

Politics and Telecommunications

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The Telecommunications Act of 1996 (“1996 Act”) has frequently been cited as landmark legislation. In fact in Tom Friedman’s bestselling book, *The World Is Flat*, cites the 1996 Act as the basis for many recent developments. Friedman suggests that the 1996 Act allowed certain activities which resulted in much capital being raised in the 1990s, which resulted in the laying of huge amounts of fiber-optic cable to such places as India and China. Many of the companies involved got into serious financial trouble in about 2002, but the effect of a huge amount of new technology being bought and installed around the world has resulted in a “flat world.”

There has been clamoring almost since the day the 1996 Act was passed to update it. There have been endless speeches about its shortcomings. There have been successful political campaigns run on the basis of repealing it, and there is almost no editorial comment anywhere praising it.

Conversely, President Bill Clinton has called it the most significant piece of legislation he signed; it has been copied almost verbatim in at least forty countries as they were updating their telecommunications law. Additionally, leaders in Germany, Japan, and China have cited it as a model for their future telecommunications policy.

I spent nearly six years of my life working on that bill. It is not generally understood, but a “meat and potatoes” bill like the 1996 Act is usually a five-year bill. Somebody in Congress has to make it his cause to get it passed, and that means working out endless compromises between groups and members of Congress. This process means that a small group of House and Senate members spend a great deal of time in detailed

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negotiations for which there is little public recognition or thanks. In short, this process takes a lot of work. In fact, the staff of the telecommunications-related committees in Congress voluntarily spent several weekends a year working to identify areas of agreement and disagreement. (And that was before overtime on Capitol Hill!!!)

It is my feeling that we should update the 1996 Act at least every two years because technology changes so fast. However, it will take some persons or groups of persons in the Congress who are willing to really work through these issues, and it probably will not be politically rewarding to them. The public usually disfavors legislating telecommunications. The issues are so complex that the general public does not understand them well. Thus, the arena is open to candidates who incite people by simply telling them to look at their last phone or cable bill. The effect is that there are often more votes "against" telecommunications bills because it becomes too costly to describe just what is in a bill to try to get people's support. The public must work harder to understand some of the more technical issues and reward politicians who are willing to tackle the tough issues.

For example, we need to legislate the Voice-over-Internet Protocol matter very thoroughly. There seems to be no one in Congress willing to take on such a controversial issue except to make speeches about it. Thus, Congress is again leaving telecommunications policy to be made by federal judges and regulators, and that has been the tragic history of telecommunications policy. Congress is so hesitant to act, that most of the policy is made by the Federal Communications Commission as upheld or denied by U.S. federal judges. This is a piecemeal, convulsive way to make public policy. The public must somehow be awakened to the consequences of the failure of Congress to act. That will take articles such as this. But also, somehow, the public must reward those members of Congress who conscientiously try to legislate in this area. Such a total vacuum in public policy exists in the telecommunications area that judges are forced to take the responsibility. They are not trying to usurp power from Congress. They are just responding to a critical need.

At the end of the day, we need to start telling the public that in this century, good telecommunications public policy will depend on citizens being willing to work much harder at reading articles and asking questions at public forums about telecommunications policy. For example, most farmers know the farm bill inside and out. Analogously, it is time for computer users to know communications issues thoroughly.

I hope we have a new Telecommunications Act of 2006. More

importantly, the public must take greater responsibility in working at understanding communications policy.

