

Cable Rival Is Small but Has Friends

Northpoint Getting Help In Quest for Spectrum

By Juliet Eilperin
Washington Post Staff Writer
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From its proponents' point of view, Northpoint Technology Ltd. is a small, innovative company waging an uphill battle to provide television and Internet access to millions of Americans who are being either overcharged or underserved. From its critics' perspective, Northpoint is a politically connected firm using its influence to freeload off of American taxpayers by getting a free license to operate.

Northpoint became the target of such debate after it appealed to Congress for help in securing access to the same slice of airwaves that has been set aside for satellite television services such as Hughes Electronics Corp.'s DirecTV and EchoStar Communications Corp.'s Dish Network.

Northpoint owns no satellites. Instead it wants to build a land-based network of antennas that would use the same spectrum, between 12.2 and 12.7 gigahertz, to beam TV and Internet services to consumers' homes. With the aid of key senators, prominent lobbyists and even a famous comedian, the company has managed to get language inserted in two bills that would grant licenses to those airwaves for free rather than force Northpoint to submit to a public auction that the Federal Communications Commission wants to hold.

The company's technology appeals to many lawmakers, who hear complaints from constituents who are either deprived of cable or satellite service or feel they're paying too much. As Sen. Mary Landrieu (D-La.) noted on the Senate floor this spring, if Northpoint "can go head to head with incumbent cable systems in all parts of the country, I believe that this good old-fashioned competition will result in lower prices and better service for consumers."

Northpoint has been doing battle with the satellite companies for years, ever since it approached the FCC in 1998 about sharing the direct-broadcast satellite spectrum. The satellite companies, concerned that Northpoint's service would interfere with their transmissions, got Congress to pass language requiring independent testing on the matter.

The independent firm concluded that Northpoint could operate without causing "harmful interference" to the competing companies if it modified its service in certain ways, but the FCC rejected the start-up's petition for a license. Instead, the commission scheduled a public auction for part of the spectrum, now set for 2004.

That decision, which came down a year and a half ago, prompted Northpoint to turn to Congress. The solution it seeks: language that would prohibit the FCC from holding a public auction.

The government has estimated that it could raise \$60 million to \$100 million by selling the airwaves to the highest bidder. Sen. John McCain (R-Ariz.) opposes Northpoint's request, saying that giving away spectrum without an auction represents "a clear violation of administration and congressional policy."

"We wouldn't give away national forest parklands," McCain said. "It's outrageous and an example of the power of money and special interests. The taxpayers of America will lose many, many millions of dollars."

While it portrays itself as David in its battle with the satellite industry, Northpoint is hardly without influential friends. Its lead partners are three successful women -- Sophia Collier, treasurer of the New Hampshire Democratic Party, who made a fortune by selling her business, Soho Natural Soda, to Seagram; Katherine "Chula" Reynolds, who hails from a Texas ranch family; and Toni Cook Bush, a former senior counsel with the Senate Commerce Committee and a stepdaughter of superlobbyist Vernon Jordan.

The company's founders also include J. Bonnie Newman, who served under President George H.W. Bush as an assistant for management and administration and worked for Sen. Judd Gregg (R-N.H.) when he was in the House.

The company's franchisees have plenty of Washington ties, too. They include the son and sister-in-law of Democratic Sen. Joseph R. Biden Jr. of Delaware (the senator has recused himself from the issue), former Clinton White House aide Betsey Wright, and comedian Lily Tomlin, who has lobbied members of Congress and staffers on Northpoint's behalf. Another franchisee is the wife of a former top aide of Sen. Conrad Burns, Leo Giacometto, who lobbies for Northpoint. Burns (R-Mont.) is one of the company's most vocal backers.

The company spent \$500,000 on lobbying last year, according to company officials, using a high-powered stable including Bob Livingston, the former House speaker-designate; seven-term congressman Lloyd Meeds, now at the law firm Preston Gates Ellis & Rouvelas Meeds LLP; and Diane Albaugh, whose husband, Joe, was one of President Bush's top advisers. The company's efforts also hold out a special promise for lobbyists such as Livingston: a stake in the company if it succeeds in getting an FCC license, a bonus that could be worth millions of dollars.

Toni Bush is quick to note that the firm's rivals have an army of lobbyists as well. DirecTV paid Quinn Gillespie & Associates LLP \$240,000 last year in addition to having one in-house lobbyist, and EchoStar spent \$1.5 million on lobbying, according to federal records. Northpoint is also facing off against MDS America Inc., a company that has built a terrestrial wireless service in the Middle East and wants to do the same thing in the United States.

At the moment, Northpoint has the momentum. In September, Landrieu and Sen. Kay Bailey Hutchison (R-Tex.) inserted language into the spending bill for the Commerce, Justice and State departments that would block the FCC from publicly auctioning off the portion of the spectrum Northpoint is seeking. Sen. John E. Sununu (R-N.H.) had inserted similar language into a satellite bill this summer, enraging House Energy and Commerce Committee Chairman W.J. "Billy" Tauzin (R-La.).

The Bush administration, among others, has questioned why Congress would carve out an exemption for Northpoint. Tom Schatz, president of Citizens Against Government Waste, called it "a huge waste of money."

But Sununu and others say satellite companies -- which under legislation passed in 2000 are eligible for parts of the spectrum without going through a public auction -- are simply afraid of competition. He said he is not sure how the battle between the two forces will play out.

"If I could predict that, it would be resolved already," Sununu said.

The Senate plans to take up the Commerce, Justice and State spending bill in the coming weeks, though it is unclear whether the Northpoint language will survive on the floor -- or in negotiations with the House. The administration could also weigh in on the issue, but it is unclear whether Bush officials feel strongly enough to tinker with the legislation.

Northpoint executives are undaunted. "People think because we're a small company and the big companies beat up on you, we'd roll over and play dead," Toni Bush said. "That is not our approach."

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