

SENATOR LARRY PRESSLER*

The Telecommunications Act of 1996¹ is one of the finest and most successful pieces of legislation passed during my three terms in the United States Senate. It is certainly not perfect and needs to be updated. It was the product of nearly twenty years of options papers, debate, and struggle. Under the leadership of Senators Jack Danforth and Fritz Hollings, it did pass in the Senate once before but failed in the House; thus, when I became chairman of the Commerce Committee in the 1990s, I inherited the fruits of years of hard labor by many people.

We had sort of a magical moment in late 1995 when all the parties finally seemed in agreement to this massive document. During the two years before this, I personally visited all one hundred United States senators to try to get their input and to tell them we needed to pass this on a bipartisan basis, which we finally did with a 97-3 vote.

Basically, the Telecommunications Act of 1996 tried to deregulate (or re-regulate) the whole communications industry. Our goal was to let everyone get into everyone else's business if they wanted to.² We also tried to recognize that new technologies require large international firms. For example, it takes a big international company to put a satellite up or to lay fiber-optic cable in places such as India; thus, we were criticized for giving too many breaks to big companies.

On the other hand, we tried to create a whole host of new opportunities for smaller businesses to sometimes sell the products of a bigger company within their former domain.

And we worked on a daily basis with the labor unions, as they had to be on board for passage. Due to their demands, we had to accept limitations of out-sourcing on a lot of functions that a complete deregulation bill would have allowed. And believe it or not the labor unions were adamantly opposed to our putting any anti-trust language into the bill.

There were many strange twists in the tortuous path to passage. Vice President Al Gore usually spoke for the administration on this bill. Al and I had worked out a fairly complicated set of parameters for regulation of the cable industry, but then suddenly without any fanfare President Clinton returned from a cable convention in Las Vegas and word was sent over to me that the administration would only sign the bill if it only had complete deregulation of cable. I was astounded and disappointed, but most of my

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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.).

2. See, e.g., 47 U.S.C. §§ 251, 271 (2012).

Republican colleagues were delighted; thus, the cable industry probably became the most deregulated industry in the United States.

In terms of geography, the whole broadcast industry was turned upside down. Whether we like it or not, it is virtually impossible for players such as Sirius Radio to provide local news and local weather; thus, many people outside of urban areas feel they have lost their local radio news reporter and local radio news. This is unfortunately probably true, but we hope that gap has been filled by newer technologies.

Many people who complain about the Telecommunications Act of 1996 are concerned about lack of antitrust enforcement. In my opinion, no president during or since the 1996 Act has aggressively enforced antitrust laws. I have always been a “Teddy Roosevelt-type Republican” and am now an Independent. I believe in a more rigorous enforcement of the antitrust laws. I had not foreseen all of the consolidations that were to occur, particularly in radio, since the '96 act. The '96 act had almost nothing to do with anti-trust enforcement. The whole media industry benefits from a laxer enforcement of antitrust laws because the media falls under the Federal Trade Commission. The Federal Trade Commission does not have the staff or the expertise to successfully enforce antitrust laws and the Congress, presidents of both Democratic and Republican parties, and the public have been sound asleep about the enforcement of antitrust laws. We need stronger enforcement, but that is not the fault of the '96 Act.

We carefully avoided regulating the Internet going forward. We did not fully foresee how big the Internet would become, but leaving it deregulated has probably worked out better than having onerous government regulation.

The Act has worked out well. One economist called it the greatest industrial reconstruction of modern times. Others have said that it allows powerful companies and labor unions to take advantage of a struggling public. We do need a new updated Telecommunications Act to deal with the completely new technologies that we were not aware of in 1995-1996. And we were totally unaware of the national defense challenges that will have to be dealt with in a new telecommunications act.