

As Published in the May 13, 2002 Issue of Telephony

WHAT'S NEXT: COMPETITION'S FUTURE

by Kevin J. Martin

By year's end, the FCC will act on a series of major rulemakings designed to address local competition and broadband provisioning. These proceedings represent the FCC's first major re-examination of the 1996 Telecom Act's implementation. The rulemakings examine the incumbent local exchange carriers' obligations to make their facilities available as unbundled network elements (UNEs); whether to performance measurements for evaluating a LEC's performance in provisioning facilities and services to competitors; and the regulatory framework for wireline broadband internet access. Here are my views on the issues:

Performance standards: A competitive market is not viable unless new entrants can obtain the facilities they need in a nondiscriminatory, reasonable and timely manner. We are considering establishing performance measures that would guarantee competitors access to critical incumbent facilities.

Essential elements: We should promote competition and also ensure that the proper incentives are in place for incumbents and new entrants to invest in and deploy new infrastructure and technology. We should create a transition mechanism that adjusts the availability or price of incumbent network elements to reflect their necessity for local competition in the marketplace.

Internet access: The FCC tentatively classified broadband Internet access as an "information service." While I'm generally supportive of this approach I have a few concerns. I do not support the FCC's proposal to extend universal service contribution obligations to providers of broadband Internet access such as wireless, cable, and satellite providers. This is essentially an Internet access tax that represents an unnecessary financial burden on service providers and creates a barrier to broadband deployment. In addition, the FCC must carefully consider the impact a change in regulatory classification on the ability of competitors to enter new markets.

The Commission must remain steadfast in promoting local competition and broadband deployment. The central tenet of our local competition policy is the advancement of facilities-based competition. Without facilities-based competition, government will always be the essential arbiter in setting wholesale and retail prices in the local market. Facilities-based competition allows the market—not the government—to set prices and create an environment that promotes innovation to the benefit of the American consumer.