



Michael Powell, The FCC And The Internet

By David P. McClure ■ *US Internet Industry Association (USIIA)*

There are two basic truths that the pundits of communication are desperately trying to hide from. The first is that the crash of the US economy in 2001 was the direct result of the incompetent and illegal policies of the Federal Communications Commission. The second is that Michael Powell can prevent the FCC from destroying what is left of the econ-

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omy if his critics will sit down and shut up.

It is unclear why Congress elected to try to bring competition to the local telephony loop, except perhaps to get larger campaign contributions from AT&T, MCI and Sprint. After all, local calling rates are not sky-high because of a lack of competition—they are sky-high because of the taxes, levies and special costs tacked on to every bill by local, state and Federal governments. Seven years after the fiasco that is the Telecommunications Act of 1996, there still is virtually no competition in the local telephony loop, because a company would have to be stone cold stupid to enter an industry that is so burdened with unnecessary and costly regulation.

As with most federal legislation, the members of Congress who voted for the Telecommuni-

cations Act of 1996 didn't bother to actually read it. And as with most federal legislation, this Act was rife with unintended consequences.

Those consequences proved deadly for the Internet Server Provider industry. The ISP business has never suffered a dearth of competition. In fact, just the opposite—there have been so many ISPs tripping over them-

selves in every market that no single ISP has been able to build critical mass, spur investments in R&D or even establish market leadership. We are an industry literally choking on competition.

The FCC did not create the Internet phenomenon, which was well under way by the time the '96 Telecom Act became law. The FCC did, however, destroy much of the industry with the policies it promulgated under

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Chairman Reed Hundt and William Kennard. In particular, these two Chairmen created, at the behest of Congress, a regimen for competition in the local telephony loop that made it at-

tractive, if not necessary, for ISPs to become regulated telephone companies called CLECs.

First, ISPs were pulled in by the promise of quick riches through reciprocal compensation. Because ISPs have lots of inbound phone lines and virtually no outbound lines, they received millions of dollars from the incumbent Bells just for existing. Second, as broadband Internet emerged in the form of DSL the ISPs found that they could use telephony laws to force the Bells to sell them access to the local telephony loop for discounts of up to 40 percent—allowing them both to undercut the prices of the phone companies and make a whopping profit.

There were many problems with the '96 Telecom Act and the FCC's implementation of it, not the least of which is that the whole mess was found to be illegal and/or unconstitutional. This meant that by the dawn of the Millennium the FCC had on its hands a regulatory morass that failed to bring competition

to the local telephony loop but did choke the Internet industry on competition it didn't need.

That is the mess Powell inherited. And so he set about fixing it in the only way that really

works—creating real competition by real competitors in a telecommunications market free from federal micromanagement.

Unfortunately, the ISP/CLECs—who had spent years insisting that they were real

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companies that could stand on their own, proved to be just hollow shells sucking up the profits of the Bells. As soon as the FCC announced an end to payments for reciprocal compensation and government-mandated welfare, these ISP/CLECs collapsed. And as they went down, they took the US economy with them.

More than any other entity, the FCC had created the boom of the Nineties through Soviet-style government interference in free markets, then crashed the economy when the new telecommunications companies it had brought into creation proved to be, in Michael Powell's words, "competitors on life support."

Michael Powell knows that the only way to put the telecommunications industry back on its feet is to sweep away two decades of nonsensical FCC regulation. He knows he must de-regulate and allow consumers rather than FCC bureaucrats to decide what technologies and what industries will thrive. He knows he must free up bandwidth, strip away limitations, and promulgate policies that will not immediately be thrown out by the courts.

But his critics find it hard to give up their stranglehold on the telecom industry. In the Congress and within the FCC, Pow-

ell is challenged at every turn, battered and abused for every action—whether he is ultimately right or wrong.

And he is wrong, sometimes. No one understands yet what the heck the HDTV fiasco was all

about, or how it fits into a deregulatory regimen that would allow consumers to decide what they wanted to watch. And it is unclear how preventing the recording of some TV shows will be helpful either to industry or to consumers.

But I do believe that Michael

Powell is the most tech-savvy, pro-Internet force in Washington today. I believe that his plans to reform the FCC and deregulate the markets are just what the doctor ordered for the economy. And I believe that Powell will emerge, if he can keep moving forward, as the most visionary and most competent FCC chairman of our lifetimes.

I believe it is time for the naysayers, the lobbyists, the bureaucrats, the Congress and the whiners to sit down, shut up and let him do his job. ■

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