



October 20th, 2005

Dear Congressmen Barton, Upton, Markey, Dingell, Senators Lautenberg, Mc Cain, Inouye, Stevens, DeWine, Kohl, FCC Commissioners Martin, Copps, Adelstein, Abernathy

RE: Request for Immediate Hearings and an Investigation Pertaining to the Previous Mergers of SBC and Verizon.

SBC = Southwestern Bell, Pacific Telesis, Ameritech and SNET
Verizon = Bell Atlantic, NYNEX and GTE

Right now SBC is asking for the right to buy AT&T, while Verizon is asking to buy MCI. Instead, investigate the previous mergers for their harms to America's broadband, competition and our economic health. Do not let two companies that already control 70% of America's communications be able to shut down the rest of America's Digital Future.

Did you know that under the previous mergers:

- **26 states' fiber optic deployments were closed down because of the SBC and Verizon mergers.** In every previous merger, SBC and Verizon closed down fiber optic deployments in over 26 states, impacting over 200 million American citizens, about 70% of the entire US population.
- **43 cities did not receive robust competition from SBC and Verizon.** Both companies were supposed to compete outside of their own regions with wireline competition as the basis for their last mergers. Virtually none of that competition ever materialized and today no Bell company is competing vigorously for wireline competition as committed. Ironically, every merger claimed it was opening the networks for competition, and yet the largest of competitors, AT&T and MCI, are now being sold off.

Overall:

- **\$500 Billion annually was lost.** New Networks Institute (NNI) estimates that this lack of 'true' broadband cost the US economy \$500 billion annually, about \$4 trillion since 1996. America lost an entire decade of technological innovation because the Bell companies did not fulfill their obligations. America's broadband is 1/50th the speed of other countries. –"True" broadband can handle high-quality video.
- **\$205 billion of overcharging.** We estimate that the Bell companies collected over \$205 billion in higher phone rates, including inflated Universal Service funding, and tax breaks for fiber optic networks the customers never received. That's over \$2000.00 a household and growing.



Let's put a few facts on the table. – **The Fiber Optic Scam.**

America is 12th to 16th in the world in broadband, (depending on which International group you believe) because two companies, Verizon and SBC, did not fulfill their obligations to build out the fiber optic networks as committed by state alternate deregulation plans. Instead, after the ink on the mergers was dry, they closed down over 26 state's fiber deployments and spent the excess profits overseas, or rolled out the companies' other products. The companies did not put the money in the ground.

86 million households should have had these fiber optic networks by 2005, with services that could deliver speeds of 45mps in both-directions, with the capability of 534 channels. And these networks were supposed to be OPEN to all competitors, not controlled by the contractor.

Let's take SBC-Pacific Telesis-Ameritech-SNET.

- **Pacific Telesis:** SBC merged with Pacific Telesis and then closed down fiber optic deployments to 5.5 million households in California, with a financial commitment of \$16 billion dollars, all by 2000.
- **Ameritech:** SBC purchased Ameritech then closed down deployments to 6 million households in five states, including Ohio, Illinois, Michigan, Wisconsin and Indiana -- \$29 billion was to be spent over 15 years, starting in 1994.
- **SNET:** SBC merged with SNET then closed down a \$4.5 billion "I-SNET" plan to rewire Connecticut.

In the mega-SBC, these companies were supposed to spend over \$33.6 billion, and have 11.5 million households wired with fiber to the home — By 2000. This was to replace the copper wiring with fiber optics to the home and office, school and library. This was NOT DSL over the existing copper wiring, at 50th of the speed.

And when the phone companies claim that they have millions of miles of fiber — Who cares? It is a highway with no on-and-off ramps. The fiber commitments were to the home and office, school and library, not somewhere in the network ether.

The fact is that state laws were 'deregulated' to give the phone companies billions of dollars per state to pay for these network upgrades. The companies made both state commitments with the Public Utility Commissions, as well as with the public through commercial speech commitments to deploy these networks. Hundreds of millions of dollars was spent to get agreements in the majority of US states and convince the public that they would bring a fiber optic future by the year 2000.

And then we have Verizon — NYNEX, Bell Atlantic and GTE. Verizon was supposed to spend \$15.6 billion and have 17,750,000 households wired with fiber by 2000. Verizon



also went state to state to change the laws, and was given multiple billions per state in the form of higher phone rates and tax write-offs. The company never fulfilled any of its fiber optic services that were promised in the states, such as New Jersey, Pennsylvania or Massachusetts, not to mention the GTE territories. After each merger, all of the fiber optic plans were simply canceled or written-off. They never spent the money on new construction and the public never received the services promised. For example, by 2004, Pennsylvania Bell should have rewired 50% of the state with fiber in rural, suburban, and urban areas equally, with speed of 45mps in two directions. None of it was ever deployed.

NNI estimates that \$25-50 billion has been 'cross-subsidized', the phone company using local phone rate profits designated for fiber upgrades to pay for long distance entry, the inferior DSL or the companies' wireless services.

Gaming the Regulatory System: The Competition Con

In the original mergers, SBC and Verizon claimed they needed to get larger to compete 'out-of-their-own-region'. SBC claimed that it would compete out of region in 30 cities for wireline, residential services if the FCC allowed it to merge with Ameritech. SBC now owns wireline phone service for 13 states, including California and Texas. They promised to compete in other cities outside their own states and cities, including New York, Philadelphia, PA, Washington DC, Atlanta Georgia, etc. If they did not compete as stated in the 'merger' commitments, SBC was supposed to pay \$1.9 billion in damages.

According to SBC, the company completed some of its commitments by having **“at least 3 customers in 19 states”**! I repeat — only 3 customers in 19 states — 57 customers in 19 states.

“In total, SBC notified the FCC that it had installed in 2001 a local telephone exchange switching capacity and was providing facilities-based local exchange service to **at least three unaffiliated customers in the above listed seventeen markets**, five more than the required additional twelve markets to be deployed by April 8th, 2001. Additionally SBC because operations in the Charlotte and Louisville markets in November 2001, making a **total of nineteen new markets that SBC entered in 2001.**”

And the FCC agreed that this was OK — Please stop laughing. More to the point, the FCC stated that this merger condition would drive wireline competition.

"This will ensure that residential consumers and business customers outside of SBC/Ameritech's territory benefit from facilities-based competitive service by a major incumbent LEC. This condition effectively requires SBC and Ameritech to redeem their promise that their merger will form the basis for a new,



powerful, truly nationwide multi-purpose competitive telecommunications carrier. We also anticipate that this condition will stimulate competitive entry into the SBC/Ameritech region by the affected incumbent LECs."

Are 57 customers in 19 states a "new, powerful, nationwide carrier"? According to the New York State Public Service Commission, (9/21/05) this powerful company had only 3,700 lines in New York in 2005 and was not a "significant competitor in New York".

In fact, SBC never funded competition out of its regions and based on research, it is now clear that they took the money and entered the long distance market in their own region.

The previous merger conditions could not be enforced because the FCC has no will to hold companies accountable, and this directly harmed our Digital Future.

One Big Bad Bell — Where's the Out of Region Overlap? When SBC purchases AT&T and MCI is bought by Verizon, the most likely scenario is that every state loses 3 competitors. AT&T and MCI were driven out of the local phone markets by re-regulation of the local phone networks — they were opened in the Telecom Act and closed by the FCC, with the help of the courts.

SBC or Verizon will not waste time just selling long distance out of region, and the MCI and AT&T will only be sold within their own territories. They won't bother competing for residential business and so 3 competitors are lost — AT&T, MCI and the poor Bell company that won't compete with their sibling, the other Bell. These mergers just create one big bad Bell company since they won't overlap; they'll just reinforce their own territories.

The FIOS Feign. If history is our guide, SBC's Lightspeed and Verizon's FIOS are a ruse — after they get to merge, they will trash their out-of-region plans and their fiber optic networks. It's clear that they will NOT commit to any deployment or be held accountable. Remember that both companies announced IPTV, which is not yet a commercial product. Is it another "fiber plan" that doesn't get built? SBC's Lightspeed numbers are way overstated. Meanwhile, FIOS is a walled-in-network that is controlled by Verizon. It is not open to competition. In fact, Verizon is now claiming it can limit content as well. And it is inferior to what was promised in 1993.

The Muni Revolt — A Work-around the Failed Deployments. As Congress ponders the next iteration of the Telecom Act, it is also deciding the fate of the municipalities who want to rewire or Wifi their cities or towns. The Bell companies never delivered leaving the customers, or in this case the cities, to have to do work-arounds for the lack of broadband and proper infrastructure for economic growth. Ironically, the phone companies are now lobbying and taking legal actions to ban muni competition.



Death to Competition In every merger and in every state Alternate Regulation plan, the companies made commitments to open their networks to all forms of competition, from Internet Service Providers (ISPs) to Competitive Local Exchange Companies (CLECs). And yet, the FCC has erased and ignored these obligations. Over 6000 Internet Service Providers (ISPs) were essentially forced out of business, and the two largest competitors in the country, AT&T and MCI have been bought by the incumbents. Congress needs to investigate how competitive merger conditions turned into giving the phone companies exclusive rights to the “Public Switched Telephone Networks”. (PSTN). Need I remind Congress that the Bell companies should have also been competitors as well?

The Quadruple Play and Cross-Subsidization. Besides the destruction of competition, it is amazing that Congress would allow one company to put the entire long distance, ISP and competitive markets out of business by allowing the one company that controlled the wires to cross-subsidize its other business. According to Verizon, 60% of their customers now have two or more services— local, long distance, DSL and wireless. Much of that growth was subsidized with money earmarked for fiber network upgrades and the out of region competition.

AT&T and MCI's Big Mouth Will be Gone. Washington insiders know that the Bell companies have an extensive underground of astro-turf groups, heavily funded lobbyists, research firms and other groups who make sure that the Bell companies are represented. AT&T had its own groups, including Voices for Choices, and MCI also had its legal staff to defend the competitive side. Now, with these two major companies being muzzled, who will make sure there is balance to the Bell forces? Everyone else is under-financed and out-staffed.

A Glimpse at the Bells' Track Record: We've put together a collection of materials, and over the next two weeks we will be releasing more data on this topic.

- 43 cities/states that were supposed to have fiber optic deployments as told by the FCC 'video-dialtone' filings at the FCC. None of these were ever finished. And most projects by Verizon and SBC were simply shut down.
- <http://www.newnetworks.com/videodialtonedeployment.htm>
- SBC's IPTV Lies: Do the Math
- <http://teletruth.org/blog/?p=4>
- Pac Bell's Deployment Plan for California, as told by Pac Bell, 1994
- <http://www.newnetworks.com/cabroadbandpacbell.htm>
- California's Broadband Closure Timeline: SBC closed down California's fiber optic plans in 1997, San Diego Tribune.
- <http://www.newnetworks.com/californiabroadband.html>



- The actual deployment plan for New Jersey – 45mps, 100% deployed by 2010, from the Opportunity New Jersey Order, 1993.
- <http://www.newnetworks.com/OpportunityNewJerseyFiber.htm>
- Here's the story of New Jersey, as told by the Ratepayer Advocate, 1997
- <http://www.rpa.state.nj.us/onj.htm>
- A list of cities SBC claimed they would compete in. Source, SBC.
- <http://newnetworks.com/SBCfailedcities.html>
- Liar, Liar, SBC's Pants On Fire, Break up SBC-Ameritech
- <http://www.teletruth.org/TakeAction/Breakupsbcameritech/liarliar.htm>

Teletruth will be glad to provide Congress with more data on this topic, including our upcoming new releases. We ask Congress to do their homework and investigate our claims.

Yours Truly,

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