36th Annual PURC Conference: Changes in Climate & Information Technologies

What Should We Expect From the New FCC?

Larry S. Landis, Commissioner
Indiana Utility Regulatory Commission
State Chair, Federal-State 706 Joint Conference
Member, Federal State USJB
Recent National Developments

“It was the best of times, it was the worst of times....”

-- Opening lines from Charles Dickens, “A Tale of Two Cities”
1. Macro Trends
2. The First Expectation -- Reform
3. The Second Expectation – Help for Chairman Genachowski from His Two New Best Friends
4. Policy Priorities
Macro Trends

Potential marasmus of all things FCC – broadcast – radio and TV satellite (e.g., Sirius/XM) print media cable telecommunications
Macro Trends

Marasmus:

Webster – Extreme weakness and wasting secondary to malnutrition
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

1. Large players
2. Midsize players
3. Rurals
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

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

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technologies and a rhetorical commitment to intermodal neutrality, the organizational structure of the agency is obsolete and silo-driven.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 “new silos.”
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

“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
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

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
FCC Reform

“Justice alone sustains society: Founded on the principles of right, expressed in the national laws, administered by public officers. No free government can survive that is not based on the supremacy of law. Where law ends tyranny begins. Law alone can give us freedom.”

-- US Justice Department, inscription on the building

If there were a similar inscription on the FCC building, how would it read? “For sale to the highest-bidding auction participant?”

-- Anonymous
Help from Friends
Congress is eager to help Chairman Genachowski shape public policy.
Help from Friends

1. The journey started with the “view with alarm” hearing-of-the-week in the last Congress
2. It’s all about...broadband, broadband, broadband
3. Now pitching for Congressman Dingell, Congressman Waxman
Help from Friends

4. The Stimulus packages appear to have virtually no input from the FCC; significant dysfunctions (e.g., RUS) appear to have been sacrificed to traditional Congressional power blocs.
Help from Friends

5. New friends, new movers and shakers...

“The fifth and final night of inaugural partying was like a cork popping off a champagne bottle. The inner party animal in thousands of revelers came out....

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

-- Washington Post, 1/21/09, “Grande Finale of Inauguralpalooza: God, Gays and Gaza”
New Leaders, New Directions

Julius Genachowski and Sean Hannity – twins separated at birth?
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New Leaders, New Directions

Open Internet/Net Neutrality
Diversity in Media Ownership
Broadband Deployment
More Transparent Decisionmaking

Julius Genachowski

Age 46
Parents fled eastern Europe, Holocaust “Like Obama, an outsider”
BA magna cum laude, Columbia, 1985
Law review, JD, Harvard, 1991
Low profile, not prolific writer, speaker
Defining career experience at Barry Diller’s IAC/Interactive:

Ask.com; CitySearch; Evite; Expedia; Hotels.com; Hotwire; HSN; Lending Tree; Match.com; RealEstate.com; TicketMaster; Trip Advisor

On Boards of at least 6 other Dot Coms

Founded incubator LaunchBox Digital

Least-reported-upon: management style
New FCC Composition

Acting Chair Mike Copps

Issues: Similar to Obama campaign but more emphasis on broadband
New FCC Composition

Commissioner Rob McDowell

Somewhat more focused on traditional telecomm; somewhat prone to occasional dissent in latter Martin Era; troubled by process flaws esp. last 18 months
Policy Priorities

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

The Digital TV Transition, February, 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 Deployment
Network Neutrality
Access
Wireless/Spectrum
The Digital TV Transition, February, 2009
Intercarrier Compensation/Universal Service
Broadband Buildout

Fiber to the barn

(1985)

Fiber to the [South] Bronx
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Net Neutrality

“Gosh, Toto, I don’t think we’re in Kansas anymore.”
Access
Wireless Issues

Spectrum/license concentration
Roaming
Open access
700 Mhz/D Block re-auction
AWS-3
Towers
“Walled garden”
36th Annual PURC Conference

The Digital TV Transition, February, 2009
36th Annual PURC Conference

JUNE?
The Digital TV Transition, February, 2009
36th Annual PURC Conference

The Digital TV Transition, *Whenever*

Louie: “Round up the usual suspects!”

-- Casablanca
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Intercarrier Comp/Universal Service

“The Gift that Keeps on Giving”