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Supreme Court Case Looms Large For Bells

Outcome In Verizon v. Trinko Could Stunt RBOCs' Markets

The **U.S. Supreme Court**, at press time, was poised to begin hearing oral arguments in *Verizon v. Trinko*, a case that has the potential to radically alter the course of local telephone competition in America. In the words of one analyst who spoke with *Telecom Policy Report,* the Trinko case "addresses whether the existence of the Telecom Act of 1996 means the Bell companies enjoy antitrust immunity." The breakup of **AT&T** came soon after the Supreme Court decided against the Bell System claims of antitrust immunity in 1978 in a case very similar to the Trinko case.

The Bell companies have revived many of the techniques that AT&T used during the 1970s and 1980s when it was trying to defend and expand its monopoly, telecom policy analyst and author Daniel Berninger said. "In particular, the Bell companies claim, as AT&T did, that pervasive regulation and pricing established through the tariff process makes them immune to antitrust complaints. The current business landscape parallels nearly exactly the *(continued on next page)*

How Verizon's Market Capitalization Stacks Up Against Its Closest Facilities-Based Competitors (Measured In Billions)

Verizon	$89,165,815
SBC Communications	$72,952,682
BellSouth Corp.	$44,798,451
BCE Inc.	$20,163,350
Alltel Corp.	$15,341,360
Qwest Communications	$5,970,120
CenturyTel Inc.	$5,137,561
Citizens Communications	$3,237,869
Time Warner Telecom	$1,335,504
Cincinnati Bell	$1,169,260

Source: NYSE

Note: Market capitalization figures shown here were current as of close of business Oct. 13, 2003.

Administration Said To Pressure FCC On Global Crossing

Pentagon Officials Remain Concerned About National Security Issues

Purportedly under pressure from the Bush Administration, the FCC last week approved the transfer of various authorizations and licenses held by bankrupt **Global Crossing** to **GC Acquisition Ltd.** (New GX), a "temporary" business entity put in place last year to facilitate Global Crossing's reorganization. The FCC's decision last week, in reality, turns Global Crossing's licenses over to a foreign carrier, **Singapore Technologies Telemedia Pte. Ltd.** (STT), a decision that has stirred emotions and concerns among some officials within the U.S. Defense Department (DOD), sources tell *TPR.*

Citing actions "consistent with established [FCC] precedent," the commission Oct. 8 issued a joint decision from its Wireless Telecommunications Bureau and the Wireline Competition Bureau granting transfer of Global Crossing's licenses to the foreign company, which is – as its name suggests – based in Singapore. The federal regulator said approval of the transfer was in the public interest. However, sources at the Pentagon and elsewhere tell *TPR* that the FCC's action may be anything but that.

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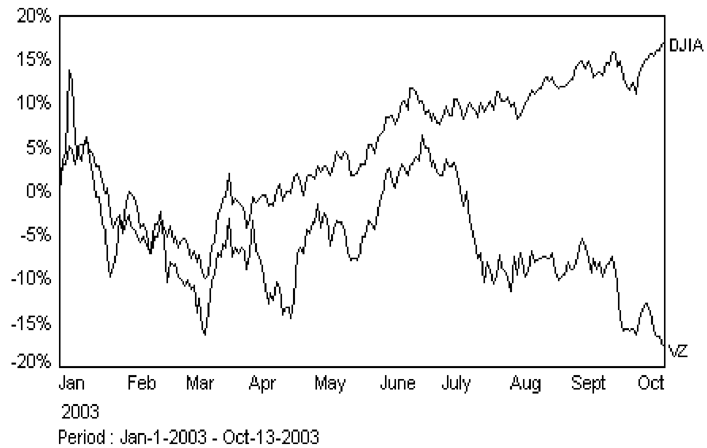
How Verizon's YTD Performance Compares To The Dow Jones Industrial Average YTD Performance



Source: NYSE

Note: Verizon's (VZ) year-to-date stock performance has seen nearly a 20 percent decline in value since the beginning of the year. By comparison, the Dow Jones Industrial Average (DJIA) has seen about a 15 percent increase in value during the same period.

same business conditions that gave rise to antitrust complaints and the breakup of AT&T in the '70s and '80s," Berninger said. Berninger is the author of *Broken Trust: Rise & Fall of the Bell System.*

If the Bell companies are to survive as lucrative telco monopolies, they need to win the Trinko case and a number of other similar lawsuits. If the Trinko case goes badly for Verizon, the decision could open a floodgate of litigation brought against the three other Bells by ordinary citizens alleging antitrust violations. Despite what many of their critics say, the Bells do not need, nor want, more litigation. They already have their hands full trying to stave off the effects posed by competitors who are steadily chipping away at their respective markets. More costly litigation could exacerbate what is already a downward financial trend for the Bells, turning it into an outright tailspin. This is especially true for Verizon, the best performer of the four Bells *(see chart above and on page 1).*

The Trinko case has its roots in a complaint originally filed in late 2000 by a New York law firm against what was then **Bell Atlantic** – now known as **Verizon Communications**. In a nutshell, the law firm, **Curtis V. Trinko LLP,** alleges that Verizon engaged in anti-competitive conduct that resulted in the Trinko law firm receiving poor telephone service.

Since its beginning, the Trinko case has undergone some interesting twists and turns. In May 2001, the **U.S. Court of Appeals for the 2nd Circuit** reversed part of a lower court's ruling that had dismissed the case on grounds that Trinko, as a "customer of a customer," did not have the right to bring an antitrust action against Bell Atlantic, the incumbent telco. Trinko's local service provider was AT&T. It was AT&T who was Verizon's customer, the lower court said. The appeals court disagreed, saying that Sections 206 and 207 of the Communications Act "makes parties who violate [the Act] liable to parties they injure through such violations" regardless of whether they are direct customers of Verizon or customers of Verizon's network resellers – in this case, AT&T. Verizon eventually settled the claim that AT&T brought against the Baby Bell. But Trinko – the firm purportedly was without telephone service for some weeks while AT&T and Verizon worked out their differences – decided to bring its own action against Verizon.

In many ways, the Trinko case parallels what was happening in the marketplace shortly before AT&T's divestiture of the Bell System.

"AT&T spent $360 million to protect its monopoly, and the Bell companies could afford to do the same," Berninger said. "But, ultimately, the courts forced a settlement that broke up AT&T and unleashed dramatic growth in telecommunications … and made the birth of the commercial Internet possible."

Roy Katriel, an antitrust lawyer based in Washington, D.C., who represents consumers, told *TPR* that a particular focus of the case – and what is being brought before the High Court – is the overlap of two separate pieces of legislation – the Sherman Act and the 1996 Telecommunications Act. "A question that arises in the Trinko case is whether there was a violation of the 1996 Telecom Act – that is whether Verizon made a good faith effort to open its network to competition. And if there was a violation of the Act, might it also have been a violation of the Sherman Act, the federal antitrust law?" Katriel asked rhetorically.

In essence, the Telecom Act established the ground rules for some new markets, in particular the market for wholesale provision of telecommunications services, offered Chris Savage, a telecom lawyer with **Cole, Raywid, & Braverman**. "The question is whether given the existence of new markets, if a company like Verizon violates the Telecom Act's ground rules in order to maintain its monopoly, is that also an antitrust violation? The Trinko folks say yes, because they view that sort of market behavior as flawed and anti-competitive. The defendants say this new market in wholesale telecommunications is entirely a creature of regulation. Therefore, misbehavior in that market might amount to a violation of the regulation, but it can't amount to an independent antitrust violation."

The Trinko case is important in that a decision favorable to the plaintiff might have the further effect of eroding an argument stemming from a previous court decision that found Bell companies are not subject to antitrust claims relative to services they provide to their competitors.

In *Goldwasser v. Ameritech,* a 1997 consumer class action lawsuit, the court said claims of anti-competitive behavior emanating from competitors' complaints about the Bells fall under the jurisdiction of the FCC, not the Sherman Act.

In the Trinko case, the complaint comes from a customer of AT&T, not a competitor of the Bells. The denial of telephone service to the Trinko law firm, the plaintiff alleges, was not a result of anything that AT&T did. Rather, it was a direct result of Verizon's refusal to open its network to competition – as required by the Telecom Act. That refusal, the plaintiff alleges, amounts to anti-competitive behavior in an effort to force a competitor out of the marketplace – which is a violation of the Sherman Act.

The High Court will take its time in sorting through the myriad issues Trinko raises. In fact, the experts *TPR* spoke with say it is unlikely the justices will rule before next spring. "In general, the further along cases like this move, the worse news it is for the Bells," Berninger said. "The reason for that is because of the discovery process."

In "discovery," the parties in a lawsuit collect relevant information and documents from each other in an attempt to "discover" pertinent facts. Generally speaking, discovery devices include depositions, interrogatories, requests for admissions, document production requests and requests for inspection. *(Continued next page)*

Verizon v. Trinko: The Supreme Court Case At A Glance

Title: Verizon v. Trinko, LLP
Docket: 02-682
Events: Argued - October 14, 2003
Facts: Curtis Trinko was an AT&T customer but received service on lines owned by Verizon, which AT&T was permitted to use for a fee under the anti-monopoly 1996 Telecommunications Act. Trinko claimed that Verizon discriminated against AT&T customers by providing them worse service than it provided to its own customers. He claimed that this violated both the Telecommunications Act and the Sherman Anti-Trust Act of 1890, which prohibits monopolies from aggressively defending their monopoly position in the market. A federal district court ruled that Trinko had no grounds to sue because he was not a direct customer of Verizon. A 2nd Circuit Court of Appeals panel, however, reinstated the charges leveled under the Sherman Act.
Question Presented: Did Verizon's actions constitute aggressive monopolistic practices prohibited by the Sherman Anti-Trust Act of 1890, or were they merely a permissible form of non-cooperation?

Source: U.S. Supreme Court

As Berninger points out, more often than not, the discovery process in cases like Trinko usually turns up clear evidence of anti-competitive behavior by the Bells.

Even so, an *amici curiae* (i.e., friend of the court) brief filed with the Supreme Court by the **Federal Trade Commission** notes that the federal appeals court decision in the Trinko case "dramatically expands antitrust liability for failure to assist rivals." In the FTC's view, the decision conflicts with the decisions of other courts of appeals, including *Goldwasser* v. *Ameritech.* "The Second Circuit's decision is erroneous," the FTC's lawyers told the High Court, "and it will have significant practical consequences, particularly for the telecommunications industry as it adapts to the fundamental regulatory changes wrought by the Telecommunications Act of 1996."

The conservative-leaning, free market oriented **Washington Legal Foundation** (WLF) also filed an amicus brief with the court, urging it to overturn the appeals court decision that would otherwise "open new frontiers of antitrust liability for successful enterprises." WLF argued that the "far-reaching antitrust theories upheld by the appeals court … are based on misinterpretations of the Supreme Court's antitrust cases." The appeals court ruled that "a monopolist has a duty to provide competitors with reasonable access to 'essential facilities,'" which it defined as "facilities under the monopolist's control and without which one cannot effectively compete in a given market." WLF noted that this "essential facilities" theory has never been recognized by the Supreme Court, and that its use by lower courts has been widely criticized.

ECONOMICS & POLICY

Economist Blasts FCC For Anti-Competitive Policies

The FCC has lost its faith that the success of competition in long distance can be replicated in local voice telecommunications as well as in broadband Internet service. Even worse, the commission seems to have forgotten that Congress, through the 1996 Telecom Act, directed the commission to encourage competition. Unfortunately, the FCC seems to be doing exactly the opposite, according to Nicholas Economides, a noted professor of economics at New York University's Leonard N. Stern School of Business.

> "It is truly ironic that when the European Union as well as a large number of countries around the world have fully subscribed to the competitive vision of telecommunications as first understood, tried, and proved successful in the U.S., the federal U.S. regulator is abandoning it."
>
> *Nicholas Economides*
> *Professor of Economics*
> *NYU Stern School of Business*

Economides is a recognized expert on antitrust and regulatory matters in telecommunications and other network industries. He is one of a growing number of economists in U.S. academic circles and elsewhere who have begun to sharply criticize the FCC's most recent policymaking initiatives.

Economides told *TPR* that the commission's decision on broadband last February as well as the agency's general approach to telecommunications suggests that the FCC simply "disregards the importance of fostering competition in local telecommunications, as well as the benefits that competition will bring."

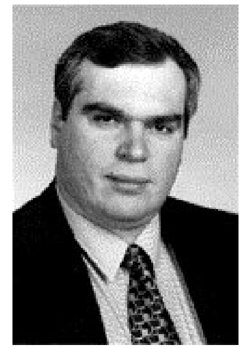
The professor was referring to the FCC's Feb. 20 decision in the Triennial Review Order. That decision, among other things, allows the Bell companies and other incumbent local exchange carriers (ILECs) to exclude their technologically enhanced high-speed networks from the list of so-called unbundled network elements (UNEs) they are otherwise required to offer new entrant competitors at legally mandated wholesale rates.

Economides contends that the results of the FCC's "loss of faith in competition" are likely to be highly detrimental to the U.S. economy.

"Consumers have benefited and will continue to benefit from the opening of the local telecommunications network to the tune of tens of billions of dollars," he said. "But changes contemplated by the FCC in the network access rules or the methodology of cost calculation can easily wipe out these benefits. Even a tiny reduction in the growth of the U.S. economy precipitated by a slowing of the growth of the Internet as a result of the [TRO] decision will result in additional tens of billions of losses."

In Economides' view, the telecom industry has been blessed by significant technological changes and innovation that have cut costs dramatically. These innovations have driven down costs of essential inputs to telecom services, such as computing, information storage, and transmission, he says. And such costs are expected to keep decreasing for many years to come. He notes that digitization, the integration of telecom services, and the widespread adoption of the Internet have created "very significant business opportunities and many new products and services." Yet consumers – both business and residential – have not reaped the full benefits of the cost reductions and the innovations, he said.

"Historically, in many industries, the creation and enhancement of competition have made it possible for consumers to reap the benefits of technological innovation. But in a network industry, such as telecommunications, services are produced by combining different elements and components of a far-flung network. Here, consumers can benefit fully only when the markets for each of the constituent parts of the network are competitive," Economides told *TPR*.



Prof. Nicholas Economides

As Economides explains, if a service requires components A and B, but only the A market is competitive while the B market is monopolized, consumers will never receive the full benefits of innovation. "Instead the company that monopolizes the B market will reap these benefits," he said. "Unfortunately, in the telecommunications sector, while the long-distance market is effectively competitive, the local market isn't. And this state of affairs represents a failure on the part of regulators."

There are three crucial requirements necessary to expand, enhance, and maximize competition, Economides said. "The first crucial requirement is to create new markets, whenever possible. But what can be done for markets or components where it does not seem possible or economically feasible to have effective competition in the foreseeable future? This state of affairs accurately describes local telecommunications markets. These markets, in the absence of regulatory intervention, remain monopolies for the Baby Bells … If left unregulated, the monopolists in these markets would effectively restrict sales and reduce the variety of offerings."

What makes matter worse, he said, is the issue of interexchange access. "Since long distance calls pass through local wires in their origination and termination, local monopolists … also absorb the benefits that consumers could get from long distance. It is evident therefore that the monopoly power of the incumbent local monopolists needs to be restricted and contained from spilling over and distorting other markets," Economides said, adding, "This is the second crucial requirement."

The third requirement is the creation, fostering, and enhancement of competition whenever possible, even if that means occasionally creating semi-artificial environments that imitate competitive markets, Economides said. These artificial environments can serve as incubators, fostering the conditions that help competition flourish over time. The way that long-distance service developed in the past 20 years provides an excellent example of this theory working in practice.

As Economides observes, the long distance market has been the big success story in telecommunications in the past quarter century. Consumers have benefited tremendously from the long distance competition that started with the breakup of **AT&T** in 1981. Several competitors, like **MCI,** created their own networks, and hundreds of resellers entered the field.

"In the 22 years since deregulation, prices of long distance calls have decreased by a factor of 5 to 10," Economides said. "Today, they are falling at an annual rate of between 10 and 20 percent. Low long distance prices, especially for bulk data transmission, have allowed the Internet to grow and become both ubiquitous and affordable."

Even so, the success of competition in long distance service was not immediate. For several years, entrants did not have their own networks, and were simply reselling long distance minutes they bought in bulk from AT&T. Regulators created an environment in which AT&T was required to sell in bulk, and in which AT&T was forced to allow entrants such as MCI and **Sprint** to interconnect with the AT&T network. The regulators' forward-looking policies ultimately delivered remarkable benefits to consumers as long distance providers aggressively cut prices to gain market share.

In contrast to the overwhelming success of competition in long distance, competition in local service ranged from minimal to lukewarm for a number of years, Economides said. "Since the beginning of 2002, competition in local service has increased significantly. However, some federal telecommunications regulators, including FCC Chairman Michael Powell, seem intent on changing regulations in ways that are likely to eliminate competition. And regulators have already taken steps that strengthen the market power of incumbent monopolists in the provision *(continued next page)*

Economist: FCC's Broadband Decision Could Squelch Internet Growth

Competition in local telecommunications is essential for the inexpensive provision of broadband Internet connections to small businesses and residences, says noted Economics Professor Nicholas Economides, of **New York University's Leonard N. Stern School of Business.**

Economides notes that the 1996 Telecom Act allowed entrants, such as **Covad**, to lease and use high frequencies of the copper wires of the ILECs' local networks to provide broadband Internet service. This Digital Subscriber Line (DSL) service became one of the two most popular ways for a broadband Internet connection. The other Internet broadband connection is through a cable modem that uses the coaxial cable of cable television.

"Broadband data connections to the Internet are crucial for Internet growth," Economides told *TPR*. "Most web sites' content and structure are optimized for a broadband connection. The transfer of video, pictures, and digitized music are extremely difficult without such a high-speed connection. Broadband penetration is growing. But despite the wide recognition of the importance of the Internet as a major engine of growth, the United States lags behind a number of countries, including South Korea and Hong Kong, in broadband Internet connections."

Under the circumstances, one would have expected that regulators would try to lower the price of broadband Internet connections, and thus encourage more rapid expansion of the Internet, Economides said. "Here again, the FCC came up short. In February 2003, the FCC decided to allow incumbent monopolists of local telecommunications networks to charge any price they want for the portion of the network used to provide DSL service. The immediate consequence will be higher Internet connectivity prices and slower growth of the Internet in the United States. This is possibly the most damaging decision for the Internet that the FCC could take short of formally imposing regulation on the Internet."

of high bandwidth [i.e., broadband] Internet services. The immediate consequence will be price increases in broadband Internet service," he predicted.

"But why not replicate the long distance success story in creating local competition?" Economides asked rhetorically. "Does it make any sense that federal regulators are facilitating higher Internet prices when all agree that the Internet is an engine for growth?"

He noted that the past few years have been not been particularly good ones for the telecom industry. The dot-com bubble popped, and major players like **WorldCom** and **Global Crossing** went bankrupt. But amid the gloom, "the emerging competition in local telecommunications should have been heralded as a big success story and embraced by regulators," Economides said.

"Instead, the FCC last upheld the network access rules that fostered local competition by the thinnest of margins – a 3-2 vote. Significantly, Powell was in the minority – meaning he lobbied against the pro-competitive rules," Economides said.

Editor's Note: The above report is based solely on the views of Professor Economides, which he also expresses in an article titled "Dial C for Competition, appearing in the Fall 2003 edition of *SternBusiness,* published by NYU. Economides' web site on the "Economics of Networks" is located at http://www.stern.nyu.edu/networks/.

White House Pushed Global Crossing *...Continued from Page 1*

"This has the potential of creating very serious national security problems," one DOD insider said.

The source said that the commission was "under pressure from the White House" to consummate the Global Crossing license transfer, and added that the pressure most likely came from Vice President Dick Cheney's office.

However, Kathy Martin, a spokesperson for the Vice President, said neither Cheney nor anyone connected with his office had anything to do with the FCC's measure. "Everyone here stayed completely away" from the commission's Global Crossing decision, she told *TPR.*

Another Bush Administration source told *TPR* that the White House Office of Science & Technology Policy (OSTP) "may very well have had something to do with" the FCC's decision. Calls made by *TPR* to OSTP's Richard Russell, the Administration's telecom expert, as well as to the FCC, were not returned as of press time. *(Continued next page)*

What is known is that President Bush late last month sent a letter to the House and Senate, in which he assured that his office would not stand in the way of the proposed STT acquisition of Global Crossing.

Included with Bush's Sept. 19 letter was a classified report detailing the reasons behind his decision to "take no action to suspend or prohibit the proposed 61.5 percent investment by Singapore Technologies Telemedia Pte. Ltd., a company indirectly owned by the Government of Singapore, in Global Crossing Ltd.," Bush wrote.

Global Crossing, which holds FCC domestic and international Section 214 authorizations, has significant interests in submarine cable landing licenses and certain radio licenses. Through its various subsidiaries, Global Crossing, which is organized under the laws of Bermuda with principal offices in New Jersey, owns and operates a global fiber optic network – more than 100,000 miles long – that provides integrated telecom services, including data, voice and Internet services.

Under the transaction approved by the commission, Global Crossing will transfer virtually all of its assets and operations – including ownership in subsidiaries holding FCC licenses – to New GX. (New GX was formed under the laws of Bermuda for the purposes of carrying out the reorganization of Global Crossing under Chapter 11 of the U.S. Bankruptcy Code and Bermuda insolvency law.)

Connecting The Dots: Why Some DOD Officials Are Troubled

Born out of Singapore's telecom market liberalization, ST Telemedia was incorporated in 1994 as a privately held company in Singapore and the Asia-Pacific. STT is majority controlled by the Singapore government, which defines the company as "a competitive, commercial enterprise that owns and manages the businesses in which it has investments." STT engages in an array of telecommunications, information, communications services, including fixed and mobile communications, Internet exchange and data, satellite, broadband and cable TV. As a result of FCC approval of its plan to acquire Global Crossing's authorizations and licenses, the company will control about 100,000 miles of fiber optic network cable – some of which handles military traffic.

Source: TPR research

STT, which is a subsidiary of **Singapore Technologies Group,** which, in turn, is owned by **Temasek Holdings,** the investment arm of the Singapore government, will obtain common and preferred stock equal to a controlling interest of 61.5 percent of New GX's equity and voting interests. Certain pre-petition creditors (aka: creditor shareholders) of Global Crossing will receive 38.5 percent of New GX common stock.

The U.S. Bankruptcy Court for the Southern District of New York has approved Global Crossing's reorganization plan, which, among other things, includes the transaction involving STT and the creditor shareholders that is the subject of the FCC's granted applications.

Originally, the reorganization plan included **Hutchison Telecommunications Ltd.** as a joint investor with STT. However, Hutchison withdrew – reportedly a result of pressure resulting from an investigation involving the U.S. intelligence community and the FBI. Sources closely following the Global Crossing debate say Hutchison is controlled by recluse Chinese billionaire Li Ka Shing, an individual whom sources within the U.S. intelligence community describe as "a person of interest." These sources tell *TPR* that Li is believed to have close ties to China's communist government.

The FCC's order of last week only obliquely refers to national security concerns the agency had to address in allowing the Global Crossing transfer of licenses. It noted that in this case, "some Executive Branch agencies raised such concerns and requested that FCC action be deferred until all the issues identified were resolved."

Separate from the FCC proceeding, to address their particular concerns, the Justice Department (DOJ), FBI, DOD, and Department of Homeland Security (DHS) spent more than a year examining the Global Crossing matter. That examination ultimately resulted in the negotiation of an agreement with Global Crossing, New GX, and STT that established requirements for network security and protection of critical infrastructure.

Once this so-called "Network Security Agreement" was in place, the DOJ, FBI, DOD and DHS advised the commission that they had no further objections to the transfer of licenses – providing that any such license transfer be conditioned on the parties' compliance with the Network Security Agreement.

Even so, some senior-level officials at the Pentagon remain uncertain about FCC's handling of the Global Crossing license transfer, even though various U.S. law enforcement and intelligence-gathering entities appear to have given their collective blessing to the FCC's action.

"There's a great deal of sensitive information that moves over that [Global Crossing] undersea cable," one DOD source told *TPR.* "Just because everyone in this deal has signed onto some sort of security agreement doesn't mean that the network is going to be secure. Anytime our traffic moves along a network controlled by a foreign government, it's subject to being compromised."

This isn't the first time STT has dealt with such concerns. In 2001 when STT acquired Australian carrier Optus, military officials in Australia raised concerns similar to those now being raised by Pentagon officials. The Australians were fearful that military information moving via an Optus satellite might be compromised. However, the Optus deal – like the Global Crossing deal – eventually went through after a security agreement was put in place.

MONEY TRAIL

Rockefeller: Father Of The (Troubled) E-Rate Program

Sen. Jay Rockefeller

In terms of telecom policy, Sen. John D. Rockefeller IV (D-W.Va.) – also known as Jay Rockefeller – may be best known as one of two Senate members responsible for giving us the so-called E-rate, a government subsidy that funds high-speed Internet connections for the nation's schools and libraries. He and Sen. Olympia Snowe (R-Maine) introduce an amendment to the 1996 Telecom Act that gave birth to one of the most controversial programs in telecom history.

To date, there have been at least 30 different investigations into allegations of fraud and corruption in connection with the E-rate program. And the governmental non-profit corporation that runs the program – the Universal Service Administration Company (USAC) – has itself come under harsh criticism for allowing matters to get so far out of hand.

Telco PAC Donations To Rockefeller, 2001-2002

Telephone Utilities 2001-2002	**$24,000**
AT&T	$6,000
BellSouth Corp	$7,000
CenturyTel	$1,000
Citizens Utilities Co	$1,000
National Telephone Cooperative Assn	$1,000
SBC Communications	$3,000
Sprint Corp	$2,000
Teligent	$1,000
Verizon Communications	$2,000

Based on data released by the FEC on Monday, June 09, 2003

Of course, none of that is Rockefeller's fault. He and Snowe had a pretty good idea – which was to close the gap between the information "haves" and "have nots." But like much of what happens on Capitol Hill, by the time the various and sundry congressional committees and subcommittees finished tinkering with what started out to be a rather simple concept, the Rockefeller-Snowe E-rate proposal turned into a disaster just waiting to happen.

Rockefeller, who sits on the Senate Commerce Committee and its communications subcommittee, remains tuned into the telecom policymaking scene, according to spokesperson Samantha Dallaire. She told *TPR* that her boss is constantly looking for ways to encourage the deployment of new technologies, like broadband, to under-served parts of the nation.

In fact, two years ago, Rockefeller introduced a bill that would have given technology companies a fairly large tax break for providing high-speed Internet service to rural and inner city communities.

The bill would have provided a 10 percent credit to companies offering services at upload speeds of 1.5 megabits per second and download speeds of .2 megabits per second. Companies providing services at upload speeds of 22 mb/s and download speeds of 5 mb/s would have received a 20 percent tax credit. At the time, there seemed to be broad support for the measure. In fact, Reps. Phil English (R-Penn.) and Robert Matsui (D-Calif.) introduced a similar bill in the House.

Telecom Services & Equipment PAC Donations To Rockefeller, 2001-2001

Telecom Services & Equipment	**$21,816**
Alcatel USA	$500
Alltel Corp	$3,000
AT&T Wireless Services	$2,000
Cellular Telecom & Internet Assn	$1,000
Corning Inc	$4,316
Echostar Communications	$2,000
Motorola Inc	$1,000
Nortel Networks	$1,000
Qwest Communications	$6,000
T-Mobile USA	$1,000

Based on data released by the FEC on Monday, June 9, 2003

After all was said and done, however, both the Senate and House versions of the Rockefeller proposal were by congressional budget writers.

That's about the last time Rockefeller made any serious forays into the telecom policymaking arena, according to Dallaire. These days, the West Virginia Democrat – like many of his Senate colleagues – is more heavily focused on the situation in Iraq.

In fact, it was Rockefeller, vice chairman of the Senate Select Intelligence Committee, who last March asked the FBI to investigate forged documents that the United States used as evidence in its case for a pre-emptive war against the regime of Saddam Hussein. The documents, which have since been discredited, indicated that Iraq tried to purchase uranium from the West African nation of Niger.