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The Telecommunications Act of 1996 (P.L. 104-104): A Brief Overview

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Background

The melding of telecommunications, video, and computers is having an impact on telecommunications industry structure, as traditional telecommunications providers such as telephone and cable television companies expand their capabilities to become more generic multi-faceted “information providers.” Digital technologies make it possible to distribute voice, data, and video on the same communications channel. Combined with new alternative telecommunications delivery systems, competition is developing in many markets previously considered to be monopolistic. Telecommunications market structures are responding through consolidations in both the telephone and cable industries, telephone/cable alliances, wireless telecommunications mergers, and a variety of joint ventures.

The Telecommunications Act of 1996 (P.L. 104-104)

The “Telecommunications Act of 1996,” signed into law on February 8, 1996,¹ represents the first major rewrite of our nation’s telecommunications policy to address this changing environment. The 1996 Act redefines and recasts the 1934 Communications Act to address the relationship among the growing list of communications services, service providers and users. In doing so it establishes a single, comprehensive, blueprint for telecommunications policy that addresses our changing telecommunications/information environment. The 1996 Act attempts to develop a regulatory framework that will capture the benefits of competition while ensuring that the users and suppliers of a developing and diversified information industry will be protected from exploitative practices and abuse.

The general policy objective of the 1996 Act is to open up markets to competition by removing unnecessary regulatory barriers. Removal of such barriers, supporters claim, will permit competition to flourish and ultimately benefit the public interest. Some

¹Congressional Research Service, *Telecommunications Act of 1996*: info pack IP257T, by the Congressional Reference Division. Washington. (Updated as needed).

of the long-term benefits most often cited include: increased consumer choice; decreased consumer prices; increased efficiency; technological advances; and increased investment in our developing information infrastructure. Also, as these markets transform and the benefits of competition develop, it is assumed that the need for government regulation and oversight will diminish. Provisions also address the redefinition of universal service objectives to incorporate the growing needs of the information age and ensure that we do not develop into a nation of information “haves and have-nots.” Special considerations are also established to address the telecommunications needs of schools, libraries, and rural health care providers.

Although the 1996 Act passed by overwhelming margins in both the House and Senate, the legislation is not without its detractors. Some Members of Congress expressed concerns that the 1996 Act is still too regulatory. They point to the numerous rulemakings that the 1996 Act requires to support their claim. Perhaps of greater importance is the fact that the Act contains provisions that require new regulations for the television and computer industries. In addition, some parties such as the American Civil Liberties Union (ACLU), have denounced the Act because of its provisions, known as the Communications Decency Act (CDA), that restrict the free flow of certain types of information over the Internet. These provisions became a subject of a court challenge and the U.S. Supreme Court, by a 7-2 vote, declared unconstitutional two provisions of the CDA that prohibited indecent communications to minors on the Internet.² Some major consumers groups, such as the Consumer Federation of America, have also opposed the 1996 Act, stating that it “does not do enough to stimulate competition.”

Outlook

Whether the 1996 Act will live up to its stated goals is yet to be determined. Action has now shifted to the Federal Communications Commission (FCC) and to the states, as the task of interpreting and implementing numerous provisions is undertaken. Congressional action has focused on oversight as selected committees continue to monitor the FCC as it attempts to implement the numerous rulemakings required in the 1996 Act. Congressional review of the effectiveness of the 1996 Act is expected to continue in the 106th Congress, particularly in conjunction with the reauthorization of the FCC. Issues such as Bell operating company (BOC) entrance into long distance within their service areas, cable rate deregulation, and implementation of universal service provisions will continue to be of interest.

Action continues in the courts, as well, where selected provisions of the 1996 Act remain subject to court challenge. Included among the provisions under court review are those that: require the scrambling, or time shifting, of “sexually explicit” cable programming channels; impose line of business restrictions on the BOCs; implement universal service provisions; and establish guidelines to open up, and enable competitors to interconnect to, the local telephone network. Finally, how the various players and consumers will react in the marketplace and how conditions will unfold in individual markets continues to evolve.

²See: Congressional Research Service, *Internet Indecency: The Supreme Court Decision on the Communications Decency Act*, by (name redacted), CRS Report 97-660, 4 p.

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