share of the costs of common facilities to the advanced services that use these facilities. It would also devise and enforce mechanisms to detect violations of these cost accounting rules. Access requirements would force local telephone companies to provide comparable access to their basic transmission services for all competitive suppliers of advanced communications services.

Although there are dangers in relying on accounting and access requirements, greater damage to the public interest would result from overly stringent antitrust regulations that cause local public networks to stagnate.

Standing in the way of this progressive development are the even more stringent restrictions imposed on the Bell companies by the AT&T Consent Decree. Designed exclusively to respond to antitrust concerns, these rigid restrictions prevent the Bell Companies from providing advanced communications services and from manufacturing equipment that could be used to upgrade the local network to provide new services.

It does no good for the FCC to authorize the Bell companies to provide new services inside the public networks if the Consent Decree bars them from providing these services at all.

Judge Harold Greene—who retains responsibility for implementing the Consent Decree—has so far refused to consider waivers exempting the Bell Companies from these unnecessary restrictions, while at the same time he has granted a multitude of waivers allowing them to enter unrelated lines of business such as real estate, financial services, and car rentals.

I fail to see how it is in the public interest for half the communications resources of this country to be tied up in an antitrust court that admittedly cannot address the full spectrum of national communications policy issues, without any public review or opportunity for the public to present its views to the contrary.

There is a growing bipartisan realization in the Congress and among communications policymakers elsewhere that lifting the Consent Decree restrictions that hamstringing and preventing the Bell companies from providing advanced new services is critical in assuring the rapid availability of these new services to the public.

The Consent Decree itself provides for removal of these harmful constraints after a review by the Justice Department. But the restricted antitrust perspective of this review cannot adequately address broader policy goals such as universal service, bringing new service to the public, and providing for the international competitiveness of the U.S. industry.

Enforcing the restrictions in the decree has transformed the Justice Department from a law enforcement agency into a regulatory body. The waiver process at the Justice Department is fatally flawed, and cannot be relied upon to protect the public interest and the rights of interested parties. The former Assistant Attorney General for Antitrust, Douglas Ginsberg, has acknowledged, in a written response to my questions on this matter, that:

"The Department does not keep a public record of all meetings with interested parties and is not legally obligated to do so. Our experience suggests that some interested parties who are potential or actual suppliers to the RBOC's, or who depend upon the RBOC's for access services, are more forthcoming in providing their candid views to the Department on an informal basis and when the Department can assure them of anonymity."

It is hard to find a more compelling reason for shifting jurisdiction over the regulatory fate of the nation's communications industry than this picture of powerful vested economic interests whispering their "candid views" to law enforcement officials behind a statutorily sanctioned veil of anonymity that effectively prevents the public and interested parties from discovering and replying to comments that may adversely affect their interests.

In contrast, the procedures before the FCC and other regulatory agencies are explicitly designed to place all comment on the public record and afford all interested parties with the opportunity to reply to comments affecting their interests.

The issue is not competition versus monopoly; it is not regulation versus deregulation. It is narrow antitrust policy versus comprehensive communications policy. It is economic protectionism for special interests who seek to foreclose opportunities to bring new services to the public versus the broad public interest in having these services available as soon as possible to as many of our citizens as possible, at the best prices and under the best terms. It is policymaking behind closed doors versus due process and decisionmaking on the public record.

Policymakers must also aim at improving the international competitiveness of the U.S. communications industry. Many in Congress view communications deregulation—particularly, the AT&T breakup—as an unreciprocated market-opening measure that has helped to drive our com-

munications trade balance into the red and has cost jobs for U.S. workers.

The United States had a \$560 million trade *surplus* in communications equipment in 1982 before the AT&T breakup, but had a \$1.2 billion trade *deficit* in 1985. This deficit is projected to reach \$1.6 billion in 1986 and to cost as many as 72,000 U.S. jobs.

This deficit is exacerbated by the restrictions in the AT&T Consent Decree on the Bell companies. Unable to obtain advanced communications services from the public networks provided by domestic telephone companies, large institutional customers have increasingly turned to foreign suppliers of customer-premises equipment to obtain these services. While U.S. suppliers have slightly more than half of the market for customer-premises switching equipment in the last several years, foreign suppliers have increased their market shares rapidly.

In effect, the current policy of banning telephone company involvement in new communications services has forced customers to place technological enhancements outside the local public network, and has thereby provided an unnecessary market advantage to foreign suppliers.

The U.S. communications industry does not need protection from foreign suppliers in the United States. Domestic communications policy reform is needed, however, to allow all U.S. companies to compete in their home market.

In addition, a policy of fair trade through reciprocity is imperative. Measures are needed to open foreign markets to U.S. suppliers. An overvalued dollar may have contributed to our communications trade deficit in the past, but even a properly valued dollar would not allow U.S. companies to sell effectively in many foreign markets. The major problem is not the exchange rate. It is market access, and the unfair barriers that prevent U.S. suppliers from selling their products and services in foreign countries.

These unfair foreign trade practices, including home supplier preferences in procurement, restrictive procurement approval procedures, local content requirements and limitations or prohibitions on U.S. foreign investment, are partly responsible for the dramatic growth in our communications trade deficit, and for the consequent job losses.

Our communications trade policies have failed to protect this vital American industry from the devastating effects of these unfair trade barriers, thereby threatening U.S. technological leadership in this fierce global market. While our trading partners have relentlessly and pragmatically pursued their economic self-interest in designing their communications trade policies, this country has been hamstrung by a rigid free trade ideology that ignores the realities of the world trading system.

I am proud of the openness of our domestic communications market. However, reciprocal arrangements should be provided to U.S. firms. Our communications market should continue to remain as open as the foreign markets we are seeking to enter. The alternative is to see world market share—and jobs for U.S. workers—slip out of our grasp.

The search for mechanisms to force reciprocal openness of foreign markets has already begun. Last year, the Energy and Commerce Committee passed H.R. 3131, the Telecommunications Trade Act of 1986. This legislation was substantially incorporated into the omnibus trade bill which passed the house, but was not, unfortunately, addressed by the Senate. It provided for a framework within which the opportunity for U.S. suppliers to compete in the global communications market would be substantially increased, or new conditions governing foreign access and participation in the U.S. market would be implemented. It contained the necessary statutory authority and requirements to ensure that action restricting foreign access to the U.S. market would in

fact be taken unless U.S. firms obtained meaningful market access abroad.

An open international market would contribute to efforts to spread communications technology as broadly as possible throughout the world. Stark disparities now exist in the international availability of communications technology. Two out of every three people in the world have no access at all to telephone service. Three quarters of the world's telephones are concentrated in just nine developed countries. In Tokyo, there are more telephones than in the whole of the African continent.

With a flexible, open international trade environment, the United States could help to guide the orderly and rapid development of a global communications infrastructure to bring all nations and peoples of the world closer together. However, restrictive trading practices could prevent the realization of this goal. A world of isolated national economies hiding behind protectionist trade walls is the very antithesis of the openness promised by the new communications technology. Only strong measures to ensure the fairness of the global communications market can allow the new technology to develop to its full potential and make it universally available.

Making policy for this vital industry is too important to be left to factions interested only in pushing their own

narrow ideological agendas. Communications policymakers have multiple goals—to maintain universal telephone service, to bring the benefits of new technology to all, to ensure fairness in the distribution of costs and services, to promote equity in international communications trade. Only through imagination, flexibility and pragmatism can we hope to meet the challenge of attaining these goals.

John D. Dingell is Chairman of the Committee on Energy and Commerce of the U.S. House of Representatives. He was first elected to the 84th Congress in a special election in 1955 to fill the vacancy resulting from the death of his father, John D. Dingell, Sr., who had served in Congress since 1932. He has been reelected to each succeeding Congress by overwhelming margins.

Congressman Dingell received his B.S. degree from Georgetown University in 1949 and his law degree in 1952. During World War II, he served in the United States Army and subsequently worked as a Park Ranger in the U.S. Interior Department, and as Assistant Prosecutor for Wayne County, Michigan. He is a member of the Michigan State Bar, the Technology Assessment Board of the Office of Technology Assessment, the Migratory Bird Conservation Commission, and the Board of Directors of the National Rifle Association. ■

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