

COLR and Competition in a Broadband World



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Context: Charter and the Cable Industry

- Industry provides broadband services to 43M customers, and voice & data communications services to over 23M customers.
- Cable Industry Broadband Service Availability – 93% of US households – 122M customers.
- Charter serves over 3.2M Broadband and 1.7M telephone customers, primarily residential consumers – with significant rural footprint.
- Charter has interconnection agreements with non-RBOCs and RLECs to provide service in 25 states.
- Given that cable provides actual facilities-based residential competition, the market entry challenges faced by cable are important to regulators.



What is “COLR”?

- “COLR” means different things in different states, and to different people.
 - A duty to serve: to ensure that some entity, within a defined service area, provides service, without unreasonable discrimination, to all customers who reasonably request and pay for that service.
 - An obligation to provide basic local exchange service at reasonable rates for a given area.
 - Service quality and basic consumer protection or power backup.



Historical Need for COLR –

- States imposed COLR policies to protect customers from unreasonable discrimination in the availability of service, to ensure that they could get service and line extensions at reasonable costs, and to protect them from service abandonment.
- Today, “COLR” remains a rubric that implies “ILEC” and implies long-standing assumptions regarding the need for utility rate regulation.
 - Network Investment
 - Costly to Serve Areas
 - In exchange for financial support



Historical Need contd. –

- “COLR” often implies a preference in or presumptive entitlement to universal service subsidies or service in rural areas.
 - In some states, COLR obligations are imposed on CLECs without compensation.
 - Some state high-cost funds are available to ILECs only.
 - State statutes still exist that attempt to limit competitive, notwithstanding federal law, and some state utility commissions do not regulate or have only limited authority over telephone cooperatives entry.



Regulatory and Market Responses

- Although the term is still broadly (and casually) applied, “COLR” is evolving and may be beginning to disappear.
- Recent legislative initiatives of AT&T, Verizon and other incumbents aim to limit COLR duties:
 - Enacted - Alabama, Georgia (deregulation, immediately or in future, of rates, terms and conditions of all retail services of non-rate of return regulated carriers);
 - Proposed - Virginia (deregulation of retail rates, mergers and acquisitions, the obligation to extend lines, and the obligation to serve), Missouri (no COLR for developments having exclusionary relationships with other carriers)
- But in exchange for access charge reductions (of ILECs and CLECs), RLECs receive subsidies - sometimes to the exclusion of other carriers; *e.g.*, Georgia (RLECs only), Michigan.



Modern “COLR” Dilemma In A Competitive Environment

- Robust actual competition has extended advanced communications service availability from multiple providers to well over 90% of U.S.
- Incumbent ILECs/RLECs responding with advanced voice, broadband and video service offerings – significantly expanding revenue streams.
- In this environment, any COLR obligation (and subsidy) must be narrowly provided ONLY to areas where there is no actual competition.



Current Federal USF subsidies are unsustainable and in need of substantial reform

- Disbursements from the federal USF programs are projected in 2010 to be \$8.7 billion.
 - The high-cost component of the federal USF has grown from approximately \$2.6 billion in 2001 to over \$4 billion in 2009.
 - The contribution percentage on interstate revenues for the federal USF is approximately 13%.



National Broadband Subsidies -

The National Broadband Plan (NBP) sets forth the following timetable:

- Create Connect America Fund (CAF) and Mobility Fund (2010-2011)
- Broaden USF contribution base (2012-2016)
- Reform inter-carrier compensation (2012-2020)
- Transition federal USF high-cost fund to CAF (2017-2020)
- Federal USF to be based at 2010 levels (2017-2010)

Note -- Broadband funding would begin to be implemented before the other activities - which are even more politically charged - are completed, adding to the pressure on funding.



Necessary Elements of USF Reform

- What would reform look like?
 - capping the size of, and phasing out, the federal USF’s high-cost program;
 - directing existing high-cost support to rural areas without a market case for competition;
 - implementing new forms of contribution;
 - transitioning from high-cost support to broadband support; and
 - initiating broadband funding only for “unserved” areas.
- Broadband funding, as it develops, should not be based on the same historical assumptions and models as universal service funding.



State Broadband Funding

- Any **state broadband funding** should be based on the following **concepts**:
 - competitive neutrality;
 - narrowly tailored funding to targeted areas; “unserved” areas defined by discrete geographic data;
 - an objective funding process;
 - clearly defined goals and objectives, including an end date;
 - a requirement that ILECs receiving funding should provide interconnection consistent with 47 U.S.C. 251(b) and (c);
 - competitively neutral contribution mechanisms; and
 - rigorous oversight, accountability and regular assessments of effectiveness.



Next Steps for COLR?

- What does all this mean for the future of “COLR”?
 - “COLR” should not provide a public policy basis for limiting competition or otherwise automatically excluding non-incumbents.
 - There are signs of recognition of this idea –
 - *E.g.*, in Alabama and Tennessee, in exchange for deregulation, RLECs acknowledge that a bona fide request for interconnection is not unduly economically burdensome, is technically feasible, will not present a risk of significant adverse economic impact, and is consistent with 47 U.S.C. 254 and with the public interest, thus removing the “exemptions” from interconnection obligations under 47 U.S.C. 251(f)(1).



Next Steps for COLR

Competitive ETCs should not be burdened with “COLR” obligations that are not related to 47 U.S.C 214(e), even as subsidies to CETCs are capped and eliminated.

- Line extensions should be reasonable.
 - Creditworthiness is a legitimate basis for refusal.
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- Limitation of any “COLR” designation for non-rural areas (or for telecom services other than local exchange); if a continued need, in what contexts?
 - Exiting from market of ILEC?
 - In the sense of a legal obligation to rebuild a network after a natural disaster?
 - “COLR” should not presumptively determine which entities are eligible to receive future broadband service deployment subsidies, to the extent such subsidies develop and replace traditional universal service funding.

