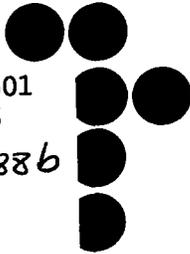


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FORUM

THE JUDGE, THE TELEPHONE INDUSTRY
AND THE FCC

March 3, 1988

Seminar Notes

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COMMUNICATIONS FORUM

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Kenneth Robinson
Policy Advisor to Assistant Secretary of Commerce
for Communications and Information
National Telecommunications and Information Administration (NTIA)
Department of Commerce

Dr. Rhonda J. Crane
Department of Public Affairs
AT&T

Thomas Cohen
Senior Counsel
Senate Commerce Committee

Prof. Russell Neuman, Moderator, MIT
Departments of Political Science and the Media Lab

Gail Kosloff, Student Rapporteur, MIT

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The focus of this Communications Forum session revolved around the impact of the restructuring of the telecommunications industry on the roles of those in government and in industry. The discussion quickly evolved into a debate about the state of "competition" in today's telecommunications industry, especially in regard to telecommunications equipment, e.g., CPE (customer premises equipment) and switches. It was interesting to note the absence of discussion about how trade in information services, perhaps as provided by deregulated BOCs (Bell Operating Companies), could help the U.S. trade situation to a greater extent than communications equipment trade.

Ken Robinson, an advisor to Assistant Secretary Alfred Sykes at NTIA (National Telecommunications and Information Administration) was quick to point out that his perspective on the U.S. telecommunications industry is shaped by trade concerns. According to Robinson, NTIA lobbied against the break-up of AT&T and lost. He believes that the current U.S. trade deficit situation in high-technology, telecommunications products is a serious one.

He reviewed the trade statistics regarding electronic-based technology. In summary, his information revealed that the U.S. has gone from a trade surplus of \$817 million in 1981 in telephone and telegraph equipment, to approximately a \$2.4 billion deficit last year. In the case of electronics-based products, we went from a \$6 billion surplus in 1981, to an estimated \$16 billion deficit in 1987. Robinson believes the current system is not working to produce domestic jobs and improve international trade.

According to Robinson, the Commerce Department has argued for changes in restrictions on the BOCs (Bell Operating Companies) and AT&T, as well as changes to rate of return regulation. NTIA believes that reducing government involvement in the communications sector would be beneficial to our overall economy. He noted that NTIA has been arguing for modifications to the Consent Decree since its inception. In general the administration accepts the Consent Decree limits on long distance, but wants changes with respect to manufacturing and information services. He believes that this regulation is a form of "cartel management" and it is, in fact, one of the most anticompetitive systems we have had in a long time.

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Robinson noted his opposition to the way Judge Greene has handled the whole matter. In Robinson's opinion, "the Judge has been representing a 'pro-regulatory' view that has been out of fashion since the early 1970s." In response to this situation, NTIA has petitioned the FCC to precipitate an appellate court review of Judge Greene's and the FCC's respective responsibilities.

The current "information services" restriction on the BOCs and AT&T have made it illegal for them to provide services competitive with those customers can get by buying terminal equipment. Robinson went on to further question the rationale of the FCC's Computer Inquiry III which was apparently intended to (1.) get the BOCs to make costly adaptations to their networks in order to allow more sophisticated transmission, and (2.) to maximize the level of competition in the industry and quickly disburse services to consumers. According to NTIA, the BOCs interest in speedily making such improvements to their respective networks may be questionable, if the courts do not allow them to market any consumer services.

One of NTIA's major concerns is that foreign trade issues in this area are being overlooked by the Judge as he now operates under a "public interest" standard. In summary, Robinson and NTIA believe that any constraints on the BOCs are not in the interest of U.S. trade policy. The weak U.S. dollar is, in fact, making it more attractive for foreign companies to manufacture in the U.S. According to Robinson these kinds of concerns should be considered seriously by Judge Greene in formulating and modifying telecommunications policy.

In advocating a "deregulatory" philosophy, Robinson believes that it can not hurt and might help to increase employment and improve the trade balance. He however realizes that several of the BOCs might not agree with NTIA's proposals.*

Thomas Cohen, the Senior Counsel for the Telecommunications Senate Commerce Committee, referred to Ken Robinson as an "eloquent proponent of the BOCs" as Cohen also voiced his disillusionment with Judge Greene's regulatory approach. Cohen's main concern is with how we can strike a balance between the various interests of government entities and industry.

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In addressing the trade deficit issues raised by Ken Robinson, Tom Cohen believes the BOCs would have trouble entering much of the equipment market if allowed given their lack of manufacturing experience. He noted that CPE is largely manufactured off-shore, following the trend in consumer electronics manufacturing. He also noted that Congress is afraid that if the BOCs entered the switch market they would become involved in joint ventures with foreign companies and this would not help the U.S. trade deficit. Finally, Cohen stated that the Commerce Committee heard testimony that if the BOCs are not restricted in their equipment purchasing they would naturally purchase from themselves and put the little guys out of business.

Cohen does not believe the BOCs have any expertise in the "information services" market. He believes their expertise is in transmission, not marketing. Cohen also expressed concern with the BOCs potentially becoming involved with joint ventures in the area of information services. It is his fear that certain BOCs could lock up transmission markets to the exclusion of other players. In this same vein, Trintex has already struck a deal with Hayes to develop a cheap modem to appeal to the demands of consumers, e.g. ease of use. He raises the question of whether it would be healthy for the industry if companies were allowed to lock-up certain product/service features.

Dr. Rhonda Crane, who works in the Public Affairs Department of AT&T, started off her discussion of the Consent Decree by alluding to all the companies with which AT&T has been recently alligned. Virtually the entire telecommunications industry, except the RBOCs, support Judge Greene's core restrictions in the Consent Decree. However, barely three years after the Consent Decree was signed, the RBOCs quickly began a massive PR campaign to be released from these restrictions. She noted that even Peter Huber, a consultant to the Justice Department, found that approximately only one in a million users can bypass the local telephone companies. The BOCs, she emphasized, "still have control of the bottleneck."

Crane questioned Ken Robinson's explanations for the U.S. trade deficits, especially in the area of telecommunications. In her opinion, the real problem is that we do not have access to foreign markets. Specifically, she cited the European PTTs restrictive policies which do not allow U.S. companies to market

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many services and equipment. She believes the real issue is "access" abroad and not U.S. telecommunications industry regulation. Dr. Crane is positive about the current Consent Decree since it has given the industry needed structure.

Rhonda Crane believes that if the BOCs are allowed to get into manufacturing, they will likely form partnerships with foreign companies, e.g., Siemens, Ericsson, which would allow these companies to have improved access to U.S. markets and may cause a loss of jobs in the U.S. This is contrast to NTIA's stance. Crane also voiced disagreement with Robinson's characterization of Judge Greene as "pro-regulatory." Furthermore, she believes the FCC is just not capable of formulating and enforcing restrictions and safeguards on the BOCs. For example, even with the core restrictions, a recent NARUC study revealed enormous cross-subsidization abuses by the BOCs.

In summary, Crane is afraid that relaxing current restrictions on the BOCs and accepting the notion of unrestricted "competition" may cause several companies to go out of business. Companies in the alarm industry or automated meter reading, for example, would be particularly vulnerable from BOC competition. Again, she is not opposed to the notion of "competition, but believes we should be sensitive to encouraging competition on a level playing field in each market.

The Minitel experience also came up in the course of the session. Ken Robinson cited that Judge Greene appears to be "obsessed" with Minitel and therefore will in the long run likely allow the BOCs to offer similar services. Rhonda Crane voiced scepticism about how well Minitel is actually doing in France and how such a system would succeed in the U.S. She related that the French learned a very important lesson from their experience with color TV technology that they were able to use in the Minitel case, namely that you need terminals in place to have the technology succeed. Thus, the French subsidized the dissemination of terminals to make Minitel accessible. "But who," she asked, "will subsidize terminals in the U.S. ? The rate payers, who may or may not want to receive such

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services ?" Dr. Crane noted that in France the question of subsidization is critical to the "success" of Minitel, even though 86% of the population still do not have access to it, and those that do are in the Paris environs.

*For additional information on NTIA's position Ken Robinson suggests you refer to U.S. government publication #87-19 and #87-222.