

### Issue 3. Qualifications and Regulations for New Entrants

**Q. What role should the Commission play in the determination of the qualifications for new entrants?**

A. Filing requirements should be limited. If the Commission were to require potential entrants to demonstrate a high level of financial ability (e.g., substantial net worth or operating income), it would discourage or prevent smaller firms, and start-up firms, from entering the market. Financial ability is of greater concern in a monopoly context, where failure of the firm might leave customers stranded without any alternative. If the Commission were to insist upon high level of experience, or large net worth, this would create an inappropriate and unnecessary barrier to entry by smaller, newer firms, thereby discouraging movement towards effective competition.

Accordingly, the primary requirement should be a minimal showing of financial and technical ability. The financial showing could be met by attaching the applicant's most recent annual report to stockholders and SEC 10K (where applicable) to its application. If the company is not publicly traded, its most recent financial statements would accomplish the same purpose.

**Q. Should the Commission also require evidence of managerial and technical experience?**

A. Yes, but only to a limited extent. It would be reasonable to require each applicant to provide a brief description of its history of providing telecommunications service and a list of the geographic areas in which it has been and is currently providing service. It would also be helpful to understand the experience of each principal officer in order to show the new entrants ability to provide service. Technical ability could be demonstrated by showing that the firm has acquired, as employees, consultants, or management, the necessary level of expertise that it will require to participate in the markets it seeks to enter.

It is important that the rules reduce barriers to entry by existing resellers and cable operators into local exchange markets. These firms would have prior technical experience that is highly relevant to the provision of local exchange services, and they are likely to be interested in expanding into these markets. While local exchange experience would be helpful, the Commission

should also be satisfied with a showing that the firm has acquired experience in long distance, cellular, or other telecommunications market segments, besides the traditional local exchange market.

**Q. Should new entrants be required to meet Commission established quality of service standards? If not, how will this affect traffic and service between competing local exchange carriers?**

A. Service quality standards are vitally important when customers are captive to a carrier with market power, and thus do not have adequate alternatives if they aren't satisfied with the grade of service being provided. In contrast, in a competitive market, quality of service should be determined, to the greatest extent possible, by customer preferences and market forces rather than by regulatory decisions. When competition is effective, it will protect the public's interest in having high quality service, and direct regulatory action will be unnecessary.

At least initially, the Commission should not impose quality of service standards on new entrants. As a matter of public policy, as long as a carrier continues to dominate the market, that carrier should be required to furnish a standard level of service, that can be monitored by the Commission. This will protect that carrier's customers, and set a standard that newer entrants will necessarily be compared against in the market place. Thus, the public's interest in maintaining reasonable service quality can be achieved without requiring entrants to meet specific quality standards, if they lack market power.

Admittedly, a potential problem exists, when the grade of service offered by one carrier adversely affects the service received by customers of another carrier. For example, a new entrant could have such a low level of capacity that customers of another carrier frequently receive busy signals when calling the new entrant's customers. These customers will not necessarily know whether the cause was the new entrant or the incumbent. While the Commission could impose minimum service standards upon the new entrant, that is not the only solution. Other, less intrusive solutions also may be available. For instance, rather than sending a fast busy signal, the originating carrier could send a recording to its customers informing them that the call cannot be completed

because of insufficient capacity in the other carrier's network. People attempting to call the new entrant's customers would receive a recorded message such as: "you have attempted to reach a customer served by another carrier which has not provided sufficient capacity to handle your call at this time. Please try your call again later." If this type of recording is received often enough, when callers finally get through, they will undoubtedly complain to the party they were trying to reach. In turn, the called party will have the incentive, and clout, to pressure its carrier into upgrading their service quality. If the carrier fails to provide a high enough level of service, its customers will abandon it for other carriers, willing to provide the desired grade of service.

In general, competitive market forces will directly and indirectly work against carriers providing low quality service. Obviously, the customers of the carrier providing poor service will exert direct pressure through complaints or by switching to another carrier, if the sound quality is inadequate, or if they frequently have difficulty placing or receiving calls. To the extent that poor service affects customers of other carriers, the customers of the other carriers will indirectly put pressure on the new entrant by complaining to the new entrant's customers, writing letters to the local newspaper, and the like. For example, if people frequently have difficulty reaching a bank, or encounter poor sound quality when they call the bank, they will complain to bank personnel. The bank, in turn, will exert sufficient pressure on its carrier to improve service, or it will change carriers. In an effectively competitive market, sub-standard quality will not survive unless it is within an acceptable range. However, in a multi-carrier environment, competitive pressures for high quality will be strongest if customers are given enough information to be aware of the source of the problem.

Another consideration, and another reason for not imposing service quality standards on new entrants, is the associated cost of policing the quality of service provided by the various carriers. When there is only one provider, auditing the service of a sample of its customers is not cost prohibitive. When there are numerous competing carriers, many serving only small percentages of the market, however, the cost of monitoring and regulating service quality will be relatively high.

#### **Issue 4. Removal of Barriers to Entry and Fostering and Maintaining Competition**

**Q. What comments do you have about barriers to entry for local telephone service?**

A. These barriers exist, but they can and should be lowered by the Commission. The inherent advantages of the incumbent carrier are enormous--its existing plant, customer base, reputation, etc. While the Commission cannot instantly erase these advantages, which make it very difficult for new firms to gain a share of the market, it can take reasonable steps to make entry easier. Most significantly, it can require the incumbent to interconnect with new entrants on fair and reasonable terms, it can require the incumbent to offer unbundled network services to competitors at reasonable prices, thereby making it easier, and less risky, for them to enter the market, and it can strictly prohibit anticompetitive behavior by the incumbent.

In general, the Commission should develop and enforce regulatory rules that help ensure fair and equitable treatment for entering carriers. For example, in requiring of certificated carriers the provision of basic services either directly or through arrangements with other carriers, the rules should provide that the services available through other carriers should not be unreasonably withheld from the entrant by the other carriers and that the services should be provided at tariffed rates set by the Commission.

The Commission's policy on competition should be structured to encourage maximum competitive entry, at least within the retail side of the business. Moreover, during the transitional period, the Commission should retain sufficient involvement to protect consumers until such time as experience demonstrates the presence of effective competition. If effective competition fails to emerge, a reexamination of the Commission's policies and requirements relating to local competition may be needed.