

**TESTIMONY**

**Of**

**MICHAEL K. POWELL**

**Chairman**

**Federal Communications Commission**

**Before the**

**Subcommittee on Commerce, Justice, State, and the Judiciary  
of the Committee on Appropriations  
United States Senate**

**On the**

**Federal Communications Commission's  
Fiscal Year 2002 Budget Estimates**

**Thursday, June 28, 2001**

**SUMMARY OF TESTIMONY OF  
FCC CHAIRMAN MICHAEL K. POWELL  
BEFORE THE  
SUBCOMMITTEE ON COMMERCE, JUSTICE, STATE AND THE JUDICIARY  
OF THE SENATE COMMITTEE ON APPROPRIATIONS  
June 28, 2001**

In order to serve the American public, the Federal Communications Commission, as an institution, must be efficient, effective, and responsive. The challenges of reaching these goals at the Commission are complicated by the sweeping, fast-paced changes that characterize the industries that we regulate. Indeed, the Commission is experiencing a challenge it has never faced—each industry segment in our portfolio is in the midst of revolution, and is attempting to adapt to fundamental economic and technological changes. There are new markets, new competitors, and new regulatory challenges.

Our Fiscal Year 2002 budget reflects the Commission's mission to keep abreast of industry changes and set rational productivity and regulatory goals. We are asking you to invest \$248.5 million dollars to ensure that the FCC has the tools to facilitate its reform efforts, upgrade its technological capabilities and further enhance its workforce. My goal is not only to make the Commission an example of efficient management practices, but to create and maintain an employee friendly environment—a place where employees can hone their skills and take pride in their service to the American people, as well as a place where employees have plenty of time to invest in their families. We can work together to encourage participation in telecommuting programs, build internal training programs, and utilize programs designed to lure the best and the brightest to government service. We can do this by purchasing and maintaining state of the art technological equipment to ensure better service to the public as well as a productive workplace.

My request for funding is tied to a specific business plan that I present here today for your evaluation. We have developed this plan along four dimensions: (1) a clear substantive policy vision, consistent with the various communications statutes and rules, that guides our deliberations; (2) a pointed emphasis on management that builds a strong team, produces a cohesive and efficient operation, and leads to clear and timely decisions; (3) an extensive training and development program to ensure that we possess independent technical and economic expertise; and (4) organizational restructuring to align our institution with the realities of a dynamic and converging marketplace.

My goal is to improve the agency on all these levels—and to make many of these changes within the next year. To that end, I have been seeking opinions from a wide range of participants, including Members of Congress and their staffs, the businesses that come before the Commission, consumer groups, and our own skilled employees.

I cannot predict the future, nor can anyone else at the Commission. When faced with future challenges that are uncertain, the best approach is to build a first-class operation, with top talent, that is trained and disciplined enough to adapt quickly to new and changing situations. I hope to build, along with my colleagues and the outstanding FCC staff, just such a unit—one well suited to an uncertain future.

Mr. Chairman, Ranking Minority Member, and Members of the Commerce, Justice, State Appropriations Subcommittee, thank you for inviting me to appear before you today to present the Federal Communications Commission's ("FCC") Fiscal Year 2002 Budget and discuss our priorities for the year ahead.

Although I have testified before the Senate before, this is my first appearance before your subcommittee. I want to use this opportunity to affirm my commitment to working with the Members of this Subcommittee to build a better FCC. I also want to thank the members of this subcommittee for their unyielding support in seeing to it during the past few years that the Commission received sufficient funding to complete its core mission. Although the Commission is an independent regulatory agency, the assessment, development and implementation of communications policy is a team-effort, with shared responsibilities between the various branches of government. It is my primary responsibility to ensure that the FCC follows its statutory mandates in enforcing communications laws. And, I want to work with you to make the Commission a model of efficiency and transparency for all independent regulatory agencies.

I believe that a critical part of my job is to be a leader and steward of the Commission, and I take this responsibility very seriously. In order to serve the American public, the FCC as an institution must be efficient, effective, and responsive. The challenges of reaching these goals are complicated by the sweeping, fast-paced changes that characterize the industries that we regulate. Indeed, the Commission is experiencing a challenge it has never faced—each industry segment in our portfolio is in the midst of revolution, and is attempting to adapt to the most fundamental changes. There are new markets, new competitors, and new regulatory challenges.

Serving as Chairman of the FCC at this juncture in history gives me a unique opportunity to take stock and assess our regulatory framework, and to develop guiding principles that will encourage economic growth in the communications sector and maximize consumer welfare. Our Fiscal Year 2002 Budget request represents a critical part of our efforts to make the Commission more cost-effective and results-oriented. Today, I will provide you with a summary of our Fiscal Year 2002 Budget Estimates and discuss our plans for using these funds to enhance the Commission's productivity, and ensuring that we are capable of meeting the future needs of both consumers and the communications industry.

### **New Beginnings for an Old Commission**

In order to understand our budget request, it is important to assess where we are now, and how we plan to use our resources in the future. The Federal Communications Commission received its initial statutory authorization when Congress passed the Communications Act of 1934. It was a time of severe economic depression—but also of technological change necessitating regulation of the cacophony of voices on the nation's airwaves. The Commission became part of Washington's alphabet soup, and developed a culture and structure designed to handle the licensing of radio stations. When change came in the beginning, it was slow and gradual, from the hardwiring of American homes for telephones, even in rural areas, to the advent of television, and the introduction of cable—these are the issues that the Commission had to deal with in the middle part of the twentieth century. The Commission divvied up the

airwaves according to what was seen as the highest and best use of the spectrum and often decided who would receive the spectrum based on the subjective evaluation of the character of the applicants.

The Commission's processes and mission have evolved during the past 70 years. While we still spend a great deal of time on spectrum management, the number of potential users and uses increases dramatically each year. Instead of exclusively focusing on broadcasting and hardwired phones, we concentrate on expanding the spectrum to accommodate new technologies like third-generation wireless and ultra-wideband. Our goals and regulatory mission are defined in a host of adjustments to the Communications Act of 1934, including the Telecommunications Act of 1996. Our responsibility to auction the spectrum is a creation of the budget and appropriations process, and it currently represents both a mechanism for encouraging competition and a valuable source of revenue for the U.S. Treasury. Today, the Commission's primary mission is to promote a fully competitive marketplace as well as access for all Americans to communications services. We achieve our mission with a combination of manpower and technology—from electronic auctions, to automated licensing, and innovative spectrum management techniques.

No one in 1934, or even 1964, could have foreseen the revolution in communications that we have experienced in the last decade alone. We know that communications developments are not finite and that they will no longer come slowly. The winds of profound and dynamic change, unleashed in part by the 1996 Act, have buffeted the Commission and blown it into a position where its decisions have far-reaching impact on the future of communications, not only in the United States, but also throughout the world. We have come a long way from an agency where the principal focus was the assignment of radio licenses, and its principal activity was conducting lengthy comparative hearings to assign those licenses. This new environment is no longer linear, but chaotic and dynamic. During the next part of this decade, we expect the communications markets to expand exponentially and develop in a competitive environment.

In thirty years, the Commission will not be our FCC, but our children's FCC. I want to join with you to make the FCC a better place and to ensure that we keep in step with the future. To facilitate progress and not stand in its way, we must review our mission and goals within the confines of Congress' mandate and develop an internal mechanism for improving our ability to foster competition in an ever-changing marketplace. For this agency to fulfill its congressional charge, indeed to remain relevant at all, it must put together a new business model and build the type of team that can execute it effectively. And with your help, that is precisely what we intend to do.

### **An Investment in the Future: The FCC's 2002 Budget**

To realize a more effective, efficient and responsive FCC, it requires enhancing productivity, management review and retraining, as well as technological upgrades to integrate all of these facets into a productive work environment. Today, I ask you to invest in achieving these objectives. Our Fiscal Year 2002 Budget requests that you commit \$248,545,000 to the future of communications policy. Our total budget request is \$18.5 million over last year's appropriation, representing slightly more than an eight-percent increase. This increase is critical

to financing programmatic and mandatory costs. The budget supports a staffing level of 1,975 full-time equivalents ("FTEs"). This level includes FTEs funded from both appropriations and auctions resources.

Much of the increase—41 percent—covers uncontrollable cost increases to fund proposed government-wide pay raises, rent increases and other inflationary increases. Specifically, our request includes \$6 million for mandatory salary and benefit increases and \$1.6 million for Consumer Price Index adjustments in contract services. The remaining portion of our budget—and, by far the most critical—comprises programmatic increases to accomplish the Commission's comprehensive information technology strategic plan initiatives. We are requesting \$10,997,000 for these information technology ("IT") enhancements. This amount includes funding for equipment originally scheduled (but not funded) for replacement in FY2000 and FY2001.

We intend to use our requested funding to build upon past improvements. In the past few years, we have streamlined our licensing procedures and implemented electronic filing capability in 78 applications—that is 72 percent of all major information systems. At the end of Fiscal Year 2000, approximately 62 percent of all applications were filed electronically. And, 93 percent of all applicants were acted on within our processing goals. The use of information technology has led to improved processing time as well as a significant decrease in the number of backlogged applications. The failure to invest in our information technology systems, either in the form of lifecycle replacement or technological upgrades, could lead to backsliding in our backlog elimination operations, and undermine our efforts to reform the Commission. It is important, however, that we do not automate what may be a flawed process. I intend to initiate a strategic review of our processes to ensure that they are accomplishing their intended goals.

I am cognizant of the fact that the funds I request here today belong to the taxpayer and not the Commission. For that reason, we ask only what is necessary to maintain and improve the Commission's services and resources. It is important to note, however, that since 1987, the Commission has worked to reduce the cost of government operations by implementing the congressionally mandated user fee cost recovery programs. The first program, the "Application Processing Fee Program," was designed to recover a substantial portion of the costs of the Commission's application processing functions, which account for the majority of the licensing activity costs.

In 1994, we implemented the "Regulatory Fees Cost Recovery Program." Since that time, we have collected fees to recover the costs attributable to the Commission's competition, enforcement and public information services. Unlike the Application Processing Fee Program, these fees can be retained by the Commission and applied to obligations incurred during the current fiscal year, thereby reducing the amount of appropriated funds required from the General Fund of the Treasury. Since FY 1994, the fee offset to our appropriation has increased from 38 percent to approximately 87 percent in FY 2001. I plan to maintain that level and even increase it slightly to 88 percent during FY 2002. The actual appropriation requested by the Commission for the next fiscal year represents \$29,788,000 in net direct budget authority since we intend to collect \$218,757,000 in offsetting collections from regulatory fees. I am proud of our work in

reducing our direct appropriation, and I believe that given the appropriate tools, we will improve on this record.

### **Keeping Our Part of the Bargain**

Two months ago, I testified before the House Subcommittee on Telecommunications and the Internet concerning FCC reauthorization and reform. Last month I testified before the House Commerce, Justice, State Appropriations Subcommittee. In both of those instances, I gave my commitment to following through on reform and asked our House authorizers and appropriators to join me in this effort. Although the financial needs outlined here are an important component of our reform efforts, we already have implemented a management review designed to make the Commission a model agency. I pledge to you that I will use the taxpayers' funds constructively as a way to improve our services and I provide you here with a four-point business plan that you can use to evaluate the financial worth of our efforts. Let me emphasize that we are not "reinventing" the Commission, because that would be Congress' prerogative, and until legislation provides us with the ability to reprioritize some of our functions, we will work within the statutory limits set by Congress. My plan is designed to use our requested funding in a constructive fashion—to improve the management and employment environment in a way that benefits the American people.

### **FCC Reform: The New Business Plan**

I conceive of FCC reform as a comprehensive retooling and redirection of the Commission's entire mission. Our approach is to write and execute a new business plan built along four dimensions: (1) a clear substantive policy vision, consistent with the various communications statutes and rules, that guides our deliberations; (2) a pointed emphasis on management that builds a strong team, produces a cohesive and efficient operation, and leads to clear and timely decisions; (3) an extensive training and development program to ensure that we possess independent technical and economic expertise; and (4) organizational restructuring to align our institution with the realities of a dynamic and converging marketplace.

#### **1. Substantive Vision**

The United States has a proud legacy in the area of communications services. This nation built the finest voice communication system in the world, as well as top-notch mass media delivery systems in the form of radio, television, and cable. These systems have reached maturity though—we understand the basic technology and architecture; we largely understand the cost characteristics; and, we understand what the consumer wants and what the product is. And, government regulation and policy had coalesced around these understandings, principally in the form of regulated monopoly and oligopoly.

We are now only beginning to appreciate and deploy the new advanced architectures and technologies of services like broadband. The cost characteristics may differ substantially from those of traditional networks to which we are accustomed. Broadband Internet products are still being developed and we all wait to see what service offerings consumers will and will not embrace. It is a world of dynamic and chaotic experimentation and unpredictable change.

I believe government policy needs to migrate steadily toward the digital broadband future, but recognize that we will be unable to anticipate every change before it happens. I submit that this digital broadband migration should be built around incubation, innovation and investment. At the Commission, our policy direction will focus on this migration and will have several directional guideposts:

- Facilitate the timely and efficient deployment of broadband infrastructure. Endeavor to promote the growth of a wide variety of technologies that can compete with each other for the delivery of content and will strive not to favor—or uniquely burden—any particular one.
- Pursue the universal service goals of ubiquity and affordability as new networks are deployed, and do so in creative fashion.
- Redirect our focus onto innovation and investment. The conditions for experimentation and change and the flow of money to support new ventures have often been misunderstood or neglected. If the infrastructure is never invented, is never deployed, or lacks economic viability we will not see even a glimmer of the bright future we envision.
- Harness competition and market forces. Drive efficient change and resist the temptation, as regulators, to meld markets in the image of any particular industry player.
- Rationalize and harmonize regulations across industry segments wherever we can and wherever the statute will allow.
- Shift from constantly expanding the bevy of permissive regulations to strong and effective enforcement of truly necessary ones. To that end, I support H.R. 1765, which would increase by 10 fold statutory levels for forfeitures, as well as extend the statute of limitations for common carrier enforcement actions to two years. When combined with solid auditing and enforcement of our rules, especially those prohibiting regulated entities from passing along their fines to ratepayers, I believe that these changes will have a solid, deterrent effect against illegal activities.

## 2. Operations and Management

All the vision in the world is useless if you do not build and manage an institution that can execute it. We intend to actively manage the agency. Indecision and avoidance are not legitimate policies and, thus, we will strive to reduce backlogs and put systems in place that will prevent these problems. Managers will be measured, in part, on this basis.

The Commission will develop an annual strategic planning process that will be integrated with the federal budget cycle and the review of our performance as an institution and as

individuals. We are working to establish uniform measures of productivity across the agency to facilitate this activity.

The Commission is developing a set of internal procedures that will allow it to function more smoothly. These procedures will cover subjects such as Commission deliberation, voting procedures and internal document security.

The Commission should continue to modernize its information technology infrastructure to ensure productivity gains. We must strive to be a virtual agency—one in which someone in Connecticut is able to access us as easily and readily as someone on Connecticut Avenue. We are working to make this goal a reality through increased electronic access capability. We are engaged in a time-consuming and expensive project, but one that is critical to our ability to remain relevant in this new millennium. We must continue with due speed to use the advances of technology to our advantage.

We have 18 major information technology systems that incorporate electronic filing or offer public access to data. The industry can file most license requests, equipment authorizations, and comments electronically. A 72 percent electronic filing capability is not enough—we will do better. We administered well over three million licenses last year, so it is critical that we are efficient in this area. It is also important that citizens all over the United States have the ability to contact us easily and from anywhere—whether by computer, phone or letter. Last year, we received well over one million inquiries from consumers. The public must be an active voice in the communications transformation, for they are the ultimate beneficiaries of the abundant choices resulting from competition.

Better management and a wider application of technology initiatives leads to enhanced productivity and an improved quality of life for employees. The Commission should be a place to work, not live. Employees should have a fair opportunity to work from home, providing greater flexibility to meet the demands of modern family life. That is why the Commission undertook an ambitious rollout plan for telecommuting last year. We intend to overlay our virtual agency concept to the benefit of FCC staff through an expansive telecommuting program, which is open to nearly 100 percent of the Commission's employees. Approximately 400 of our eligible employees, about 20 percent, have chosen to telecommute on either a regular or *ad hoc* basis. We began the telecommuting program to increase productivity, improve morale, improve job satisfaction and reduce absenteeism. I am pleased to say that other agencies look to us as a model.

### 3. Technical and Economic Expertise

Since advances in technology are driving the communications revolution, the Commission must have a strong fluency in the language of technology. We cannot depend on those we regulate for on-the-job tutorials while we make decisions. Over the last six years, our engineering staff has decreased by more than 20 percent. Within the next four years, 40 percent of our engineering staff will be eligible to retire. Conversely, we are not replenishing the coffers at the other end by bringing in new employees. Like other governmental departments and agencies, we are competing for this talent in a tight labor market and are challenged to convince

talent to enter government service. This has been most apparent trying to recruit entry-level engineers at the GS-5 and GS-7 levels.

To address this situation the Commission is developing an agency-wide "Excellence in Engineering" program. We will examine creative ways to gain greater personnel and pay flexibility to attract technical talent. Increased salaries alone, however, will not do the trick, nor is it the sole motivator for anyone entering government service. While government service in and of itself should elicit a sense of pride, we will increase our technical employees' worth by ensuring that they are able to continue to develop in their field, through strong training and development programs and job rotation. Our laboratory facilities in Columbia, Maryland need to be upgraded to provide engineers with the tools to engage in critical and challenging work. If we receive full funding this year, we believe that we can adequately address the initial needs of this program, and then have the flexibility to plan for the future to request additional funding during the next budget cycle.

It also is vital that we train our non-engineering staff in the areas of engineering and advanced technology. We already have begun to develop an FCC "university" of sorts using our own staff and guest lecturers, and taking advantage of various programs currently available through the government and local academic institutions. We can use this Washington, D.C. location to our advantage and tap into industry and academia. We can use local scholars and have them participate in an educational curriculum, to provide lectures, to provide classroom instruction, to provide counsel and advice.

I am putting similar emphasis on economics and market analysis. These tools are essential to our agency's mission. We have the opportunity to take advantage of both internal resources, visiting experts, and outside educational programs to help not only our economists improve their skills but to help all the FCC's employees understand better the impact of our rules on technological innovations, and competitive markets. It is critical that we look to a plethora of information sources in gathering opinions and forming our policy.

#### 4. Restructuring

Communications policy has been written in carefully confined buckets premised on certain types of technology. The FCC's organizational structure largely mirrors that premise. But the convergence of technology tears down those traditional distinctions and makes it evermore difficult to apply those labels to modern communications providers. In the same way, it makes it more important than ever for us to examine whether those organizational buckets still hold water.

About a year ago, we began breaking down the technology-based divisions with the creation of the Enforcement Bureau and the Consumer Information Bureau. With those reorganizations, we created two bureaus aligned along functional responsibility. We created the Enforcement Bureau to improve the effectiveness of our enforcement activities in an increasingly competitive and converging market. We created the Consumer Information Bureau to enhance consumers' ability to obtain quick, clear and consistent information about communications regulations and programs. These changes have proven to be beneficial. As the industry moves

toward fuller competition, the missions of these bureaus become even more critical. For consumers to take full advantage of the choices that competition brings, it is important that they have access to information that allows them to make an informed choice. Their ability to easily and quickly convey to us instances where the markets are not providing useful information to consumers in a particular circumstance or with a particular business is our early warning system for market failure or malfeasance on the part of industry players. While the consolidation of these functions is almost complete, there are some additional functions that are transferable into or out of those two bureaus.

We have undertaken a structural reorganization project that builds on some of the initial efforts of my predecessor, Chairman William E. Kennard. Our efforts will be guided by a few key objectives: (1) a functional organization designed along market lines, rather than technical ones; (2) a flatter substantive bureau structure; and (3) greater consolidation of key support functions.

Our program will proceed in phases. We have begun by systematically taking account of the agency's activities and functions to see what is working well and what is not. From that review we will produce a Phase I, short term, restructuring plan and a Phase II, longer range plan. The Phase II plan will consider whether wholesale change is necessary and whether it is timely to move away even more from technology-based buckets. We will be looking at what economic or marketplace triggers are indicative of the need for further restructuring. The question has been asked whether the Commission should be aligned along functional lines—e.g., enforcement, consumer information, spectrum management, licensing and competition—given increased convergence in the industry. This question deserves to be asked and answered. But first, we must seek additional and substantial information, and be completely satisfied that it is the right thing to do, before we move to rearrange substantially the organizational structure of the agency.

My goal is to improve the agency on all these fronts. An informed decision, however, is better than one based merely on supposition. We are seeking the opinions and thoughts from a wide range of participants as we proceed down the path of reform. I also look forward to working closely with this Subcommittee and other Members of Congress and their staffs on this matter.

## **Conclusion**

The primary impetus for my reform program is to ensure that the Commission develops an enhanced ability to carry out its core mission: promoting the public interest through communications competition in a cost-effective, efficient, and transparent regulatory environment. We are not here to find a solution to every problem related to communications. We can promote an atmosphere of competition where we step into the picture to ensure fairness of process, to stop predatory and anti-competitive behavior, and to make certain that the airwaves are free from clutter and pirates. We can and should make certain that the public interest and public safety are protected, while recognizing that we must work within the four-corners of our statutory mandate.

I cannot predict the future, nor can anyone else at the Commission. When faced with future challenges that are uncertain, the best approach is to build a first-class operation, with top talent, that is trained and disciplined enough to adapt quickly to new and changing situations. No army, for example, can know in advance what it will find when it engages on the battlefield. The fog and terror of war never afford the luxury of predictability. The key to success is to have a force that is well-trained in tactics, strategy and the weapons it will need. A force that is disciplined and able to adjust quickly and adapt to fluid conditions—threats and opportunities both will present themselves through the haze. I hope to build, along with my colleagues and the outstanding FCC staff, just such a unit—one well suited to an uncertain future.

Thank you. I would be happy to answer any questions this Subcommittee may have.