The Regulatory Jungle

An MFS Illustrated Guide

THE 1995 MFS ANNUAL REPORT

MFS

The International *Regulat*

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Telecommunications monopolism is toppling throughout the world. On every continent, in almost every country, competition either exists or is on the horizon.

The trend toward freer markets and a diversity of providers has blown east from the British Isles to continental Europe and beyond. Today, the Near East, the Far East and the Pacific Rim are, to varying degrees, enjoying an influx of new operators and providers offering distinctive services and innovative products. In the Americas, the telecommunications revolution raging throughout the United States has spread to both North America and South America.

The extent and intensity of the reform movement is different in every country. But in most places where competition has emerged, several generalizations seem to hold true. First, the collective forces of technology, entrepreneurism, creativity and customer demand are driving this movement to all corners of the globe, albeit at varying velocities. Second, introducing competition in a closed market is often a complicated process. Third, individual companies or entities cannot be guaranteed of success, even in markets where competition eventually takes hold. And, finally, those nations that attempt to resist the implacable force of competition will eventually face serious economic problems, as the global communications and information revolution passes them by.

Europe's Unique Regional Approach

The most fascinating regulatory environment today may exist in Europe, which now faces perhaps the most

1959 The FCC broadened its microwave licensing policy to include non-AT&T operators.

MCI

1963 Microwave Communications Inc. (MCI) filed an application with the FCC to offer specialized voice and data services over a microwave system it wanted to build between Chicago and St. Louis.

Revolution: A World of Change

demanding and distinct challenge in the world. With the creation of a union of countries willing to relinquish some sovereignty for a common good, notably, a free market, the European Union (EU) has shouldered the burden of crafting telecommunications regulation and reform on a continental basis, rather than nation-state by nation-state.

Under a framework established in 1988, the EU laid out policies for the privatization of government-owned postal, telegraph and telephone ("PTT") entities and the establishment in member states of independent national telecommunications regulatory bodies separate from the PTTs. Complete liberalization of telecommunications services in many EU countries is mandated to occur in 1998. And although certain countries—such as Greece, Ireland, Spain and Portugal—have been granted extensions, most countries have realized it is in their national interest to comply sooner rather than later with market liberalization. Thus, phased-in expansion of competition to almost all market sectors in EU member states, including wireless, enhanced, data and private voice services is underway.

Regulators in a number of European countries have undertaken reviews of their existing laws to determine whether they can be interpreted more liberally and expansively to permit additional services to be opened to competition, at least on a limited basis. In 1995, MFS was the first competitive carrier to be granted licenses to build telecommunications networks in France and Germany.

Complete or partial privatizations of PTTs have occurred in Denmark and Spain, and an initial public offering

1968 JUNE
The FCC's Carterfone decision spurred development of competitive telecom equipment industry by forcing the Bell System to allow non-Bell equipment to connect to the public network.

1969 AUGUST
In a 4–3 vote, the FCC approved MCI's microwave application.

of part of the stock of the German PTT, Deutsche Telekom, is scheduled for later this year.

In late February, the European Commission published schedules and goals for the complete liberalization of public telecommunications throughout the European Union.

A particular emphasis of the February directive was licensing of competitive service providers. Member states were directed to introduce licensing procedures only where necessary to ensure compliance with universal service concerns or essential requirements.

The net effect of the directive was to put member states on notice that by mid-1997, they would be expected to have informed the Commission of their plans to achieve total telecommunications liberalization, including such crucial issues as non-discriminatory telephone number availability and procedures for interconnection to PTT networks.

More detailed directives on interconnection, universal service and licensing are expected to follow, but the February directive clearly laid out the degree to which member states and incumbent companies will have to cooperate with independent providers interested in penetrating their markets.

United Kingdom in the Vanguard

Less than a week after the Commission directive, the United Kingdom's policy overseer, the Department of Trade and Industry (DTI), proposed to abolish its only remaining "duopoly." The DTI will allow operators to provide international service over their own facilities, rather than forcing them to buy and resell such services only from BT or Mercury, the United Kingdom entities protected by the duopoly.

The DTI expects applications for facilities-based international competition in May.

Because the United Kingdom is pursuing liberalization under the directive so quickly it should preserve its position as a favored hub for international telecommunications traffic. With full reform based on the directive inevitable, an early response will allow the United Kingdom to continue its economic development competition with other nearby markets that have made liberalized telecommunications policy a national priority. Specifically, Sweden and Finland have already widely liberalized their international services, and Denmark plans to do so. The United Kingdom must act to retain its place in the vanguard.

1971 MAY The FCC approved a flood of microwave applications, many filed by MCI, finding that competition was in the public interest.

1972 JANUARY MCI began to offer service on its Chicago to St. Louis microwave system.

Europe Outside the EU

Indeed, seeing the writing on the wall, many European countries that are not members of the European Union have begun to embrace telecommunications reform.

Non-EU member Switzerland, for example, announced competition would be authorized by 1998, on the same schedule as the EU. Denmark has adopted legislation allowing virtually full competition under interim rules as of July. And, Finland, which already has substantial competition in international as well as domestic services, will also liberalize ahead of the EU schedule.

These countries join their fellow Scandinavian nation, Sweden, which has long had the most open market in Europe from the regulatory perspective. With a national carrier that was not a typical PTT service provider and which never had a legally mandated monopoly, Sweden may well be the most liberal and regulation-free market in the world today. In fact, competition in wireless and other services began there even before Sweden had a general licensing regime and independent regulator. As a result, the market is fully open to competition in all domestic and international market segments.

Reform Roils the Americas

In the Americas outside the United States, some markets are opening up rather quickly, as proximity to the United States and its market liberalization has had much the same impact as the United Kingdom's and Sweden's activities have had on other countries in Europe.

In Canada, where all the carriers except one provincial telecommunications company have been privatized, there has been limited long-distance competition for some time. The independent regulator is now looking to

1974 NOVEMBER

U.S. Attorney General William Saxbe authorized the third Sherman Act antitrust lawsuit to be filed against AT&T.

1978

Execunet decisions by federal courts propelled competition in long-distance services by requiring the Bell System to allow competitors such as MCI and others to connect to the local telephone network.

. . . many South American countries have completely or partially privatized their national carriers, including Venezuela and Argentina.

adopt a framework to open local telephone service markets to competition. Cellular services are already competitive. The international services provider, Teleglobe, which holds a monopoly on all international services except to the United States, has operated primarily as a carrier's carrier—a company that offers its facilities to other carriers, but not directly to the public. The company has voluntarily offered to abandon its exclusive rights when its monopoly expires next year. A proceeding addressing the prospect of international services competition based on this event is imminent.

In Mexico, there is already competition in cellular services, and the former PTT, Telefonos de Mexico (Telmex), has been privatized. Telmex's exclusive long-distance concession expires in August 1996, and it is obligated to interconnect with the networks of competitors in January 1997. Legislation providing for competition has been enacted, and final regulations implementing the legislation and establishing an independent regulator are scheduled for adoption later this year.

In South America, several countries permit competition in cellular services, and a growing number of South American markets have competitive local and/or long-distance sectors—most notably Chile, which has competitive operators in all sectors. Colombia is scheduled to license two additional international service providers soon.

In addition, many South American countries have completely or partially privatized their national carriers, including Venezuela and Argentina. Brazil has adopted a constitutional amendment requiring privatization of its PTT, establishment of an independent regulator, and opening of the telecommunications market to competition.

Japan Takes the Lead in the Far East

In the Far East, the Japanese telecommunications market has been dominated in the international services sector by Kokusai Denshin Denwa (KDD), and by Nippon Telegraph & Telephone (NTT) in the domestic market. Both have been largely privatized. Japan has permitted some limited degree of competition to KDD and NTT for some years, particularly certain high-speed private lines, and there are two satellite service providers. While CATV operators in Japan are permitted to provide telephone service, none have yet done so.

Japanese regulators have recently announced proposed policy changes that may substantially change the level of competition, including plans to split NTT into several firms, allowing KDD and NTT to compete with each other and new entrants and raising the level of permitted foreign investment in Japanese carriers. Under terms of a controversial recent proposal, NTT would be split into two local telephone companies, NTT East and NTT West, and one

1980

The FCC's Computer II ruling deregulated customer premises equipment (CPE). AT&T could provide CPE only through a fully separate subsidiary and equipment offerings needed to be kept separate—unbundled—from local and long-distance service offerings.

1981 JANUARY 15

AT&T's trial began, presided over by U.S. District Judge Harold H. Greene.

long-distance company. Unlike the AT&T divestiture in the United States in 1984, the local companies will not enjoy service monopolies. Each would compete in the other's territory for both local and long-distance services and each local entity will also be able to offer CATV as well as international services. NTT Long Distance would offer cellular and international services.

Growing Momentum

The inexorable movement toward open competition is expected to accelerate as Europe approaches its 1998 deadline for complete liberalization and as more policy-makers throughout the world recognize that a highly developed telecommunications infrastructure is more important for their sustained economic growth than maintaining protected national PTT monopolies. Increasingly, it seems, the global trend toward regulatory reform has reached a critical mass, one that is emerging as a national imperative in country after country.

In the telecommunications industry, the power of the free market, coupled with the tremendous economic and social benefits of the communications revolution, has begun to transcend the limitations of national boundaries, as the worldwide need to exchange information and ideas continues to literally create its own marketplace.

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1982 JANUARY 8 AT&T and the Justice Department agreed to a settlement. The Bell System would be no more.

1982 AUGUST 24 U.S. District Court Judge Harold H. Greene signed the Modified Final Judgment (MFJ), settling the lawsuit the United States filed against AT&T. The MFJ was based on divestiture—AT&T cutting loose its local service operations.

A World of Change

Review of Other Changi

Europe, Japan and the Americas now represent the bulk of telecommunications service providers and users. But in the future, other fast-growing areas of the globe will experience increased needs as well, accompanying their rapid economic expansion. Already many of these nations have identified open and competitive telecommunications markets as a priority that must be addressed. Outlined below are brief profiles, country by country.

- ***Africa's*** **telecommunications development has lagged behind that of most other regions, but the governments of Namibia, Tanzania and Zambia have made telecommunications development a high priority. As a general matter, satellite and mobile services projects have been attracting much of the investment in African telecommunications.**
- ***Australia*** **will face a new environment when its duopoly expires in 1997. In the meantime, there has been limited competition supervised by an active independent regulator, which has overseen domestic service since 1991 and international service since 1992.**
- ***China,*** **in addition to pursuing multiple telecommunications infrastructure development projects, is proposing establishment of a second telecommunications carrier.**
- ***Hong Kong*** **has allowed wireless and wireline competition with Hong Kong Telephone in enhanced and other non-basic services, and additional competition from three competitive operators is expected to be permitted in the near term. An outstanding issue is whether traffic to the People's Republic of China will come under Hong Kong Telecom's domestic monopoly or whether it will be viewed as international service open to competition.**
- ***India*** **has recently awarded competitive cellular licenses, and it is currently auctioning the rights to provide competitive basic telephone services on a regional basis.**
- ***Indonesia*** **has sold a substantial minority interest in PT Telekom, and four joint venture operators have been authorized to build competitive regional networks and operate them for 15 years. Three cellular licenses have already been awarded, and up to three more wireless personal communications licenses may be issued soon.**
- ***Israel*** **is in the midst of a proceeding to select two additional carriers—whose ownership can be up to 74 percent non-Israeli—to compete with the PTT, Bezeq, which has been partially privatized. Cellular services competition to Bezeq has already been introduced.**

1984 JANUARY 1 D-Day for the Bell System. Divestiture takes effect.

1984 JANUARY 1 The largest corporate dismantling seen by the world took effect. AT&T divested the seven Regional Bell operating companies (RBOCs) and exited the local telephone business. The local companies were barred from most long-distance services.

Markets

- *Italy* has legislation pending which would liberalize telecommunications. Approval has already been won in one committee of the lower house of Parliament for language allowing television, radio and telecommunications networks to offer telephony services in competition with the government-owned monopoly, Telecom Italia. However, the legislative process may be lengthy. The full lower house must debate the measure and then the Senate must take it up. While pressure is mounting for liberalization, government reorganization and no clear-cut regulatory authority are likely to delay telecommunications reform. Competition does exist in wireless services.

- *Malaysia* has eight competitive operators offering a variety of local, international and wireless services.

- *New Zealand* has two international service providers, both of which, due to the absence of foreign ownership restrictions, have substantial investment by U.S. carriers. A "hands off" regulatory philosophy led to lengthy litigation over interconnection arrangements, but these issues were resolved favorably last year.

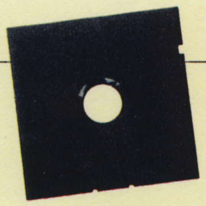
- *The Philippines* has five international gateway and 11 regional competitors already operating. A second national operator is expected soon.

- *Russia and other countries of the former Soviet Union* have seen a number of companies enter their markets to offer products—especially international satellite-based services—in competition to state-owned interests.

- *Singapore* has sold investors a minority interest in Singapore Telecom, which operates one of the world's most modern telecommunications networks and which is rapidly expanding its overseas ventures. Its monopoly may be partially diluted by 2002, if CATV operators are permitted to use their infrastructure for telephony.

- *South Africa* recently began a consultative process exploring infrastructure development, competition and privatization issues.

- *South Korea* is experiencing a facilities building boom, with an electric utility constructing a nationwide CATV infrastructure, which may be used for telephone service in two years. Additionally, the government has announced the opening of the market to competition by 1998, with privatization of Korea Telecom to be completed by 1999.



1986 JUNE

Two years after divestiture, the FCC threw out its Computer II separation subsidiary requirement. In Computer III, the FCC allowed non-structural safeguards, but ordered AT&T and the RBOCs to unbundle network elements.