TELEPHONE REGULATION COULD COST CONSUMERS

JANET JACKSON'S "WARDROBE MALFUNCTION" BEFORE 131 MILLION SUPER BOWL VIEWERS LAST MONTH PUSHED FCC CHAIRMAN MICHAEL POWELL'S BUTTONS. HIS ANGRY LETTER TO THE NETWORKS GOT HOWARD STERN'S SHOW YANKED ACROSS MUCH OF THE COUNTRY AND WON POWELL APPLAUSE FROM SOME SEGMENT OF THE PUBLIC. THIS WEEK'S D.C. CIRCUIT COURT OF APPEALS COURT RULING BACKING HIS POSITION ON TELEPHONE REGULATION ALSO MADE THE CHAIRMAN SMILE. BUT UNLIKE HIS DEFENSE OF "DECENTY," POWELL'S COURTROOM VICTORY MEANS MAJOR PAIN FOR CONSUMERS IF ALLOWED TO STAND.

There are good arguments for and against this censorship. Certainly, as a parent, I can see where Powell's coming from. But as an economist, I'm much more concerned about the government's limiting our own conversations than I am about barring some shock jock's expletive deleteds.

I speak of the cost, not the content, of our private conversations. For years voice transmissions have gotten cheaper, making talking to friends, relatives, and business associates a way of life and a means of work. The one and only reason our phone calls have gotten cheaper is competition. In Massachusetts, some 350,000 consumers have taken advantage of competition to switch their local phone service from Verizon. And, both those who have switched and those who haven't are benefiting from lower phone bills as Verizon and its rivals compete for market share.

The D.C. court threw out the FCC rules that are responsible for this new competition. The court's ruling poses a major threat to our enhanced economic freedom to talk and means our new choices may be taken away. As the Massachusetts Coalition for Competitive
Phone Service noted, the timing of the court's ruling is particularly disturbing because Massachusetts phone regulators have just created a competitive framework to further expand consumer choice.

Verizon and the three other regional Bell telephone companies - SBC, Bell South, and Qwest - are waging a relentless war to overturn the Telecommunications Act of 1996. This act requires the Bells to lease to competitors use of our local phone lines and interconnected infrastructure, with the goal of lowering phone and broadband rates. This makes perfect economic sense. Local phone infrastructure (think telephone poles and the wires to your home) is prohibitively expensive to duplicate and has huge amounts of excess capacity.

In New York, Michigan, California, and other states where the telecommunications act is being vigorously enforced, consumers and small businesses are seeing their local phone bills fall by up to 30 percent. According to FCC commissioner Kevin Martin, "The very heart of local competition rules are [now] under direct attack." To defend competition, Martin and two of his fellow commissioners are seeking a Supreme Court review of the D.C. Circuit ruling. Absent a Supreme Court ruling that upholds the procompetition rules, the ballgame will be over. The Bells will have a clear path to monopolize the local and long-distance phone markets.

The Bells will start by telling competing phone companies they can no longer lease access to our local phone lines or can do so only at extravagant rates. Overnight, the 19 million Americans who are now buying low-priced local phone service from competing carriers will find that service discontinued. Their only alternative will be to switch back to the Bells at a much higher price.

Next the Bells will wipe out the long-distance companies by bundling long-distance service together with local phone service, and by pricing the long-distance component so low that no one will think about buying long distance from a different company. And don't think that cellular service will offer consumers any refuge from re-established Bell
monopolies. First, most cellular service is now (or shortly will be) provided by Bell subsidiaries. Second, the same leasing rules giving competitive carriers access to our local phone lines are what allow wireless carriers to interconnect economically to our landline phones. Without these leasing rules, our cell phone bills will rise as well.

Is this picture of telecom's future too dark, even for a dismal scientist? What about broadband via cable? The answer here is that it takes more than two to tango when we're talking about a competitive market. In a pas de deux with the Bells, the cable companies will find that colluding, either explicitly or implicitly, to set high broadband prices beats a price war.

Talk is cheap, and plentiful, right up to the point where it's not. These days the government needs to worry a lot more about the price of our talk than its content.

Laurence J. Kotlikoff is chairman of the Department of Economics at Boston University and a consultant for AT&T.