

Approved: 2-6-96  
Date

MINUTES OF THE HOUSE SELECT COMMITTEE ON TELECOMMUNICATIONS.

The meeting was called to order by Chairperson Doug Lawrence at 1:30 p.m. on January 29, 1996 in Room 313-S of the Capitol.

All members were present except: Rep. Barbara Allen - excused

Committee staff present: Lynne Holt, Legislative Research Department  
Mary Ann Graham, Committee Secretary

Conferees appearing before the committee: David Brevitz, Consultant - Kansas Corporation Commission

Others attending: See attached list

The meeting was called to order at 1:30 p.m. by Chairman Doug Lawrence. The minutes of January 25, 1996 meeting were distributed and approved.

The Chairman announced there were three house bills introduced into the House today, the first, **HB 2762**, the regulatory framework developed as result of the Telecommunications Strategic Planning Committee product, the second, **HB 2763**, dealing with city franchise issues and third, **HRC 5036** is a vision statement in resolution form as recommended by the TSPC. There will be additional bills introduced tomorrow.

The Chairman announced that in tomorrow's committee meeting there will be committee discussion. Talking about the things the committee members feel they need yet to hear, they also will be talking a little bit about framework for some discussion that Lynne Holt has started to put together on some issues. He asked the committee to look at their schedules for Thursday, February 8 for a possible tour of Sprint in Johnson county, to take a look at their long distance network facilities and some other things in that area that will help facilitate the discussion process. A reminder that Wednesday, January 31, Joe Weber, Consultant to the TSPC report will be giving a presentation to the committee.

The Chair welcomed David Brevitz, Consultant, Kansas Corporation Commission. Mr. Brevitz briefed the committee on federal legislation relating to telecommunications. He presented a pictorial for the committee to review, figure 4 shows match between Industry Structure and Government Policies, figure 5, examples of Industry Convergence. (See Attachment 1) He also presented an overview of the major telecommunications provisions of the Telecommunications Act of 1995 Conference Report. (See Attachment 2)

The meeting adjourned at 2:30 p.m.

The next meeting is scheduled for January 30, 1996

SELECT COMM. ON TELECOMMUNICATIONS  
COMMITTEE GUEST LIST

DATE: 1-29-96

NAME	REPRESENTING
M. Clarkisimball	Classic Communications
K. Franzio	KGC
Barbara Paschke	Board of Regents
Guy McDonald	KCC
David Beatty	KCC
<del>Ann Hennings</del> <del>Hanson</del>	KASB
Rebbie Schmidt	KINI L.C.
Rozal Diefeldt	Rural Telephone Service Co.
Don Smith	SITA
Rob Hodges	KTA
Bill Brewer	SWBT
George Barbee	RTMC
BILL BLAKE	SWBT
DENNIS KOCH	SWB TEL
PHILIP HURLEY	PATRICK J. HURLEY & CO.
JASON PITSEBERGER	Blad Shoot
MIKE REECHT	AT+T
Keva Powers	MCI
Scott Richardson	SWBT

SELECT COMM. ON TELECOMMUNICATIONS  
COMMITTEE GUEST LIST

DATE: 1-29-96

NAME	REPRESENTING
Julia Duncan	
JEFF ROSSELL	SPRINT
Kieran Maxson Fleming	KCC
Megan Griss	Keamy + Assoc.
Rebecca Rice	KETA

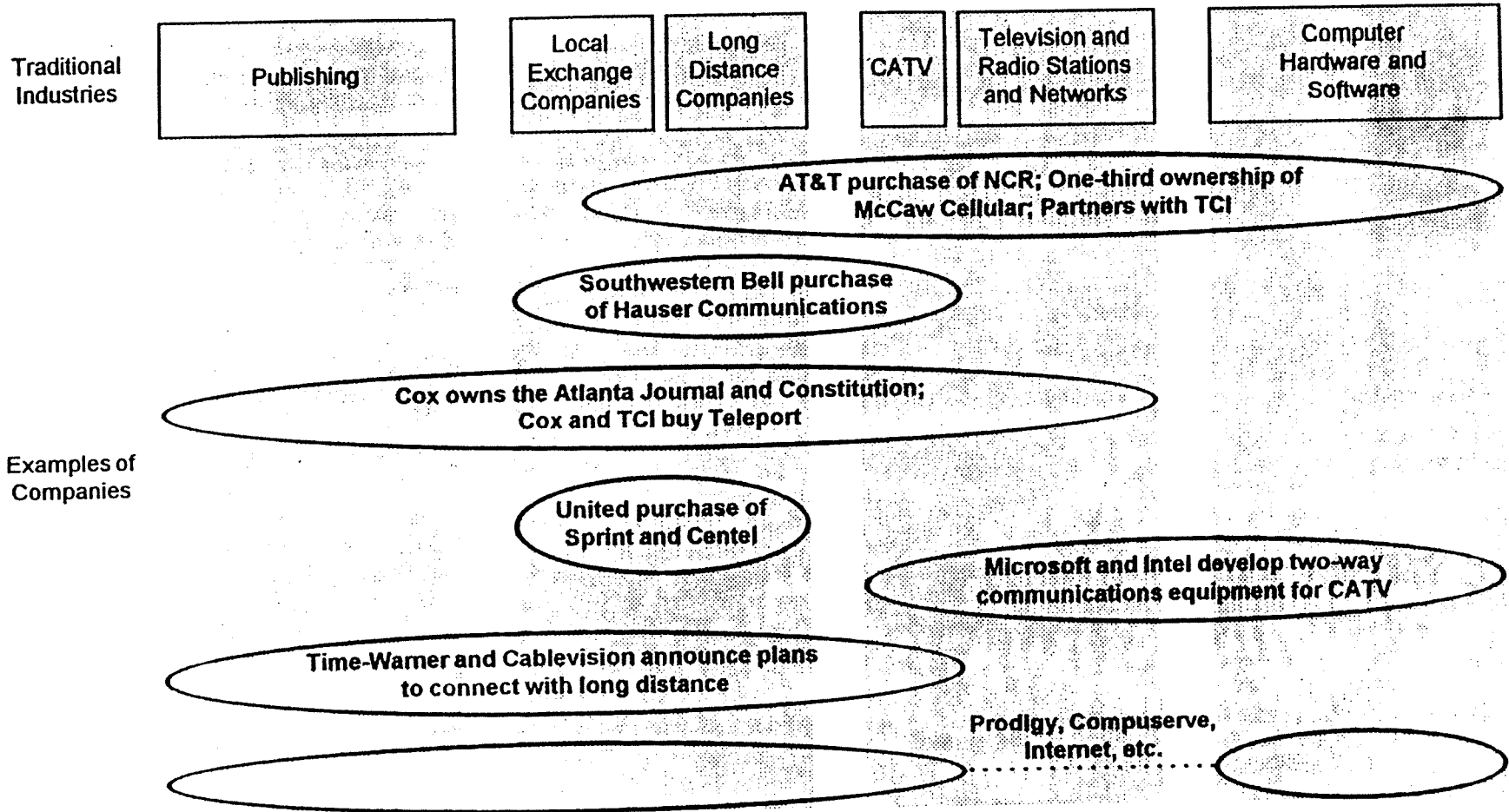
**Figure 4**

**Match between Industry Structure and Government Policies**

<b>Initial Technology</b>	Offset Press	Telephone Lines and Switches		Broadcast	Electronic Computer
<b>Markets</b>	Books, Newspapers, Magazines, etc.	Local Exchange	Long Distance	Television      Radio	Data Processing
<b>Traditional Industries</b>	Publishing	Local Exchange Companies	Long Distance Companies	CATV      Television and Radio Stations and Networks	Computer Hardware and Software
<b>Government Policies</b>	Copyright. Cross-Ownership Restriction. Antitrust.	Cross-Ownership Restrictions. Antitrust. Price, Earnings, and Entry Regulation. Patents. Federal and State.		Cross-Ownership Restrictions. Antitrust. CATV Pricing. Licensing, Franchising, and Standards. Federal and Local.	
					Copyright. 1956 Consent Decree Patents. Licensing.

*House Selfcomm Telecom  
1-29-1996  
Attachment 1*

**Figure 5**  
**Examples of Industry Convergence**



New technologies are available to meet the sophisticated needs of customers. Companies are positioning themselves to meet these customer needs by creating hybrids that cross traditional industry boundaries.

1-2

## SELECT COMMITTEE ON TELECOMMUNICATIONS

Testimony presented by David S. Brevitz, Consultant  
Kansas Corporation Commission  
January 29, 1996

Mr. Chairman, Members of the Committee:

I am here today to present an overview of the major telecommunications provisions of the Telecommunications Act of 1995 Conference Report. My sources of information are the 12/22/95 unofficial draft language of the Telecommunications Conference Bill, S. 652 and its Committee Report, and HR 1555 and its Committee Report. The conference committee has debated differences between S. 652 and HR 1555 for months. The Conference committee leadership and Vice President Gore have reached agreement, which is reflected in draft conference report. The Conference report has not come to the floor yet.

The House and Senate leadership are apparently seeking changes in the issue areas of media concentration, foreign ownership, TV spectrum auctions, Internet porn, etc. Changes disrupt the earlier compromise, and the budget impasse is a serious distraction.

It was reported in Friday's Wall Street Journal that the House may vote on the Conference bill this week, and the Senate isn't likely to take it up until late February. Then over the weekend, there were statements by Senate leadership that the bill would be taken to the Senate floor on Thursday of this week.

There have been many efforts over the past twelve years to get a telecommunications bill passed. This is by far the closest we have come. Predictions on whether bill passage will happen or not this year depends on who you talk to.

All seven of the regional Bell companies support the conference report, and there is significant support in the CATV industry, and amongst other competitors.

### Background

The Congressional legislation is designed to amend the 1934 Communications Act. The Communications Act created the Federal Communications Commission and established regulation for "common carriers" (telephone) and for broadcast services (which use limited radio spectrum).

The communications world has changed dramatically in 62 years. Technology and once separate lines of business are converging (see attachment for illustration). Major issues addressed by the bill include:

Bell company entry into the long distance business;  
telephone company entry into the cable TV business;  
competition for local telephone service;  
entry of electric companies into telecommunications;  
provision of additional services by broadcasters; and,  
protection and advancement of universal service.

Regarding telecommunications, the bill supersedes the terms of the Consent Decree governing the breakup of AT&T.

### Scope

In order to give you an idea of the sweep of the bill, this is an outline or index of the bill's contents, leaving telecommunications for last.

**BROADCAST SERVICES**--the original law was to ensure that the consumer received video and audio programming from a variety of sources, using the scarce resource of radio spectrum.

Now, the number of radio/TV stations has increased dramatically, and additional networks are being launched. CATV no longer just retransmits broadcasts, CATV now creates its own programming and competes for advertising and audience share. There are new technologies such as wireless cable, low power TV, VCR's, SMATV, and satellite dishes.

The Conference bill addresses various matters such as spectrum issues (providing additional services/revenues over existing spectrum), ownership issues and diversity, license terms and renewals, and direct broadcast satellite (DBS).

**CABLE SERVICES**--the 1984 Cable Act established FCC authority and prohibits CATV/Telephone company cross ownership. Rate regulation of CATV was imposed in 1992 legislation.

Under the Conference bill, rate are deregulated, with greater deregulation for smaller CATV companies. Restrictions on buy outs and cross ownership are loosened.

Local franchising authority is preempted. Cable operators providing telecommunications service shall not be required to obtain a franchise. Furthermore, franchising authorities may not limit provision of telecommunications services by CATV companies.

A law separate from the Communications Act, the PUBLIC UTILITIES HOLDING COMPANY ACT of 1935 is amended to allow electric companies into the telecommunications business

There are separate sections on competitive availability of navigation devices, and on video programming availability, and closed captioning.

There is a section on BROADCAST OBSCENITY AND VIOLENCE, which covers obscene or harassing use of telecommunications facilities, obscene programming on CATV, scrambling, operator refusal to carry certain programs, online family empowerment, and parental choice in TV programming.

Direct to home satellite service is exempted from local (not state) taxes.

There are further provisions on the privacy of customer information, and the prevention of unfair billing practices for info provided over 800 numbers.

### Telecommunications

Going back to the reasons for the legislation, the 1934 Act has not been rewritten since passage. It is viewed as no longer adequate in a world of telephone competition and increasing diversity of media. The Congressional action is premised on the belief that reducing regulation will spur technology development, increase investment, and create jobs and choices for consumers. The United States telecommunications industry is competitive worldwide, and Congressional action will assure future growth domestically and internationally.

All communications services will be open to competition.

The Telecommunications part of the bill is comprised of several sections. The first part is "Development of Competitive Markets".



The interconnection section contains the following requirements:

1. incumbent local exchange companies must interconnect with competitors
2. incumbent local exchange companies have the duty
  - of not unreasonably restricting resale;
  - to provide number portability (which allows a customer to "take" his or her phone number with them when changing telephone company);
  - to provide dialing parity and access to numbers;
  - to afford access to rights of way; and
  - to establish reciprocal compensation arrangements.
3. incumbent local exchange companies have the additional obligations to
  - negotiate interconnection in good faith;
  - interconnect at technically feasible points, with equal quality and on reasonable terms;
  - to provide non-discriminatory access to unbundled network elements;
  - to offer service for resale at wholesale rates, except that states can prohibit resale of service to different subscriber category (such as reselling a line obtained at residence rates to a business customer);
  - and,
  - to provide actual collocation of interconnection except that states may provide for virtual collocation.

There are "rural exceptions" to the above requirements. The requirements do not apply to rural telephone companies until such company has received a bona fide request for interconnection, and unless a state commission determines the requirements are not unduly economically burdensome, are technically feasible, and are consistent with universal service protection provisions. Furthermore, there is a petition process whereby any local exchange company serving less than 2% of the nation's access lines (which 2% figure would be a number in the millions) can petition the state commission for suspension/modification of the rules to avoid adverse economic impact. All Kansas independent telephone companies would be eligible to file such a petition.

These requirements are to be implemented by the Federal Communications Commission. The FCC is to complete all actions necessary to establish rules within 6 months of the date of enactment. The FCC determines the extent of unbundling, and the enforcement of any state commission regulation, order or

policy is not precluded as long as it is consistent with the above requirements.

There is a significant role for state commissions in the area of interconnection, including arbitration of disputes, and approval of interconnection agreements. The process is that interconnection agreements may be negotiated between carriers, any party can ask the state commission to mediate disputes, there is a set timeline for the mediation process, and there are standards set for state commission decisions, including a condition that the resolution of the dispute meet the stated requirements of the bill. The state commission determination on rates shall be based on cost (without reference to rate of return) and may include a reasonable profit. "Bill and keep" arrangements are not precluded, and any wholesale (resale) rates shall exclude retail costs.

Interconnection agreements adopted by negotiation or arbitration shall be submitted for state commission approval. The commission is to approve or reject the agreement, with written findings as to deficiencies. The grounds for rejection are only: discrimination against a carrier not a party to the agreement; not meeting the requirements of the Act; or inconsistency with the public interest, convenience and necessity. Agreements are deemed approved if not acted on within 90 days. The FCC preempts any state that fails to act. Appeal of state commission decisions in this area is to federal district court, not state court.

There is a section on removal of barriers to entry. This topic was a focus of SCR 1627 (1994), and the Commission is addressing it in the Competition docket. Congressional requirements are that no state law may prohibit any entity from providing any telecommunications service; states may impose competitively neutral requirements to preserve universal service; local governments may manage the public rights of way on a competitively neutral basis; and, states may require carriers in rural areas to meet universal service requirements.

The FCC shall within 15 months identify and eliminate market entry barriers promote diversity of voices, vigorous economic competition, technological advancement, and the public interest, convenience and necessity.

The bill addresses universal service. The FCC shall institute a Federal-State Joint Board, which is composed under federal law by three FCC commissioners, and four selected state commissioners. The Joint Board's role is to advise the FCC, and the FCC makes the final decision on the matter. This Joint Board is to be formed within 1 month of enactment to recommend changes to implement the universal service section of the bill, including defining universal service. The Joint Board is to act within 9 months, and the FCC is to act within 15 months of

enactment of the bill.

Universal service principles to aid the deliberations of the Joint Board and FCC are:

1. quality service is to be available at reasonable, affordable rates;
2. access to advanced telecommunications and information services nationwide;
3. comparable pricing in urban and high cost areas;
4. all carriers shall make equitable contributions to universal service;
5. there should be specific state/federal universal service mechanisms;
6. schools, libraries and health care should have access to advanced services; and,
7. other principles as determined by the Joint Board.

The FCC shall periodically review and establish the definition of universal service, taking into account technology, education, health, public safety and market choices.

Long distance rates shall be no higher in rural than in urban areas, nor higher in any specific state than other states.

Carriers shall provide service to public/non-profit rural health care providers at rates comparable to urban levels; any difference shall be supported by universal service mechanisms. Similarly, services to schools and libraries shall be discounted, which discount shall be supported via universal service mechanisms. The FCC shall establish rules in this area, and these services may not be resold.

Under this framework, state commissions shall designate one or more carriers to provide universal service and receive support, in the public interest. The FCC and state commission shall determine carriers best able to serve unserved areas. The state commission establishes service area for universal service.

Carriers shall contribute as determined by the FCC to support universal service. States can adopt additional rules to the extent that they involve specific predictable and sufficient mechanisms, or standards which do not rely on or burden federal support mechanisms.

There is a section on coordination between carriers for interconnectivity, with the object of promoting accessibility, and ensuring seamless and transparent transmission across networks.

There is a section addressing "slamming"--no carrier shall change a customer's selection of carrier except in accord with FCC verification procedures. Violators are liable to previous carrier in amount of all charges paid by subscriber.

### Special Provisions Concerning Bell Operating Companies

These provisions address and supersede the Consent Decree which set the terms of the breakup of AT&T. The most important provision is regarding Bell Operating Company (BOC) entry in the InterLATA long distance business. Bell Companies may immediately upon enactment sell long distance services which originate outside the states in which the BOC provides local service. In other words, SWBT can provide long distance service to all customers outside the five state region in which SWBT provides local service. This would initially be accomplished via resale, as the BOCs do not have toll facilities in other states.

BOC's may also immediately upon enactment provide "incidental" interLATA services. Examples of this would include incidental traffic associated with network signalling, mobile (cellular) services, and educational interactive video services.

BOC entry into InterLATA services "in region" (SWBT's provision of interLATA toll to the local subscribers in its five state territory, for example) is subject to conditions. Those conditions include:

1. presence of an approved interconnection agreement with one or more facilities based competitors, or passage of 10 months after enactment without a request for interconnection and a separate application process; and,
2. meeting the terms of the "Competitive Checklist", which include providing the following pursuant to specific Act provisions
  - interconnection;
  - non-discriminatory access;
  - access to poles, ducts, rights of way;
  - unbundled local loop, transport, switching;
  - access to telephone numbers;
  - number portability;
  - local dialing parity;
  - reciprocal compensation mechanisms; and,
  - resale.

BOCs can immediately apply for in-region InterLATA authority, upon enactment of the bill.

The bill contains a restriction on resale such that until the earlier of approved interLATA authority or 36 months from enactment, large long distance companies may not jointly market their services in combination with resold local services.

BOCs which are granted InterLATA authority must provide intraLATA dialing parity on a coincident basis.

BOC entry into the telecommunications equipment manufacturing business is authorized, coincident with the grant of InterLATA authority.

BOCs may provide electronic publishing services only via separate subsidiary. There is also a section on separate affiliates and competitive safeguards, as well as on specific provisions pertaining to alarm monitoring and payphones.

#### Federal Communications Commission Regulatory Forbearance

The bill directs the FCC to forbear from regulation where it is not necessary. The FCC is to consider whether forbearance will promote competition. Also, telecommunications companies can petition the FCC for forbearance. The FCC may not forbear until Sect. 251 requirements (competitive checklist) are met. No state commission may regulate after the FCC forbears.

The FCC is to review its rules every two years, and repeal those no longer in public interest.

#### Establishment of Funds

There is a "Telecommunications Development Fund", designed to promote access to capital for small businesses in order to enhance competition, to stimulate new technology development, to support universal service, and to promote delivery of telecommunications services in rural areas. It is funded by interest on auction deposits at the FCC, contributions or donations, and potential Congressional appropriations for advances to the Fund.

Also, the "National Education Technology Fund" is created to leverage resources and stimulate private investment in education technology infrastructure; to

designate state education technology agencies to receive loans, grants or other forms of assistance; to establish various criteria; and, to provide loans, grants and other forms of assistance to state education technology agencies.

Finally, a "Technology Fund" policy statement is made to encourage broadcasters, CATV, satellite, syndicates, video programming distributors, and related industries, in consultation with appropriate public interest groups and interested individuals to establish a "Technology Fund". The purpose of this fund is to encourage TV and electronics manufacturers to develop technology which would empower parents to block programming they deem inappropriate for their children, and encourage the availability thereof to low income parents.

As a concluding remark, if the federal legislation passes, we all know which will control. There is no reason to do something at the state level that will conflict with pending federal legislation. This will create confusion and conflict, waste time, money and resources. If the federal legislation does not pass, the Commission will be able to consider issues of fairness and continuation of universal service and condition its competitive decisions accordingly.