CHAIRMAN RICHARD E. WILEY* & THOMAS J. NAVIN†

On February 8, 1996, in an event that brought together the nation's political leadership, the Librarian of Congress, titans of the communications industry and, in fact, the two of us, President Clinton signed the Telecommunications Act of 1996[1] into law. President Clinton told the story of how Thomas Jefferson filled the Library of Congress with his own books after the British burned the Library in the War of 1812 in order to facilitate public access to essential knowledge. The President expressed the hope of all gathered that the new statute would bring the Library's voluminous ideas to every child in America. In spite of the many legal battles waged over the past twenty years in implementing this landmark legislation, the Telecommunications Act of 1996 has ushered in a new era of Enlightenment in which most Americans instantly can access a world of information equivalent to visiting every library in the world.

At the time of its enactment, many believed that the most important issues addressed by the 1996 law were legal balkanization and technological convergence—issues that demanded regulatory parity. For example, at the signing ceremony, President Clinton emphasized that the Act would open the "local exchange" markets to competitive entry and increase competition in the "long distance" services market. As such, lawyers and regulators devoted considerable attention to regional entry of the Bell Operating Companies (RBOCs) into the long distance market as well as the legislation's necessary market opening provisions, including the interconnection and unbundling provisions of Section 251.[2] The RBOCs filed over seventy voluminous Section 271[3] applications to enter the long distance market, which the FCC resolved over the course of seven years. Additionally, over an eight-year period, the Commission wrote five different orders interpreting Section 251's unbundling provisions, which the U.S. Court of Appeals for the DC Circuit eventually sustained in 2006. Today, however, there is almost no discussion of the "inter-LATA" or "long distance" telephone markets. This is so because lightly regulated mobile wireless and Internet platforms have supplanted wireline voice as the

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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. 47 U.S.C. § 251 (2012).
3. 47 U.S.C. § 271 (2012).

primary means of communications. These platforms make jurisdictional and geographical regulatory limitations seem antiquated.

Therefore, the greatest success of the 1996 Act has been its enduring light-touch regulatory approach to broadband Internet access and wireless markets. Information services and the Internet were excluded from the market-opening provisions of the statute and, as a result, cable companies, incumbent telephone carriers, competitive entrants, and mobile wireless providers were able to invest billions of dollars into broadband networks and offerings. Regulatory forbearance and platform parity were keys to making good on the promise of the Act's preamble: "[t]o promote competition and reduce regulation in order to secure lower prices and higher quality services for American telecommunications consumers and encourage the rapid deployment of new telecommunications technologies."[4] Thus, the genius of the 1996 Act turned out to be that it focused policymakers' attention on delivery of wireline voice telephony while the Internet, mobile wireless, and broadband developed and eventually supplanted the heavily regulated markets at the core of the legislation.

4. Telecommunications Act, prmbl.