

## Overseeing the Digital Migration: The Triennial Review Example

Brent M. Olson  
Deputy Chief, Competition Policy Division  
Wireline Competition Bureau  
Federal Communications Commission



November 6, 2003

Global Forum 2003, Rome, Italy

1

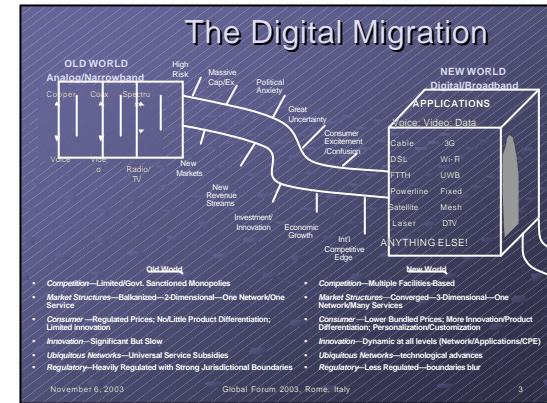
## Purpose of Presentation

- To describe the FCC's recent Triennial Review proceeding in the context of the ongoing Digital Migration.

November 6, 2003

Global Forum 2003, Rome, Italy

2



## Pre-1996 Act Landscape (post 1984 break-up of AT&T)

- Primarily two types of telecommunications companies in the U.S.
  - Local monopoly telephone companies
  - Long distance companies
- By law, local companies not allowed to offer long distance, but given exclusive franchises to provide local service

November 6, 2003

Global Forum 2003, Rome, Italy

4

## Post-1996 Act landscape

- All telecommunications markets opened to all carriers
  - Note that largest local companies, the BOCs, required and, in all but one pending instance, have received FCC approval before offering in-region long distance
- Special rules for local markets
  - Local carriers required to open their networks at cost-based rates – unbundling
  - Unbundling predicated, at a minimum, on whether competitors would be “impaired” without access to that network element.

November 6, 2003

Global Forum 2003, Rome, Italy

5

## Federal/State Jurisdiction

- Regulation of telecommunications companies shared between federal government and state governments
  - Traditionally, states have jurisdiction over “intrastate” communications -- communications that do not cross state boundaries and federal government has jurisdiction over “interstate” communications
  - 1996 Act gave both federal and state governments authority over unbundling and other competition provisions

November 6, 2003

Global Forum 2003, Rome, Italy

6

## Task of Triennial Review

- To adopt comprehensive network unbundling rules that also respond to court remands and outstanding petitions.
  - 1996 – Commission adopts first set of unbundling rules, overturned by Supreme Court.
  - 1999 – Commission adopts second set of unbundling rules, overturned by appellate court.
  - 2001 – Commission initiates proceeding to undertake comprehensive review of unbundling rules. Proceeding sweeps in court remand as well over two dozen various petitions filed by individual parties requesting changes to specific rules.

November 6, 2003

Global Forum 2003, Rome, Italy

7

## Scope of Triennial Review

- Debate focused on access to three major elements
  - Loops – the transmission facilities between an end user customer premises and the central office where switching and other routing equipment is generally housed.
  - Transport – the transmission facilities that connect central offices and send traffic through the network.
  - Switching – the equipment that assigns circuits and routes telephone calls.
- Other elements of lesser contention include OSS (operations support systems), signaling networks, call-related databases

November 6, 2003

Global Forum 2003, Rome, Italy

8

## Main stakeholders and their positions

- Incumbent local telephone companies
  - Sought limited unbundling rules
    - Copper loop only, limited access to high capacity loops and no access to broadband.
    - Lower capacity transport only in limited markets.
    - No unbundled access to switching functionality.
- Competitors
  - Sought extensive unbundling rules
    - All loops regardless of capacity or technology.
    - All transport links regardless of capacity – only removed when fully functioning wholesale market on a particular route
    - Unbundled access to both circuit and packet switching
- Equipment Vendors (High-Tech Broadband Coalition)
  - No unbundling of new broadband investment – FTTH and packet switching.

November 6, 2003

Global Forum 2003, Rome, Italy

9

## The FCC's Decision

- Loops
  - Unbundling distinctions based on loop technology.
  - Generally, loops using legacy technology, copper loops and hybrid fiber/copper loops using legacy TDM (time division multiplexing) technology, are unbundled while loops using newer technology, FTTH and hybrid fiber/copper loops using new packet-based technology, not unbundled.
  - For high capacity loops using TDM technology (known as DS1s and DS3s), states asked to determine whether competitive alternatives exist or could exist on a location-by-location basis.

November 6, 2003

Global Forum 2003, Rome, Italy

10

## The FCC's Decision (cont')

- Interoffice Transport
  - No unbundling of the highest capacity transport, i.e., transport using optical transmission (OCn).
  - States asked to determine, subject to specific FCC guidance, whether competitive alternatives exist or could exist on a route-by-route basis for lower capacity transport (DS1s and DS3s).

November 6, 2003

Global Forum 2003, Rome, Italy

11

## The FCC's Decision (cont')

- Switching
  - Generally no unbundling for customer connections of DS1 capacity and above.
  - For lower capacity connections, states, subject to specific FCC guidance, asked to define market areas and determine whether competitive switching alternatives are or could be available in those markets.
  - Only circuit switching unbundled, no unbundling of packet switching.

November 6, 2003

Global Forum 2003, Rome, Italy

12

## Major Themes Underlying Decision

- Granularity – places new emphasis on line drawing through use of markets and more specific identification of facilities. Reliance on state investigation and analysis.
- Marketplace realities – places primary reliance on marketplace facts, but not to the exclusion of marketplace potentialities.
- Investment incentives – makes distinctions between legacy network elements and network elements requiring new investment, notably broadband-related investment.
- Intermodal alternatives – all potential competitors and competitive platforms, not just telephone-specific platforms, factored into unbundling analysis.

November 6, 2003

Global Forum 2003, Rome, Italy

13

## Conclusion

- Triennial Review is only one of many examples of the FCC's ongoing attempt to adapt its regulatory regime in the face of the Digital Migration.
- Many other examples, including:
  - Regulatory classification and treatment of broadband services
  - Treatment of Voice over Internet Protocol (VoIP)
  - Intercarrier Compensation

November 6, 2003

Global Forum 2003, Rome, Italy

14