

NONDISCRIMINATORY ACCESS TO TELECOMMUNICATIONS NETWORKS IS NECESSARY FOR VOICE OVER INTERNET PROTOCOL (VoIP) TO COMPETE AND SERVE THE PUBLIC

Summary: Physical blocking of VoIP competitors is clearly anti-competitive and should be eliminated; however, it is not the largest problem facing broadband/VoIP service providers/customers. More urgent problems are quality-of-service differentials and the forced bundling employed by local phone and cable companies to quash competition.

The problem: VoIP providers who also control the broadband platform use anti-competitive tactics to temper competition and give consumers fewer choices and higher prices. Congress needs to address these problems to ensure that the principle of **nondiscrimination** governs advanced telecommunications networks that deliver broadband and all the new technologies that flow from it, such as VoIP.

- 1) Physical blocking of competitors is anti-competitive but isolated.

Perhaps the most pernicious form of anti-competitive behavior is when a company physically blocks a competitor's service from working. This anti-competitive behavior is easily detectable and illegal under section 201 of the Communications Act, as a small local telephone company recently discovered. However, if the Federal Communications Commission grants the pending petitions to forebear from regulation, it would not have the power to stop even this blatantly anti-competitive conduct.

- 2) Quality-of-service differentials are also a significant anti-competitive problem.

Although not as pernicious as the physical blocking of competitors, this problem is more prevalent. Quality-of-service differentials occur when broadband providers change the quality of service they offer a customer based on whether that customer is using the broadband provider's VoIP service. For example, Comcast might guarantee customers using its affiliate VoIP provider a higher quality of service than those using an unaffiliated service provider. Comcast should be allowed to differentiate levels of service, and charge higher prices for a higher level of functionality, but it should not be allowed to discriminate in making functionality available on the basis of who owns the service provider.

- 3) Forced bundling is equally anti-competitive and must be halted before the market can become competitive.

In making advanced telecommunications services available to the public, cable operators force consumers to pay for their affiliated Internet service provider, while telephone companies force consumers to pay for their voice service. If a consumer wants to use an unaffiliated service provider, they have to **pay twice**. Needless to say, consumers are hesitant to pay a second time for something they have been forced to buy and competition is undermined.