
A REVIEW OF AN INTRODUCTION TO U.S. TELECOMMUNICATIONS LAW BY CHARLES H. KENNEDY

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*An Introduction to U.S. Telecommunications Law*¹ presents its readers with a succinct overview of the major issues and regulatory hurdles faced by telecommunications companies in a post-Modified Final Judgement ("MFJ") market.² The author discusses the intricacies of a select group of telecommunications regulations and their impact on the business decisions a telecommunications manager must make to protect his company's competitive position. Unlike other introductory texts on telecommunications law, this book is simply styled, written in a straightforward, jargon-free manner, and replete with case studies to highlight and explain particularly important issues, such as pricing and interconnection.

The author augments the reader's understanding of the regulatory issues by rendering detailed explanations of the services and technologies involved. This makes the book readily accessible to those without a legal background. Thus, the book's intended audience, managers of local exchange companies ("LECs"), will find this text especially useful. In his attempt to simplify the issues, however, the author limits the book's potential audience. Law students and new practitioners will be somewhat frustrated with the absence of detailed explication of specific rules, FCC proceedings and policies, and the lack of citations to landmark legal decisions. This lack of specificity prevents inexperienced legal minds from using the book as a stepping stone to additional research and discussion of the issues. However, this in no way diminishes the book's importance or usefulness to the businessman or experienced practitioner.

The author organizes the discussion into three parts. Part I delves into the regulatory circumstances

in which the LECs, including the Bell Operating Companies ("BOCs") and the GTE Operating Companies ("GTOCs"), find themselves. This discussion is the most detailed, reflecting the author's thesis that the LECs "have the most complex and stringent legal obligations of all the players in the industry."³ Whether or not the reader agrees with this contention, the author's ensuing discussion clearly illustrates the complex set of rules controlling the LECs' business decisions.

In Part II, the author briefly discusses FCC regulations governing other telecommunications players—the interexchange carriers ("IXCs"), pay telephone operators, mobile phone companies and domestic satellite carriers—and the regulatory quagmire in which they are immersed.

The book concludes with a thorough explanation of the economics driving the telecommunications industry and regulation thereof. The author sets forth the basic economic principles of competition and monopoly and applies them to the specific issues, such as pricing and interconnection. The Appendix is an essential section of the book, providing the reader with much-needed detail regarding issues raised in Parts I and II.

Throughout the book, the author begins each chapter with a brief summary, highlighting the main points presented in the previous chapters. The author also sets forth what issues will be addressed in the forthcoming chapter. What might appear to some to be an overwhelming morass of unrelated rules is actually a series of regulations designed to address similar issues in disparate factual situations. The author's introductory paragraphs do an extremely good job of communicating this point.

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¹ CHARLES H. KENNEDY, AN INTRODUCTION TO U.S.

TELECOMMUNICATIONS LAW (1994).

² *United States v. American Telephone & Telegraph Co.*, 552 F. Supp. 131 (D.D.C. 1982), *aff'd sub nom. Maryland v. United States*, 460 U.S. 1001 (1983).

³ KENNEDY, *supra* note 1, at 3.

The author's approach is to focus on a few issues, but to discuss them in detail. The Preface and Introduction expose the reader to basic terms, concepts and the overall structure of the telecommunications industry. Part I then focuses exclusively on the LECs, explaining how much they can charge for services and whether, and on what terms, they must offer interconnection. One of the most salient features of this discussion is the author's explanation of price caps and rate-of-return regulation. Using a case study, the author takes the reader down both regulatory paths, explaining the issues from the points of view of the LECs, the local public utility commissions, the states, and the FCC. Complete with diagrams and excerpts from a hypothetical balance sheet, this discussion is thorough, understandable, and interesting.

The author capsulizes the events leading to the MFJ and its impact on the LECs in just two chapters. Keeping in mind that this book is an overview rather than a complete exegesis, Chapters Four and Five of Part I are exceptionally instructive on the MFJ's equal access obligations. The author then briefly, yet succinctly, explains the complicated relationship that the LECs have with the IXCs, competitive access providers, radio common carriers, and private mobile service providers.

Following this explanation of regulations applicable to the LECs, the author moves onto a discussion of the MFJ restrictions applicable to the BOCs and the GTOCs. Although he explains each of the restrictions, the author pays special attention to the issue of equal access—equal access for pay phones, 800 services, billing and collection and BOC calling card validation. The author also addresses the interexchange and manufacturing restrictions in some detail. Although the author clearly states the book is not intended to be a comprehensive text, most readers will find it surprising that in the context of the discussion of the MFJ restrictions, little is said about Judge Greene lifting the information services restriction.⁴

In his discussion of the MFJ, the author sets forth three alternatives for BOCs seeking MFJ relief. First, the author states that "if the BOC's lawyers are confident of their position and the company's management is bold, the BOC may simply proceed with the planned activity."⁵ Second, the BOC may

seek a declaratory ruling from the court, and third, the BOC may ask the court for a waiver. The author's first alternative, perhaps a common practice within some companies, can result in huge forfeitures should the court disagree with the BOC's interpretation of what is and is not restricted by the MFJ. The downfalls of this alternative, however, should be explained more explicitly.

The section dealing with the Computer III rules is concise and to the point, focusing the reader's attention on the underlying competitive issues, such as control over bottleneck facilities, cross-subsidization, and disclosure of customer proprietary network information. Missing from the discussion of new ventures into cable and video dialtone is the recent flurry of proposed mergers and acquisitions among BOCs and cable companies. Although the Bell Atlantic-TCI and Southwestern Bell-COX deals have failed to materialize, there are existing agreements, such as that between U.S. WEST and Time Warner, which should be discussed in light of their possible impact on the continuing viability of the cable-telco cross-ownership rules. In addition, the author does not include a meaningful discussion of the possible role the BOCs may play in the development of the National Information Infrastructure.⁶ These are important issues that impact U.S. telecommunications law and should be included in an introductory text.

Part II addresses the IXCs, pay telephone operators, operator service providers, mobile telephone companies, and domestic satellite carriers. The discussion of the IXCs focuses on the regulations applicable to AT&T as a dominant carrier. This discussion also includes an analysis of the recent court of appeals decision that effectively overturned the FCC's forbearance policy.⁷

The chapter on mobile telephone companies discusses cellular service, specialized mobile radio ("SMR") service, and personal communications service ("PCS"). The author's explanation of the technology and engineering of a cellular system is invaluable. Once again, the reader finds himself playing the role of an owner of a cellular system. The complexities of complying with the MFJ restrictions are illustrated by a diagram and related text. The author touches upon cellular resale, interLATA microwave, interLATA transmissions between MTSOs and cell

⁴ United States v. Western Electric Co., Inc., 767 F. Supp. 308 (D.D.C. 1991).

⁵ KENNEDY, *supra* note 1, at 62.

⁶ NATIONAL TELECOMMUNICATIONS AND INFORMATION

ADMINISTRATION, U.S. DEP'T OF COM., NATIONAL INFORMATION INFRASTRUCTURE: AGENDA FOR ACTION (Sept. 15, 1993).

⁷ American Tel. and Tel. Co. v. FCC, 978 F.2d 727 (D.C. Cir. 1992).

sites, switching for other systems, interLATA call delivery and intersystem hand-off. Reflecting the transactional nature of the cellular business, the author also discusses issues relevant to the sale of cellular systems. However, the author does not delve into the timely issues of renewal or unserved areas. These two issues in the cellular field are currently occupying both the managers' and practitioners' attention and should have been included in this introductory text.

In addition, the author does not discuss the fact that the rules governing cellular, Part 22 of the FCC's rules, are currently being revised.⁸ Furthermore, the author's discussion of SMR service does not reflect SMR's growing significance, both from a regulatory and competitive standpoint.

Finally, the author fails to adequately explain the ongoing debate at the FCC and within the industry regarding PCS,⁹ auctions¹⁰ or commercial mobile radio services.¹¹ The FCC regulations governing the mobile services industry are rapidly changing. Our

concept of what constitutes mobile services undoubtedly will be drastically different within the next decade. However, this sense of overwhelming change is not reflected in the author's discussion of this area of telecommunications law.

An Introduction to U.S. Telecommunications Law is a useful overview of telecommunications law. While explaining the basic elements of the regulations controlling LECs, the author illustrates legal requirements with case studies, making the underlying legal concepts somewhat easier to understand for an audience that includes non-lawyers. The book's treatment of the MFJ restrictions is invaluable because it is concise. However, the discussion of mobile services falls short in its description of the current state of the market and related regulations. Finally, the Appendix provides even the most economically ignorant reader with a basic understanding of one of the driving forces of telecommunications regulation. In all, this book will be a highly useful addition to any telecommunications law library.

⁸ Revision of Part 22 of the Commission's Rules Governing the Public Mobile Services, *Notice of Proposed Rule Making*, 7 FCC Rcd. 3658 (1992).

⁹ *In re* Amendment of the Commission's Rules to Establish New Personal Communications Services, *Notice of Inquiry*, 5 FCC Rcd. 3995 (1990); *Policy Statement and Order*, 6 FCC Rcd. 6601 (1991); *Notice of Proposed Rule Making and Tentative Decision*, 7 FCC Rcd. 5676 (1992); *Erratum*, 7 FCC Rcd. 5779; *Tentative Decision and Memorandum Opinion and Order*, 7 FCC Rcd. 7794 (1992); *Second Report and Order*, 8 FCC Rcd. 7170 (1993); *Third Report and Order*, 9 FCC Rcd.

1337 (1994). By these orders, the Commission amended its rules to create Part 99.

¹⁰ Implementation of Section 309(j) of the Communications Act - Competitive Bidding, *Notice of Proposed Rule Making*, 8 FCC Rcd. 7635 (1993); *First Report and Order*, 59 Fed. Reg. 9100 (1994); *Order*, 9 FCC Rcd. 1329 (1994); *Second Report and Order* in PP Dkt. No. 93-253, FCC 94-61 (Apr. 20, 1994).

¹¹ Implementation of Sections 3(n) and 332 of the Communications Act Regarding Regulatory Treatment of Mobile Services, *Notice of Proposed Rule Making*, 8 FCC Rcd. 7988; *First Report and Order*, 59 Fed. Reg. 18,493 (1994).

