

The Free State Foundation
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December 5, 2013

EX PARTE

Marlene H. Dortch
Secretary, Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Technology Transitions Policy Task Force - GN Docket 13-5; AT&T and NTCA
Petitions on Transition from Legacy Transmission Platforms to Services Based on
Internet Protocol – GN Docket No. 12-353

Dear Ms. Dortch:

On December 5, 2013, I, along with Free State Foundation Legal Fellow Sarah Leggin, met with Jonathan Sallet, Director of the Technology Transitions Policy Task Force and Acting General Counsel, and the thirteen other FCC staff officials listed below, to discuss the work of the Task Force and the IP transition.

I generally discussed the approach to the IP transition contained in my testimony before the House Subcommittee on Communications and Technology at its hearing on "Evolution of Wired Communications Networks" on October 23, 2013. That testimony is available to the public at FSF website at:

http://freestatefoundation.org/images/Testimony_of_Randolph_May_-_Evolution_of_Wired_Communications_Networks_-_October_23,_2013.pdf

In particular, I stated that the Commission, in the context of the IP transition proceeding, should establish a generally deregulatory policy framework for digital broadband services that breaks with the legacy framework developed to regulate narrowband services in the past monopolistic analog environment. I discussed the extent to which the communications marketplace had undergone dramatic changes since the late 1970s and early 1980s when I served at the Commission, and I stated that these changes have led to a generally (albeit not universally in all areas) competitive marketplace. I stated that there is no reason why the Commission cannot address particular matters such as public safety and universal service concerns in a targeted manner, while adopting policies that generally eschew economic regulation for broadband communications services.

I emphasized that, while it is important, of course, for the Commission to collect and analyze relevant market data in connection with assessing whether or not regulatory measures are appropriate, the rapid technological advances and dynamism that generally

characterize today's communications marketplace, warrant a shift in the Commission's traditional approach to assessing market competitiveness. In today's rapidly changing digital environment, I stated that the default, or presumptive, position should be that, absent clear and convincing evidence of market failure and consumer harm, legacy economic regulation should not be applied. I urged that the Commission adopt such an evidentiary presumption in assessing the competitiveness of markets. And I urged the Commission not to equate protecting competitors with promoting competition.

Finally, I emphasized, as does my House testimony, that the FCC and Congress ought to have a constructive, cooperative, and symbiotic relationship in working to adopt and implement policies appropriate for the digital age.

Sincerely,

A handwritten signature in black ink that reads "Randolph J. May". The signature is written in a cursive, slightly slanted style.

Randolph J. May
President
The Free State Foundation

cc: Jonathan Sallet
Bill Lake
Walter Johnston
Al Lewis
Jonathan Chambers
Kate Domouchel
Lisa Gelb
Mark Stone
Matthew Hussey
Jerry Stanshine
Padura Krishnaswamy
Kris Monteith
Jonathan Sallet
David Turetsky
Walter Johnston