

# PURC Telecom Policy Roundtable

## October 30, 2006

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# “Asymmetrical” Defined

- Black’s Law – nearest word is “asylum”
  - An institution for the protection and relief of the unfortunate
- Webster’s – “not symmetrical”
- Internet: Asymmetrical warfare

# McDonald Dictionary

- Symmetrical regulation is “treating like services alike, in the absence of market power”
  - Treat services with the same functionality the same, irrespective of technology
  - Regulation is used to provide protections in the absence of effective competition
  - If there is market power by a firm, asymmetrical regulation may be required

# 2 Step Process

- Does asymmetrical regulation exist in the market?
- If it does, why is that and for how long?

# Long Distance

- Asymmetrical regulation created because AT&T had market power
  - AT&T had legal monopoly prior to 1984
  - Regulation of AT&T: Reporting requirements; restrictions on marketing; pricing restrictions; many regulatory advantages given to other new entrants to encourage competition
  - 1995, AT&T declared non-dominant provider by FCC
  - Today: symmetrical regulation
  - Note: After 271 relief in 2002, BellSouth now provides LD to 62.8% of its customers (Q3 2006)

# Local Phone

- Asymmetrical regulation:
  - Bell companies had legal monopoly until 1995 (FL) and 1996 (federally)
  - ILECs continue to serve 85-90% of residential customers (i.e. market power)
    - CLEC marketshare in Florida dropped in last year
  - Competitors had to interconnect with Bell
  - 1996 Act created additional regulations as incentive for Bells to enter LD market

# Local Phone (cont'd)

- Absent those key differences, CLECs have similar regulatory requirements
  - Certificated by State PSC, payment of RAF, USF, TRS, taxes
  - Slamming, cramming, billing, non-discrimination rules apply
  - Local interconnection, payment of intercarrier compensation, number portability, 911, access to ROW, CALEA, etc. are all applicable to CLECs
- Telecompetition Act of 2003 – created steps for ILECs to be regulated the same as CLECs

# VOIP

- New regime, but not asymmetrical
  - Everyone treated the same in the VOIP world, including ILECs who provide VOIP
  - New requirements have been added regarding 911, CALEA; cable pays taxes, USF, and has supported assignment of appropriate responsibilities for this new service (see NCTA VoIP White Paper).
- Why is this symmetrical?
  - Wasn't born out of government sanctioned monopoly provision of service
  - No market power
  - Created through private capital investment

# Wireless

- McDonald dictionary: “see voip”
- Wireless providers treated the same within the industry
- Why is it symmetrical?
  - Wasn’t born out of government sanctioned monopoly provision of service
  - No market power
    - Cingular (58M customers); Verizon (55M)
  - Created through private capital investment

# Cable

- Asymmetrical regulation? In Florida, “no”
- Cable franchises are not exclusive
- Level playing field statute
  - terms or conditions of competing franchises can be no “more favorable or less burdensome than those in any existing franchise within such municipality or county.”  
116.046 (3), F.S.
  - Ensures level playing field for all cable providers

# Cable Cont'd

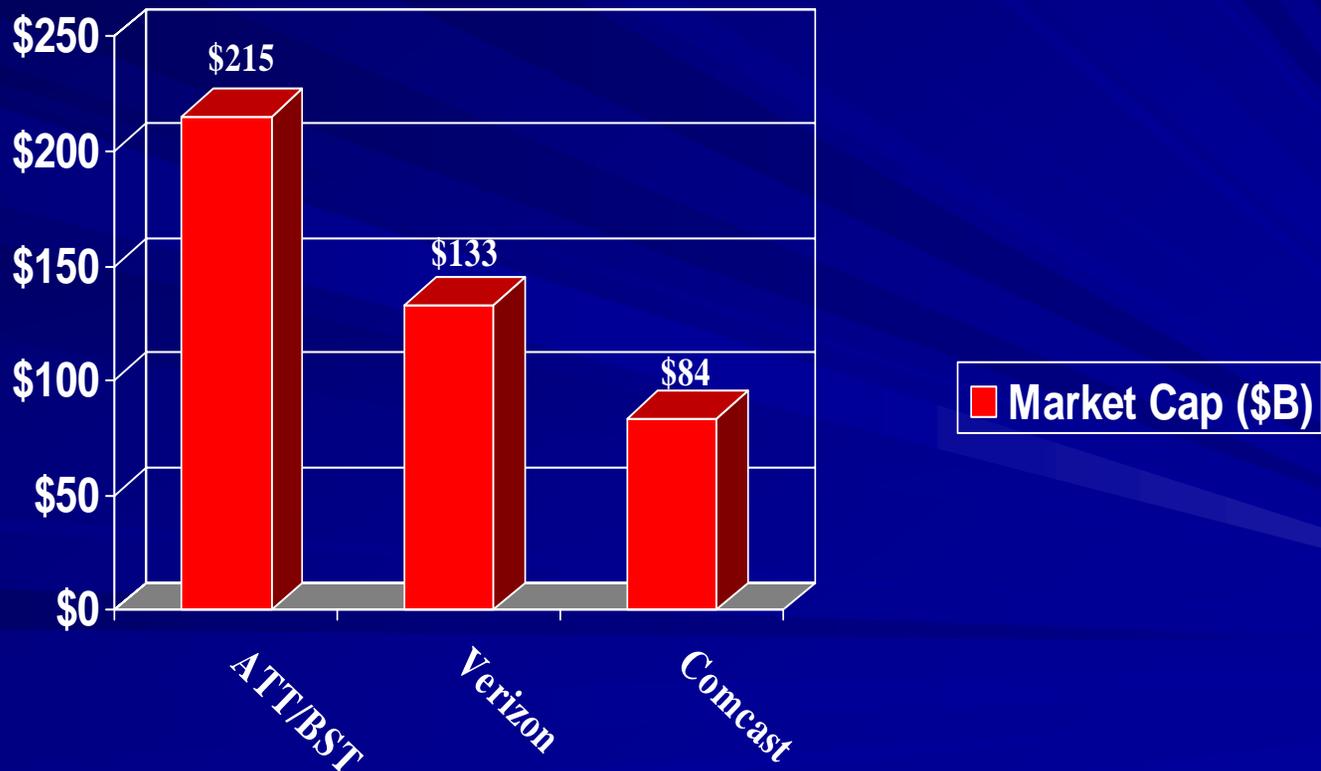
- Video service is a very competitive market
  - FCC has declared the market competitive
  - Satellite serves approx. 30% of the market
    - DirecTV is #2 video provider; Dish Network is #3
  - Verizon/BellSouth/AT&T/Embarq all partner with satellite providers (see websites)
  - Cable overbuilders (Knology)
  - Private video providers (condos/developers)
  - Video market is roughly 3 to 4 times more competitive than residential voice service

# Cable Cont'd

- Verizon is demonstrating that there are not barriers to entering the video market
  - Have gotten franchises in Manatee, Sarasota, Pasco, Hillsborough Counties; Tampa, Bradenton, Oldsmar, Temple Terrace
  - Have franchises and are offering service
  - Have told Wall Street that the video franchising process is not slowing them down
- BellSouth has franchises in more than 10 jurisdictions in Florida

# Cable Cont'd

Why create asymmetry in a competitive market, where further entry is already happening by some of the country's largest companies, who already dominate the wireline and wireless voice markets ?



# Cable Cont'd

## ■ Build out/Carrier of Last Resort

– Phone market: Bells are COLR, not CLECs

– Why?

- Public Switched Telephone Network was built under guaranteed rate of return regulation over the 20<sup>th</sup> century
- Bells receive USF dollars to serve high cost areas
- Recognition that replicating the entire PSTN is not feasible

– Cable market: All providers operate under similar requirements to serve

- Comcast, Knology, Verizon all operate under similar terms
- Franchises have minimum density requirements as determined by local authority; don't have to serve sparsely populated areas
- There is no government subsidy

# Cable's View of Franchising Debate

- Current federal “Title VI” regime
- Telcos have had 10 years to enter, did enter under existing rules, but now want to change rules
- If rule changes occur, there shouldn't be a difference between how newcomers and incumbents are treated (except for rate regulation, which is already taken care of by federal law – newcomer's rates aren't regulated)
- Technology-based differences (IPTV) shouldn't be basis for different treatment

# Conclusion

- Current Florida law for cable providers is symmetrical
- Industry built on private capital with no historical government subsidy
- No market power
- Therefore, treat like services alike