New Mexico State Center for Public Utilities Current Issues 09

Is the FCC Broken and What Can the New Administration Do To Fix It?

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State Chair, Federal–State 706 Joint Conference
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1. Macro Trends
2. The Need for Reform
3. A Little Help from My Friends
4. Policy Priorities
Macro Trends

Potential marasmus of all things FCC –

- broadcast – radio and TV
- satellite (e.g., XM/Sirius)
- print media
- cable
- telecommunications
Macro Trends

Marasmus:

Webster – “Extreme weakness and wasting secondary to malnutrition”
FairPoint reports Q4 loss, suspends dividend
Fierce Telecom, March 6, 2009

Sprint Nextel loses 1.1M customers, $1.6B: Daily Update

Network television fading to black
The Indianapolis Star, Jan. 17, 2009

A Timely Warning on Cable

New York Times Halts Dividend to Save Cash

CenturyTel Q4 profit, revenue slide
Fierce Telecom, Feb. 19, 2009
Macro Trends

Provider commoditization:

1. Mainstream content provider oligopoly/differential pricing

2. Limited ability to monetize “over the top” provider product delivery

3. Limited ability to add value
Macro Trends

Capital crunch – equity, debt constraints in a capital-intensive market
Macro Trends

Capital crunch – equity, debt constraints in a capital-intensive market...

It’s not just about energy and water anymore!
Chairman Martin’s response to his colleagues’ Intercarrier Comp and USF views as archetypical of FCC dysfunctionality
“When I consider my opportunities, I marvel at my restraint.”

-- Sir Winston Churchill, responding to charges he had been too sharp in his criticism of an adversary during a parliamentary debate
FCC Reform

How can five personable, bright, well-informed, likeable individuals....
FCC Reform

....turn so darn dysfunctional as a Commission?
FCC Reform

Adopt a twelve-step program approach:

“My name is FCC and I am a dysfunctional agency”
(acknowledge the problem)
FCC Reform

Adopt standard business disciplines and practices which characterize most organizations’ operation:

- Start by **studying the history** of the issue... not by convening a team to draft language
- Use **SWOT analysis** as a basic discipline
- Proceed with **business objectives, strategies and tactics**... not with drafting.
FCC Reform

Adopt standard business disciplines and practices which characterize most organizations’ operation:

- Use a defined, procedurally *robust process for fact-based, data driven gathering of evidence*... don’t move immediately to drafting

- Move on to *performance measures*... not to drafting.

- Test your conclusions and if apparently sound, *ONLY THEN* move on to drafting.
FCC Reform

Restore procedural fairness, stop abuse of ex parte rules, make sure NPRMs actually propose rules, balance endgame access and issue decisions the day they are voted upon.

-- from Public Knowledge
FCC Reform

“The law, in its majestic equality, forbids the rich as well as the poor to sleep under bridges, to beg in the streets, and to steal bread.”

-- Anatole France
Despite dealing with cutting-edge technologies and a rhetorical commitment to intermodal neutrality, the organizational structure of the agency is obsolete and silo-driven.
The answer is NOT “more silos.”
Or “bigger silos.”
Or “new silos.”
FCC Reform

Staffing is archaic and dysfunctional:

- The FCC has less than half the ALJs of a typical state Commission
- Economists, but no behavioral scientists or individuals trained in marketing
- MBAs?
- CFAs?
- Whose job is identification of unanticipated, dysfunctional results? reduce/eliminate them?
FCC Reform

Better balance the power of the Chair with that of the Commissioners. Like the Supreme Court Chief Justice, the Chair should be *primus inter pares*.

-- from Public Knowledge
FCC Reform

Staffing:

-- for public service, not career development, networking and the revolving door

-- reward ownership of policy goals, leadership and innovation, not sycophancy

-- “If you’re not serving the public, then you’d better be serving someone who is.”

-- adaptation from Public Knowledge
Help from Friends
Congress is eager to help Chairman Genachowski shape public policy

-- from “Mr. Smith Goes to Washington”
Help from Friends

1. Weekly “view with alarm” hearings in the last Congress
2. It’s all about...broadband, broadband, broadband
3. New BFF’s Senator Rockefeller & Congressman Waxman
Help from Friends

4. The Stimulus package appears to have little visible input from the FCC.
Help from Friends

5. New friends, movers and shakers...

“At the Google party, the hot ticket of the final night....”

-- Washington Post, 1/21/09, “Grande Finale of Inauguralpalooza: God, Gays and Gaza”
The Santa Fe Conference 2009

Policy Priorities

Observers’ focus on key issues, perspectives, possibilities and the overall outlook for change:

The Digital TV Transition, June, 2009
Broadband Deployment
Network Neutrality
Intercarrier Compensation
Universal Service
Policy Priorities

Obama Team’s focus on key issues, perspectives, possibilities and the overall outlook for change:

Broadband Plan and Deployment
Network Neutrality
Access
Wireless/Spectrum
The #%*#!! Digital TV Transition, June, 2009
Intercarrier Compensation/Universal Service (maybe)