Stacked Competition and Phony Deregulation for AT&(and)T: The Proposed Telecommunications Competition and Deregulation Act of 1981

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By Louis B. Schwartz*

The United States is negotiating to surrender to American Telephone and Telegraph (AT&T). The surrender is embodied in the proposed Telecommunications Competition and Deregulation Act of 1981, S. 898, recently passed by the Senate,¹ and in the talked-of dismissal of a long-fought antitrust case against AT&T. In the coming months the House of Representatives will be debating the telecommunications bill. The House vote will be the last chance to avoid a dramatic reversal of this country’s century-old commitment to competition and to decentralization of economic power. AT&T is the world’s largest “private” enterprise, two or three times the size of Exxon, the second largest firm.² Its dominant power is underlined by the fact that it conducts major areas of its business under monopoly franchises legally protecting it against competition. Despite its title, S. 898 extends the power of AT&T, threatens competition in many unregulated businesses which it invites AT&T to penetrate, and adds more regulation than it eliminates.

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¹. See S. Rep. 97-170, of the Senate Committee on Commerce, Science, and Transportation, 97th Cong., 1st Sess., July 27, 1981. At the time of this writing, prints of S. 898 in the form that it passed the Senate are unavailable. References in this article are to the version approved by the Senate Committee. But account is taken of some subsequent amendments. See, e.g., as to floor action on amendments, 127 Cong. Rec. S11195, Oct. 7, 1981.

Provisions of the Bill

The bill's main features are as follows. It authorizes AT&T to engage in non-carrier, non-regulated business, provided that the business is carried on through a "fully-separated affiliate" (hereinafter referred to as FSA). These new offshoots of AT&T have been referred to collectively as "Baby Bell," but it is not clear whether Baby Bell might be one large or many smaller units. S. 898 contains elaborate provisions directed against AT&T's subsidizing or favoring its FSA's and charging the FCC with regulatory responsibility to police this new boundary between regulated and unregulated aspects of AT&T's operations. The bill extends the jurisdiction of the Federal Communications Commission to regulate long distance calls by giving the Commission jurisdiction over such calls whether or not they cross state lines. The bill does promote competition in several respects; however, some of these changes have been and are being effectuated through litigation under existing law, and in any event could easily be enacted separately from the legislative bonanza for AT&T embodied in S. 898.

The Issues

Three main issues will be explored: (1) whether AT&T should be allowed to expand its operations beyond regulated public utility communications services, transforming itself into something much more comprehensive which supplies as well as carries "knowledge"; (2) whether AT&T should, instead, be trimmed back by forcing it to divest its control of local telephone service and of vast non-pub-

3. Certain narrow exceptions to this authority are discussed below.
4. The term is defined in S. 898 § 227.
5. See, e.g., S. 898 §§ 202, 227.
6. S. 898 § 102(a) (FCC jurisdiction over all "interexchange" and foreign telecommunications). In principle, this is a wise move because the long distance network should be regulated as a unit. It is favorable to AT&T since the company thus escapes the jurisdictions of state regulatory commissions, some of which have been more effective at regulation than the FCC and others of which have sought to shift local costs to the longlines toll system.
7. Among other provisions, section 204 authorizes purchasers of Bell package services to share or resell parts of the package; sections 207, 216(b) and 222 effectively require AT&T to provide local telephone connections for microwave and other long-distance services competitive with AT&T; and section 234 shields independent suppliers of telephones and other "customer premises equipment" from state regulatory restraints designed to favor the Bell System. The most significant "deregulation" suggested is deregulation of microwave and other message carriers competitive with AT&T, so long as they are subject to "effective competition." It remains to be seen whether FCC responsibilities and activities in the area of maintaining "effective competition" during and after the statutory transition period will qualify either as effective competition or as deregulation.
lic utility operations carried on, for example, by its Western Electric subsidiary, which manufacturers telephone and other electronic gear for sale largely to the captive market of the Bell System; and (3) whether safeguards against exploitation of AT&T's monopoly position, particularly the "fully-separated affiliate" device proposed in S. 898, would be effective.

Expansion of AT&T's Power Despite Proclivity to Monopolize

Expansion of the giant communications company into a colossal "knowledge" company is forbidden under the terms of a 1956 court order based on earlier monopolistic activity of AT&T. It is worth recalling that the 1956 judgment was a consent decree entered in a suit brought under Democratic President Truman in 1949 and settled on terms favorable to AT&T under Republican President Eisenhower. The deal was widely criticized as a surrender to AT&T because it failed to achieve the divestiture which alone could prevent continuing abuse.

In light of the 1956 decree, the proposed expansion of AT&T's scope contemplated by S. 898 is breathtaking. "Information services" as defined in S. 898 embraces "generating, acquiring, utilizing or making available" knowledge. If any question is left of the impact of the legislative language, AT&T's exultant propaganda campaign fills in the picture. Double-page spreads in eight colors reveal the colossus's new image of itself. A spectrum or map of the "knowledge business" is depicted, running from Plato on the left to AT&T's new domain on the right. Territories already conquered by AT&T are colored blue, like the red of the British empire on old world maps demonstrating that the sun never sets on imperial Britain. Some provinces of knowledge are conceded to

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9. See Hearings before the Antitrust Subcommittee of the House Judiciary Committee, 85th Cong., 2d Sess., part II, vol. 1, ser. no. 9 (1958). The breadth of exceptions in the decree and the flexibility of its terms have recently been underlined in United States v. Western Electric Co., 1031 ANTITRUST & TRADE REG. REP. (BNA) A-10 (D.N.J. 1981), from which an appeal is pending in the Court of Appeals for the Third Circuit. In that case, upon a petition by AT&T for a construction of the 1956 decree, the district court sustained the authority of the FCC to "deregulate" the supply by AT&T of certain products and services while allowing AT&T to continue to operate in these deregulated markets. Id.  
10. E.g., SCIENTIFIC AMERICAN, June, 1981, at 10-11; THE NEW YORKER, June 18, 1981, at 90-91 ("The knowledge business").
have been opened up by others in the past, although plainly AT&T plans to take care of future development of these primitive innovations. Ancient Greek mathematicians get credit for algebra, geometry, and astronomy. Galileo and Copernicus get nods for introducing heliocentrism. Gutenberg is accorded the invention of printing, and Daguerre the beginnings of photography. Beyond this, all is AT&T's blue. Only the most powerful lobbies succeeded in holding off AT&T's embrace by amending S. 898 to exclude "cable service, mass media, or mass media product" from exploitation through the FSA device. Otherwise, AT&T aims to become our publisher, our teacher, our entertainer, our data processor, our researcher, our library and our repository of science.

Since the 1956 antitrust judgment, numerous private antitrust suits have demonstrated AT&T's proclivity to violate the antitrust laws by suppressing competition that would undermine its monopoly. Potential low-cost competition in long-distance service was restrained by prolonged bitter resistance to the FCC's licensing of competing microwave systems and by refusing to permit essential link-ups of such systems to the local telephone networks operated by AT&T subsidiaries. Monopolistic control of telephone equipment and supplies was maintained by causing the controlled Bell subsidiaries to buy from Western Electric rather than from independent suppliers. Control of the market for auxiliary telephone appliances was maintained by refusing to permit "foreign attachments," on the pretext that they would impair the operation of the phone system. AT&T's edge over independent firms as a supplier of data processing rests largely on the fact that independents must use AT&T's telephone network to send and receive the data. The cost of communication constitutes a major fraction of the aggregate cost of data processing. Since the FCC's regulation of communications rates has been notoriously ineffectual, AT&T itself effectively fixes the height of the cost barriers that competing data processors must surmount.

11. MCI Communications Corp. v. AT&T, 462 F. Supp. 1072 (N.D. Ill. 1978) (a verdict for $1.8 billion, presently on appeal to the U.S. Court of Appeals for the Seventh Circuit, based on denial of essential interconnections for a competing long distance service and on predatory pricing tactics); Litton Industries v. AT&T, 1981-2 Trade Cas. 164,306 (S.D.N.Y. 1981) ($92 million verdict, to be trebled, based on illegal exclusion of Litton from the telephone equipment manufacturing business). Cf. AT&T Former Chief Testifies on Efforts to Bar Competition to Protect Quality and Rates, Wall St. J., August 28, 1981, at 4 (deButts, former chairman of the Bell System "conceded under cross-examination that AT&T never was able to provide specific evidence that any equipment made by other companies had harmed the Bell network").
The foregoing practices are the basis of the latest government prosecution of AT&T under the antitrust laws. The company has already spent over $100,000,000 on defense against the charge and has attempted to treat these expenses as telephone costs chargeable against the ratepayer.

The Position and Propaganda of the Reagan Administration

Following the example of the Eisenhower Administration, the Reagan Administration proposes to drop the antitrust suit in exchange for token concessions by AT&T. Furthermore, the Administration is making every effort to procure the enactment of S. 898, which would affirmatively sanction extension of AT&T's operations into non-regulated fields. The Administration's efforts include an unprecedented barrage of misleading propaganda. The public has been led to believe: (1) that expansion of AT&T is essential to AT&T's financial requirements and technological progress, without which it cannot compete successfully with foreign companies; (2) that the antitrust suit aims to "break-up" our communications networks, endangering national defense; and (3) that S. 898 deregulates, promotes competition, and would prevent abuse of monopoly position by requiring AT&T's expanded operations to be conducted as FSA's.

Leading the Administration's chorus is Secretary of Commerce Malcolm Baldrige. Baldrige chaired a cabinet-level task force on telecommunications and believes that the antitrust suit is an "obstacle to the industry's ability to attract the investment required to maintain the U.S. lead against foreign competition." The absurdity of these crocodile tears for AT&T's investment problems is exposed by recent financial reports of the company showing record earnings, by the company's repeated demonstrations of the power

to sell virtually unlimited amounts of securities at advantageous prices, and by the FCC’s recent generous treatment of AT&T’s rate of return on investment.16

Baldrige makes no secret of his disregard of the antitrust law. He wants the suit dismissed explicitly without concern for the legal merits, but as a matter of “national interest” revitalizing the U.S. telecommunications industry.17 Baldrige’s Task Force on Telecommunications did not even have a representative from the Department of Justice, which is perhaps just as well since Attorney General William French Smith and his Chief Deputy Edward Schmults have past ties with AT&T.18 President Reagan has personally participated in the discussion of the Task Force proposals. The Administration’s effort to shoulder aside the Antitrust Division in White House consideration of telecommunications policy is paralleled by the Republican drive in Congress to keep S. 898 out of the hands of the Congressional committees which normally deal with


their discussion dwelt on how to minimize the public relations fallout of the record-setting increase to 13% . . . that they clearly already had determined they wanted to grant the company. . . . Lee noted it was going to take some doing to structure the 13% increase so it wouldn’t look as if they had “rolled over for the company.” . . . Lee offered a solution: “What appealed to me was 12.5 and a range. You’re actually giving them 13, but it doesn’t look like you’ve rolled over for the company.”

A range it would be, they decided. “The range thing is public relations,” Mr. Quello said approvingly. But the record in the case didn’t provide the usual rationale for a range, which is to allow the company flexibility for productivity changes.

“Think up some good reasons,” Mr. Lee told the staff. The room erupted in laughter.

17. Taylor, Reagan Offer to Drop AT&T Trust Suit Prodded by Fears of Foreign Competition, Wall St. J., Aug. 7, 1981, at 6, col. 5 (Baldrige is quoted as saying: “the task force [on telecommunications] ‘didn’t in any way address the merits of the AT&T suit.’”)

AT&T/Western Electric is not waiting for Congressional relief on the foreign competition front and apparently does not need it. See Sease, AT&T Gives Job to Unit, Rejects Low Foreign Bid, Wall St. J., Oct. 30, 1981, at 48, col. 1. A Japanese supplier was turned down on the ground that “national interest” required that the project be let to an American firm so as to encourage American development of the new technology of glass fibre lines using laser-generated beams of light to carry communications. Not surprisingly, Western Electric was the favored American firm. Alexander Stark, executive vice president of AT&T’s Long Lines Department “declined, however, to specify the amount or the identity of the domestic bidders other than Western Electric.” Id. (emphasis added).

Compare Chace, Outside Suppliers Find That Ringing Up Sales With AT&T Isn’t Easy—‘Like Competing With God,’ Wall St. J., Jan. 29, 1981, at 1, col. 5.

antitrust issues. It was the compliant Senate Committee on Com-
merce which pushed the bill and opposed any referral to the Judi-
ciary Committee.

Caspar Weinberger, Secretary of Defense, weighs into the fight
with ridiculous assertions that national security is threatened
by the “break-up” of AT&T’s communications network. No such
“break-up” of physical connections is contemplated by the lawsuit
or proposed by anyone. Long-distance lines would continue to be
connected with local telephone systems even if AT&T must sell its
stock in the controlled regional telephone companies. Efficient
technological cooperation can exist without financial domination,
as is shown by the excellent interchange between AT&T, the non-
Bell independent telephone companies in this country, and foreign
telephone systems. The American telephone system as a whole can
only benefit if AT&T and the operating companies must buy their
equipment in competitive markets rather than in cozy transactions
with AT&T’s Western Electric Co. The Secretary of Defense would
be well advised to abandon efforts to adapt the economic and po-
litical structure of the United States to the needs, real or imagined,
of the military.

William Baxter, Assistant Attorney General in charge of the An-
titrust Division, has courageously opposed the pressures to drop
the antitrust suit, despite his conservative views on antitrust en-
forcement. He was, however, compelled to approve a request for an
eleven-month suspension of the trial. That delay, the Administra-
tion hoped, would suffice for the enactment of S. 898. Baxter loy-
ally aligns himself with the Administration on S. 898, although it is
hard to see how he can support legislation so opposed in principle
to the lawsuit’s attack on concentration of economic power. There
may come a point at which Baxter, a former professor of law at
Stanford, will have to follow Archibald Cox’s famous example in
the Watergate case by resigning rather than yielding to White

2, 1981, at 2. According to the article, Weinberger’s concern was with divestiture of the
regional telephone companies because they “serve critical elements of the nation’s nuclear
attack force . . . which must rely on speedy, highly reliable telephone links.” AT&T was not
slow to pick up (if it did not inspire) this ludicrous theme. It “asserted in court that break-
ing up . . . could weaken U.S. military security.” Taylor, AT&T Antitrust Suit’s Dismissal
Urged by Defense Chief, Citing Nation’s Security, Wall St. J., April 8, 1981, at 6, col. 1
(emphasis added).

20. See Brown, Bill Shifts Phone Role to Military, Washington Post, Sept. 27, 1981, at A-
1, col. 1, reporting concerns not only of competitors of AT&T, but also of civil liberties
groups.
House pressure.

"Safeguards" Against Abuse

If the dangers of divestiture are mythical and the anticompetitive threat of AT&T's vast power is real, what of the "safeguards" against abuse provided by requiring new operations to be conducted through FSA's? The short answer is that the safeguards are a fraud. The conjunction of "separate" and "affiliate" is Orwellian "newspeak." The affiliates will not be fully or even significantly separated: AT&T's right to "direct" their operations is expressly affirmed in the pending bill. AT&T can name the directors and officers. AT&T will staff the affiliates. AT&T will provide or deny financing. It is sheer fantasy to suppose that such affiliates will not shape their price, service, and other commercial policies to favor and protect AT&T, or that AT&T will not lend them every discriminatory support that it can get away with.

The chief aim of S. 898 is to create the impression that such favor by the corporate parent can be prevented by requiring separate accounting systems for the subsidiaries and by forbidding specified acts of inter-firm discrimination. S. 898 purports to prohibit AT&T from using its monopoly public utility rates to subsidize its unregulated competitive ventures; but it is much easier to proscribe than to police such anti-discrimination measures. The General Accounting Office, independent watchdog for the federal government, as well as the Department of Justice and Fortune magazine, has recorded skepticism of such policing. In any event, nothing in S. 898 would touch the basic handicaps under which other firms would compete with AT&T affiliates: the limitless

21. See S. 898 § 202(d): except as relations between dominant firm and FSA are explicitly regulated, "nothing shall preclude management personnel of a dominant-regulated carrier from directing the operations of . . . any fully separated affiliates."

favorable financing which AT&T would enjoy;\textsuperscript{23} the public relations and advertising bonanzas derived from association with the omnipresent Bell System; and the exemption of FSA's from the bill's safeguards when trade in foreign markets is involved. No prohibition will stop AT&T from shaping its research and development plans to fit the needs of the "separate" affiliates which it "directs." No prohibition can prevent AT&T officers from leaking advance information or hints to fellow officers in the system. Above all, no AT&T employees transferred to affiliates, as allowed under S. 898,\textsuperscript{24} can be stopped from using what they know for the exclusive benefit of the affiliate.

Finally, the "safeguard" system is further compromised by authorizing "joint ventures" between AT&T and the FSA's,\textsuperscript{25} by permitting AT&T to transfer even communications facilities to the FSA (thus undoing the supposed "separation"), and by pervasive "emergency" exceptions to the bill's requirements.\textsuperscript{26}

The hypocrisy of the safeguards system is exposed in the latest response to criticisms of the inside track that Western Electric would continue to enjoy as equipment supplier to the system. Under the "open procurement" amendment proposed by the Administration last August to make S. 898 more palatable, Bell operating companies could not buy equipment from Western Electric unless Western Electric demonstrated its ability to sell the same equipment to independent buyers. Passing over the problems of determining what is the "same equipment" and who is an "independent buyer" (Bell has close relations with many non-owned telephone companies), it is enough to note that under the complex formula originally proposed, Western Electric would have to sell less than 1% to outsiders at first, a figure rising only to less than 7% in ten years.\textsuperscript{27} Small wonder that Assistant Attorney General Baxter continued to insist that only divestiture can insure against

\textsuperscript{23} On the potentialities of "predatory investment" to saturate a market otherwise potentially open to others, see United States v. Aluminum Co. of America, 148 F.2d 416 (2d Cir. 1945); Photovest Corp. v. Fotomat Corp., 606 F.2d 704 (7th Cir. 1979).

\textsuperscript{24} See S. 898 § 224(b) relating to transferred employees.

\textsuperscript{25} See S. 898 § 227(b).

\textsuperscript{26} E.g., S. 898 §§ 227(g) and 233(a) (the commission shall consult with the President to order whatever is necessary "[t]o ensure the continuity of telecommunications essential to the national defense").

\textsuperscript{27} 1027 ANTITRUST & TRADE REG. REP. (BNA) (Aug. 13, 1981) A-9. It is reported that under a last minute amendment in the Senate, prompted by Assistant Attorney General Baxter, the final figure might rise in 13 years as high as 24%.
discrimination and cross-subsidy. 28

The Pretense of Deregulation

The ultimate hypocrisy of Administration support of S. 898 lies in representing the bill as “deregulation,” a very popular slogan these days. The bill in fact imposes a mind-boggling new regulatory responsibility on the FCC. 29 There are complex provisions for FCC proceedings to approve the organization of the “fully separated affiliate” system and to review its operation. With regard to AT&T’s transactions with affiliates, the bill requires FCC regulation to distinguish between “commercial” and other sorts of information, between final assemblies and sub-assemblies or components, and between “institutional” and other preferences. AT&T would be forbidden to sell to affiliates at less than market value, unless AT&T demonstrates to the FCC that the “direct” cost of dealing with the affiliate is lower, or that the transaction promotes “efficiency.” This appalling regulatory structure was discussed at the Ninth Annual Telecommunications Policy Research Conference,30 where those who favored AT&T’s freedom to expand, as well as those who opposed it, condemned the “fully separated affiliate” device as burdensome and ineffectual.

The deregulation ploy, as a diversion from the real issue, is admirably summed up in Fortune’s quotation from a “staffer” of the House Subcommittee on Telecommunications, chaired by Congressman Wirth (D.-Colo.): “The issue here isn’t deregulation but competition. . . . [T]he Senate went ahead as though AT&T were just like the airlines or trucking industry instead of a monopolist.

28. In a brief filed by the Department of Justice in the United States Court of Appeals for the District of Columbia on Oct. 30, 1981, Baxter challenged the FCC’s “deregulation” program, which like S. 898 purports to free the company to engage in unregulated business provided it does so through fully separated subsidiaries: “The commission’s decision is remarkable for its blind faith that the necessary accounting tools, heretofore non-existent, will be developed in time to ensure the success of its [deregulation] scheme.” Justice Dept. Appeals Telephone Deregulation, Philadelphia Inquirer, Nov. 4, 1981, § E, at 1 (story by the Associated Press).

29. See especially S. 898 §§ 227, 238. “The emerging political solution is a kind of deregulation that relies on scrutiny by the FCC of the relationship between Ma and Baby. And that means more regulatory activity, not less.” Uttal, supra note 22, at 75.

30. The conference was co-sponsored by the Department of Commerce, National Telecommunications and Information Administration, the Federal Communications Commission, the National Science Foundation, The John and Mary Markle Foundation, the Corporation for Public Broadcasting, the Province of Ontario Ministry of Transportation and Communications, The M. L. Annenberg Foundation, and the Benton Foundation, April 26-29, 1981, Annapolis, Maryland.
We wouldn't have deregulated the airlines if United had owned 85% of the airports and the airplanes, flew most of the route miles, controlled Boeing, was into parking franchises, and was getting ready to go into the car rental business."

Conclusion: A Constructive Framework For New Legislation

Underlying all the particular defects of S. 898 is the absence of any basic or unifying philosophy. Do we or do we not continue to believe that private firms can become too big for effective management, too big for the safety of their competitors and of the competitive system, and too big to be controlled by government? Have we forgotten the recent demonstrations of the spuriousness of claims to the superior efficiencies of giant combines? Does anyone conceive that if Western Electric were today an independent manufacturing company, its acquisition by AT&T would be regarded as consistent with the Clayton Act prohibition of mergers "where the effect may be to substantially lessen competition"? Would we today permit AT&T, which purveys long-distance service to regional and independent local telephone companies, to acquire control of these customers, thus circumscribing their freedom to patronize alternate suppliers of long-distance service? Should we tolerate the perpetuation of the management service contracts by which AT&T binds the regional Bell companies to its chariot, exacting a flat fee for management services that the well-paid heads of the great regional Bell companies should be performing for themselves or purchasing in a competitive market for management consultant services?

If we adhere to the philosophy of the antitrust and public utility laws, it would still be necessary to adapt regulation to new situations created by advancing technology. That kind of reconsidera-

31. Uttal, supra note 22, at 73.
32. Consider the problems of these giants: Chrysler; Penn-Central R.R.; Pan Am/National Airlines; Exxon/Reliance; International Harvester; and Lockheed.
33. Compare the constraints on intra-system service, sales, and construction contracts imposed by section 13 of the Public Utility Holding Company Act of 1935, 15 U.S.C. § 79m(d). Among other things, section 13 provides for regulation of "mutual service companies," including the requirement that services be rendered "at cost fairly and equitably allocated . . . [and] at a reasonable saving to member companies over the cost to such companies of comparable contracts performed by independent persons." A member company which, "by reason of its size or other circumstances, does not require such service" may not be charged therefor.
tion might lead to constructive and effective new legislation as follows.

First, effective legislation would reaffirm and strengthen the principle of the 1956 Antitrust Decree. The loopholes in the 1956 decree which render it virtually unenforceable must be closed. AT&T should be barred from engaging directly or indirectly in businesses within the domain of ordinary competitive enterprise. In principle, it should be confined to the role of regulated carrier in fields where effective competition is precluded by "natural monopoly," huge capital requirements, or other very high entry barriers.

Second, effective legislation would define the scope of permissible engagement in operations "incidental" to regulated carriage. It must be recognized that regulated utilities, as a matter of prudent utility operation, must frequently engage, to some degree, in competitive markets. A coal-burning electric power company probably should be allowed to acquire coal reserves as inventory and perhaps as a hedge against market uncertainties. A telephone company with peculiar dependency on computers and software should be permitted and encouraged to develop internal technological resources. But this is far from saying that it is justified in launching itself full-scale into the other business. If, in the course of operations suitable for a prudent telephone company, it acquires technology or data processing capacity which competitive industry can use, the proper course would be to license or lease that "excess" capacity to firms in the competitive sector. By hypothesis, ratepayers would have financed the underlying research and should be entitled to the benefits; likewise, the capital contribution to the technological advance would in principle have been contributed by the telephone investors, and they should receive appropriate credit by inclusion of that capital in the rate base. But novel incentive and reward arrangements may be called for. For example, profits

34. E.g., permitting AT&T to sell products "of a type" used by its operating companies in rendering regulated communications service.

on extra-system exploitation of technological advances might be shared between ratepayers and investors.36

Third, effective legislation would require AT&T to come forward with a proposed plan of reorganization and simplification following the procedure of § 11 of the Public Utility Holding Company Act of 1935.37 As under that Act, "substantial economies" allegedly attributable to centralized control by a holding company would have to be measured against potential impairment of "the advantages of localized management, efficient operation, or the effectiveness of regulation."38

Fourth, effective legislation would redefine the service obligation of regulated communications carriers to include not only competing carriers' right to interconnect monopolistic local telephone exchanges, but also an obligation to construct specialized facilities, reasonably demanded, to handle new communications systems, particularly CATV. Thus far the CATV issue has been posed mainly in terms of whether the carrier may engage in the CATV business. But if the carrier were confined to carriage and compelled to provide facilities which might be used by as many CATV operators as the market could support, the present controversies over who should be permitted to build and maintain such facilities would be resolved, and the monopolistic market-division aspects of CATV would be substantially ameliorated. One can even envision the achievement by this means of competition in the "natural monopoly" field of local telephone service since the CATV, unlike broadcasting makes possible two-way communication.

A searching inquiry along the foregoing lines would not yield "stacked competition and phony deregulation for AT&T," but a socially useful, philosophically defensible, and administratively feasible synthesis of regulated monopoly and genuine competition.
