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People frequently comment about how amazing it is that dial-up Internet access and cell phones were in their infancy when the Telecommunications Act of 1996[1] became law. It is, indeed, remarkable how far we have come in just twenty years. If you stop and think about it, however, it may be even more amazing how little telecommunications had changed in the twenty years (and more) prior to the 1996 Act.

The decades prior to 1996 saw great innovation and change in computers but the biggest developments for telecommunications consumers were relatively small innovations such as answering machines, faxing documents, and long distance competition. More broadly, the biggest change in communications probably was the spread of cable television service, which was still largely analog and trying to adjust to the implementation of rate regulation. It is not hard to see why it was widely believed that the communications sector was not keeping pace with technology, and this was decidedly not just an American problem. Indeed, things were generally far worse elsewhere as most of the world had spent most of the Twentieth Century struggling with government-owned communications monopolies (frequently part of the postal service).

Much is made of the fact that the 1996 Act did not unfold as predicted, and even now it is common to hear passionate discussions about mistakes that were made or ways in which implementation of the 1996 Act may have deviated from Congressional intent. When we take this opportunity for reflection, however, it seems (to me at least) that maybe this state of affairs is exactly as it should be. No, things did not happen as planned, but isn't that the point? If market outcomes could have been planned, and regulatory oversight could have optimized consumer welfare, the 1996 Act would not have been needed in the first place.

I think we have to admit that, for all of the inevitable flaws in the statue and its implementation, the 1996 Act has been a success overall. Consumers, including the enhanced service providers (edge providers, as we call them today), have done very well. In addition, many of the social bargains struck throughout history, for example in support of public safety and universal service, have been preserved to a significant degree even as some measure of deregulation has been achieved. Looking ahead, however, it is clear that more needs to be done. In particular, network providers of all types face considerable challenges and uncertain futures while dealing with outdated and asymmetrical rules. We need to develop a new legal framework, whether through forbearance, regulatory reform, or legislation, that facilitates

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1. Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (codified as amended in scattered sections of 47 U.S.C.).

competition while treating all providers equally, minimizing administrative costs, and promoting investment.