



Executive Memorandum

No. 802

February 25, 2002

THE TAUZIN-DINGELL TELECOM BILL: UNTANGLING THE CONFUSION

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The House is scheduled to vote on the Internet Freedom and Broadband Deployment Act (H.R. 1542), sponsored by Representatives Billy Tauzin (R-LA) and John Dingell (D-MI), on February 27, and the airwaves and papers are filled with ads both for and against this legislation. With each side claiming to be for competition and against monopolies, these ads probably leave most Americans more mystified than educated about what the bill would do. Behind the confusing debate lurks an important decision affecting the next phase of the Internet revolution—the deployment of high-speed, or “broadband,” service. Though far from perfect, H.R. 1542 would constitute a small first step toward reducing government barriers to investment in this service area and ensuring that Americans have quality access to the Internet.

Why Broadband Service? The terms “broadband” and “high-speed telecommunications” refer to technologies that rapidly transmit large amounts of information—ranging from “cable modem” service provided by cable television systems and “digital subscriber line” (DSL) service provided over telephone lines to satellite and other wireless connections. There is no uniform definition of the speed required for this service. The Federal Communications Commission (FCC) defines as “high speed” any connection that can transmit data to a user at 200 kilobits per second (kbps) or faster, compared with the standard Internet rate of 56 kbps. Others argue, however, that the minimum

should be much higher—1 megabit per second (Mbps) or more.

The speed is important to consumers. At 200 kbps, a Web page can be loaded in roughly the time it takes to turn the page of a book. A song that would take over 10 minutes to download with a standard connection would take about two minutes with a 200 kbps connection and about 24 seconds at 1.5 Mbps. Similarly, downloading a 20-second video clip would take an hour with a standard connection but two minutes at 1.5 Mbps. And with enough speed, all sorts of things are made possible, from simple Web browsing to downloading whole programs, perhaps even downloading entire movies. Total benefits to consumers and producers could be substantial: as much as \$500 billion annually according to one study.

Consumers seem to be moving toward faster connections with some eagerness. According to a recent FCC report, there were some 9.6 million high-speed subscribers in the nation as of last June—up 36 percent since the beginning of 2001

Produced by the
Thomas A. Roe Institute
for Economic Policy Studies

Published by
The Heritage Foundation
214 Massachusetts Ave., NE
Washington, D.C.
20002-4999
(202) 546-4400
<http://www.heritage.org>



This paper, in its entirety, can be found at: www.heritage.org/library/execmemo/em802.html

and 250 percent from the year before. Despite a massive financial meltdown in the telecom sector over the past year, advanced services are still being brought to market.

Nevertheless, there is room for concern. First, the FCC's numbers are based on its relatively loose definition of "high speed." And very few subscribers have speeds fast enough for some of the most attractive applications, such as full-length video. Second, while the agency found broadband service subscribers in 78 percent of the nation's Zip codes, one in four of those areas had only one service provider. Finally, some argue that the rapid broadband growth to date may soon slow as the easy areas to deploy become fewer, leaving only the most difficult and expensive areas to introduce service.

What H.R. 1542 Proposes. The sponsors of H.R. 1542 sought to ensure that broadband services would continue to grow by easing government regulatory barriers. Changes in the bill are expected before the final vote, but its key provisions include:

- A ban on FCC or state regulation of the rates, conditions for, or entry into high-speed Internet service;
- Allowing Bell telephone companies to provide high-speed data services on a nationwide basis, despite current restrictions on long-distance service; and
- Limits on requirements that the Bell companies and other incumbent telephone companies (local exchange carriers, or LECs) provide competitors with access to network elements used for high-speed data.

Broadband Competition. These provisions have raised a firestorm of debate. LEC competitors—such as long-distance companies and start-up competitive local exchange carriers (CLECs)—argue that LECs are monopolies that need to be tightly controlled. The CLECs were hit harder than many of the dot.coms in the NASDAQ meltdown, and the decline in long-distance revenue has been significant. But, despite sympathy for long-distance and CLEC investors, this is no reason to continue current regulation of the telephone companies' broadband services. Incumbent LECs still have a dominant share of the voice telephone market, but

the market for broadband is intensely competitive—with telephone, cable, and satellite companies and wireless firms all competing to provide service. Far from dominating this field, LECs find themselves in the unaccustomed position of the challenger (with about one-third of the market).

The real danger to consumers is not that broadband is a nascent telephone company monopoly. It is that competition from telephone companies in this market will be lacking or that consumers will not find the service available at all. Enormous investment is still needed to build out broadband services (some \$200 billion, according to Bear, Stearns). And regulation only makes this more difficult, either by reducing the rewards from that investment (as to forced access requirements and rate regulation) or directly limiting the uses for which it can be put.

Improving Access to the Internet. H.R. 1542 is neither perfect nor the only way regulatory reform could be achieved. It includes mandatory build-out requirements, specifying how much and how fast telephone companies must provide service. This is an unnecessary and potentially harmful intrusion into market investment decisions. At the same time, many other steps—such as making more spectrum available for wireless services and ensuring that local zoning regulation does not unduly interfere with broadband deployment and regulation does not discourage cable broadband investment—are also needed.

Meanwhile, there are parallel efforts at regulatory reform at the FCC. Under Chairman Michael Powell, the FCC has opened no fewer than five proceedings aimed at reducing broadband regulation.

Conclusion. Broadband technologies hold great promise for American consumers, as well as for the U.S. economy. Thus far, progress toward realizing that promise has been good, but unless policymakers reduce the regulatory barriers to investment, it will be limited.

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