

business telephones, said the company was concerned that the proposed modifications didn't include sufficient safeguards to prevent the divested local phone companies from cross-subsidizing their offerings of customer premises equipment.

Theodore Brophy, chairman of the General Telephone & Electronics Corp., said the suggested modifications were only "one step" toward protecting the public interest. "The court's ruling and limited changes in the consent decree only underscore the urgent need for congressional action to establish national telecommunications policy," Brophy said.

A.G.W. Biddle, president of the Computer & Communications Industry Association, said his group was "deeply concerned" that the modifications would still permit AT&T to cross-subsidize its competitive offerings with profits from its long-lines division, "which will continue to be a virtual monopoly for years to come." Also of concern, Biddle said, was that the new settlement didn't provide for the continued licensing of AT&T's patent portfolio on reasonable terms to others.

Gary Tobin, a spokesman for MCI—which competes with AT&T for long-distance service—said that company thought Greene's opinion to be "very positive" and hoped AT&T and Justice would accept it.

The parties who seemed to have the most to rejoice about, however, were the newspaper, cable and broadcast interests, who had argued vociferously against permitting AT&T to provide electronic publishing services. Erwin Krasnow, general counsel for the National Association of Broadcasters, said that group was "delighted" that Greene had moved to prohibit AT&T from offering "mass media services." A spokesman for the American Newspaper Publishers Association seemed to echo NAB: "In particular, the public interest will be served if future electronic-information publishers are allowed an opportunity to develop—as Judge Greene recommends—in an atmosphere where AT&T may not control both the information content and the conduit over which that information flows," he said.

Thomas Wheeler, president of the National Cable Television Association, concurred. "Judge Greene has shown justifiable concern for the public interest," Wheeler said. "Without his proposed modifications, the judge is concerned that AT&T—through transmission and generation of information—could stifle electronic publishing and acquire a substantial monopoly over what he describes as 'news in the more general sense,'" he said.

Senate Commerce Chairman Bob Packwood (R-Ore.), whose common carrier bill (S. 898) passed the Senate last year, said he was encouraged by the opinion. "The marketplace does work," Packwood said. "What Judge Greene is now saying is that this industry no longer needs to be totally regulated." Packwood added that the committee wouldn't decide whether to

pursue further telecommunications legislation until it had completed a study of the opinion's proposals.

House Telecommunications Subcommittee Chairman Timothy Wirth (D-Colo.), who abandoned efforts to pass a bill (H.R. 5158) that would have imposed tougher divestiture requirements in the face of vigorous opposition from AT&T, said that while Greene had "significantly" improved the proposed settlement, he had taken only "a step" in the right direction. "The need for Congress to establish comprehensive new telecommunications policy is still critical and Congress should not abdicate its responsibility to do so," Wirth said.

Wirth said that while Greene would allow the local companies to market new equipment, he also would allow AT&T to take away from the local companies home and business telephones that are already installed. Then, Wirth said, Greene "clearly believes that AT&T's \$30-billion-a-year long-distant monopoly will become subject to effective competition far sooner than our data indicates." And although the opinion establishes a maximum level of debt "that can be left with the operating companies, it does not deal with our very serious concerns about the evaluation of AT&T's assets prior to the divestiture," Wirth said. "The operating companies are losing their most productive assets and the division of debt should reflect that loss of value."

FCC Chairman Mark Fowler said the

proposed modifications were a "positive step forward." Fowler said he was "particularly pleased" that the court appeared to agree with the commission that some restrictions on the divested BOC's should be removed and that the decree should be modified to insure the viability of the BOC's.

Edward Burke, president of the National Association of Regulatory Utility Commissioners, noted that Greene had appeared to address most of his group's concerns. Burke thought the modifications would strengthen the divested BOC's for the benefit of ratepayers. "After divestiture, the BOC's will continue offering the Yellow Pages and customer premises equipment," he said. "Retention of these lines of business will provide additional sources of revenues for these soon-to-be independent companies, which will assist state commissions in moderating prospective local rate increases," Burke said.

Consumer groups seemed to find the modifications to be satisfactory. Bob Nichols, legislative counsel for Consumers Union, said his group thought Greene's modifications were a "very positive step forward for consumers." Permitting BOC's to provide Yellow Pages and to market customer premises equipment "should help cushion rate impacts," Nichols said. While the group had not gotten everything it had wanted, "realistically we got most of what we could expect," Nichols said. □

Appeals court offers protection to WGN-TV's teletext signal

In reversal of lower court decision, material on vertical blanking interval is deemed to be protected by copyright if part of regular transmission

An appeals court reversed a lower court decision and found that United Video Corp., Chicago, must carry teletext transmitted through WGN-TV Chicago's vertical blanking interval on its copyrighted 9 o'clock news. Last year the U.S. District Court for Northern Illinois ruled that United Video, WGN-TV's common carrier, was not required to carry the Chicago superstation's teletext transmission and could substitute its own.

WGN Continental, the television station's licensee, brought suit against United Video, charging it with copyright infringement because the common carrier was not retransmitting the television station's signal in its entirety. The appeals court found that teletext transmission through the vertical blanking interval is "intended to be viewed with and [considered] an integral component" of the copyrighted newscast. Any tampering with the signal, the appeals decision said, would be mutilation of the copyrighted

work and therefore copyright infringement. However, the appeals court was careful to point out that this only held in cases where the transmission in the vertical blanking interval was directly related to, and a part of, the regular broadcast. Although the teletext program and the regular program cannot be viewed simultaneously on the same screen and would require two different channels or two separate television receivers, the court said the two transmissions were significantly related and could be considered part of the overall "audiovisual work." "WGN wants to make its 9 o'clock news a two-channel program," Circuit Judge Richard A. Posner wrote in the appeal decision, "and we cannot see that the difference between one and a two-channel program is more profound than that between a silent movie and a talkie."

Common carriers are usually exempt from copyright coverage because they are "passive carriers," the decision explained. The court said, however, that "passive" carriers must in no way alter, change or delete any part of the copyrighted transmission if they are to be "purely passive intermediaries." The appeals court also said United Video cannot claim ex-