Insight

Genachowski Rubs It In

SAM BATKINS | JANUARY 20, 2012

“It was a reminder of the benefits and power of competition.” Words of a capitalist fanatic praising free markets and a light regulatory state? Sadly, this was Federal Communications Commission chairman Julius Genachowski defending his regulatory attack against AT&T and T-Mobile.

Speaking at the Consumer Electronics Show, Genachowski once again launched into the merger debate that was settled months ago. Of course, the merger’s failure was a display, not of competition, but the power of three unelected commissioners to derail a $39 billion deal. The terms of the merger were debatable; Genachowski’s actions were not.

Back in November, after AT&T and T-Mobile withdrew their merger application from FCC review, Genachowski proceeded to release an unofficial staff report that had the Left drooling over the (moot) details. The release of the staff report after the formal withdrawal was unprecedented, but when you consider the commission’s actions to push net neutrality into law and intimidate telecom companies, it was business as usual for FCC.

When pressed by Consumer Electronics Association president Gary Shapiro that government should provide more certainty, Genachowski disagreed. He argued that merger rules and guidelines should be more fluid and that companies should pay more attention to FCC’s competition reports, as if the companies themselves are somehow unaware of the state of market competition.

Genachowski’s bureaucratic arrogance is characteristic of the administration’s general regulatory strategy. With more than $230 billion in published regulatory burdens in 2011, including $102 million from FCC, the administration has taken a “Fire, Aim, Ready” approach to regulations on America’s employers. Whether it’s shoddy health-care analysis, arguing that regulations create jobs, or moving the goal posts on mergers to ensure “fluidity,” no wonder the president convenes one jobs panel after another.

The bottom line: Genachowski and his fraternity of independent agencies shouldn’t be picking winners and losers in the marketplace. They’re subsidizing Solyndra, regulating coal out of existence, and now proclaiming the “proper” level of competition. Should we be surprised that the administration always seems to be on the wrong side of the job-creation ledger? And Genachowski’s recent remarks hardly inspire confidence that this regulate-first ethos will change in 2012.

As Genachowski concluded at CES, “The costs of inaction — and the costs of incorrect action — are enormous.” There are a few telecom companies and a few energy companies who know all too well the costs of “incorrect action.” Sadly, this administration doesn’t have a clue.

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