

Presentation to the
University of Nebraska
School of Law
Space & Telecom Law Program



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Today's Topics

- ◆ The FCC and Its Relationship to the Legislative and Judicial Branches
- ◆ FCC's Strategic Goals and the International Bureau's Objectives
- ◆ Examples of Work Done By the International Bureau
 - Making New Spectrum Available for Innovative Broadcasting Satellite Services
 - Granting Existing Satellite Providers Flexibility To Reuse Satellite Spectrum Terrestrially to Improve Service
 - Negotiating with Canada and Mexico to Facilitate The Transition to Digital Television
 - Working with the Executive Branch to Facilitate Appropriate Foreign Investment in U.S. Telecommunications Facilities

FCC's Establishment and Jurisdiction

- ◆ Established by Communications Act of 1934
- ◆ Regulates Television, Radio, Wire, Satellite and Cable in all of the 50 States and U.S. territories
 - Shared Jurisdiction with States
 - ◆ States Have Jurisdiction over Intra-State Communications
 - ◆ FCC Has Jurisdiction over Inter-State and International Communications
 - Shared Jurisdiction over Spectrum
 - ◆ FCC Handles Commercial Spectrum Allocation and Assignments
 - ◆ Department of Commerce's National Telecommunications and Information Administration (NTIA) Handles Government Allocations

FCC's Leadership

- ◆ FCC Has 5 Commissioners, One is Designated as Chairman
 - Nominated by President
 - Confirmed by Senate
- ◆ Commissioners Serve Staggered 5-year Terms
- ◆ Maximum of 3 Commissioners from President's Political Party



An Independent Agency

- ◆ Independent of the Executive Branch
- ◆ Agency Regulations Have the Power of Federal Law
- ◆ Directly Responsible to Congress
 - Oversight Committees
 - ◆ Senate: Commerce, Science, and Transportation Committee on Communications
 - ◆ House: Energy and Commerce Committee on Telecommunications and the Internet
 - ◆ Appropriations Committees in Senate and House (Congress Controls the Purse Strings)



FCC Legislative Constraints



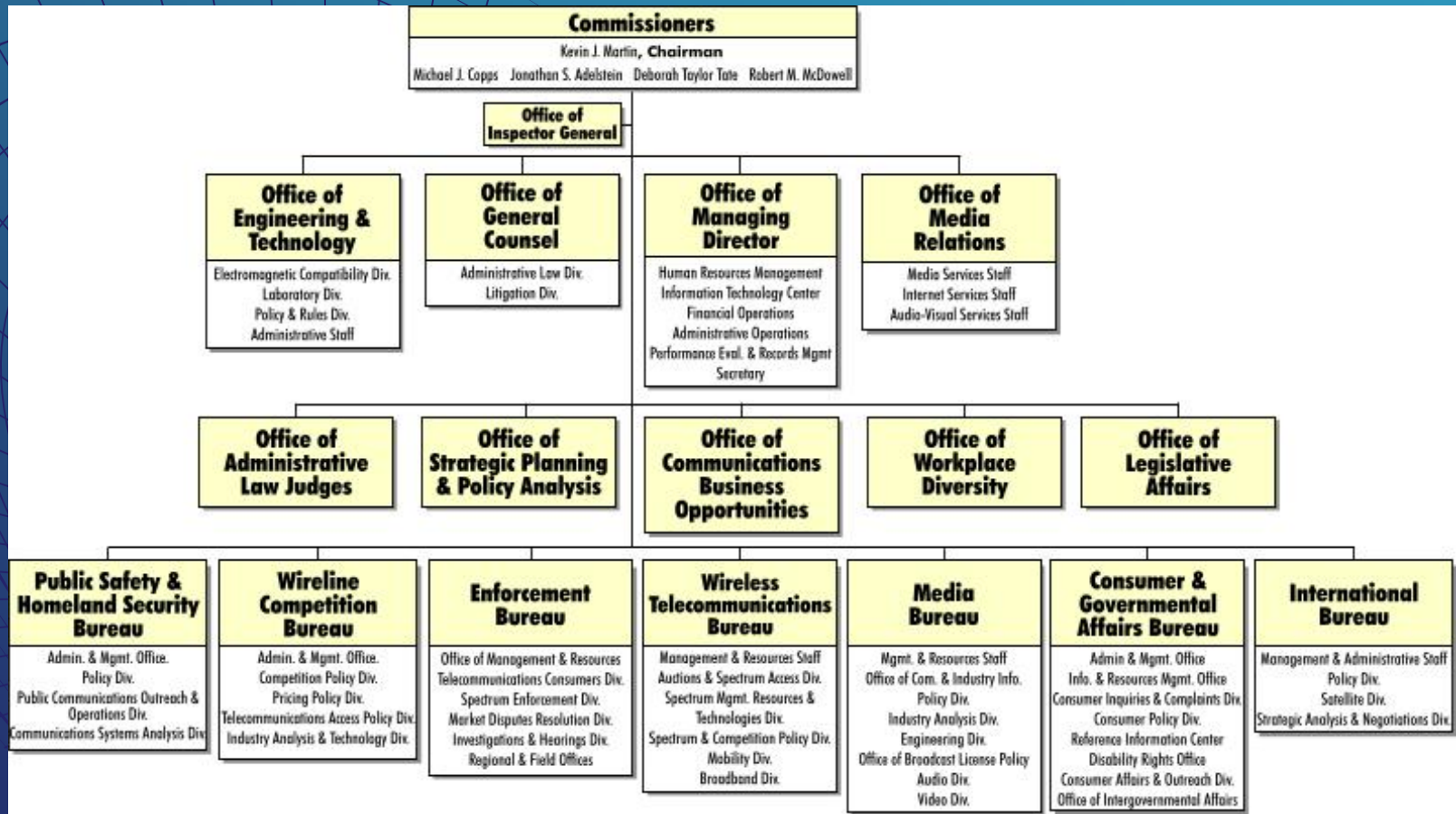
- ◆ Government in the Sunshine Act
 - Law Opens Government to Public Inspection
 - Agencies Must Hold a Monthly Meeting, Open to the Public
- ◆ Administrative Procedure Act
 - Establishes Procedures for FCC Adjudications
 - Governs FCC Rulemaking Process
 - ◆ Notice, Comment, Reply Comments, Decision with Explanation, Appeals

FCC Judicial Review



- ◆ Decisions and Rules Must be Sufficiently Justified by the Agency to Withstand Judicial Review
- ◆ Parties Can Appeal an FCC Decision to the U.S. Court of Appeals for the District of Columbia Circuit
- ◆ Court Can Uphold the Regulation as a Valid Exercise of Statutory Authority by the Agency, or It Can Remand Back to the Agency for Further Consideration and Information Gathering

The FCC's Organization



International Bureau Objective: Support FCC's Strategic Plan & Goals

◆ The FCC's Strategic Plan

- **BROADBAND** – “All Americans should have affordable access to robust and reliable broadband products and services. Regulatory policies must promote technological neutrality, competition, investment, and innovation.”
- **SPECTRUM** – “Efficient and effective use of non-federal spectrum domestically and internationally promotes the growth and rapid deployment of innovative and efficient communications technologies and services.”
- **COMPETITION** – “Competition in the provision of communications services, both domestically and overseas, supports the Nation's economy. The competitive framework for communications services should foster innovation and offer consumers reliable, meaningful choice in affordable services.”
- **MEDIA** – “The Nation's media regulations must promote competition and diversity and facilitate the transition to digital modes of delivery.”

◆ Goals for the International Bureau

- Establish Rules and Policies to Foster and Accommodate Changes in Technologies and Services
- Foster Productive Exchange with Foreign Counterparts

International Bureau Structure

Satellite Division

- ◆ Establishes Policies and Rules and Licenses Commercial Communications Satellites
- ◆ Negotiates and Facilitates of Satellite Coordinations
- ◆ Serves as USG Liaison to ITU for Satellite Notifications

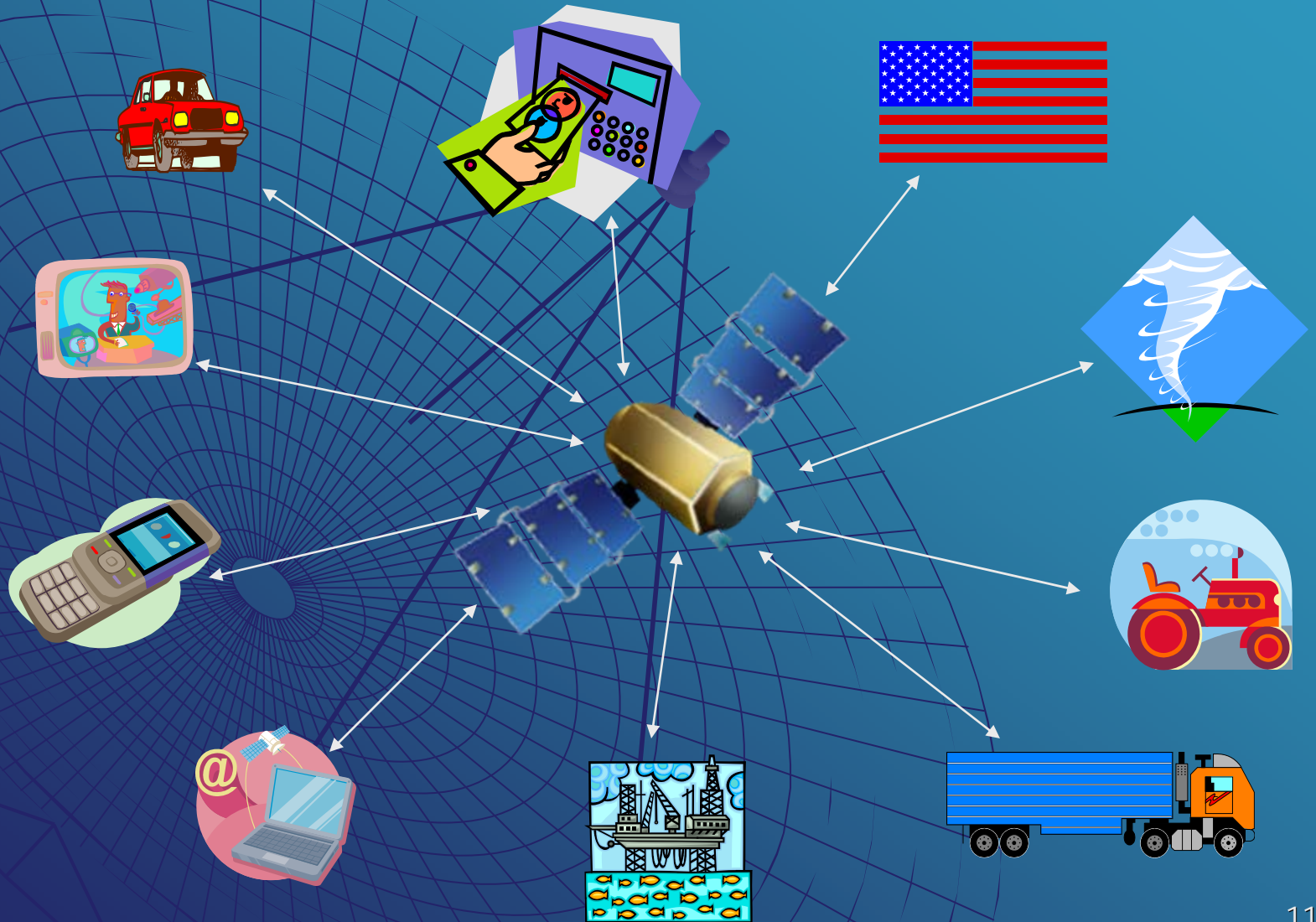
Policy Division

- ◆ Executes Spectrum Sharing Rulemakings
- ◆ Licenses International Facilities
- ◆ Analyzes Foreign Investment
- ◆ Processes International Telecommunications Transactions

Strategic Analysis and Negotiations Division

- ◆ Serves as Bureau's Representative with Foreign Counterparts
- ◆ Leads Participation in International and Regional Forums (e.g. ITU, OECD, CITELE, APEC)
- ◆ Negotiates and Oversees Compliance with Cross Border Spectrum Agreements
- ◆ Leads Commission's Preparations and Efforts in Support of World Radiocommunication Conferences

Satellites And Our Daily Lives



IB Role: Commercial Satellites

- ◆ International Bureau Handles Because Satellites are Inherently International
 - Satellite Footprints Cover Multiple Counties
 - Orbital Locations and Satellite Spectrum Bands are Scarce International Resource
- ◆ Stages of Regulatory Process
 - ◆ Allocate Spectrum
 - ◆ Determine the Method for Assigning Licenses
 - First-Come, First-Served Licensing Queue
 - ◆ Adopt Service Rules
 - ◆ Process Applications and Issue Licenses
 - ◆ Ensure Milestone Compliance
 - ◆ Note: Satellite Licenses Subject To ITU Coordination

First Example: *17/24 GHz Broadcasting Satellite Services*



- ◆ Establishes Framework for Provision of BSS and Broadband-Type Services
- ◆ Makes 400 MHz of New Spectrum Available for Commercial Satellite Use
- ◆ Facilitates Rapid Introduction of New and Innovative Services to U.S. Consumers Through First-Come First-Served Licensing Approach for New Applications
- ◆ Promotes Increased Competition Among Satellite and Terrestrial Services

Second Example: Globalstar ATC



- ◆ On April 9, 2008, the Commission Expanded the Amount of Spectrum in which Globalstar, an MSS operator, Can Implement ATC.
 - Decision Supports the Commission’s Goal to Foster Efficient and Flexible Use of Spectrum and Promote Broadband Services
- ◆ ATC Allows Satellite Operators To Re-Use Their Satellite Spectrum to “Fill Gaps” in Their Satellite Coverage where The Satellite Signal is Unavailable, such as Inside Buildings
- ◆ The General Rules for ATC Were Established in 2003
 - 2003 Decision Adopted Gating Criteria to Ensure the Satellite Component is Not Degraded
 - ◆ Geographic and Temporal Satellite Coverage Requirements
 - ◆ Replacement Satellite – In-Orbit Spare
 - ◆ Commercially Available MSS
 - ◆ Integrated MSS and ATC Service
 - ◆ In-Band Operation

Third Example

Cross Border Activities – The DTV Transition



- ◆ In 2005, Congress Mandated That U.S. TV Stations Transition to New Spectrum and Digital Transmission by February 2009
- ◆ Border Countries are Not Transitioning until Much Later
 - Canada DTV Transition – 2011
 - Mexico DTV Transition – 2021
- ◆ Creates Potential for Interference between U.S. Digital Stations and Canada and Mexico Analog Stations
- ◆ U.S. Has Agreements Covering Deployment Of DTV Stations in Border Areas – But...
 - Both Agreements Must be Revised to Account for Final Configuration of U.S. DTV Stations
- ◆ Along with Department of State We are Working With Canada and Mexico to Reach New Agreements
 - U.S. DTV Allotment Plan is Now Finalized, Facilitating Discussions with Canada and Mexico
 - Making Substantial Progress with Both Countries Towards Final Agreements

Fourth Example

Foreign Investment in U.S. Telecommunications Facilities



- ◆ In 1972, Congress Amended Section 310 of the Communications Act to Permit Certain Foreign Ownership Of U.S. Telecommunications Facilities Provided the Commission Approve the Ownership
- ◆ FCC Coordinates with Executive Branch to Ensure Review of National Security Issues
- ◆ Notable Cases
 - Deutsche Telekom's Acquisition of VoiceStream Wireless in 2001
 - Singapore Technologies Telemedia's Acquisition of Global Crossing in 2003
 - NTT DoCoMo's Acquisition of Guam Cellular and Paging and Guam Wireless Telephone Company in 2006
- ◆ Since January 2007, We Have Approved Numerous Requests for Foreign Investment Including 6 Commission Level Approvals
 - TELPRI/American Movil (Local Telephone Company in Puerto Rico)
 - Loral/Telesat (Satellite)
 - Intelsat/Serafina (Satellite)
 - Stratos/Robert Franklin (Trustee) (Satellite)
 - T-Mobile/SunCom Wireless (Wireless Carrier in Southeast U.S.)
 - MSV/SkyTerra (Satellite)

Summary

- ◆ FCC is an Independent Agency Subject to Congressional Oversight, Legislative Constraints and Judicial Review
- ◆ International Bureau Seeks to Further the FCC's Strategic Plan and Goals
- ◆ The International Bureau's Work Centers on
 - Establishing Rules and Policies to Foster and Accommodate Changes in Technologies and Services
 - Fostering Productive Exchange with Foreign Counterparts
- ◆ Our Work is Multi-Faceted, Technically and Legally Challenging, and Pushes the Envelope in Space and International Telecommunications

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Thank You!

<http://www.fcc.gov/ib/>