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PREFACE

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During my tenure at the Federal Communications Commission, I had the privilege of witnessing at close range the remarkable progress of the communications industry. When I was first appointed to the FCC, there was one long distance company; now there are over 500. Three television broadcast networks have become seven, and the Internet has come out of nowhere to be the most important communications development of this decade. When I joined the FCC, personal computers had not yet been introduced, so no one could have known they would become the super, all-purpose communications device of today. Facsimile and e-mail didn't exist. Also, in 1974, cable and mobile phones were in their infancy. There were no superstations, no CNN, ESPN, HBO, Showtime, A&E or Discovery Channels. VCRs had not yet been introduced. And Congress had not considered granting the FCC auction authority that eventually produced over 20 billion dollars for the U.S. Treasury.

This explosive growth during my 23½ years at the FCC leads me to believe that the next quarter century will establish an era of even greater innovation and growth. The FCC undoubtedly will have an impact on the pace of this progress. There will be regulatory missteps along the way, just as there were during my years at the Commission. At the end of the day, however, regulators should hope to have made a positive contribution to progress in communications.

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One way for the FCC to facilitate such progress is to understand where regulatory activity is most likely to result in progress. With respect to telecommunications -- wired, wireless, satellite -- progress is quantifiable. Lower prices, higher quality, and more innovation are hallmarks of progress in telecommunications. When progress can be quantified in these ways, it is easier for the government to adopt policies that will support such progress. Economic theory provides a starting point, and experience with pro-competitive telecommunications policies allow the FCC to refine its approach for different markets.

For example, we have learned a great deal from the long distance market about how to promote progress in other telecommunications markets. What we learned is that competition in telecommunications markets requires that would-be competitors have the right to interconnect with existing networks. In addition, because the cost of entry is so high, it is reasonable for the government to insist that incumbent carriers lease all or part of their networks to new competitors while alternative networks are constructed. Finally, the government needs to ensure that carriers with market power treat other carriers on a nondiscriminatory basis. A level playing field is critical if consumers are to see the benefits of competition.

Today's long distance market, while not perfectly competitive, is evidence that the principles of interconnection, resale, and nondiscrimination work. Long distance rates have decreased while the quality of service has improved. The regulatory lessons of the long distance experience are embodied in the provisions of the Telecommunications Act of 1996 that seek to promote competition in the local telephone market. The FCC should continue to

use those provisions aggressively and fairly so that the telecommunications industry progresses and consumers see real benefits.

In the area of radio and television, progress is less quantifiable. Is television better today than it was many years ago? Maybe it is, maybe it isn't. There are certainly more transmission outlets and more programs than ever before. But even if broadcast television can be said to have made progress from its early days, the FCC can claim no special insight into that evolution that justifies a foray into content regulation.

As an FCC Commissioner, I was comfortable supporting comprehensive telecommunications policies because I was hoping that such policies moved the industry in the right direction -- toward lower prices, higher quality, more innovation. Conversely, I was generally unwilling to support content regulation of broadcast communications because it was not clear to me that the FCC, despite its good intentions, could improve upon the experienced judgment of the news and information entities whose very existence depended on serving the public's needs.

There is one exception to my philosophy regarding content regulation: legislation. We are ultimately a nation of laws, and where the Congress enacts legislation affecting the content of broadcast communications, that judgment is conclusive. Congress had made that judgment in certain areas. For example, it has concluded that television broadcasters should offer a certain amount of programming that serves children's interests. After opposing what I initially saw as regulatory micro-management, I supported rules implementing the children's

programming requirement that fulfilled congressional directives while accommodating broadcasters' need for flexibility. Congress speaks for the people and as a regulator I respected its judgments.

I also believe that, absent direct Congressional authorization, the FCC should tread very lightly in the area of content regulation. Generally speaking, Congress is the better forum for addressing issues of content regulation of broadcasting. Members of Congress are better informed on public opinion and, unlike the FCC, are directly accountable to the public for their actions. I would therefore respectfully recommend that the new Commission approach issues of content regulation very cautiously.

Political broadcasting is one area where this principle of non-intervention could be applied by the Commission. I do not question the good intentions of those who would impose such additional content regulation on broadcasters. But Congress is the proper authority for -- and is eminently capable of -- remedying any shortage of free time for political candidates. As of this writing, Congress has not passed legislation addressing free airtime for political candidates.

The overall problem of political campaign reform is much broader and more complicated than just mandating free TV time for all candidates -- possibly an impractical solution. It is an issue that should be resolved in the elected representatives of the people, not by politically appointed commissioners. The proposal also raises serious First Amendment concerns -- the government attempting to force the most pervasive and influential news and

information media to grant government candidates free time.

It was a great honor to have served as an FCC Commissioner, and it was the most exciting and productive period of my lifetime. My goal was to promote progress in all sectors of the communications industry. I appreciate the opportunity to share my thoughts on how I believe regulators can continue to promote progress in telecommunications and broadcasting. I expect that Catholic University's CommLaw Conspectus will continue to serve as a leading forum for progressive ideas for many years to come.