

Survey of Internet Service Providers
From Texas and New York ----
*Service Getting Worse, Competition Stifled and
Advanced Networks Delayed.*

Conducted by

New Networks Institute

Bruce Kushnick
826 Broadway, Suite 900,
New York, NY 10003
212-777-5418
www.newnetworks.com

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SUMMARY:

Survey of Internet Service Providers (ISPs) From Texas and New York

FINDINGS

- 68% Believe that service has gotten worse since the Bell has entered long distance,
3.1 (out of a possible 10=excellent) is the average score ISPs rated their local phone companies for overall performance --- a failing grade.
- 2.0 (out of a possible 10=excellent) is the average score ISPs rated their local Bell companies for their DSL provisioning--- a failing grade
- 73% Believe that service is terrible: they encounter numerous problems that cost ISPs money and time.
- 70% Believe that regulators are "Not Helpful, Not Effective" (or worse)
- 77% Believe that the phone networks are a "mess". They are almost closed. The Bell Companies should never have been allowed into long distance because now there is little incentive to continue opening their networks or improve service.

CONCLUSIONS:

- o The Bells' phone networks in Texas and New York are not open to competitors as required by Sec. 271 of the 1996 Telecommunications Act. Network access and customer services to ISPs have declined since the Bells entered long distance in New York and Texas.
- o The FCC should suspend the Bell Companies' authority to offer long distance services for SBC in Texas and Verizon in New York until they have repaired these problems.
- o There is a "Chain-Of-Pain" that ties DSL customers, ISPs, and CLECs. They have all been adversely impacted by the Bells' sub-standard customer services.
- o The FCC and the states must better enforce current laws and set up a series of penalties and fines for sub-standard customer services provided to ISPs, Competitive Local Exchange Companies (CLECs) and the DSL customer.
- o The FCC and states PUCs should not approve any further Bell company applications to enter long distance until the Bells comply fully with Sec. 271 in fact as well as on the record.
- o The FCC and state PUCs should consider the DSL market as part of their review of the 1996 Telecom Act's competitive checklist.

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Introduction

The Telecommunications Act of 1996 allows the Bell companies to enter the long distance services market only after they have been able to satisfactorily prove that their networks are fully open to competition. In the beginning of 2000, Bell Atlantic New York, and then SBC Texas (June 2000) were allowed to offer long distance services because the Federal Communications Commission (FCC) and state commissions, found that the Bells' networks had passed the necessary milestones in Sec. 271, supposedly (theoretically?) demonstrating that they met the necessary interconnection and unbundling requirements. NOTE: The Regional Bell Operating Companies (RBOCs) and GTE will be referred to as "Bell" companies or the "LECs" (Local Exchange Companies)

This New Networks Institute (NNI) survey of ISPs in Texas and New York was designed to determine: a) Are the Bell (and GTE) networks open to competition from the point of view of ISPs and CLECs, and b) Have services improved, stayed the same or gotten worse since the Bells were allowed to offer long distance in New York and Texas.

Based on the survey results and other corroborative data which we will present herein, NNI is now calling for the FCC to suspend, if not entirely revoke, the Bells' long distance licenses in New York and Texas because it is clear that the local networks are not open to competitors on the same terms and conditions. In fact,

- o The Bells' actions are harming America's Internet consumers and ISPs. They are costing ISPs millions of dollars a day in added expenses, lost customers, and damage to their reputation.
- o The Bells are delivering sub-standard customer services to DSL customers, CLECs and ISPs alike, --- the "Chain-of Pain" --- and this (?) is stifling competition and harming America's advanced networks rollout.

NNI's previous survey of ISPs (released April, 2000) clearly indicated that LEC services to ISPs were sub-standard, and not adequate before the Bells were allowed into long distance. We also found that the FCC and the state Public Service Commissions prematurely allowed the Bells to enter long distance. <http://newnetworks.com/ispsummary.html>

This survey, using the ISPs' own statements, clearly shows that 1) the Bells are further renegeing on their commitments to competitors and 2) service has gotten worse in New York and Texas, the two states that have allowed the Bells entry into long distance.

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How Bad Is It?

Here's what one Texas ISP wrote:

- o **Missed Installations** We are now at 100% missed installations. Our customers wait throughout the appointed day and are never contacted by any installation technician. When the customer called to reschedule they have been told that they are low priority.
- o **Lost Orders** Individual orders lost by SBC as many as 3 - 4 times.
- o **Incorrect Billing:** SBC has billed several of our customers incorrectly, resulting in terminated phone service for those that have refused to pay incorrectly billed amounts.
- o **Slamming** Southwestern Bell Internet Services (SBIS) sales representatives have contacted our customers and identified themselves as technicians attempting to expedite service orders.
- o **Bell Misrepresentation and Favoritism** We have customers that do not appear to qualify for ADSL service through the SBC tools that have been provided to XXXX. However, when our customers contact SBC or SBIS directly, they are able to receive service from SBC/SBIS in less than 10 days.

These bad acts are documented in this report. and unfortunately, are common throughout America. They violate numerous state and federal laws in addition to the 1996 Act . Yet they continue today unabated, while the Bells go unpunished. Meanwhile, ISPs lose business as their customers lack their proper services.

And the ultimate loser is the Customer, from the small business to the residential user. Anyone can go to <http://www.dslreports.com> and read horror story after horror story. Numerous interviews of ISPs and customers in New York suggest that:

- o Over 75% of all DSL orders in New York will have installation problem(s)
- o Customers may have numerous "No Shows" by the Bell company's installers, and can even wait home all day for no reason.
- o Customers who use competitive services providers are not treated the same as Bell customers.
- o Large numbers of customers cancel orders with their ISP either in disgust or because they blame the ISP for the Bell-caused problems.

Some people can wait months and still not get service. Edward Baig's frustration is chronicled in his USA Today article, (Appendix Three) *"DSL stands for doesn't seem likely. There's nothing high speed about joining the broadband revolution"* (August 30th, 2000). He quotes a letter from his ISP, MindSpring, (who uses Covad Communications as the CLEC DSL provider) that Bell Atlantic's "No-Show" rate on installations is as high as 50%. <http://www.usatoday.com/life/cyber/ccarch/cced038.htm>

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"I read on. 'Covad experience has shown that Bell Atlantic has a 'no-show' rate as high as 50% on their installation appointments. We do think it's important for you to know of this potential problem prior to signing up for the service.' This cannot be good."

Meanwhile, New York Times reporter, Lisa Belkin, reports that 40% of customers have line problems according to her ISP, Flashcom. ("*A Chronicle of Uneasy Access*", September 13th, 2000, G1)

"On the average, 40% percent of would-be customers, whose computers are within proper range of a DSL equipped central office run into wiring complications."

Some have argued that ISPs are not actually competitors to the Bells, even though independent ISPs compete directly with Bell-affiliated ISPs. The Bell monopoly is still completely in control of the ISP's services. They control ALL phone services, including DSL, and because an ISP must connect with the Bell network to service the customers.

- o When an ISP resells the Bell DSL service, the service must go over the Bells phonenumber. However, the Bell also sells DSL directly through its Internet affiliate.
- o When an ISP offers DSL through a CLEC, the CLEC must also use the Bell phone lines and the installation still must be completed by the Bell company.
- o When an ISP offers regular phone dial-up service, the service still goes over the same old aging copper Bell wiring.

In short, the ISP is offering competitive products, yet must use and depend on the Bells' facilities and services in ALL service offerings.

The Chain-of-Pain. While ISPs are losing millions of dollars of revenue a day from the Bell-caused problems, and DSL customers are also being harmed, the third component of this chain that is affected by the Bells' behavior is the CLEC. ---- The DSL Customer, ISP, and CLEC are all in a "Chain-of Pain" when the Bell does not do its job adequately. Most of a CLEC's services are also purchased from the Bell company. This includes everything from telephone lines to the connectivity between the DSL customer and the ISP --- and to the Bell networks.

The Bells have argued that they are "overwhelmed" by the advanced network orders. However, this response rings false for two reasons. First, as we have documented in another report "*How the Bells Stole America's Digital Future*", (released April 2000, commissioned by Net Action), <http://www.netaction.org/broadband/bells/> the Bell companies have continually failed to deliver on their promises to deploy their own advanced networks in

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virtually every state. Over half of America was already supposed to be wired with "fiber-optics" by 2000, not the "inferior" DSL service over the old copper wiring.

To illustrate how the Bell simply has been making up numbers to please regulators, Bell Atlantic's 1993 Annual Report stated that it would have 8.75 million households of fiber-optic services by 2000. (not counting the 2 million NYNEX households that were supposed to be wired by 1996.)

"We expect Bell Atlantic's enhanced (Full-service, full-motion video fiber-optic) network will be ready to serve 8.75 million homes by the end of the year 2000. By the end of 1998, we plan to wire the top 20 markets."

Not surprisingly, Bell Atlantic's DSL rollout was supposed to have 7 million customers by 1999. Instead, at the end of 1999, according to DSLprime.com, the company had only thirty-thousand.

"Bell Atlantic plans to service 2 million lines in 1998 and an additional 5 million lines in 1999." (Source: ISP Infospeed DSL Partner Program, 10/98)

More to the point, the Bell companies have had a 50+% cut in employees-per-line since their inception in 1984. These massive staff cuts have increased profits, but have reduced the competency of the Bell companies, and has also led to continued customer service problems in other parts of the local phone business. Interviews with Bell staffers confirm that the Bells are understaffed to handle the competitors, that these service people have not been properly trained, and that these problems exist throughout the Bell RBOCs. Also, a recent report released by the General Accounting office, (GAO) confirms customer service discontent is increasing for all local phone company services. . See: (Telecommunications Issues Related to Local Telephone Service, GAO, page 30: August 2000)
<http://www.gao.gov/new.items/rc00237.pdf>

"We reviewed two key indicators that raise concerns about the quality of telephone service. One of the indicators is customer complaints filed with state and federal regulators. Following a decline in the number of complaints per 1,000 access lines from 1996 to 1997, we found a steady increase in complaint levels between 1997 and 1999. The other indicator is telephone companies' own survey data on customer dissatisfaction with the quality of a variety of telephone services. We found that the changes in customer dissatisfaction levels from 1996 to 1999 varied considerably from company to company, depending on type of customer (residential, small business, and large business) and the type of service. Although no overall trend is evident for the entire 1996-99 period, the data do indicate that customers of most major ILECs were more dissatisfied with their telephone service in 1999 than they were in 1998."

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Stifling competition and decreasing customer service has also led to a fundamental rebuke of the Telecom Act of 1996. Competition was supposed to lower prices through competitive offerings and give better customer services. The FCC wrote in their approval of Bell Atlantic's application to provide long distance in New York:

http://www.fcc.gov/Bureaus/Common_Carrier/News_Releases/1999/nrcc9101.html

"The decision to authorize Bell Atlantic's operation in New York State fulfills one of the key pro-competitive goals of the 1996 Telecommunications Act, and promises substantial benefits for consumers in the form of new service providers, lower prices, tailored and bundled service packages, and better customer service."

However, the opposite is happening. Today, the price for local phone service has never been higher. Conversely, in the DSL provisioning, the Bells are engaged in predatory pricing of their services for resale by competitors, blocking the ISPs from being competitive even though they are more Internet savvy and often provide better technical help. To read NNI's analysis of the Bells' predatory pricing for ISPs in New York see:

<http://newnetworks.com/baadslscrewisp.htm>

There is a plethora of other data that corroborates the findings of this survey. This includes court cases, state filings, and a host of other material that was made available by the Department of Justice, clearly showing that service, was, at best, minimally acceptable before the Bell entered long distance. See:

<http://newnetworks.com/Putting%20the%20Survey%20into%20Perspective.htm>

In fact, FCC Commissioner Gloria Tristani stated that the FCC's Enforcement Bureau found competitive problems in New York after the Bell entered long distance in New York. She also noted that if such problems were 'systematic', the FCC could justify the suspension of Bell Atlantic's long distance entry. (Dissent of Commissioner Gloria Tristani, Re: Bell Atlantic New York Authorization Under Section 271 of the Communications Act to Provide In-Region, InterLATA Service in the State of New York.)

"Evidence from the Enforcement Bureau's investigation in February (2000) clearly suggests that Bell Atlantic's performance in providing order acknowledgments, confirmation and rejection notices, and order completion notices for UNE-Platform local services deteriorated following Bell Atlantic's entry into the long distance market. I believe the Commission should have placed the burden on Bell Atlantic at that time to demonstrate that it had not ceased to meet a fundamental requirement of its approval to provide long distance service in New York. In granting that approval, we explicitly stated that with respect to the types of notifications at issue here, if there was evidence of "a systemic problem occurring for a

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significant number of orders...it would warrant a finding of noncompliance." Such a finding would, in turn, justify suspension of Bell Atlantic's marketing authority."

The Telecommunications Act 1996 gives the FCC the ability to suspend or revoke the Bells' authority to offer long distance services in any state. Section 271 (6)(A) states:

(6) ENFORCEMENT OF CONDITIONS- (A) COMMISSION AUTHORITY- If at any time after the approval of an application under paragraph (3), the Commission determines that a Bell operating company has ceased to meet any of the conditions required for such approval, the Commission may, after notice and opportunity for a hearing- (i) issue an order to such company to correct the deficiency; (ii) impose a penalty on such company pursuant to title V; or (iii) suspend or revoke such approval."

Other States: Identical Problems NNI has separately surveyed Massachusetts, and has found identical problems to their New York and Texas ISP counterparts. More importantly, Verizon has applied to offer long distance services in Massachusetts, and there is a great deal of corroborating data to this survey. Numerous competitive local phone companies, including Covad, Rhythms, members of ALTS, (Association for Local Telecommunications Services) and the Association of Communications Enterprises (ASCENT) (formerly TRA) are ALL experiencing severe problems in Massachusetts. See: http://www.magnet.state.ma.us/dpu/telecom/99-271/CLEC_comments_0700/index.htm Appendix Four highlights an excerpt from the Covad Communications filing, (July 2000) revealing identical problems to those found in these surveys.

NNI considers the findings of this survey, and other corroborating data sufficient evidence to conduct an investigation of the Bells treatment of competitors. We consider it serious enough to suspend or revoke the Bells authority to offer long distance service in Texas and New York. We also believe that the findings from NNI's other surveys indicates that **NO** Bell company should be allowed into long distance at this time. Instead, the FCC and state commissions should be enforcing the laws to protect the DSL customer, ISP and CLEC and relieve the current "Chain of Pain".

The rest of this report will highlight the survey results. We do not consider this survey as the ending point, but rather as the beginning to help customers, ISPs and CLECs in being treated as the law provides ---delivering fair competition in an open marketplace.

A copy of the survey can be found in Appendix One.

A discussion of the survey's sample size and other issues can be found in Appendix Two.

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The Survey Results

1) Since The Bell Has Entered Long Distance, Overall Service Is:

A) Better, B) Stayed the Same, C) Worse.

Texas and New York ISPs Rate the Bells' Overall Service Since they Entered Long Distance

6% Better
26% Same
68% Worse

The overwhelming majority of ISPs in New York and Texas felt that service has gotten worse since the Bells entered long distance. However, an additional 26% stated it stayed the same. Unfortunately, this means that service levels that were already "sub-standard" remained that way.

As one New York ISP writes:

"Service has consistently gotten worse over the last decade. That trend has not changed since the ill-advised decision to let BA (Bell Atlantic) enter the long distance market in NYS. That decision was a slap in the face (or perhaps, a knife in the gut) to all NYS consumers, and especially so to ISPs and CLECs and others dependent on reselling BA services. --- It has been death by 1000 cuts."

Another New York ISP also ties the Bells entry into long distance with the increase in problems.

"The lack of cooperation following the granting of long distance services to BA was predictable. Cooperation is now non-existent beyond the absolute letter of the law, and even then, they are dragging their feet and delaying in any way possible. The whole idea of having to work with these people now is revolting. We are fed up with it, and this is just as BA wants it."

The Texas ISPs are also in agreement that service has been getting worse.

I've been with XXXX for a year and this is the worst I've seen it. Orders have been consistently lost. This line sharing fiasco has been a joke as well. I have completely lost all confidence in SWB's DSL and

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routinely find myself dealing with angry customers. How can I in good conscience sell something that I know will upset the customer

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standards of Post 'up and running' are not better than those of the regular Bell company services (T1s, PRIs etc) which are abominable."

3) If You Provision DSL With A Competitor, On A Scale Of 1 To 10, Where Ten Is Excellent, How Would You Rate The Bells' Part In:

- o The DSL Ordering Process?
- o DSL Installation Process?
- o The Post DSL "Up and Running" Process?

3A) If You Provision DSL Through Bell/GTE, On A Scale Of 1 To 10, Where Ten Is Excellent, How Would You Rate The Bells:

- o The DSL Ordering Process?
- o DSL Installation Process?
- o The Post DSL "Up and Running" Process?

There are two ways an ISP provisions DSL. The ISP either goes through a competitor, or they resell the Bell companies' services.

Rating the Bell's Influence on the DSL Ordering Process

Competitor	Bell Resell	
3.2	2.2	The DSL Ordering Process?
3.2	2.0	DSL Installation Process?
3.5	1.7	The Post DSL "Up and Running" Process?

In all cases the Bell's control of the network causes serious problems for DSL deployment. The higher scores for competitors indicates that service is better for the ISPs, but the Bells' control of the network extends to all service provisioning.

4) Which Of These Statements Best Describes Your View?

- o Service Is Great. I'm Happy.
- o Service Is OK --- Some Problems, But They Get Fixed Quickly.
- o Service Isn't OK, ---- Lots Of Problems That Do Not Get Resolved Quickly Or Easily.
- o Service Is Terrible ----Continuous Problems And They Cost Our Company Money And Time.

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ISP Rating Their Overall Services From the Bell Companies

- 0% Service is great. I'm happy.
- 3% Service is OK --- some problems, but they get fixed quickly
- 24% Service isn't OK, --- lots of problems that do not get resolved quickly or easily.
- 73% Service is terrible --- continuous problems and they cost our company money and time.

The overwhelming majority of ISPs believe that service isn't even OK --- It's downright terrible. 73% stated they are having continuous problems costing them money and time, while an additional 24% stated that services had lots of problems that were not resolved quickly.

4) Describe the Overall Service Problems

What are the ISPs' major complaints? Problems exist virtually with any service that is supplied by the Bell.

One New York ISP summed it up this way:

"Whenever we have to deal with Bell for anything, it is a nightmare. We have to fight to get anything done."

Though virtually every dealing between the Bell and the ISP has a problem, the major issues are:

- o Major Delays For Service Installation Or Repairs.
- o Major Delays And Failure To Show For DSL Installs
- o Bell Companies Lying Or Giving False Data To The ISP
- o Slamming--- Bell Tries To Steal Competitor's Customers
- o Bell Favoritism For Their Own Services.
- o Predatory Pricing For DSL Services
- o ALL These Problems Cost The ISPs Money, Time And Reputation

Major Delays For Service Installation Or Repairs

The Bell companies are supposed to be able to supply ISPs with services on a timely fashion. However, this has not been the case for DSL or even basic services.

One Texas ISP stated:

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"The standards require that orders for "Basic Services" be filled in a timely manner. The last 2 times we have ordered more phone lines for our ISP we have had a minimum of a 3 month wait. On our latest order for 24 more lines we were informed that they did not have the facilities to fill the order and it would be 5 months before they started the upgrade to their facilities."

In New York, one ISP discusses how these delays directly cost the ISP money.

"Our last two customer T1 installations took six and nine months respectively. They were an absolute disaster without exaggeration. We were forced to offer all manner of dollar concessions in an ongoing manner to keep the customers waiting for these connections."

And it is clear that disruptions in service, including delays in installations, are stifling competition

As one New York ISP wrote:

"In today's telecommunications market, timeliness, reliability and problem management are key elements for being a player in this industry. The BELL hampers competition by delaying installs, taking their time with resolving trouble tickets and further stifles competition adding additional fees and expenses to DSL CLECs, thus creating a competitive pricing advantage for the Bell."

Major DSL Delays and Failure to Show Up for Installations

Separate from overall ISP installations, there is ample proof that the Bells are delaying America's digital future through major DSL delays and failures to show up for installs, causing customers and the ISPs headaches. One Texas ISP wrote:

"We are now at 100% missed installations. Our customers wait throughout the appointed day and are never contacted by any installation technician. When the customer called to reschedule they have been told that they are low priority."

And a New York ISP states that 80% of installs have problems. (a complaint filed by New Networks with the New York Attorney General's Office, found that 75+% orders had a serious problem that delayed installs.)

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"We have tried to get DSL lines from CLEC's. BA has thwarted 80% of installations. They have claimed that they visited a customer's site, when they have not. They have claimed a lack of local loops to provide customer service - within 1 mile of a CO in NYC!!!"

Bell Companies are Giving Misleading and False Data to the ISP

Numerous ISPs highlighted the fact that they are being lied to or misled about the actual status of DSL in their regions or whether a customer can be "qualified", meaning that the Bell network has been upgraded sufficiently to handle DSL in the first place.

In Texas one ISP found that supposed problems that they were told about didn't really exist, and the DSL roll out schedule was not accurate..

"They tell us we have internodal link problems and then I find out that there were no internodal link problems listed on any SWBell notes at the CO's. We were told that it would be up to 6 months of no DSL in two areas of our town, then all of a sudden (after I had told many customers we could not deliver DSL in this area) they started installing in those CO's. We aren't being kept up-to-date on things happening and we get delayed information. This costs me money when I have turned away customers. Not to mention they are Giving Misleading and False Data to the ISP TB2421.25 TD762

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Slamming--- Bell Tries to Steal Competitor's customers

Though illegal and totally anti-competitive, in Texas and New York the ISPs have found that the Bell tries to still their customers.

One Texas ISP wrote:

"Southwestern Bell Internet Services (SBIS) sales representatives have contacted our customers and identified themselves as technicians attempting to expedite service orders."

Or in New York, an ISP writes:

"They seem to do everything they can to prevent the circuit from going in from false address failures to no shows to attempting to sell clients their service on the basis that the "install will be much easier."

Another Texas ISP stated:

"During the ordering process the Bell company tries very aggressively to 'turn' the customer to their own DSL product, and creates 'difficulties' when the customer tries to stay with the ISP product."

Bell Favoritism For Their Own Services

There is also clear evidence that the Bell companies are supplying their own customers with better service than those using a competitor --- a direct violation of the Telecom Act's "equal access".

One New York ISP stated:

"It takes them too long to provision services like DSL or T-1s when they are NOT Verizon services. Everyone is second or third and the Verizon people will tell the customer that if they get the circuit through Verizon these problems will not exist."

A Texas ISP made a similar observation:

"They treat their own customers with great preference. Drag their feet and continually provide poor installation. No priority for us."

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Another New York ISP notes that when using a DSL competitive carrier, installations can take about 4 times longer than when the Bell serves their own customers.

"The Bells have typically made it very difficult for DSL CLEC to provide a service that has the reliability of dedicated leased lines, to install lines in a timely fashion, ILEC installs their own DSL clients within 8-10 days, however delays the process with DSL CLECs making the install timeframe more like 30-40 days. Dealing with CO problems or facilities issues takes twice as long than would a normal ILEC order and getting straight, honest answers out of these folks is an absolute joke."

Predatory Pricing

In New York and Texas, the Bells have been selling their own DSL services at a price that's cheaper than the ISP could offer it and make a profit.

A Texas ISP stated:

"Their own pricing is predatory, thus the pricing to ISP is in violation of anti-trust. They lose money but it's hidden - we lose business because they are able to undercut to a loss level."

New Networks Institute, using data supplied by New York ISPs, filed a Complaint with the New York Attorney General's Office, outlining the fact the ISP would never be able to offer the Bell's ADSL products, using the Bell's discount plan, and still make a profit. <http://newnetworks.com/baadslscrewisp.htm>

ALL of These Problems Cost the ISPs Money, Time and Reputation

From New York to Texas, most ISPs believe that the Bells are costing their company money, through failed installations or delays.

One New York ISP stated:

"Bell is totally unresponsive and costs us thousand of dollars in lost revenues and installation and service complications."

Another New York ISP stated that the Bell has diminished their entire business growth and is blocking the competitive advanced network deployment.

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"The local Bell telco has been the direct reason that our company is not at least six times larger than we are now. They impede the business needs and requirements of not only our company but nearly every customer we've ever served. The local Bell telcos are likely the most egregious barrier to the advancement of all businesses today."

5) **The Regulators (State Officials, FCC, Etc) Have Been (Pick One)**

- o Very Helpful, Very Effective
- o Very Helpful, Not that Effective
- o Not Helpful, Not Effective
- o Terrible and Useless

The ISP Rating Of Their Regulators (FCC And State Officials) Controlling Telecom

0%	Very Helpful, Very Effective
30%	Very Helpful, Not that Effective
48%	Not Helpful, Not Effective
22%	Terrible and Useless

There are a number of government regulators that control telecommunications. First, there are the state regulators, that are in charge of the local phone operations. The Federal Communications Commission (FCC) is supposedly in charge of DSL, since it has been declared and "interstate" product. However, there are a number of other government agencies dealing with telecom related subjects, from the local municipalities, including cities and towns, to the Department of Justice (DOJ) and Congress, who wrote the primary act governing telecom, the Telecommunications Act of 1996. (For a more detailed discussion see NNI's "The Unauthorized Bio of the Baby Bells")

Having said that, there was NO ISP who believes that the regulators have been "very effective", and the majority, 48% believes that regulators are "Not Helpful and Not Effective". An additional 22% believe that the regulators are just useless.

6) **If You Could Say Something To A Regulator Or The Press About The Bells Impact On Competition And Your Business, What Would It Be?**

The majority of ISPs believe that the Bells' monopoly is stifling competition.

As one Texas ISP put it:

"Bell is going everything in its power to stifle competition. I don't believe it's intentional, just incompetence that needs oversight or better deregulation forced down their throat."

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Another Texas ISP agrees that it is their incompetence that is stalling competition.

"Since they seem to be so incompetent, I'm not sure whether they are actually making an effort to stifle the competition, or just fucking up on every single thing they do."

However, a third ISP believes that it is intentional, and that they are doing everything they can to crush competition.

"I think they say on the outside that they comply with the Communications Act of 1996, but I think they try to crush their competition by delaying services and contacting customers direct to steal them out from under you."

A New York ISP also believes their actions, including delays of installs, are intentional.

"They really have squeezed competition pretty hard and deliberately delay installs and resolving problems."

Some ISPs believe that the Bells are intentionally trying to harm the advanced network rollout, since the services, from ISDN to DSL, cannibalize the Bells current phone products.

"The Bells killed ISDN due to the threat of services that ISDN could have provided for a very low cost. Now, the Bells are killing DSL until they find away to fully and totally control the DSL rollout to the public."

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Nobody really knows how common network (UNE) failures are for CLECs, compared to failures for BA. When that is finally known, perhaps people will wake up and realize just how much damage the ILECs have done, and continue to do."

Another New York ISP stated:

"The great Bell Atlantic/Verizon PR machine is snowing the FCC and general public. We in the trenches bear the brunt of business customers anger. As a "mom-n-pop" business ISP we need more respect from Telco and better responses."

More to the point, the majority of ISPs believe that the networks are NOT open, and that the Bells should not have been allowed into long distance until the competitor and the ISP were on an equal footing.

One ISP wrote:

"When a CLEC can get a line installed as fast as BA itself and repaired as fast and inventory of copper and facilities are open to all to see, then they would be worthy of LD. They are not even close to this at this time, nor were they close in New York. It was a grave mistake in New York to grant BA LD. After all of the order problems with CLEC orders only, they were fined a small amount compared to what the actual cost was to the CLEC. How do you quantify the value of a lost customer, when you are a startup phone company with limited resources.

The FCC and local PUCs do not deal with the day to day problems, all they see is what the RBOC's lobbyist tell them."

Another ISP believes that since the Bell is still the sole supplier of the network, there is a serious conflict of interest when they offer competing services, such as Internet services..

"I think Bell's competing in the ISP business is a conflict of interest because they have a direct incentive for offering poor service to ISP's they both sell and compete with. We have tried to use non-ISP-Competing CLECs to get around the problems that Bell cause us, but even our CLEC's are at the Mercy of Bell. There seems to be no away around fast busies and sudden disconnects no mater how you setup your network your always at the mercy of the ILEC or Bell who has an incentive to offer your ISP poor service. ILECs should just sell their lines and focus on supporting those lines instead of selling Internet

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Access, Web Services, and Marketing to consumers. ILECS should try to act like manufactures, CLEC's like Distributors, and ISP's like retailers. Most manufacturers do not sell to end users they force you to purchase from a distributor if your big enough or retail outlet for small orders. "

And one New York ISP expects it to get worse, not better with the Bell Atlantic's purchase of the competitor, Northpoint, and the addition of GTE. They also see a time when all that's left will be Verizon.

"Since Bell Atlantic was allowed to acquire GTE (and with it BBN/GTE Internetworking) and NorthPoint (the only facilities-based DSL provider that delivered reliable service without discrimination) it is now a DE- FACTO MONOPOLY. If allowed to continue unregulated as it has been in recent times, in a very short time the consumers will have absolutely no choice left with regards to their Internet service making Bell Atlantic a true and not benevolent monopoly. "

7) **Pick One**

- o The Phone Networks Are Open.
- o The Phone Networks Are Almost Open,
- o The Phone Networks Are Not Quite Open, But Workable.
- o The Phone Networks Are A Mess, They Are Almost Closed. --- The Bell Should Never Have Been Allowed Into Long Distance

The exhibit below summarizes the Internet Providers' assessment of the Bells' local networks. The overwhelming majority, 77%, believe that the phone networks are a mess and that they are almost closed, while an additional 20% believe that the phone networks are "not quite open".

Are the Phone Networks Open, According to Competitive ISPs?

- 77% The phone networks are a mess, they are almost closed.
--- The Bell should never have been allowed into long distance
- 20% The phone networks are not quite open, but workable.
- 3% The phone networks are almost open,
- 0% The phone networks are open.

Most importantly, No ISP believed that the phone networks are open today! And the majority believe that the Bells should not have been allowed into long distance.

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Appendix One:

ALL INFORMATION IS PROPRIETARY AND WILL ONLY BE USED IN AGGREGATE.

Company _____

Contact e-mail _____

Check one: ISP _____ or CLEC _____ Both _____

State: New York _____

1) Since the Bell has entered Long Distance, Overall Service is:
_____ A) Better, B) Stayed the Same, C) Got Worse.

Please explain:

2) On a scale of 1 to ten, where 10 is excellent, how would you rate:

_____ Overall Services from the Bell (or GTE)

_____ The Overall Ordering Process?

_____ The Installation Process?

_____ The Post "Up and Running" process

3) IF YOU PROVISION DSL with a Competitor, on a scale of 1 to 10, where ten is excellent, how would you rate the Bells' part in:

_____ The DSL Ordering Process?

_____ DSL Installation Process?

_____ The Post DSL "Up and Running" process

Please explain:

3A) IF YOU PROVISION DSL through Bell/GTE, on a scale of 1 to 10, where ten is excellent, how would you rate the Bells:

_____ The DSL Ordering Process?

_____ DSL Installation Process?

_____ The Post DSL "Up and Running" process

Please explain:

4) Which of these statements best describes your view

_____ Service is great. I'm happy.

_____ Service is OK --- some problems, but they get fixed quickly

_____ Service isn't OK, ---- lots of problems that do not get resolved quickly or easily.

_____ Service is terrible ----continuous problems and they cost our company money and time.

Please explain

5) The regulators (state officials, FCC, etc) have been (pick one)

_____ Very Helpful, Very Effective

_____ Very Helpful, Not that Effective

_____ Not Helpful, Not Effective

_____ Terrible and Useless

6) If you could say something to a regulator or the press about the Bells impact on competition and your business, what would it be?

Please explain:

7) Finally, pick one

_____ The Phone networks are open.

_____ The phone networks are almost open,

_____ The Phone networks are not quite open, but workable.

_____ The phone networks are a mess, they are almost closed. --- The Bell should never have been allowed into Long Distance

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Appendix Two

Survey Issues:

NNI considers this survey to be a continuation of our on-going surveying efforts to explore the ISPs, CLECs, and customer issues.

In April of 2000, NNI released a nationwide survey of ISPs, commissioned by Commercial Internet eXchange (CIX) and the USISPA, (United States Internet Service Provider Alliance).

This survey had 49 respondents, 26 for Texas and 23 for New York. Counting the original NNI ISP survey, a total of 47 ISPs were represented from Texas alone. Therefore, this survey has representation of approximately 10% of Texas ISPs and approx. 8-10% of New York ISPs. NNI also interviewed DSL customers and CLECs, as well as relied on government information supplied by the FCC and the Department of Justice. See: <http://newnetworks.com/Putting%20the%20Survey%20into%20Perspective.htm>

The Massachusetts survey had 12 respondents, (including those who offer services in multiple states) and represents approximately 10% of the market. However, because of the extensive corroborating data supplied by the CLECs in their DTE filings against Verizon's application to enter long distance, we estimate that this survey and the filings by the CLECs represents 30%-40% or all Mass ISPs. Numerous competitive local phone companies, including Covad, Rhythms, members of ALTS, (Association for Local Telecommunications Services) and the Association of Communications Enterprises (ASCENT) (formerly TRA) are ALL experiencing severe problems in Massachusetts. See: http://www.magnet.state.ma.us/dpu/telecom/99-271/CLEC_comments_0700/index.htm

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Appendix Three:

DSL stands for doesn't seem likely. There's nothing high speed about joining the broadband revolution By Edward C. Baig, USA Today, August 30th, 2000, page 3-D
<http://www.usatoday.com/life/cyber/ccarch/cced038.htm>

The guy who takes my order says it will take four to six weeks to get the service up and running. Not exactly swift, I figure, but the chief competitor is not an option: Time Warner's Road Runner cable modem service isn't slated to hit my 'hood until September.

- o April 24. An e-mail welcomes me to Earthlink/MindSpring and lays out what's in store. There will be two installation appointments, and there are actually three companies involved with the service. On the first visit, a technician from my local phone company, Bell Atlantic, must work on the "Network Interface Device." MindSpring's DSL partner, Covad Communications, will alert me of the date of this "all-day" appointment but can't confirm a time when the workers will show. Assuming that all goes well, Covad will come to my place three to seven business days later to run wiring and install the necessary hardware and software.
- o I read on. "Covad experience has shown that Bell Atlantic has a 'no-show' rate as high as 50% on their installation appointments. We do think it's important for you to know of this potential problem prior to signing up for the service." This cannot be good.
- o April 29. Wouldn't you know, I get word that Covad -- or Bell Atlantic? -- is scheduled to show up on May 5, sooner than expected. I have other commitments and must reschedule.
- o May 5. I'm informed by e-mail that a Covad service appointment has been set for between 8 a.m. and noon May 10.
- o May 8. Another e-mail states that Covad was not able to successfully connect me to the network because of "client no-show." Excuse me -- didn't they get word that the May 5 appointment was postponed?
- o May 9. A day of conflicting e-mails. I'm told that a Covad DSL service appointment has been scheduled for May 10, now between noon and 5 p.m. The discrepancy from the earlier appointment becomes moot a couple of hours later; another e-mail tells me the appointment on May 10 has been postponed because of a "loop delivery problem."
- o May 19. I get a phone company delivery date -- May 25.
- o May 24. My Covad DSL installation appointment is rescheduled for June 2. At the same time, my Bell Atlantic appointment is changed to May 26.
- o May 26. Despite the initial MindSpring warning, the Bell Atlantic rep actually turns up as promised. He finds an appropriate phone line in a front hallway closet. But the connector or some such has been plastered over, he says. He goes to the phone box in the basement of my building and runs a wire up to a box adjacent to a service elevator across the hall from my apartment. It's the best he can do, he says. The rest is up to Covad. The Covad appointment, in the meantime, is changed to June 9.
- o June 7 and 8. I get four e-mails telling me that my appointment has been rescheduled -- *rescheduled?* -- for June 9 between noon and 5. The company wants to make sure I'll be home. I will be.
- o June 9. I can almost taste it now. This is the day . . . or maybe not. As of 4:08 p.m. the company still hasn't arrived. I'm concerned because I was told to allow at least a couple of hours for the installation. I call MindSpring, am put on hold and lose the connection. I try again and reach a customer service rep, who tells me the technicians are probably running behind, but not to worry. "They'll definitely be there," she tells me. I cancel a late-afternoon dentist appointment. At 5:12, the technician is still AWOL. I call MindSpring back. A customer service rep puts me on hold for about 20 minutes. She reports back -- a screw-up. The technicians got confused, and the guy who had the network card I needed was out in Queens

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somewhere and wouldn't be able to make the trek back into Manhattan. I threaten to cancel my order. I hold off. The appointment is later rescheduled to June 23.

- o June 13. Though I still don't have DSL, I learn that my credit card has been charged for a month of service. I call customer service to have the charge removed.
- o June 19. Once again, an e-mail tells me my appointment is rescheduled -- to a date that is already on my calendar. Am I in the Twilight Zone?
- o June 23. Covad shows up as scheduled. The fellow tests the box Bell Atlantic set up in the hallway and reports back that it's "not a clean line." He feeds me some gobbledygook about how there is "a significant amount of voltage" on the line. "They're killing us," he says of Bell Atlantic. Bottom line: Bell Atlantic must repair the line before Covad can do its thing. He leaves a DSL modem behind in a box. An e-mail arrives later. "Problem encountered: Loop no continuity. Next actions: We will open a trouble ticket with the phone company and update you on the status."
- o June 28. I haven't been kept in the loop on anything. While I'm working at home, Covad calls. I'm on the schedule today, not that anyone bothered telling me. I invite the technician to come by. He examines the line that has been plastered over in the closet and inspects the box in the hallway. He says he can test the line again, and if it has been fixed, he'll run a wire into my apartment. We don't get that far. My superintendent rings my doorbell. This guy isn't authorized to do anything, he tells me, without written permission from the landlord.
- o July 11. No DSL yet, but my credit card is charged again for service. I request credit.
- o July 14 through Aug. 21. At my landlord's request, I fax a letter asking for written authorization to allow Covad to bring the DSL line into the apartment. Days go by without word. I call. And call again. When I finally get various underlings to take my call, I hear all kinds of excuses. The management company is investigating other ways of providing high-speed Internet access for its properties, or it is reluctant to approve a second phone line because of fears about illegal subletting. This is Manhattan, after all.
- o Aug. 18. Finally, the man himself picks up the phone. My landlord says he'll draw up a permission letter or sign and return my initial fax, which I have by now submitted three times. (Hours earlier, Covad called to confirm my installation appointment for that morning, even though I had asked customer service not to schedule anything yet. I told them not to come.) Later that day, I am on the phone to MindSpring, asking for the removal of another credit-card charge.
- o Aug. 22. As of the close of business, I still have not received the promised written approval from the landlord. I am tired. Vacation looms. DSL be damned.
- o I peek at the calendar. It's nearly September. Is there a Road Runner in my future? Stay tuned.

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Appendix Four

NNI has interviewed Covad and other CLECs and we have found that there is a direct relationship between the problems experienced by the CLEC and the ISPs who use their services --- if the Bell doesn't complete an install, it is the ISP and their customers who aren't receiving their service. Therefore, we believe the testimony of the CLECs further validates the findings from this survey.

In particular, Covad Communications, which has 26 ISPs listed on their website for Massachusetts alone, discusses problems that are identical to the ISP responses we surveyed. This material was filed as testimony before the DTE, July, 2000.

http://www.magnet.state.ma.us/dpu/telecom/99-271/CLEC_comments_0700/index.htm

Here is just a sample of Covad's testimony. As you will see, these problems are identical to those described by Massachusetts ISPs.

"SUMMARY OF TESTIMONY (DTE 99-271, Testimony Of John Berard, Michael Clancy, And Minda Cutcher On Behalf Of Covad Communications Company)

- Bell Atlantic fails to complete office wiring on time;
- Bell Atlantic fails to complete loop installation work (activities in the field) on time;
- A significant number of loop orders require multiple dispatches
- On average, it takes nearly 40 days for Covad to provide DSL service to its end users. The primary reason for this long interval is BA-MA's failure to complete loop installations on time. This interval starkly contrasts with the interval BA-MA promises its DSL customers. BA-MA has promised its DSL customers service in 7-10 days.

"Summary of BA's On-Time Provisioning. In summary, BA-MA:

- Fails to provide due dates or firm order commitments ("FOCs") on time;
- Fails to complete cross connections in the central office that connects Covad's equipment to the main distribution frame where Covad has access to unbundled loops;
- Fails to complete installation work on the loop after it has left the central office;
- Fails to address certain facilities problems.
- has not properly planned and constructed the facilities as needed, thus causing CLECs to deny service to their customers."