Verizon's Deal with Big Cable Spells the Demise of the Telecom Act

We all remember the 1980's and its awesome fashion and music. While some may want to revisit those aspects of the past, I don't think anyone wants to return to the era of the cable and Ma Bell monopolies.

Opening up communications markets was the purpose of the 1996 Telecommunications Act. The Act was designed to help phone companies get into the pay-TV business, and cable companies get into the phone business. Yet after a series of regulatory blunders, this promise of increased competition and lower prices has become a distant memory, like 7-Up Gold. And the situation is only getting worse.

Just last month Verizon announced it had signed a $3.6 billion deal with its erstwhile competitors Comcast, Time Warner Cable and Bright House Networks. In many ways, this announcement placed a capstone on the grave of the 1996 Telecom Act's biggest promise to America: genuine competition in communications service offerings.

The telco-cable deal comes in two parts. The first lets Verizon buy wireless spectrum ? the public airwaves over which iPads, cellphones and radios receive data ? that these three cable companies teamed up to purchase from the Federal Communications Commission in 2006.

The second part of the deal maps out terms by which the companies agree to stay out of each other's way. While the terms of these agreements remain undisclosed, it's been widely reported that the deal is an accord for the companies to sell one another's services to common customers in their (sometimes overlapping) service territories.

This means Comcast subscribers hoping to see lower prices as a result of Verizon FiOS competition shouldn't hold their breath. It means smartphone owners who wanted more companies to enter the mobile data marketplace got coal for Christmas. It means the future where consumers are empowered to choose the pay-TV channels they want, and not the 500-plus channel bundles they are coerced into buying, could be strangled in its crib. Ultimately, it means the quality of U.S. communications networks will continue to trail that of other developed nations as less competition leads to less incentive to invest in infrastructure.

What's more, this deal directly contradicts the promise Congress made to the country when it passed the 1996 Telecommunications Act.

Back in 1995, the word "competition" was used 196 times on the floor of the Senate to describe the bill. The Congressional Record describes the purpose of the 1996 Telecommunications Act: "to provide for a pro-competitive, de-regulatory national policy framework designed to accelerate rapidly private sector deployment of advanced telecommunications and information technologies and services to all Americans ... "

Senators praised the bill's potential to open up the market. "Allowing cable companies to provide phones and phone companies to provide cable, this bill will spur competition and reduce costs to the Nation," said Sen. Ted Stevens.

And in the House, rhetoric about competition was equally strong. "Congress has risen to the task ... so that American consumers will have more choices and innovative services, and will pay lower prices for communications products," said Rep. Dennis Hastert.

Unfortunately, the bright future our congressional leaders forecast 15 years ago has been undermined by a series of bad decisions the FCC made to prematurely deregulate the sector before competition had a stronger foothold.

Former White House technology policy adviser Susan Crawford rightly notes, "... in each metropolitan area, wired access to information, entertainment, news and communication will be controlled by a single actor. That actor, the local cable monopoly, is, at the moment, unconstrained by real competition or oversight and benefits from overwhelming economies of scale."

With the latest announcement by Verizon and Big Cable, we are seeing companies that are supposed competitors openly striking deals to divide up the market.

The New York Times editorial board was right to call this deal a net loss for consumers. Instead of reaping the benefits brought by competition ? downward pressure on prices, improved infrastructure investment, faster download speeds ? consumers can expect to face monopoly market conditions where cable and telco companies sit back and collect increasingly high monthly rates because subscribers have nowhere else to turn.

The good news is that both the Department of Justice and the FCC have announced plans to review this deal. Let's hope they remember the intent of Congress when it last reformed the Communications Act and leave no stone unturned while they review the deal's impact on consumers and competition.