

Survey of Internet Service Providers
From Texas and New York

Conducted by

New Networks Institute

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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 ----there are continuous problems and this cost their company 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 should never have been allowed into long distance

CONCLUSIONS:

- q The phone networks are not open to competitors. Network Access and customer services have declined since the Bells entered long distance in New York and Texas.
- q The FCC and the states should enforce the current laws..

Introduction and Discussion

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 regulators, specifically the Federal Communications Commission (FCC) and the state commissions, found that the Bells' networks had passed the necessary milestones, supposedly demonstrating that they could adequately handle competitive needs.

NOTE: The Regional Bell Operating Companies (RBOCs) and GTE will be referred to as "Bell" companies or the "LECs" (Local Exchange Companies)

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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, it is clear that the local networks are not open to competitors on the same terms and conditions. In fact,

- q The Bells' actions are harming America's Internet Service Providers. They are costing ISPs millions of dollars a day in added expenses, lost customers, and damage to their reputation.
- q 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 network rollout.

NNI's previous survey of ISPs (released April, 2000) clearly indicated that services to Internet Service Providers 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.

How Bad Is It?

Here's what one Texas ISP wrote:

- q **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.
- q **Lost Orders** Individual orders lost by SBC as many as 3 - 4 times.
- q **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.
- q **Slamming** Southwestern Bell Internet Services (SBIS) sales representatives have contacted our customers and identified themselves as technicians attempting to expedite service orders.

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- q **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 state and federal law and statutes, yet they continue today unabated, without serious enforcement by Federal or state regulators. Meanwhile, ISPs lose business while their customers don't receive adequate 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:

- q Over 75% of all DSL orders in New York will have installation problem(s)
- q Customers may have numerous "NO Shows" by the Bell company's installers, and can even wait home all day for no reason.
- q Customers who use competitive services are not treated the same as their Bell counterparts.
- q Large numbers of customers cancel orders with the 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, *"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>

"I read on. 'Covad's 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 13, 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."

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Some have argued that the Internet Service Providers 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 they must connect with the Bell network to service the customers.

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

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

The Chain-of-Pain. While the Internet Providers are losing millions of dollars of revenue a day from the Bell-caused problems, and the DSL customers are also being harmed, the third component of the chain that is effected by the Bell problems is the competitive local phone companies (CLEC). ---- The DSL Customer, the ISP and the CLEC are all in a "Chain-of Pain", when the Bell does not do its job adequately. The 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 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.

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 this problem is throughout the Bell system. 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>

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"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."

"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 using predatory pricing for the reselling of Bell products, which is blocking the ISPs from being competitive. 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

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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 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."

NNI has separately surveyed Massachusetts *"Survey of Internet Service Providers From Massachusetts --- Verizon is Stifling Competition and Delaying the Bay State's Digital Future"*, 9/26/00 (<http://www.newnetworks.com/MassISPReport.pdf>) and has found identical problems to their New York and Texas ISP counterparts. More importantly, Verizon applied on Friday, September 22nd to offer long distance services in Massachusetts, and there is a great deal of corroborating data of Verizon's failure to comply with the Act in the openness of its telephone network.. 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. Appendix Three highlights one of these documents. See:

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

Based on its survey of Massachusetts, NNI has serious concerns about the state of competition in Massachusetts. Regulators must take more seriously the enforcement issues raised by NNI's two reports and act swiftly before more ISP competitors are irreparably injured.

The rest of this report will highlight the survey results. We do not consider this survey as the ending point, but 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 and cause myself and my provisioning team here at XXXX grief day in and day out? Not only is it very frustrating but it is also interfering with our ability to run a business and make a living.

2) **On A Scale Of 1 To Ten, Where 10 Is Excellent, How Would You Rate:**

- q Overall Services from the Bell (or GTE)
- q The Overall Ordering Process?
- q The Installation Process?
- q The Post "Up and Running" Process?

Rating the SBC, Texas and New York, Verizon's Overall Services (10= Excellent)

- 3.1 Overall Services from the Bell (or GTE)
- 3.0 The Overall Ordering Process?
- 2.6 The Installation Process?
- 3.3 The Post "Up and Running" Process?

In our original survey of ISPs, the overall rating for Bell company services, nationwide, was 3.7 (out of 10) The findings from this survey clearly indicates that service is at least as bad, if not getting worse. As the results show, the Bells are receiving failing grades in all categories.

As one New York ISP explains:

"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'. Once in the problems continue with outages, pulled pairs, etc.."

And many of the ISPs find that, besides the litany of problems, the Bell is aggressively going after, or harming, their customers.

"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. During installation, parts (filters etc) are found 'not to be' on the truck creating delays; and they do not live up to promised delivery schedules. Post 'up and running' is difficult to judge because of so few customers, but the standards of Post 'up and running' are not better than those of the regular Bell company services (T1s, PRIs etc) which are abominable."

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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:

- q The DSL Ordering Process?
- q DSL Installation Process?
- q 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:

- q The DSL Ordering Process?
- q DSL Installation Process?
- q 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?

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

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.

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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:

- q Major Delays For Service Installation Or Repairs.
- q Major Delays And Failure To Show For DSL Installs
- q Bell Companies Lying Or Giving False Data To The ISP
- q Slamming--- Bell Tries To Steal Competitor's Customers
- q Bell Favoritism For Their Own Services.
- q Predatory Pricing For DSL Services
- q 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:

"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.

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"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.)

"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.

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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 when they tell me a customer is RED and has a pair gain or loop to long problem but then installs the customer a month later after the customer went directly to them."

Another Texas ISP wrote:

"We have customers that do not appear to qualify for ADSL service through the SBC tools that have been provided to XXXXXX. However, when our customers contact SBC or SBIS directly, they are able to receive service from SBC/SBIS in less than 10 days."

Misleading the ISP about a circuit is the first step to stealing the customer. A NY ISP wrote:

"On two separate instances, Verizon has screwed with running DSL connections, losing us business. Then they call those businesses up with an offer of "more reliable" DSL service. Presto! They have one more customer after they cost us one hardwon customer. Of course, after they have installed our ex-customer on the same exact copper pair the previously chronic, "unsolvable" problems disappear completely."

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."

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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."

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."

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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/baads1screwisp.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.

"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)

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

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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."

Another Texas ISP agrees that it is their incompetence that is stilling 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.

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"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."

The ISPs are not optimistic that any of these problems will be fixed anytime soon. They do not trust that the regulators will fix the problems, and many question that any regulator is examining or trying to fix the real issues--- the nitty-gritty, day-to-day problems, such as installs. One New York ISP summed it up this way:

"The Bells, and in particular BA, are the single biggest drag on the American economy and the advanced network rollout. The FCC and the PUCs/PSCs are toothless, and until the Bells can be held strictly accountable for their activities, this will continue to be the case. Since no governmental organization has oversight of all of the activities of BA, they don't see how BA manages to have everything its own way. Worse, there is no accountability on a nuts-and- bolts level. How long it takes for BA to provision or fix a loop for a competitor, compared to how long it takes to do so for itself.

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

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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 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.

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"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**

- 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

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>

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Appendix Three

Covad Communications, which has 26 ISPs listed on their website for Massachusetts alone, discusses problems that are identical to the ISP responses in the Massachusetts (and NY and TX) survey. 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. It should be obvious, then, that if an ISP is using a CLEC, the problems the CLEC encounters will also translate into identical problems for the ISP --- if the Bell doesn't complete an install, it is the ISP's customer who isn't receiving their service.

"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."