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**DOWJONES** | Newswires**Bells Urge Appeals Ct To Scrap Key Telecom-Law Provisions**

By Scott Ritter

502 words

9 July 1998

18:38

Dow Jones News Service

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English

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NEW ORLEANS (Dow Jones)--A trio of Baby Bells urged a federal appeals court Thursday to uphold a ruling that scrapped key parts of the landmark 1996 telecommunications-reform law.

SBC Communications Inc. (SBC), along with Bell Atlantic Corp. (BEL) and U S West Inc. (USW), say the law unfairly hinders efforts by the regional Bell companies to enter the lucrative long-distance market. A federal judge in Texas last year agreed, and declared sections of the law unconstitutional.

"Of all the options to it, Congress selected the one the Constitution foreclosed on for 200 years," Harvard professor Laurence Tribe told a three judge panel from the Fifth U.S. Circuit Court of Appeals here. "It seems to me Congress chose the worst of all worlds here."

At issue is a suit filed last July by SBC, the San Antonio-based Baby Bell. SBC argued that the law amounted to an unconstitutional "bill of attainder" by singling out the regional Bells for punishment. Local carriers that were never part of the Bell system, like GTE Corp. (GTE), were free to offer long-distance calling, SBC noted.

But the nation's top antitrust cop, Assistant Attorney General Joel Klein, said the Bells weren't being punished by the law's long-distance provisions. Indeed, he told the panel, the carriers got some "real tangible benefits" when Congress passed the law.

"They got some benefits, they got some burdens," said Klein. "Now they want to connect that to a bill of attainder?"

The Federal Communications Commission, through the Justice Department, appealed the New Year's Eve ruling from U.S. District Judge Joe Kendall of Dallas. Long-distance carriers including MCI Communications Corp. (MCIC), AT&T Corp. (T) and Sprint Corp. (FON) are backing the government's challenge.

Kendall's ruling would have allowed the SBC to jump into the long-distance market even before the carrier had taken steps called for in the law to open its local calling network to rivals. Kendall in February agreed to freeze his decision while the case winds its way through the appeals process.

The appeals panel heard more than an hour of arguments Thursday afternoon. The judges, all Republicans, peppered both sides with questions but offered little to signal which way they might ultimately rule.

Still, a hint of skepticism greeted some of the Bells' arguments. In an exchange with Tribe, Circuit Judge E. Grady Jolly suggested that the long-fought legislation was welcomed by the regional Bells once it was finally passed.

"It's like a quid pro quo," Jolly said. "You gave up something, you got something. How can a quid pro quo ever be punishment?"

Tribe responded: "You don't trade constitutional rights." He said the Bells made well known their objections to the long-distance provisions in the law, but were pleased with the rest of the legislation.

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