

## **“Competition and the United States Example”**

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First, I want to thank you for inviting me to participate in today’s discussion on the experience of the United States in its creation of a competitive telecommunications sector. It is indeed an honor to be asked to speak to you and share some of the lessons we have learned in the United States in this area. I look forward to your insights on how these experiences compare to the current process that is on-going in Egypt. I believe that we have much to learn from one another.

I thought it might be helpful to first provide you with a brief history of our market liberalization process. Specifically, I would like to start by focusing on how the United States long distance telephone market evolved from its monopoly world to the competitive market that exists today.

The U.S. long distance market, like most telecommunications markets around the globe in the early 1900s was premised on the theory that it made economic sense to have a monopoly provider of telecommunications services. Accordingly, in 1934, when the FCC was created by Congress it was assumed that AT&T, a private company, would be the sole U.S. provider of both local and long distance services.

Time passed and technology evolved. Finally new competitors challenged the FCC to change the monopoly system that was in effect. Initially, the FCC was very hesitant about any form of market liberalization. In fact, the FCC even found it illegal to attach to the handset of a wireline phone a small device – called a hush-a-phone – which would simply allow a caller to speak directly into a handset without being heard by those in the same room on the ground of harm to the network. Ultimately, this FCC decision was overturned by the courts opening the first crack in the door to competition.

The next change came about as microwave technologies became more promising. And more specifically, private entities sought authorization from the FCC to use microwaves to create their own private networks. The FCC hesitantly acquiesced. Overtime, companies began to recognize that they could move beyond the private networks and use microwave technology to provide service to the general public. This of course required interconnection with the public switched network. A long fought battle at the FCC (and the courts) first led to the opening of the long distance market for microwave uses.

Now that the door to competition was open, there was no closing it. Soon companies challenged AT&T’s monopoly at the FCC. When the Commission refused to

open the market, the U.S. Department of Justice, our anti-trust regulator became involved. The Department of Justice believed that AT&T's monopoly was a violation of U.S. anti-trust law. After a long fought court battle, the United States finally opened the long distance industry to competition while simultaneously maintaining the monopoly for local services.

This court decision dramatically changed the regulatory structure for basic telephony services. For the first time, the FCC was faced with a competitive mandate for the long distance industry. The Commission recognized that in order to ensure that competition would develop we would need a new regulatory regime; one that would enable new long distance companies to successfully enter and compete against the incumbent service provider, AT&T.

How to do this? We created regulatory safeguards primarily aimed at guarding against abuse by the dominant incumbent carrier. In order to protect new entrants or "non-dominant carriers" from potential anti-competitive actions by the incumbent dominant carrier, the FCC imposed certain requirements such as equal access to ensure that competitors have the same access to local networks as AT&T, the requirement for cost-based interconnection, accounting safeguards to guard against illegal cross-subsidization, and rate regulation. Thus began the start of many good years for lawyers.

Non-dominant carriers, on the other hand, were subject to more streamlined regulations – including no rate regulation, shorter tariff notice periods and no cost support requirement, and reduced accounting and reporting requirements.

As the U.S. long distance market was being liberalized, the FCC also began to examine the market for a range of new non-facilities-based services, such as facsimile and computer-based services. As early as 1966, the FCC recognized that such services should not be subject to the same stringent regulations as common carrier services since there were no dominant incumbent providers of such services. Instead, the FCC crafted a new category of services called enhanced services, which today remain largely unregulated by the FCC, except for some safeguards implemented to protect against cross-subsidization of these services by the dominant service providers.

And finally, in the mid-1990s, based on the Telecommunications Act of 1996, the FCC moved to open competition in the local telephone markets. Technological advances once again led us to believe that competition could some day reduce the need for regulation. In opening our local markets to competition, our legislature and the FCC have found it important to rely on several regulatory safeguards, most notably: 1) non-discriminatory and cost-based interconnection; 2) non-dominant carrier safeguards; and 3) unbundling of network elements, such as local loops. These are challenging policies to implement, so not surprisingly the FCC has found that occasionally it must initiate enforcement proceedings to ensure that incumbent carriers are in compliance with our implementing regulations.

Let me give you a snap shot of what our market looks like today in all sectors, not just long distance. Prices for wireless and long distance telephone service have fallen dramatically over the past ten years as a direct result of competition. Long distance prices (international and domestic), for example, dropped by 84% in real terms in the 20 years following the break up of AT&T. International calls that cost an average of \$1.01/minutes in 1992 had fallen to an average of \$.35 by 2001 and are even lower today as a result of competition. And remember, new technology also drove down the costs of providing service.

There is no doubt that achieving competition in the local market is our greatest challenge, but we are making strides daily. By the end of last year, competitive local exchange carriers (CLECs) accounted for 24.8 million switched access lines which were 13.2% of all switched access lines. That was 26% more than a year earlier. In the medium and large business segment of the market, CLECs had more than 22% of all switched access lines. And, this does not even include the substitution that we've seen by subscribers dropping their fixed network telephones altogether in favor of their mobile phones.

And I always come back to remind myself – why are we doing this? We are doing this to ensure that consumers have a choice of innovative telecommunications services at affordable prices.

Despite the recent economic downturn that negatively affected the telecommunications sector, I believe that the United States regulatory model has been largely successful for three main reasons. First, the FCC has appropriately stepped in to regulate where there are structural barriers to competition. Second, the FCC has demonstrated its commitment to a transparent process by adopting clear rules and vigorously enforcing them. Finally, we have come to appreciate the importance of educating consumers about regulations so they can make intelligent choices about their telecommunications services. I would now like to take a few minutes to talk about each component of the regulatory framework.

First: clear rules and strict enforcement. I firmly believe that it is necessary for regulators to intervene if structural barriers impede the development of competition. Accordingly, as markets transition from a monopoly to a competitive model, it is important for the regulators to craft narrowly tailored regulations aimed at curtailing the anti-competitive behavior of incumbents. Let me provide you with an example. To achieve competition in the local wireline telephony market the FCC intervened because the incumbent local exchange carriers' had control of essential network facilities, and their natural business incentive was to resist making those facilities available to competitors. This sharing of the network is required where there is economic impairment. The key to implementing such an approach is to preserve a delicate balance that allows competition to flourish while also maintaining incentives for carriers to invest in facilities.

But it is also important for regulators to continually reexamine these rules to ensure that they are still relevant. There is a tendency for regulators to expand and defend their turf, even after the narrow justification for regulatory intervention in the marketplace has long since disappeared. Accordingly, while I believe that regulatory safeguards are key to ensuring that competition can take hold in a market, overtime, the rules must be continually evaluated to ensure that they are still appropriate for the market.

Strict enforcement is also essential for any regulatory regime to be successful. Based on personal experience, I know that the U.S. regulatory model has only been successful when the FCC has enforced its rules vigorously. Failure to enforce rules sends the inappropriate signal that companies may engage in anticompetitive behavior or other unlawful conduct with impunity.

I also find strict enforcement of narrowly tailored rules to be more effective than broad prescriptive rules, which prohibit whole categories of conduct, only some of which may be problematic. By relying more on enforcement mechanisms, the FCC can tailor its intervention to particular circumstances, thereby allowing markets to operate with minimal regulatory distortion.

There is clearly some tension between the goals of streamlining our rules and strengthening our reliance on enforcement mechanisms: While refraining from micromanaging carriers has the advantage of making our rules simpler and more concise, the absence of detail can create gray areas that may sometimes make enforcement appear unfair.

Regulators can resolve this tension in large part by crafting our rules with enforcement in mind. If we commit to strict enforcement of all of our rules, I believe we as regulators will end up adopting very complex rules only when doing so is absolutely necessary.

It is also important for regulators to be humble about what they know and can achieve. We need to recognize that we cannot possibly duplicate the vast knowledge base of the industry we regulate. The communications industry is perhaps the most technologically advanced sector of our economy. Regulators cannot keep up with the myriad developments and innovations by the thousands of communications providers. For example, we cannot know all the latest research on advances in next-generation digital loop carrier systems or optical switching. But we *can* put structures in place that maximize the information available to the agency in charting its regulatory course.

Regulators need to reach out as broadly as possible to improve the flow of information *into* the Agency. We as regulators need to reach out to consumers, licensees, trade associations, and yes, even lawyers. Regulators also should look at improving their process in order to speed the flow of information *out of* the regulatory body, in order to maximize the transparency of our decision making. For example, at the FCC we make sure to post all of our decisions on a real-time basis on our website.

This brings me to my last point: the importance of educating consumers. Today, with so many service and technology choices, consumers can be overwhelmed and under informed. Thus, in order for customers to understand what choices are available and

what practices are legitimate, I believe that the role of the regulator—and also industry—is to ensure that consumers have access to the information they need. Education is essential to our ability to regulate in the public interest because only with knowledge can consumers make informed decisions. Therefore, the FCC has engaged in consumer education initiatives including issuing newsletters explaining the affect of our rules on consumers, meeting with various interested parties, to ensure that there views are taken into account as we formulate our rules, and similar endeavors.

There are some many interesting ins and outs of the United States regulatory regime that I wish I had more time to share them all with you. However, at the end of the day, I believe that the principles we discussed today are all critical to the creation of a successful competitive telecommunications marketplace. These are:

- 1) Crafting transparent regulations to address structural barriers to competition
- 2) The need to vigorously enforce regulations
- 3) and the importance of transparency and consumer information.

If we as regulators can incorporate these principles into our regulatory regimes, we will be in the best position to bring the benefits of competition to consumers.

I appreciate the attention you have provided me with and I look forward to any questions you may have.