Insight

FCC Continues to Send Mixed Signals

DAN GOLDBECK | JULY 13, 2012

From fiscal year 2008 to date, the Federal Communications Commission's (FCC) share of regulatory red-tape spiked from more than 56 million hours to nearly 80 million, according to White House data. During this period, the FCC has been led by Julius Genachowski, President Obama's appointee from June 2009.

Earlier this week, Chairman Genachowski was among the five members of FCC who paid a visit to the House Subcommittee on Communications and Technology to discuss spectrum auctions, Internet regulation, and infrastructure concerns after the recent storms. In his opening statement, Chairman Genachowski stated that his "primary focus as FCC Chairman has been promoting innovation, investment, competition, and consumer empowerment." The past few years have told a different story.

Data show, however, that Chairman Genachowski's tenure has been marked by this 20 million paperwork burden hour increase. Using a rate of $30.66, the mean hourly wage of a generic "compliance worker," this amounts to more than $2.4 billion in paperwork filing costs alone.

Just this past week, FCC finalized its rule implementing the Commercial Advertisement Loudness Mitigation (CALM) Act – a regulation that does stem from Congressional action, but will nevertheless carry nearly 300,000 additional annual paperwork burden hours.

Net neutrality, another rule promulgated by FCC last year, imposes a more modest amount (approximately 47,000), but promises to substantially change the telecommunications industry. One estimate from the Phoenix Center finds that the rule would eliminate 300,000 jobs. And, of course, this is to say nothing of FCC's heavy-handed treatment of last year's proposed merger between AT&T and T-Mobile.

The FCC does talk a good game at times. Chairman Genachowski's testimony echoed some of the same themes as President Obama's Executive Order 13,579, which asked independent agencies to review and revise old regulations. However, independent agencies do not answer directly to the administration, and many regulators (FCC included) have been slow to act.

The most senior Commissioner, Robert McDowell, stated the need "to help put more spectrum into the hands of American consumers." In February, Congress passed bipartisan legislation granting FCC the authority to auction off certain frequencies of federal spectrum for private use. Moving spectrum appears to be a priority in Congress as the Subcommittee Chairman, Fred Upton, emphasized that spectrum auctions could "help kick-start our economy, promote investment and jobs, and provide Americans access to new and innovative services."

One of the newest Commissioners, Ajit Pai, explained how the greater use of "shot clocks" and sunset clauses could help establish greater regulatory certainty for stakeholders. Much of consternation around the failed AT&T/T-Mobile merger came from the lack of such certainty. Considering some of the actions taken by FCC recently, such reforms are certainly welcome.

However, talk is cheap. Regulatory costs are not. FCC, and the administration in general, continues to fall short of its lofty rhetoric. Despite executive orders urging action, the FCC has merely published a "Preliminary Plan" to look back at out-dated regulations. Merely reviewing regulations does nothing to lift the paperwork burden and additional costs associated. There are ideas for reform emerging, but until FCC acts, its record will continue to disappoint.