

From: Bob Allen
To: Mike Powell
Date: 2/21/03 4:22PM
Subject: Fwd: AT&T and the Bell System

SUNSHINE PERIOD

RECEIVED

MAR 18 2003

Federal Communications Commission
Office of the Secretary

A further comment on the first epistle of Glenn.

96-98

No. of Copies rec'd 1
Lib/ABODE

From: Arnold, William F
To: Mike Powell
Date: 2/21/03 4:07PM
Subject: Correct

SUNSHINE PERIOD

RECEIVED

MAR 18 2003

Federal Communications Commission
Office of the Secretary

I think you (for what its worth) are correct in trying to reverse the network access regulations. Why would anyone in their right mind build something then rent it out a disocounted price ? I have seen it where I live on electric - they will not put up any new poles or wires unless I (a consumer) PAY for it !

Where would our country be if this was the case 30 years ago ? Charge the big boys a fair price for access and let the baby bells make some money to inspire growth - Let the big guys discount it at their end.

Your FCC rules are hindering growth !!!

96-98

No. of Copies rec'd 1
List ASCODE

RECEIVED

SUNSHINE PERIOD

MAR 18 2003

From: Paul
To: Mike Powell
Date: 2/21/03 3:19PM
Subject: Telecom Industry

Federal Communications Commission
Office of the Secretary

Dear Chairman Powell,

The recent action by the FCC does nothing to pull the deeply depressed telecommunications industry out of their slump. We are very disappointed in the decision.

We need Federal action that will free the Bell Companies, which in turn will increase spending for new equipment.

As you know the telecom equipment industry is on the verge of bankruptcy and has been depressed for several years.

96-98

We need decisive action to revive the industry.

Thank you,

Paul and Maryann Pappas
12 Walden West Rd.
Bernville, PA 19506-8615

No. of Copies rec'd 1
List ABCDE

SUNSHINE PERIOD

From: Tom Keating
To: Mike Powell, Kathleen Abernathy, Michael Copps, KM KJMWEB, Commissioner Adelstein
Date: 2/21/03 2:51PM
Subject: THE RULES on TELCO

YOU ALL BLEW IT! GOOD THING YOU AREN'T IN CONTROL OF US STAMPS!

96-98

RECEIVED

MAR 18 2003

Federal Communications Commission
Office of the Secretary

No. of Copies rec'd 1
List ABCDE

SUNSHINE PERIOD

From: Greg Sidak
Date: 2/21/03 1:48PM
Subject: Hausman-Sidak on FCC's New UNE Impairment Test

<http://papers.ssrn.com/sol3/delivery.cfm/000120311.pdf?abstractid=205670>

The following article is now posted on the Social Science Research Network:

A Consumer-Welfare Approach to the Mandatory Unbundling of Telecommunications Networks

Yale Law Journal, vol. 109, no. 3

JERRY A. HAUSMAN
 Massachusetts Institute of Technology (MIT)
 J. GREGORY SIDAK
 American Enterprise Institute (AEI)

RECEIVED

MAR 18 2003

Federal Communications Commission
 Office of the Secretary

Abstract:

Hausman and Sidak propose a consumer-welfare model for the mandatory unbundling of telecommunications networks. Their approach gives precise economic meaning to the "impairment" standard of section 251(d)(2) of the Telecommunications Act. It is compatible with the Supreme Court's 1999 decision in *AT&T Corp. v. Iowa Utilities Board*, the D.C. Circuit's May 2002 decision in *USTA v. FCC*, and the approach outlined by the Federal Communications Commission's February 20, 2003 order in its Triennial Review on unbundling policy.

The FCC's press release in the Triennial Review said that "a requesting carrier is impaired when lack of access to an incumbent LEC network element poses a barrier or barriers to entry . . . which are likely to make entry into a market uneconomic." This analysis, the FCC said, "specifically considers market-specific variations, including considerations of customer class, geography, and service." The Hausman-Sidak test is five-part test for evaluating these factors on a granular, geographically disaggregated basis.

Hausman and Sidak also explain how the state public utilities commissions (PUCs) can play an active role in administering the impairment standard. They argue that the state PUCs have the resources and fact-finding experience to assist the FCC in conducting the analysis that is essential to administer the impairment standards with the requisite degree of geographic specificity.

Extending principles from the essential facilities doctrine in antitrust law, the Hausman-Sidak test addresses whether an incumbent local exchange carrier could exercise market power over end-users by restricting competitors' access to a requested telecommunications network element in a specific geographical market. This economic approach to interpreting section 251(d)(2) focuses on the effectiveness of competition in the end-user services market, rather than on the ability of a particular competitor to earn profits. Thus, the test takes account of consumer welfare in defining the impairment standard.

J. Gregory Sidak
 F.K.Weyerhaeuser Fellow in Law and Economics Emeritus
 American Enterprise Institute
 1150 Seventeenth Street, N.W.
 Washington, D.C. 20036
 United States of America
 (202) 862-5892 phone
 (202) 862-7177 fax
jgsidak@aei.org or jgsidak@aol.com

No. of Copies rec'd 1
 List: ABCDE

You can access my abstracts/papers on the Social Science Research Network (SSRN) through the following URL <http://papers.ssrn.com/author=206474>

From: michael henning
To: Mike Powell
Date: 2/21/03 11:47AM
Subject: martin

SUNSHINE PERIOD

The vote by Mr Martin should be grounds to have him removed from the commission.

96-98

RECEIVED

MAR 18 2003

Federal Communications Commission
Office of the Secretary

No. of Copies rec'd _____
ABCDE _____

SUNSHINE PERIOD

From: victor small
To: Mike Powell
Date: 2/21/03 10:50AM
Subject: Competition Works!!!

96-98

Mr. Powell:

The Baby Bells are attempting to regaining a monopoly on communication services. The Bells have enjoyed decades of utilities status in America. The Networks they boast as their own were build with taxes dollars paid by the American people. It would cost Clecs "billions" of dollars to rival the networks they currently have in place. Commissioner Powell, this moment in history will give the people in this country a choice to choose who they want to provide their telecommunication services. Verizon in particular is not hurting because of competition. I have witness competition create new jobs in the form of call & support centers boosting local economies and putting people to work. I encourage you to strengthen current competition rules and support increase competition. Telecommunications companies are strong arming state governments to regain "Monopoly status". Consumers are angry and small firms are suffering. Who will look out for our voices in this multi billion dollar game!

Victor Small
 Fort Wayne, Indiana

RECEIVED

MAR 18 2003

Federal Communications Commission
 Office of the Secretary

No. of Copies rec'd 1
 ABCDE

SUNSHINE PERIOD

96-98

From: edeck@mindspring.com
To: Mike Powell, Kathleen Abernathy, Michael Copps, KM KJMWEB, Commissioner Adelstein
Date: 2/21/03 10:37AM
Subject: disallowing 3 party DSL supply

RECEIVED

MAR 18 2003

To Mr. Powell,

Federal Communications Commission
Office of the Secretary

By allowing the baby bells to basically take back DSL service over copper you are effectively killing my company; I am a single employee web company that cannot afford to pay the demands of Bell South in your new proposed structure. In talking with them I must change my home phone to a business phone in order to get a static ip, and additional 100 dollars a month, which I cannot afford. I expect that I am not alone in sending this email to you. I hope that you reverse this decision, if not I will have to close my company.

A very concerned DSL user

Eric Decker

No. of Copies rec'd _____
List ABCDE _____

SUNSHINE PERIOD

From: Stanley Sims
To: Mike Powell, Kathleen Abernathy, Michael Copps, KM KJMWEB, Commissioner Adelstein
Date: 2/21/03 10:07AM
Subject: Tele. ruling

96-98

You Blew it.

How many jobs is your decision going to cost the industry?

Time for Congress to get rid of the FCC.

I thought the U. S. Government was not supposed to control free enterprise.

I hope you sleep well at night.

Stanley O. Sims
 32 Blueberry Hill Rd.
 Norwich, Ct. 06360
 860-886-1626

RECEIVED

MAR 18 2003

Federal Communications Commission
 Office of the Secretary

No. of Copies rec'd 1
 LG: ABCDE

From: Irene K Rausen
To: akovacs@yesinvest.com, kburns@yesinvest.com
Date: 2/21/03 9:21AM
Subject: Anna-Maria Kovacs' Note on the FCC's Triennial review decision

SUNSHINE PERIOD

Attached below find Anna-Maria Kovacs' note on the FCC's Triennial review decision.

Telecom Regulation Note: FCC's Triennial Highlights

At its meeting yesterday, the FCC adopted its order in the Triennial Review of its network unbundling rules. Different commissioners supported different parts of the order. Commissioners Adelstein, Copps, and Martin voted to give the states extensive power in determining the fate of switching as a UNE and, therefore, of UNEP. Commissioners Adelstein, Copps and Martin voted to end line sharing, albeit with a three-year transition. Chairman Powell and Commissioners Abernathy and Martin voted to lift broadband unbundling requirement off ILEC networks, particularly for the mass market.

The bottom line for investors is mixed.

- For the RBOCs for the next couple of years UNEP is a negative, but broadband relief is a longer-term positive.
- As far as we can tell, the bottom line on EELs has not changed, and they will not be available for special access bypass by the long-distance carriers.
- For AT&T and WorldCom, UNEP is a positive, but not likely to be enough to offset share losses in the long distance market.
- The picture for smaller CLECs is very individual and varies with specific details in the order. About the only general comment that we can make is that CLECs that depend on UNEP now have a new lease on life, while those who depend on line-sharing are being transitioned out.
- Equipment manufacturers will see the benefit of new broadband investment at some point in the future, but we do not expect the RBOCs to increase their capital spending over the next couple of years, while UNEP continues to eat away at their cash flow.

Anna-Maria Kovacs, Ph.D., CFA
 Managing Director - Research
 Commerce Capital Markets
 124 Mount Auburn Street
 Suite 200 North
 Cambridge, MA 02138
 (617) 576-5764 Phone
 (617) 576-5701 Fax
 akovacs@yesinvest.com

RECEIVED

MAR 18 2003

Federal Communications Commission
 Office of the Secretary

No. of Copies rec'd 1
 LIA / BCDE

96-98

From: ghgena
To: Mike Powell
Date: 2/18/03 9:56AM
Subject: RELIEF

SUNSHINE PERIOD

9/6+98

Could you be any slower in fixing the telecom debacle and giving the investors and telecom retirees a break ? Your agency managed to destroy what was once regarded as the most stable industry in the USA through incredibly stupid and one-sided regulation--and, in the process, deprived many, if not most, of people who served the public in that industry through years of hard work-of their retirement benefits and their well-earned compensation. Do you think that the millions of Bell retirees are all evil-deserving of being mulcted so that a handfull of crooked entrepreneurs could make a bundle by swindling Wall Street by competing with the Bells through unfair means. Give us a break--we've waited long enough for relief !!!

Do you Yahoo!?
Yahoo! Shopping - Send Flowers for Valentine's Day

RECEIVED

MAR 18 2003

Federal Communications Commission
Office of the Secretary

No. of Copies rec'd _____
List: ABCDE

From: Jim Langstaff
To: Mike Powell
Date: 2/18/03 1:37AM
Subject: <no subject>

SUNSHINE PERIOD

RECEIVED

MAR 18 2003

Federal Communications Commission
Office of the Secretary

This letter relates to the FCC upcoming rule changes for broadband and telecom.

Forcing the "baby Bells" to lease their networks at rates that are below market rates has overtime led to "artificially" lower rates for consumers. Now that many telecom companies are full of debt and near bankrupt -- would it not make much more sense to have everyone pay closer to market rates -- end the subsidy and forced discounts so that many great American Telecom companies can turn themselves around and avoid bankruptcy.

96-98

As an example, do consumers really need to pay only a few cents a minute for long distance -- if this artificial and false economy is leading to telecom bankruptcies.

Why not let the Baby Bells charge market rates for their networks and require competitors to overtime build their own networks. This would not only revive the Baby Bells but would probably revive the network manufactures such as the Lucent, and Nortel etc of the world.

Yours sincerely,

James H. Langstaff,
265 Empress Avenue
Toronto, Ontario. M2N 3V2.
(416) 225-8086

No. of Copies rec'd / _____
LRL ABCDE

SUNSHINE PERIOD

From: ARBORMED@aol.com
To: Mike Powell, Kathleen Abernathy, Michael Copps, KM KJMWEB, Commissioner Adelstein
Date: 2/17/03 9:07PM
Subject: SBC refusal to lease lines to competitors

96-88

Dear Commissioners and Chairman Powell:

Please keep alive the possibility that there may someday be competition in local telephone and broadband internet services by requiring that SBC (already a monopolist twice over) continue to lease it lines to competitors in these areas.

Unless the government actively guarantees DSL competition, the installed base for DSL services will stall, resulting in possibly 50% of Americans being without DSL Internet services. High-tech and other industries will be negatively impacted, as will the individual/family consumer.

Thank you for your time.

Edward Costello
 Edward J. Costello, Jr.
 Private Dispute Resolution
 620 East Channel Road
 Santa Monica, CA 90402-1316 USA
 Phone/fax: 310-230-1581
 Website (in formation): <http://www.edcostello.com>
 E-mail: arbormed@aol.com

RECEIVED

MAR 18 2003

Federal Communications Commission
Office of the Secretary

CC: wiwolfe@adrsol.com

No. of Copies rec'd 1
 List ABOVE

From: Aspazomaii@aol.com
To: Mike Powell
Date: 2/17/03 8:57AM
Subject: Change in rules

SUNSHINE PERIOD

96-98

Mr. Powell,

Please consider how much money the Bells have invested in everything other than what they are supposed to have invested and/or are trying to invest in. Many smaller companies which have made the investments will be driven out of business and then swallowed by the bells for nothing. Will this be the solution for competition?

Thank You,

J. Szeneri

RECEIVED

MAR 18 2003

Federal Communications Commission
Office of the Secretary

No. of Copies rec'd 1
List / ABCDE

From: ZimFam83@aol.com
To: Mike Powell
Date: 2/14/03 10:19PM
Subject: FCC meeting on Feb. 20th

SUNSHINE PERIOD

96-98

Dear Chairman Powell,
As an average hard working American, who has lost a lot of hard earned money in the stock market. I would like to ask you to be fair to the CLECs , and not change the rules that invited my investment. Allowing competition in the communication sector will help drive our countries technology to a higher level.

RECEIVED

MAR 18 2003

Federal Communications Commission
Office of the Secretary

Thank you,
The Zimmerman Family - Lawton ,

Oklahoma

CC: ZimFam83@aol.com

No. of Copies rec'd 1
Lit: ABCDE

SUNSHINE PERIOD

96-98

From: William Warren
To: Mike Powell, Kathleen Abernathy, Michael Copps, KM KJMWEB, Commissioner Adelstein
Date: 2/14/03 10:16AM
Subject: Don't kill Line Sharing

RECEIVED

MAR 18 2003

Federal Communications Commission
Office of the Secretary

Please do not fall for the ILECS strategy of getting their local monopolies back. It has been proven over and over that monopolies are harmful to consumers and to our economy. Our economy is based on competition and eliminating that sets a dangerous precedent. Please do not fall for the ILEC's tricks and vote to keep line sharing and regulation in place as it is.

Sincerely,
William Warren

--

May God Bless you and everything you touch.

My "foundation" verse:

Isaiah 54:17 No weapon that is formed against thee shall prosper; and every tongue that shall rise against thee in judgment thou shalt condemn. This is the heritage of the servants of the LORD, and their righteousness is of me, saith the LORD.

No. of Copies rec'd 1
LIST ABOVE

SUNSHINE PERIOD

~~EX PARTE OFFER FILED~~
RECEIVED

From: priscilla locano
To: Mike Powell
Date: 2/14/03 10:14AM
Subject: Rules Change

MAR 18 2003

Federal Communications Commission
Office of the Secretary



Dear sir,

I am writing to inform you of my support, it seams you are under attack for suggesting changes, which would be considered normal in any other market. we don't ask McDonalds to subsidize Burger King, we don't ask general motors to subsidize ford, we don't even ask congress to pay for they're own lunch.

I believe your doing the right thing by forcing the phone companies that are moving into new areas to carry their own weight. The bells are not subsidizing MCI and those other big guys. Its me the customer who chooses to stay with a proven reliable carrier. Those other companies always seem to have all the money in the world to advertise and lobby, but they claim they cannot afford to compete.

I hope you are successful, the current rules sound more like China than America.

Thanks again.

Ed Mason

No. of Copies rec'd 1
List ABCDE

96-98

From: Ronnie Nowell
To: Mike Powell
Date: 2/20/03 10:30PM
Subject: telacomunications bill

SUNSHINE PERIOD**RECEIVED**

MAR 1 8 2003

To: MICHAEL POWEL

Federal Communications Commission
Office of the Secretary

I am both a consumer as well as an employee in the telecommunications industry so I felt it very important to watch the whole thing unfold on television.

Your statement I felt hit home. I understand that competition is a good thing but the telecommunications bill of 1996 or this ruling today is not going to bring fair or even true competition to the consumer. I'm not sure why the rest of the commission cannot see that. maybe when more layoffs happen and phone service really does begin to suffer I wonder then if they will understand what you were trying to tell them.

Sincerely:RONNIE NOWELL

RECEIVED

From: rick punke
To: Mike Powell
Date: 2/20/03 10:40PM
Subject: Baby Bell Networking sharing issue

SUNSHINE PERIOD

MAR 18 2003

Federal Communications Commission
Office of the Secretary

I am disappointed in the decision of the FCC to put the UNE-P issue in the the hands of the State Public Utilities Commission. Thats like putting the Rooster in charge of the hen house! As a SBC employee who works in consumer services I am very tired of MCI and ATT relying on us to set up there local service make the connections, issue phone numbers and repair there customers lines. To me a true service provider will:

One maintain and repair all outside lines and Facilities.

Place local service order with optional features that customers will use such as Caller ID and Call Waiting.

Issue phone numbers from there number pool.

Answer billing questions and repair issues.

Most of all when I call a local phone company, I want to speak with someone who lives in the area and is knowledgable on the cities and exchanges. When you call someone from ATT or MCI there located hundreds of miles away not even living or investing in the local economy.

I would of liked to have been able to speak today on behalf of the thousands of CWA employess who have to be burdened with doing all the legwork for some company who has no local investment or who could truly care less. MCI and ATT have a great game plan scanning the company for local service areas who will give them the highest profit margin with local service and canvassing with our state with adds about there Neighborhood Plan. SBC has been in Ohio for over 100 years and when the dust settles after this decision, we will still be #1 with our customer service and optional services. In my opinion MCI should be broken up for all the bad business practices they had over the past 4 years and be made a example of.

SBC laid off thousands of employess due to the UNE-P issue and declining revenue due to paper companies such as MCI and ATT and Sprint using our facilites well below what it costs to maintain them. Thank you for siding with the Bells and I know we all will evetually get what we want. MCI and Sprint to be able to support themselves and SBC allowed to offer Long Distance in OHIO. When we talk about level playing field I am confindent that you all will allow SBC to offer long distance in Ohio. Our customers are begging for this and I know you all will allow us this opportunity to compete with the big three by offering SBC Long Distance in OHIO.

Sincerely,

Richard Punke

Do you Yahoo!?
Yahoo! Tax Center - forms, calculators, tips, and more

96-98

From: Jason Campbell
To: Mike Powell
Date: 2/21/03 12:01AM
Subject: Corporate lap dog

SUNSHINE PERIOD

RECEIVED

MAR 18 2003

Federal Communications Commission
Office of the Secretary

Thank you for creating and maintaining the economic oppression that has put or economy in the toilet. Im speaking of course about the Network Unbundling Obligations of Incumbent Local Phone Carriers. I invite you to view this link <http://yro.slashdot.org/yro/03/02/20/1848232.shtml?tid=103> and then explain how your actions are in the best interest of anyone.

While your at it please explain why I still pay "tax" to set up new lines that seem to be owned by a private organization who can limit there use.

Be assured that I will contact all my ELECTED officials and demand your resignations. Im sure they are just as corrupt, but spineless enough to react to public outrage.

Enraged by your open sale of our nation

Jason Campbell

RECEIVED

SUNSHINE PERIOD

MAR 18 2003

Federal Communications Commission
Office of the Secretary

From: daniel kivi
To: Mike Powell
Date: 2/21/03 5:09AM
Subject: Thanks for the effort.

Mr. Powell;

Good morning sir, I saw the hearing on TV yesterday I must say that I agree with you on all the issues that the FCC has taken to task.

I happen to be a field Technician for SBC in Illinois and work with the Clecs daily, of course we all have horror story's about most of the clecs so I won't touch on that at this time.

The purpose of this email is to say that I do appreciate all the time and effort that you and all your staff have devoted to this issue, even though the outcome is not that favorable for SBC I do see that a lot of time and effort was put into this issue.

Sending This back to the states will only allow the CLECS who don't have any technicians in the field to service their customers is plain and simple. (It's wrong to use me as a technician for the Clecs) I don't work for them they don't pay my wages or my pension or my health care costs SBC does,.

With that being said I won't go on a rant about that, I sure hope that we can bring more light to this issue in the future.

Best regards
Daniel T Kivi
Twin Lakes, WI

SUNSHINE PERIOD

From: anthony.x.bruno.jr@verizon.com
To: Mike Powell, Kathleen Abernathy, Michael Copps, KM KJMWEB, Commissioner Adelstein
Date: 2/21/03 8:03AM
Subject: Deregulation Ruling

I am, needlessly to say, upset at the recent deregulation ruling. Consumers need to find a better deal and they need to be "connected" to our world. Unfortunately, regulations on line discounts for competition impede this development. Money is lost by the companies who can provide the technological advancements needed do to reselling at low rates, and still resellers can only provide a TWO MONTH window for a single wireline installation and \$160 dollars up front not applicable to their bill. Who is truly losing here? Resellers need to invest in new technologies, or deliver funds to those who can, for true product enhancement. Research and development propels companies through rough times yet no one is willing to invest with a bad economy. Again, the "parasites" are living off a sound, hardworking, fair company. With the more startup companies receiving technology at lower than production rates the "host" will die. I am appalled. I am disheartened. The chance to change was now. Technology again stands still.

A concerned consumer, technical hobbyist, and telecommunications worker
Anthony Bruno Jr

RECEIVED

MAR 18 2003

Federal Communications Commission
Office of the Secretary

SUNSHINE PERIOD

From: Nick Ruark
To: PrivateWirelessForum@yahoogroups.com
Date: 2/9/03 7:32PM
Subject: Powell having rough, tough days at the office.....

RECEIVED

MAR 18 2003

Federal Communications Commission
Office of the Secretary

Politically correct Chairman Powell

By Tam Harbert
2/1/2003

Electronic Business

Like any good politician, Michael Powell talks a good game. One would hardly expect less, given his lineage as the son of Secretary of State Colin Powell. And some might even say that Michael, who has been chairman of the Federal Communications Commission for the last two years, has a harder job than his father when it comes to balancing the interests of many disparate groups in an attempt to reach a fair compromise. After all, he doesn't have the Armed Forces to back him up.

And yet he's trying to settle squabbles among industry forces that are sometimes as much at odds with each other as President George W. Bush and Saddam Hussein. Broadcasters, phone companies, cable companies, network equipment companies and electronics providers all lobby him to try to get favorable regulatory treatment for their particular industry. That's because the policy decisions before today's FCC-the telecom meltdown, broadband deployment, the digital TV debacle and wireless spectrum management-hold the potential to make or break these industries.

During his first two years as chairman, Powell has impressed many with his formidable intellect and keen understanding of the technology industry. He has made great speeches about the potential of these new technologies, and about the steps that regulators can take to facilitate them, say observers. But, so far, he hasn't walked the walk, they say.

"Powell is a very political, consensus-oriented person," says Tom Hazlett, a former chief economist at the FCC and now a senior fellow at the Manhattan Institute, a think-tank in Washington, DC.

He's viewed by many as a status-quo chairman, unable or unwilling to rock the boat. "It's the thanklessness of a high-profile government job," says Gary Arlen, president of Arlen Communications Inc., a consultancy in Bethesda, MD. "Even if he were to be an activist chairman, how much could he get away with?"

He most definitely is not an activist chairman, says Scott Cleland, CEO of The Precursor Group, an independent telecommunications research firm in Washington, DC. "Remember, a Republican, market-forces-oriented chairman isn't going to do a

lot of new things," Cleland points out. Rather, Powell has had to spend the last two years "trying to clean up a huge legal and economic mess that he inherited."

Powell also is "more of a lawyer" than his predecessors, says Cleland. Rather than mapping out his own legal and political policies, as some previous chairmen have done, he defers to Congress and the courts.

Although lauded for his people skills, Powell prefers to spend time studying policy and trying to solve problems rather than meeting with industry lobbyists, legislators and others. "He wishes he didn't have so many external demands on his time," says Cleland. "Thousands of people want a chunk of him."

Technologists praise him for having both an intellectual and personal understanding of technology and the benefits it can bring. However, "the ability to use a WiFi card does not map with an incentive to do things that are politically risky," says Hazlett. "As a regulator, you don't want to create political risk."

Some FCC watchers think that Powell simply and quietly has been laying the groundwork for some heavy lifting he wants to do in 2003. "Any assessment right now is premature," says Blair Levin, telecommunications analyst at financial services firm Legg Mason Inc., Washington, DC, and former chief of staff of the FCC under Reed Hundt. Several major proceedings are likely to be concluded in 2003, he notes. "What he's going to do in the next nine months is going to be much more than what he's done in the last two years."

Broadband on the brink

The issue of broadband access may be the single most important issue now before the FCC, at least from high tech's point of view. The combination of the telecom economic meltdown and the lack of regulatory relief from the FCC has left many companies struggling to survive.

"The regulatory situation is killing us," says Doug Cooper, director of regulatory and market development at Catena Networks Inc., a four-year-old DSL equipment start-up in Redwood Shores, CA. "Because of the uncertainty, carriers have stopped capital expenditures, and it's killing the vendors." Cooper left the FCC in 2000, after serving 10 years at the agency.

The "situation" is this: Under the 1996 Telecom Act, the telephone companies are supposed to allow their competitors to access their networks at very low rates. In the area of providing broadband access to the home, this means that the phone companies would invest in the network elements to bring broadband to the home, only to have to give their competitors access to those very capabilities. Thus, phone companies have not invested much in these services.

Although they've rolled out DSL, they've done so only from

the central office. Much of the debate concerning broadband has to do with unbundling "network elements," which means the boxes that sit in the neighborhood and serve all the houses in that area. Until there is guidance on whether the FCC will require phone companies to make these network elements available to competitors as well, phone companies are loathe to expand them.

Last year, the FCC published a notice of proposed rulemaking (NPRM) that tentatively classified wired broadband (DSL) as an information service, not a telecom service. The distinction is important because, under the 1996 Act, information services are not regulated. However, the NPRM prompted a deluge of public comment, and there's no word on when or whether the FCC will make the ruling final, which leaves the issue in limbo.

Secondly, the FCC has undertaken a broad review of the regulations affecting broadband. Powell realized early in his term that a lot of the rules regulating broadband were outdated, and that the FCC shouldn't have different requirements for different platforms that deliver broadband, says Cooper. But the deadline for the end of the review, which was due by the end of 2002, has stretched out. Industry now hopes that the FCC will end the review and perhaps announce results sometime in Q1 2003, he says.

"He says all the right things," says Gary Shapiro, CEO and president of the Consumer Electronics Association in Arlington, VA. Shapiro, along with many in the industry, just wishes he would hurry up and do something about it.

Meanwhile, the FCC has been slapped around by the courts on what action it has tried to take on this issue. In May 2002, the Court of Appeals for the DC Circuit threw out the regulations that the FCC tried to put forward on unbundled network elements for the platform. The regulations basically had tried to force telcos to open everything up at very low prices. (Under the traditional economic model-called TELRIC for total element long run incremental costs-the incumbents would have had to make their network element platforms available to competitors at a discount of 55% or more, according to Cooper.) But the court said that the FCC needed to consider that some pieces of the network already are available on a competitive basis, and that the FCC shouldn't require incumbents to provide those facilities that already are available.

Complicating matters has been a lack of coherence in high tech's lobbying, says Hazlett. Some companies, such as Corning, have lobbied for government subsidies for broadband to the home. This is both unrealistic and self-serving, says Hazlett. "As long as the industry engages in these unhelpful suggestions, it will create a vacuum there and create no way to push policy forward." Such lobbying causes confusion among the regulators "and out of that confusion comes whatever politics rule the moment."

But some of the tech industry has coalesced, uniting under an umbrella organization called the High-Tech Broadband Coalition, formed last spring. The group, which includes the

Telecommunications Industry Association, the CEA and the Semiconductor Industry Association, favors categorizing telco broadband as an information service, so that phone companies won't have to unbundle their network elements. The group believes that removal of such regulation will increase the investment needed to spur broadband competition.

The pressure is on for Powell to act quickly and decisively to make some changes to ease the telecom depression and prompt broadband growth. Last summer, Powell presented a six-point plan for telecom recovery to the Senate Commerce Committee that was long on rhetoric but short on specifics. "Powell's talked about this for a long time, but he's done virtually nothing," says Steve Rago, a principal analyst at iSuppli Corp., a market analysis company in El Segundo, CA.

But with the Republican victory in Congress last fall, Powell's political stars may be aligning. Bills introduced in the Senate to spur broadband access repeatedly have been stopped by Senator Ernest Hollings, D-SC, chairman of the powerful Senate Commerce Committee. But now Senator John McCain, R-AZ, a friend of Powell and a promoter of broadband access, will head the committee. Some believe that will pave the way for telecom reform in 2003.

Digital television doldrums

Digital television is another issue that has prompted many a Powell speech, but little action. And what action he has taken has stirred up a storm of protest.

In an effort to jumpstart the roll-out of DTV, Powell unveiled the "Powell Plan" in April 2002 and created a DTV task force to hold inter-industry meetings on various issues. The plan called on broadcast networks to increase their digital programming, on broadcast stations to increase their digital broadcasts, on cable and satellite to increase their carriage of digital programming and on equipment makers and retailers to commit to make more digital cable set-top boxes available at retail and include over-the-air DTV tuners in new televisions.

But industry observers are quick to point out that the plan is voluntary. "It doesn't mean anything if he doesn't enforce it," says Arlen. "He's saying all the right things, but he pushes and the very rich and powerful guys on the other side push right back."

The only part of the plan that he has forced on industry so far is DTV tuners. In August, the FCC mandated that DTV tuners be built into televisions by 2007 (see ELECTRONIC BUSINESS, "FCC plays chip makers' tune," October 2002). That mandate was viewed by many in the industry as a way to ensure that there were enough TVs available to receive over-the-air digital broadcasts so that the FCC could finally take the analog spectrum back from broadcasters.

"I think the approach was backwards," says Jenny Miller, a

CEA spokeswoman. Instead of pushing for cable compatibility, which would be the most effective way of getting more DTV to people, the FCC has chosen to mandate tuners in TVs so that it can get its spectrum back, she says. The CEA has sued the FCC over the mandate.

"The mandate on receivers is just not farsighted," Hazlett says. Rather than trying to push tuners into TVs, the FCC should realize that cable and satellite-the means by which more than 80% of the U.S. population receives its TV signals-are the perfect vehicles for the digital TV transition.

But the FCC has not issued any mandates on cable compatibility-not yet, anyway. Because cable set-top boxes still are based on proprietary architectures from companies like Scientific America and General Instruments (now a division of Motorola), these makers have a lock on the market, says Miller. The CEA wants a standard architecture so that all manufacturers can build set-top boxes for this market and sell them at the retail level.

A compromise on cable compatibility was announced by the consumer electronics and cable industries in mid-December. In a memorandum of understanding, 14 major consumer electronics companies and seven major cable operators agreed to a set of technical standards for cable systems and cable-ready DTV products, and urged the FCC to adopt regulations to enforce the plug-and-play standards.

What prompted the heightened discussions that led to the compromise? "A lot of it has to do with the leadership that the Chairman has shown" when he issued the Powell Plan and launched the DTV task force, says Miller of the CEA. But negotiations really heated up after Powell issued his tuner mandate. "That was a wake-up call for all industries," says Miller. With that, the FCC showed it was willing to regulate these things, so if the industries did not want to be regulated they had better work harder at finding some compromises, she says.

Even though the CEA doesn't agree with the mandate, "he's doing what he should be doing," says Shapiro, CEA president. "He's leading."

Unleashing more spectrum

Another area where the Chairman has talked a lot about deregulation and market forces is in the management of the nation's airwaves. A Powell-appointed task force last fall delivered a report on spectrum management that excites many in the wireless industry.

The task force is proposing an overhaul of the way the FCC manages spectrum. Contrary to some press and industry reports, there is no shortage of spectrum, says the task force-it's just inefficiently managed. More sophisticated technologies now coming on the market, such as software-defined radios and smart-antenna technology, can make more efficient use of the spectrum and reduce

the possibility of interference, says the report. The task force recommends that the FCC adopt more market-oriented spectrum use policies that will motivate users to adopt the best and most efficient technologies. It also notes that new technologies can now enable the FCC to consider time-in addition to frequency, power and space-as a parameter in allocating spectrum. This would allow time-sharing of spectrum among certain uses. It also recommends that the commission shift from a "command-and-control" mode of spectrum regulation to a more liberal, flexible approach, making more unlicensed spectrum available for broader use.

Industry welcomes the task force's findings. "This is a great effort on the part of the Powell FCC," says Peter Pitsch, director of telecom policy for Intel Corp. in Washington DC. "The old command-and-control regime has become very expensive. This will make it possible for spectrum to move from old technologies to new." Specifically, Intel would like the FCC to make new rules that will allow new technologies to operate in unlicensed spectrum, as long as they don't interfere with other uses, he says.

In fact, in early December the FCC launched a notice of inquiry, asking for public comment on the possibility of permitting unlicensed transmitters to operate in certain parts of licensed broadcast TV spectrum, and other parts of the spectrum, when they are not being used.

Perhaps this is the year that Powell will take action on this and other issues. Only time will tell. So far, on these hot-button issues, "Powell has said some good things, and very little has happened," says Hazlett of the Manhattan Institute.

Tam Harbert is Electronic Business' national editor. Reach her at tharbert@reedbusiness.com.

<http://www.e-insite.net>