

taking on that obligation. This argument about the loss of universal service because of the carrier-of-last-resort impacts is without merit.

Competition is coming to the telecommunications industry. This bodes well for telecommunications customers. Federal action to stunt competition in parts of the market, while arguments are hashed out on the interLATA front, is a move in the wrong direction. State commissions should decide on the need for and pace of competition in the states. While there are many advantages to establishing a national policy on telecommunications, and many good points are spelled out in the legislation, the preemption of the states on dialing parity is not one of them.

Again, I commend your attempts to rectify this portion of the pending telecommunications bill. Please contact me if you have questions on my position on this matter.

This letter of support for your amendment is independent of the merits of and schedule for interLATA relief for the RBOCs.

Sincerely,

CHERYL L. PARRINO,
Chairman.

STATE OF WISCONSIN,
DEPARTMENT OF JUSTICE,
June 2, 1995.

Hon. RUSSELL D. FEINGOLD,
U.S. Senate, Washington, DC.

DEAR SENATOR FEINGOLD: The undersigned state attorneys general would like to address several telecommunications deregulation bills that are now pending in Congress. One of the objectives in any such legislation must be the promotion that fosters competition while at the same time protecting consumers from anticompetitive practices.

In our opinion, our citizens will be able to look forward to an advanced, efficient, and innovative information network only if such legislation incorporates basic antitrust principles and recognizes the essential role of the states in ensuring that citizens have universal and affordable access to the telecommunications network. The antitrust laws ensure competition and promote efficiency, innovation, low prices, better management, and greater consumer choice. If telecommunications reform legislation includes a strong commitment to antitrust principles, then the legislation can help preserve existing competition and prevent parties from using market power to tilt the playing field to the detriment of competition and consumers.

Each of the bills pending in Congress would lift the court-ordered restrictions that are currently in place on the Regional Bell Operating Companies (RBOCs). After sufficient competition exists in their local service areas, the bills would allow RBOCs to enter the fields of long distance services and equipment manufacturing. These provisions raise a number of antitrust concerns. Therefore, telecommunications deregulation legislation should include the following features:

First, the United States Department of Justice should have a meaningful role in determining, in advance, whether competition at the local level is sufficient to allow an RBOC to enter the long distance services and equipment manufacturing markets for a particular region. The Department of Justice has unmatched experience and expertise in evaluating competition in the telecommunications field. Such a role is vital regardless of whether Congress adopts a "competitive checklist" or "modified final judgment safeguard" approach to evaluating competition in local markets. The Department of Justice will be less likely to raise antitrust challenges if it participates in a case-by-case analysis of the actual and potential state of

competition in each local market before RBOC entry into other markets.

Second, legislation should continue to prohibit mergers of cable and telephone companies in the same service area. Such a prohibition is essential because local cable companies are the likely competitors of telephone companies. Permitting such mergers raises the possibility of a "one-wire world," with only successful antitrust litigation to prevent it. Congress should narrowly draft any exceptions to this general prohibition.

Third, Congress should not preempt the states from ordering 1+intraLATA dialing parity in appropriate cases, including cases where the incumbent RBOC has yet to receive permission to enter the interLATA long distance market. With a mere flip of a switch, the RBOCs can immediately offer "one-stop shopping" (both local and long distance services). New entrants, however, may take some time before they can offer such services, and only after they incur significant capital expenses will they be able to develop such capabilities.

In conclusion, we urge you to support telecommunications reform legislation that incorporates provisions that would maintain an important decision-making role for the Department of Justice; preserve the existing prohibition against mergers of telephone companies and cable television companies located in the same service areas; and protect the states' ability to order 1+intraLATA dialing parity in appropriate cases.

Thank you for considering our views.

Very truly yours,

Tom Udall, Attorney General of New Mexico; James E. Doyle, Attorney General of Wisconsin; Grant Woods, Attorney General of Arizona; Winston Bryant, Attorney General of Arkansas; Richard Blumenthal, Attorney General of Connecticut; M. Jane Brady, Attorney General of Delaware; Garland Pinkston, Jr., Acting Corporation Counsel of the District of Columbia; Robert A. Butterworth, Attorney General of Florida; Calvin E. Holloway, Sr., Attorney General of Guam; Jim Ryan, Attorney General of Illinois; Tom Miller, Attorney General of Iowa; Carla J. Stovall, Attorney General of Kansas; Chris Gorman, Attorney General of Kentucky; Scott Harshbarger, Attorney General of Massachusetts; Hubert H. Humphrey, III, Attorney General of Minnesota; Jeremiah W. Nixon, Attorney General of Missouri; Joseph P. Mazurek, Attorney General of Montana; Heidi Heitkamp, Attorney General of North Dakota; Drew Edmondson, Attorney General of Oklahoma; Charles W. Burson, Attorney General of Tennessee; Jan Graham, Attorney General of Utah; Jeffrey L. Amestoy, Attorney General of Vermont; Christine O. Gregoire, Attorney General of Washington; and Darrell V. McGraw, Jr., Attorney General of West Virginia.

Ms. MOSELEY-BRAUN. I thank the Chair. I say to my colleague, I am not here to speak on this specific legislation, although it is obviously important and significant legislation. I am here to speak as if in morning business and with the indulgence of the sponsors and managers of the bill, I ask unanimous consent to be allowed to speak in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. MOSELEY-BRAUN. I thank the Chair.

WELL WISHES TO CARDINAL BERNARDIN

Ms. MOSELEY-BRAUN. At the outset, Mr. President, I would like to call to the attention of my colleagues and call for the prayers of the American people in behalf of his eminence, Cardinal Joseph Bernardin. It has been recently diagnosed that Cardinal Bernardin is suffering from a form of cancer that is very difficult to overcome, and certainly we are all saddened by his condition and the physical pain that he must be undergoing presently but at the same time confident that secure in his faith he will find comfort at this time in the prayers and the well wishes from the millions of people in this country who love him dearly.

Cardinal Bernardin has been the leader of the archdiocese of Chicago for over a decade now and is an integral part of the community and Illinois and, indeed, of the church community throughout this Nation. We all wish him the very best. We wish his health returns to him. But in the event that it might not, we wish him the strength of his faith and the prayers of people who care about him and the leadership he has provided in regard to matters of faith for our country.

SUPREME COURT DECISION IN ADARAND VERSUS PENA

Ms. MOSELEY-BRAUN. Mr. President, I should like to address the issue of the Supreme Court decision in Adarand versus Pena.

Mr. President, on Monday, a closely divided Supreme Court handed down a 5 to 4 decision in the case of Adarand versus Pena. Adarand involved a challenge to the provision in the small business act that gives general contractors on Government procurement projects a financial incentive to hire socially and economically disadvantaged businesses as subcontractors. In its opinion, the Court held that all racial classifications imposed by the Federal Government will henceforth be subjected to a strict scrutiny analysis. Strict scrutiny, Mr. President, is a very difficult standard to meet. Indeed, it is the most difficult standard the Court applies. Accordingly, Federal racial classifications will be found constitutional only if they are narrowly tailored measures that entail further compelling Government interests.

At the outset I think it is important to note that under our system of government, the Constitution is what the Supreme Court says it is. Accordingly, "strict scrutiny" for Federal Government race programs is now the law of the land. Ever since I studied constitutional law in law school, I have had a profound respect for the Supreme Court and all that it represents in our system of laws.

Having said that, however, Mr. President, I still believe that the Adarand decision was bad law. Clearly, the