



The American Antitrust Institute

American Antitrust Institute 11th Annual Conference
June 24, 2010
Public and Private: Are the Boundaries in Transition?

BREAKOUT SESSION SUMMARY

Telecommunications

Moderator:

Jonathan Baker, Chief Economist, Federal Communications Commission

Panelists:

Joseph Farrell, Director of the Bureau of Economics, Federal Trade Commission

Marius Schwartz, Professor of Economics, Georgetown University

Summary Drafted by: Aaron Silvenis, Summer Research Fellow, American Antitrust Institute

Mr. Baker began the breakout session with an overview of the National Broadband Plan. Instituted at the request of Congress to ensure that all Americans have access to Broadband capability, the plan was developed through 36 public workshops that allowed the FCC to gather information from over 10,000 consumers. One significant aspect of the plan that addresses consumer concerns is the requirement for disclosure, including: 1) special access requirements, 2) spectrum allocation, 3) data roaming charges, 4) set-top box rules, and 5) consumer requirements.

Baker next noted that the FCC has designed two policies to ensure robust competition within the Broadband sector: 1) the allocation of the governmental assets and spectrum and 2) performance of Universal Service Mechanisms.

Joseph Farrell's remarks centered upon three primary components: 1) techniques for the disclosure of download speeds, 2) the ability to communicate the relevant information to consumers and 3) duopoly competition. Farrell noted that modern pro-competitive thinking within the industry creates issues for consumers who do not want to be confronted with a multitude of choices.

Marius Schwartz began his discussion with several remarks about the plan. Schwartz expressed concern with the broad approach that the plan utilizes. Citing that Chapter 1 of the plan contained over 40 proposals, Schwartz was concerned that the plan was perhaps "overdoing it."

Schwartz next discussed the balance between the goals of the broadband plan and the role of the government itself. Schwartz noted that he personally interpreted the mandate as "broad and ambitious." Schwartz illustrated this concern by dissecting the wording of goals in the plan and the number of meanings that could potentially accompany them.

Schwartz then laid out the long-term goals of the plan: 1) balancing between the value of cost to the government and technical performance for consumers, 2) positioning the United States to lead the

world in wireless innovation and 3) constructing a long-term review policy for related matters. Schwartz acknowledged his satisfaction with the implications for US innovation and the review policy as laid out by the plan, but was concerned with whether the value from the speed would be worth the cost that the government has to incur to execute the plan.

Schwartz also touched upon the need for clarification of what the standard would be for governmental intervention within the dimensions of the plan. He expressed concern with the ability of regulatory models to be altered following implementation due to changing constituencies and the probability of market failure.

In response to Schwartz's concerns regarding constituencies, Mr. Farrell discussed the adherence to the public interest theory of regulation by governmental policy makers. Both Farrell and Schwartz agreed that once individuals with the authority to affect wealth transfers are positioned, the possibility for lobbyist intervention is inherently there. Both found this problematic.

The final topic discussed by the panelists was how technological innovation should be measured and evaluated in the future. Accurately assessing the technical performance gap between the United States and other countries was a primary concern noted by Schwartz. Schwartz warned parties to proceed with caution before interpreting data in this regard.