

A Pro-Consumer and Pro-Competitive Agenda for State Commissions

The Competition Policy Institute (CPI) supports state and federal regulatory policies that will bring competition to telecommunications services in ways that benefit consumers. We offer this *Agenda for State Commissions* as a set of policies designed to advance competition while protecting consumers. CPI will produce policy papers which expand on some of the points in this *Agenda*.

C States should move aggressively to implement local competition.

By enacting the Telecommunications Act of 1996, Congress created a process which can lead to robust local exchange competition. State and federal regulators control the speed with which competition develops by the decisions they make at this stage.

Here is the consumer interest: the very best outcome for consumers now is for state regulators to adopt policies which lead to local competition *as soon as possible*. The market power of the incumbent local exchange companies must be quickly mitigated by the development of competition at an early stage of the transition. Otherwise the consumers' interests may be harmed.

There are several specific areas where state regulators can influence the pace of local competition. These include state policies on resale, interconnection and the pricing of unbundled network elements. Federal and state regulators should review pricing proposals in this light: how will this affect the speed of development of competition? We think that regulators should adopt an aggressively pro-competitive approach.

C State commissions should move to simplify and reform state regulation.

State commission activities should be shifted away from traditional ratemaking practices and refocused on setting the rules of engagement for competing local exchange carriers.

We recommend that state commissions develop *regulatory bargains* which allow flexible pricing and reduced regulation of incumbent LECs as a trade-off for certain commitments to prices for basic service, service quality and competitive openness. These new regulatory bargains can be fashioned to benefit both consumers and the development of local competition.

The Telecommunications Act of 1996 changed the landscape for the regulated telephone companies forever. Competition means that incumbent local carriers will lose customers and revenues in some areas, but gain them in other markets. State regulators must shift the focus of regulation away from keeping incumbent carriers *whole* and toward the job of harnessing local competition which will force incumbent carriers to be more efficient and lower their costs. Regulation must enhance, not retard, that goal.

C States must be resolute in keeping local phone rates fair.

Local exchange rates, especially for residential customers, do not need to rise as competition develops for local service. The overall price of local service, including residential service in most areas, is above economic costs. Unfortunately, some local exchange companies are now using the occasion of the new telecommunications legislation to seek increases in local phone rates. States should resist rate rebalancing proposals which are simultaneously anti-consumer and anti-competitive.

The Telecommunications Act of 1996 was a compromise of many interests and provided a balance of advantages to the players in the telecommunications industry. In exchange for opening local markets, the RBOCs are permitted to enter the fast-growing long distance, manufacturing and cable markets. We urge regulators to view these compromises as huge block trades in the equities of the industry participants. Regulators should not be persuaded to further balance these interests in ways which confer competitive advantage on one sector.

The telecommunications pie is growing rapidly. Consumer demand for new services is strong, markets are growing, and costs are falling. In that environment, there simply is no justification for shifting costs onto basic telephone services. Local companies must learn to live by their marketing wits, not by their skill in regulatory proceedings. Regulators can speed up this transition within the LECs by providing incentives in state regulation while insulating existing prices from increases. We urge regulators to assess the future, not survey the past, when setting basic local telephone rates. Incumbent LECs should fund their competitive response from new efficiencies and revenue growth, not from cost shifting. Otherwise, consumers will be denied the benefits of the legislation.

C States should take the lead to establish state universal service plans.

Meeting the national commitment to universal service means that states must supply universal service support where federal assistance leaves off. State commissions should act to establish intrastate Universal Service Funds or seek the authority to do so. No matter how comprehensive the scope of the federal USF, the FCC will not set local rates and cannot account for differences in local calling areas, telephone company revenues, state income, and other factors which state regulators consider in setting local rates.

Competition will put pressure on rates in high cost and rural areas. Some costs will continue to be supported by federal high-cost funds. But a portion of these costs are today contained in state ratemaking mechanisms. State commissions are obligated by the Telecommunications Act of 1996 to make any subsidy mechanisms explicit, sufficient and predictable. This will likely create the need for state universal service plans.

C State commissions should shape the interconnection negotiations.

The Telecommunications Act of 1996 reserves authority to state commissions to mediate negotiations and arbitrate disputes among negotiating telecommunications carriers over terms of interconnection. How the state carries out this duty is most important: the successful completion of interconnection agreements is the linchpin of local competition.

To ensure pro-competitive and pro-consumer outcomes during these negotiations, state commissions should make policy findings in advance of any requests for arbitration. This will shape the course of negotiations by advising the negotiating parties how the commission will rule in arbitration. When asked to arbitrate a dispute in negotiations, state regulators should invite other parties in interest, especially consumer representatives, to comment on the matters in dispute.

C States must capitalize on their authority over the Acompetitive checklist.@

Under the Telecommunications Act of 1996, the FCC must certify compliance with the Acompetitive checklist@before a Regional Bell Operating Company can enter the long distance market. In making the determination whether an RBOC has complied with the checklist in a state, the FCC will consult with the state commission.

Lifting long distance restrictions is the A brass ring@of the Telecommunications Act for most of today's local telephone companies. A state's ability to ensure the success of local competition is tied directly to certification of the checklist. For that reason, state commissions should enforce strict adherence to the terms of the checklist before certifying a LEC's compliance. CPI believes that state regulators should welcome RBOC entry into long distance; but only when local competition is fully enabled.

C States commissions should prepare now for cost determination.

State commissions have the significant duty under the 1996 Act to determine the prices of unbundled network elements. At the early stages, availability of these unbundled network elements will be engine which drives local competition. This essential feature of the new competitive regime depends critically on the price of those elements.

Some states have completed studies of the appropriate costs of network elements. All states must develop staff expertise with economic costs or Total Service Long Run Incremental Costs (TSLRIC), the appropriate standard to use in pricing unbundled network elements. If they have not already done so, state commission should open investigatory dockets to ensure that they have the necessary familiarity and expertise with TSLRIC cost studies.