

I am writing to the FCC to register my opposition to the FCC's NPRM 02-33, "Appropriate Framework for Broadband Access to the Internet over Wireline Facilities". As a direct result of my observations of the behaviors of the Incumbent Local Exchange Carriers - ILECs that is part of my research, I feel strongly that if regulatory controls are removed from ILECs in how they make data communications circuits available to other parties, consumers and businesses will be severely harmed from the resulting lack of choice of such services.

My interest in this matter results from my observations of the Internet Service Provider industry since 1997 as a columnist for Boardwatch Magazine, and later as a contributing writer for a number of other magazines devoted to use of Broadband Wireless technologies to provide Internet Access. I am in modest demand for consultation with various parties about the BWIA industry because I am not affiliated with analyst, news, or other organizations. (In the interest of full disclosure, my sole affiliation relevant to this matter is a nominal Press membership in the Wireless Communications Association International - WCA.) In June, 2001, I began publication of a monthly newsletter, Focus On Broadband Wireless Internet Access, which offers independent editorial comment and analysis of events, companies, and technologies relating to the Broadband Wireless Internet Access industry.

Collectively, the ILECs have repeatedly exhibited corporate behaviors towards competitors (Competitive Local Exchange Carriers - CLECs) that can only be described as predatory. Such behaviors have been well documented by various regulatory agencies, with numerous fines and other penalties being issued for such blatantly illegal behaviors. Such behaviors routinely occur WITH regulatory controls; it appears that ILECs consider fines and other sanctions as a routine cost of doing business. Without regulatory controls, the ILECs will no longer have any incentive whatsoever to cooperate with competitors. What little choice that consumers currently enjoy for broadband services, such as choice of Internet Service Provider with a Digital Subscriber Line (DSL) Internet service, will be effectively reduced to no choice- the service provider that the ILEC dictates.

My research convinces me that the various problems of providing broadband services in the "last mile" are rapidly being overcome by the BWIA industry. Given sufficient time and absent smothering regulations, service providers using BWIA technology will provide effective competition to ILEC DSL and T-1 services, cable modem, and satellite broadband. In smaller, and rural markets such service providers are already using BWIA technologies to provide broadband services to consumers and businesses - where no such choice previously existed because the ILEC felt it was not cost-effective to offer broadband services in such small markets.

But, the issue of "backhaul" - transporting Internet data to where it can be distributed via wireless systems, is currently problematic. The "backhaul" problem is problematic in smaller markets and acute in rural areas of the US. In short, in many, many rural areas, there is NO other choice for obtaining "long range" data circuits other than to deal with the ILEC. Under current regulations, the ILECs can be held to fair and equally applied pricing, installation schedules, and standards of service. If, as the FCC proposes in NPRM 02-33, the ILECs are freed from such regulation, one result will surely be that ILECs will raise prices for "long range" data circuits to levels that are completely unaffordable to small service providers... if not discontinue such services entirely in certain markets merely for the

purpose of eliminating competition for broadband services.

If the remaining CLEC industry is "protected" (which I loosely define as, at a minimum, keeping the existing regulatory controls on the ILECs) for some reasonable period of time, then it seems likely that the success of CLECs will create at least modest demand sufficient to develop a competitive "long range" data circuit industry, likely arising out of the under-utilized assets of companies such as Level 3 Communications, Williams Telecommunications, and Global Crossing. If such a new industry can be formed out of the old industry, stabilize, and grow, only then should the FCC consider relaxing the regulatory controls of the ILECs data circuits.

It is very much in the interest of the FCC and the US Federal Government as a whole to promote the formation of competitive telecommunications infrastructure. Although NPRM 02-33 purports to do this, the real-world result of implementing NPRM 02-33 would be just the opposite - "more of the same" types of behavior and lack of deployment of broadband services by the ILECs.

I urge the FCC to NOT adopt NPRM 02-33 and to continue to classify "broadband access" as a "telecommunications service".

Signed,

Steven K. Stroh

--

Steve Stroh steve@strohpub.com 425-481-0600
Editor
Focus on Broadband Wireless Internet Access newsletter
<http://www.strohpub.com/focus.htm>