

Confusion We Can Live Without

*First Appeared in
The Bandwidth Desk,
March 15, 2002*



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The overwhelming vote for the Tauzin-Dingell bill (HR 1542) in the House of Representatives in late February is troubling for a number of reasons, the most important of which is that the legislation adds to the confusion and uncertainty already too widespread in the telecom/IT industry. Confusion, about marketplace rules and regulations in the present matter, causes business managers, investors and customers to sense heightened risk, so they tend to hold their bets. Hardly what this industry or the economy needs at the moment.

There is plenty of reason to be confused about this bill. Support and attack ads have been clashing in the newspapers and over the airwaves for many months. Protagonists claim that the legislation would accelerate deployment of local broadband access in communities throughout the nation and give a real shot in the arm to the economy. Opponents argue that the legislation would remove the only real incentives the regional Bell companies have to open their service areas to competitors. While lawmakers in the House seemed to have had little trouble making a choice, giving the bill wide, bipartisan support, the Senate seems little inclined to go along. What policy direction or guidance will result is not clear.

The confusion surrounding Tauzin-Dingell starts with the bill's language and provisions. After giving nodding recognition and praise to The Telecommunications

Act of 1996, HR 1542 quickly begins to carve out distinctions that undermine key provisions of the 1996 Act. Seeking to expand on exemptions in the law, Tauzin-Dingell finds, among other things, that, "High speed data services and Internet backbone services constitute unique markets that are likewise incompatible with the prohibition on Bell operating company provision of interLATA services." The bill goes on to deregulate "high speed data services, Internet backbone services, and Internet access services," and generally would prohibit the Federal Communications Commission (FCC) or any state commission from regulating the rates or conditions for provision of these services. The legislation also states that provision of high speed data services and Internet backbone services are not subject to the 1996 Act's interLATA regulatory restrictions on the Bell companies—throwing the door wide open for the Bells to move immediately into long distance without the prerequisite conditions set out in 1996.

This leads us to the second reason that Tauzin-Dingell is troubling: it is out of step with technology and it won't work. Establishing distinctions among services is nothing new in federal policy, but if the distinctions do not reflect real differences, they have little meaning and little chance of success. In three successive inquiries, from the early 1970's through the mid 1980's, the FCC attempted to distinguish and separate "basic" telephone services from "enhanced" services, but ultimately was compelled to abandon the approach, because it was unworkable. Through advanced, high-speed digital switches and

data processors, high-capacity fiber optic transmission and other technologies, computer and communication networks were already intricately intertwined.

The Tauzin-Dingell attempt to divide voice and data services flies directly in the face of the growing trend toward convergence of voice and packet networks. Service providers recognize continuing improvements in IP switching and reliability and see a converged network as more economical and more efficient to operate than the traditional public switched telephone network over the long term. Customers view the convergence of communications and information networks as opening the door to the advanced, interactive services they have been waiting for. The high speed services, Internet backbone, and access services described in HR 1542 will, in reality, be used for voice as well as data, in a growing variety of new applications and for plain old voice conversations, and no distinction introduced through legislation can change that.

Another disturbing fact about the Tauzin-Dingell bill is that it would make it even more difficult than it is today for incoming service providers to compete against the entrenched regional Bell companies in their local service markets. The legislation, if

enacted, would likely leave many communities with fewer competitors offering services than there are today and customers with little or no choice in services and prices. The Telecom Act of 1996 has hardly been a roaring success in bringing competition to local telephone service, but it does offer the Bell companies the lure of being allowed into long distance if they open their local markets even minimally to competition. By deregulating high speed data services, Internet backbone services and Internet access services, and removing any restriction on the Bells' freedom to provide either high speed data or Internet backbone services, HR 1542 would take away the only real incentive the Bell companies have to allow competition in their local service areas. Deregulating services and simultaneously removing incentives the Bells now have to allow competition; that is not a plan likely to win rave reviews from either competing local carriers or customers.

Progress in getting broadband access to small businesses and homes has been far too slow and too expensive, and that needs to be changed. There is at least one plan that could help move the industry and the country out of this morass, and that is a new rulemaking recently announced by the FCC. The rule-

making will address the regulatory treatment of access and related issues in The Telecommunications Act of 1996, but the rulemaking could also provide a forum that brings together local service providers, including the Bell companies, cable and satellite TV providers, Internet designers and service providers, business customers and consumers, federal and state policy makers and regulatory officials, in constructive dialogue to resolve a difficult and complex set of issues in a fair and reasonable manner. A tough task, but the alternatives are not attractive.

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