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*Competition in Local Telephone Services: California's Experience
In Implementation of the Telecommunications Act of 1996*

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Abstract by Janet C. Goldberg

The Telecommunications Act of 1996 (Act) was the first comprehensive revision of the Communications Act of 1934 and introduced major changes to federal telecommunications law. One purpose of the Act was to spur competition for local telecommunication services. To achieve this goal, the Act delegated implementation to the FCC and state regulatory commissions. California's experiences with attempting to implement the Act are noteworthy because California represents some of the largest telecommunications markets in the nation; has one of the most sophisticated public utilities commissions; and, two years prior to passage of the Act, enacted a state law that required the California Public Utilities Commission (CPUC) to open all telecommunications markets.

Although California had a two-year "head start" prior to the Act with respect to planning for enhanced competition for local telecommunications services, California has not yet completed all of the administrative proceedings necessary to establish all of the regulations delegated to the states by the Act. The state has already adopted and implemented regulations on negotiation/arbitration of agreements needed for the interconnection of competing networks, as required by the Act. However, it has not yet finalized rules relating to the cost and pricing of incumbent carrier Unbundled Network Elements (UNEs) (access to portions of an incumbent's network, which must be made available to potential new carriers in order for the new carrier to operate) and resold services (resale of an incumbent's services by new local carriers).

The state has relied, for an extended basis, on "interim pricing" of incumbent carrier UNEs and resold services. The lack of final rules and prices, coupled with other unresolved issues awaiting FCC and judicial determination, has resulted in substantial uncertainty for potential new market entrants, which, in turn, has inhibited local competition. Resale of incumbent local services may not be a viable business in California because of inadequate wholesale discounts by incumbent carriers for products to be resold at retail, and inadequate operating support systems (the means by which competitive resellers place orders with incumbent carriers for resold services). Moreover, facilities-based competition - whereby new local carriers construct their own facilities and use them exclusively, rather than relying on UNEs obtained from an incumbent carrier - also may not be a viable business in California due to restrictions on rights to construct networks within a community, the paucity of physical space for collocation of equipment at incumbents' facilities, refusal of building owners to grant access to new carriers' customers for reasonable fees, and scarcity in the amount of telephone numbers available for assignment to new carriers.