Remarks
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CONSUMER POLICY IN COMPETITIVE MARKETS

I. MARKETS AND CONSUMER WELFARE: BUNKING THE MYTH

As you all well know, I am committed to building policy that is centered around market economics. At times, this foundation of my thinking is often questioned as being somehow anti-consumer. In a television interview, the question goes something like this: "Many consumer groups express grave concern that your laissez-faire approach will harm consumers. They say you are out of touch with consumers and living in an ivory tower. What say you?"

I am always a little puzzled by this question, for the premise of it has been so thoroughly discredited in this nation and in countries around the world that it should be beyond challenge. Market systems, far from being the bane of consumers, have unquestionably produced more consumer welfare than any other economic model devised by mankind. How is it that anyone can argue that the pro-market policies of the United States have not yielded enviable productivity in our economy, jobs for our citizens, a higher standard of living than nearly any other country in the world, and a tradition of innovation and invention that has brought new products, tools and services to our citizens?

A well-structured market policy is one that creates the conditions that empower consumers:

- It lets consumers choose the products and services they want—which is their right as free citizens.

- It breeds entrepreneurs—giving an opportunity for someone with a good idea the chance to build a business and acquire wealth and opportunity. Something few, if any, nations have done as well as this country.

- It creates a fertile environment for innovation. Innovators know they have the prospect of reaping great rewards (if they take great risks) and consumers get the benefits of the latest products and latest services.

- It allows market forces to calibrate pricing to meet supply and demand. Consumers get the most cost-efficient prices and enjoy the benefits of business efficiencies.

The result for consumers is better, more cutting edge products, at lower prices.

Contrary to the classic bugaboo that markets are just things that favor big business and big money, market policies have a winning record of delivering benefits to consumers that dwarfs the consumer record of government central economic planning. Thus, if you are truly committed to serving the public interest, bet on a winner and bet on market policy.

I am a public servant and I believe very deeply that maximizing consumer welfare is the paramount objective of public policy. But the public interest standard and our commitment to it should not stand for the conviction that markets are consumer unfriendly and cannot be trusted; assuming that they go to excess, that they always fail, that there are too many needs and services they cannot deliver and that the risks and the human and social costs are too high and the potential for abuse too great. Experience teaches us otherwise.

I (to no surprise to you) do not subscribe to this view. Serving the public interest means crafting the conditions and the environment that will allow innovation to bring new and improved products and services to all Americans at reasonable prices. In capital economies, the central premise is that the interests of producers (i.e., money-makers) and consumers need not diverge, but, in fact, can be synchronous. Market dynamics are proven tools for advancing consumer interest and any public interest toolbox would be incomplete without them.

I am the first to admit that deregulation for its own sake is not responsible policy. What is good policy is to carefully examine rules to determine if they are actually achieving their stated purposes, or if, instead, they are, in fact, denying consumers value by impeding efficient market developments that these consumers would welcome. Regulations are not innocuous simply because they are promulgated in the name of consumers. No matter how worthy the purpose, rules that constrain markets can, in fact, deny or delay benefits to the consuming public. There are many examples of deregulations by the Commission that were met with fierce claims that consumers would suffer as a result. When the deed was done, however, we often witnessed instead, the flourishing of innovation and competition, from which consumers benefited magnificently. Let me give a few examples:

<u>Consumer Premises Equipment</u>

In the process of deregulating consumer premises equipment, arguments were raised that such deregulation would have dire effects by permitting the technical deterioration of the telephone network and by permitting "cream skimming" that would undercut regulatory pricing of CPE.

In a famous 1973 speech, the Chairman of AT&T argued: "No system of certification we can envision . . . can provide a fully adequate alternative to the unequivocal and undivided responsibility of service that the common carrier principle imposes." And the "burden" of CPE interconnection "will fall on the average customer, the users of the basic services that it has been regulatory policy from time immemorial to keep as inexpensive as possible . . .. The ultimate effect of this shift is not hard to see—a shutoff of service to people with marginal incomes." Of course, we did deregulate CPE and traded in our black, tired rotary phones for the slick (and inexpensive) phones, answering machines and call waiting units that line the isles of your local electronics store.

Mobile Phone Services

Another example, before 1993, many argued that we should not open up the wireless market. It was thought that two competitors in the cellular market were certainly more than sufficient. Since that market was opened and PCS introduced we have seen a phenomenal explosion in innovative, digital wireless services. Nearly 85 percent of the nation has access to 4 or more wireless carriers, and nearly 50 percent have access to 6 or more. Innovation has flourished with new handsets and services. Prices have persistently declined. "One-rate" plans and buckets of minutes have increased penetration and minutes of use. After just seven years, 40 percent of every American man, woman and child has a mobile phone and the future of this deregulated industry, with the coming of wireless Internet services, is truly brilliant.

Cable Television

Many argued against eliminating FCC rules that prohibited importation of distant signals by cable companies, because the competition would harm broadcasting and local programming. Of course, the result has been that cable flourished. A very large majority of Americans subscribe to this pay service, and have benefited from hundreds of new cable networks offering diverse and niche programming, as well as 24-hour news programming that has established a vital place in American public affairs. Moreover, the growth of cable carriage of local broadcasting (even before must carry) equalized the UHF disadvantage vis-à-vis VHF, which led to the creation of a fourth TV network (FOX), as well as WB, UPN, PAX and a number of Spanish language networks. The arrival of DBS is similarly revolutionizing the video market, particularly after Congress deregulated by removing the restrictions to carrying local signals.

It is evident to me that deregulation, though not always the right answer, often dramatically advances the options available to consumers, lowers their bills and brings them higher value.

Nonetheless, responsible government policy must acknowledge that consumers can be harmed by market abuses and we must have a robust and effective consumer protection component at the FCC. I am proud to say that we do have one. The Consumer Information Bureau (CIB) was established in 1999 out of recognition that we needed a staff focussed exclusively on addressing the concerns of the American consumer. CIB tracks complaints and works to identify patterns of consumer harm that may require a public policy response. The Bureau also helps bridge the gap between consumers and the industry, by facilitating discussions between the two and by sharing consumer concerns and ideas with the industry. This substantial organization has its fingers on the pulse of consumers and dedicates itself and its resources to ensuring that we are not, in fact, out of touch with consumers.

At this point, I want to take this opportunity to introduce Dane Snowden to you, who I recently hired to head this Bureau. I have known Dane a long time, and consumers will get to know him shortly and his Bureau as we continue to address their concerns. I also want to publicly thank Rod Porter for his outstanding interim leadership at the Bureau.

II. CONSUMER FOCUS IN A COMPETITIVE MARKET

It is sometimes hard to get your head around how to think about consumer protection issues in a competitive environment. The beauty of a well-functioning market, of course, is that consumers make the choices, and if not served well they drop their provider and shift to another. Government should protect consumers, but should not exercise choices or intervene where the market will correct for bad business offerings or practices. I brought with me today a prop. This big slide illustrates how we might think about the role of government in consumer issues. [Slide attached]

I have thought a lot about how to try to conceptualize how you focus your consumer efforts in a competitive market. If you think about a divide between competitive principles and regulatory principles you might chart the focus of government efforts along a spectrum. And certainly at this end of the spectrum [competitive sphere] no one would dispute that if something in the marketplace harmed the health and safety of consumers we would demand a government response. The same can be said for fraud, misrepresentation, and abuse, as well as anti-competitive effects. It is more of a regulatory function, though sometimes defensible, to regulate the terms and conditions of commercial relationships, or service quality, or to regulate rates. And in the middle of no man’s land we have a number of valuable non-economic regulatory principles, such as universal service, which need to have special focus and attention.

III. OUR CONSUMER AGENDA

We are in a period of revolutionary change and we have to think about the rising challenges for consumers. There is a chaotic fomenting of experimentation and change going on. Revolutions are messy things, and consumers will experience the anxieties and frustrations of this period. All they want are solid, reliable, low-cost, simple to use gadgets, and they will experience the frustration of not being able to get them until things mature. Consumers are experiencing:

- The frustration of having their appetite whetted for grandiose technologies only to find that delivery and implementation are not yet prime time.

- The confusion of constant changes and churn. New pricing plans constantly pop up. More buckets of minutes than your current plan. New handsets. DBS or cable? New Long Distance plans. New unfamiliar companies vying for their business.

- They experience at times sour service quality, and even vanishing service. Consumers are heard to say: "The phone company, or the electric company never just disappeared!"

- The constraints of a limited family budget. "How many ways does one really need to communicate with your mother?" Adults feel they need little IT departments in their homes to sort through the choices. And, they are less than comfortable to find that they do have little IT departments, and it is their kids, who take gleeful pleasure in the power of keeping it all a mystery from the grown-ups who've got the money.

- Techno-overload. You know the feeling: "Does everybody have a Palm Pilot, a RIM?" "What does the size of my mobile phone say about me to others?" (I will clue you in; in this area, smaller is better.)

Let me outline for you the basics of our consumer agenda. I want to begin with our simple, cardinal rule: <u>Everything we do is about consumers</u>. To my mind, consumer issues are not a separate branch of study, though they require conscious and vigilant attention. I challenge the staff to see communications markets through consumer senses. See what they see. Hear what they hear. In pursuing consumer welfare, we do so through our regulatory authority over producers, but we should not lose sight of the fact that it is not corporate prosperity in itself that is paramount, but only the conditions to sustain economic viability to effectively serve consumers. The Commission needs to follow a consumer policy that is focused in the following areas:

Managing Expectations

We start by helping to manage expectations about communications services. Offering realistic assessments of what is available and what a consumer may actually experience is invaluable to the consumer experience. Through brochures, consumer alerts, consumer forums and our web page, we try to provide information on what to look for and what to ask about, when shopping for service.

Clarifying Confusion

Similarly, the Commission can play a useful roll in addressing consumer confusion. A consumer must be able to make informed decisions in a competitive market. For example, we are looking at initiatives that will provide fuller explanations of telephone bills as well as considering ways that we might simplify the confusion of line items.

Efficiently Resolving Consumer Complaints

We are working hard to improve our processes for resolving consumer complaints and to make better use of the information we receive. We have made dramatic progress in resolving backlogs, for example. We take in a wealth of information at our consumer centers, and we are now developing systems that will analyze the data and report consumer concerns to the policy bureaus so that they can track consumer issues and integrate solutions into rulemakings.

Accommodating Special Needs

We should be conscientious of accommodating special needs. There are some areas the market often will not effectively address. In section 255, Congress recognized that perhaps the most significant is in the area of persons with disabilities. We have a concerted focus on how technology can improve access for this community. I am proud of our Consumer/Disability Federal Advisory Committee that is helping us understand how to weave into our policies and our rulemakings incentives to serve these communities.

Advancing Opportunity in the Communications Field

We may not always agree on methods, but the goals of providing a meaningful opportunity to participate in the communications industry through ownership and employment are important. I was disappointed that the D.C. Circuit recently denied our motion to reconsider their rejection of our EEO rules. Without pre-judging our litigation options, I intend to recommend to my colleagues that we consider pursuing new rules that increase employment opportunity in a manner that complies with the judicial limitations of the Constitution, and that are not unduly burdensome on the industry. I also intend to continue to explore ways to improve the opportunity for ownership. I have been a strong supporter of the revised tax credit bill, sponsored by Senator McCain and supported by Congressman Rangel the most important step we can take.

Improving access to the network

Our network is the envy of the world, yet there are still substantial numbers of low-income individuals that are leaving money on the table that is designed to help them access that network. Indeed, only 30 percent of all those low-income individuals that are eligible for lifeline phone service actually take advantage of the service. We are committed to working with the States to increase participation in these low-income programs. Affordable access not only opens up voice communication, but aides in getting people plugged into the Internet. We will remain vigilant with regard to the deployment of advanced communication services and constantly look at ways to accelerate efficient deployment for all Americans, particularly those in rural areas.

IV. CONCLUSION

My remarks today are intended to provide an overview of how we view and will pursue consumer issues. I am hopeful we will, partly through our policies, steadily advance consumer value in this breathtaking world of communications.