

A Superhighway Through the Wasteland?

By Mitchell Kapor and Jerry Berman

Telecommunications and cable TV executives, seeking to allay concerns over their proposed megamergers, insist that the coming electronic superhighway will be an educational and informational tool as well as a cornucopia of interactive entertainment. Allow the marriage between entertainment and communications giants, we are told, and they will connect students with learning resources, provide a forum for political discourse, increase economic competitiveness and speed us into the multimedia information age.

Both broadcast and cable TV were introduced with similar fanfare. The results have been disappointing. Because of regulatory failure and the limits of the technology, they failed to be saviors of education or political life. We love the tube but recognize that it is largely a cultural wasteland.

For the Government to break this cycle of promise and disappointment, communications mergers should be approved or barred based on detailed, enforceable commitments that the electronic superhighway will meet public goals. The amount of electronic material the superhighway can carry is dizzying compared to the relatively narrow range of broadcast TV and the limited number of cable channels. Properly constructed and regulated, it could be open to all who wish to speak, publish and communicate.

None of the interactive services will be possible, however, if we have an eight-lane data superhighway rushing into every home and only a narrow footpath coming back out. Instead of settling for a multimedia version of the same entertainment that is increasingly dissatisfying on today's TV, we need a superhighway that encourages the production and distribution of a broader, more diverse range of programming.

The superhighway should be required to provide so-called open platform services. In today's channel-based cable TV system, program producers must negotiate for channel space with cable companies around the country. In an open platform network, we would avoid that bottleneck. Every person would have access to the entire superhighway, so programmers could distribute information directly to consumers.

Consumers would become producers: individuals and small organizations could create and distribute programs to anyone on the highway who wants them. Open platform services will spur diversity in the electronic media, just as low production and distribution costs make possible a wide variety of newspapers and magazines.

To prevent abuses by media giants that because of recent Federal court decisions will control the pipeline into the home and much of the content delivered over it, we need new laws. Like today's phone companies, the companies controlling the superhighway must be required to carry other programmers' content, just as

phone companies must provide service to anyone who is willing to pay for it. We must guarantee that anyone who, say, wants to start an alternative news network or a forum for political discussion is given an outlet to do so.

Americans will come to depend on the superhighway even more than they need the telephone. The guarantee of universal telephone service must be expanded to include universal access to the superhighway. Although market forces will help keep the new technology affordable, we need laws to protect consumers when competition fails.

And because several companies will operate the highway, each must be required to interconnect with the others. Likewise, the new computers that will give us access to the superhighway should be built according to commonly accepted standards. Also, even an open, competitive market will leave out organizations with limited resources such as schools and libraries. To compensate for market oversights, we must insure that money—whether through Federal support or a tax on the companies that will control the superhighway—is made available to these institutions. Finally, people won't use the new technology unless they feel that their privacy is protected. Technical means, such as recently developed encryption techniques, must be made available to all users. And clear legal guidelines for individual control over access to and reuse of personal information must be established. Companies that sell entertainment services will have a record of what their customers' interests are; these records must remain confidential.

Bell Atlantic, T.C.I., Time-Warner, U.S. West and other companies involved in proposed mergers have promised to allow the public full access to the superhighway. But they are asking policy makers to trust that, profits aside, they will use their new positions for the public good.

Rather than opposing mergers or blindly trusting competition to shape the data highways, Congress should make the mergers hinge on detailed commitments to provide affordable services to all Americans. Some legislators, led by Representative Edward Markey, Democrat of Massachusetts, are working to enact similar requirements; these efforts deserve support.

The best approach would be to amend these requirements to the Communications Act of 1934. Still the central law on open access, an updated Communications Act would codify the terms of a new social contract between the telecommunications industry and the American people.

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