



MEMORANDUM

TO: Vivian Schiller

FROM: Mike Riksen

SUBJECT: Julius Genachowski
Chair, FCC

April 30, 2010

“With each passing day, communications devices and networks become more essential to the fabric of the daily lives of all Americans. They are how we receive news, information, and entertainment; how we stay in touch with our friends and family—simply to talk, or in times of emergency; how we work at and run our businesses, large and small; how we—and people across the globe—learn about government, and express points of view. Put simply, our communications infrastructure is the foundation upon which our economy and our society rest. And it has never been more important that we unleash its potential.”

Julius Genachowski, June 30, 2009, to FCC all-staff meeting.

Since Julius Genachowski’s confirmation as 28th FCC Chair in June 2009, the work of the Commission has been all about broadband all the time. His first session as Chair was focused on “The FCC and Broadband – the next 230 Days,” and each of the 8 subsequent open monthly meetings he’s chaired has focused primarily on broadband – the status of development of the National Broadband Plan and, in March, presentation of the Plan itself.

A Harvard law school colleague of President Obama, Genachowski co-led the Obama transition efforts, with Susan Crawford, focused on technology, innovation and government reform. He clerked for Supreme Court Justices Souder and Brennan, was chief counsel for former FCC Chair Reed Hundt, worked with Barry

Diller at InterActiveCorp and has served on the Boards of Expedia, Hotels.com, Ticketmaster and the Motley Fool.

While the Commission continues to work through a wide-range of issues, including boosting power for HD Radio, Comcast's acquisition of NBC and commercial media ownership generally, the following issues have been dominant. And each has some connection to our future and the emergence of public media.

1. **The National Broadband Plan:** This enormous and comprehensive undertaking engulfed a special consultant contingent core of the Commission for most of 2009. Congress handed the FCC the task of developing a National Broadband Plan, but gave it neither the authority nor the funds to implement its recommendations.

The plan itself, <http://www.broadband.gov/>, some 700 plus pages, is a soup to nuts compendium of findings and recommendations on economic opportunity, education, health care, energy and the environment, government performance (or not), civic engagement and public safety. In other words, everything and anything important to America's future.

One of the more controversial proposals involved the repurposing of television broadcast spectrum for wireless broadband use. The essence of the Commission's argument is that television broadcast spectrum is underutilized and could better deployed to relieve increasing congestion of mobile broadband networks. Proceeds from the voluntary sale of public television spectrum are proposed to establish a fund for public media's digital future. Significant opposition from television broadcasters has developed and spread to some in Congress casting doubt about its viability.

NPR met several times with leaders of the Broadband Task Force to share our initiatives to bring more people greater access to better information and filed comments. The Plan cited the NPR API as an example of "an open framework to ... expand access to rich content."
<https://www.nprstations.org/nationalaffairs/regulatory/NationalBroadbandPlanproceeding.pdf>

Over the next several months, the Commission will unfold a series of rule-makings to begin the lengthy process of implementing some of the Plan's recommendations. Stay tuned.

2. **Net Neutrality:** A first cousin of the National Broadband Plan is the Commission's focus on development of a plan for "net neutrality." While a

somewhat amorphous undertaking, the Commission's focus is directed at the practices of broadband providers and seeks initially to affirm the Commission's authority to "promote an open internet."

In what was widely seen as a blow to the FCC's ability to implement the National Broadband Plan and regulate the Internet, e.g., promote its openness, a federal appeals court ruled in early April that the Commission did not have the authority to enforce its own "net neutrality" rules on telecom giant Comcast. Previously, Comcast had altered access to the file-sharing service BitTorrent as a way of maintaining what it called "reasonable network management practices."

The Court's decision could allow Comcast and other ISPs to restrict consumer access to certain content, particularly those whose access consumes large amounts of bandwidth. ISPs could also charge content producers higher access charges to allow them to reach consumers. A potential consequence of the decision could be an increase in Congress support for net neutrality legislation, which has been debated for years but never adopted.

3. **Examination of the Future of Media:** The Commission's first and most visible undertaking in the arena of media review has been Genachowski's appointment of Steven Waldman to be his Senior Advisor "to lead an agency-wide initiative to assess the state of media in these challenging economic times and make recommendations designed to ensure a vibrant media landscape." http://en.wikipedia.org/wiki/Steven_Waldman,

The Commission announced in January 2010 that it would begin an examination of the "future of media and the information needs of communities in a digital age." Public comments, due May 7th, will add to a public record established by workshops, including an April 30 session on "Public and Other Noncommercial Media in the Digital Era." Vivian and Kinsey were part of this session. NPR will submit a statement for the record that details public radio's prominent, growing and innovative role in the future of public media.