Guest Comment

On NRO FINANCIAL

November 27, 2007, 8:06 a.m.

Kevin Martin's Pro-Market FCC

Free-market advocates should cut the chairman some slack.

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Some free-market advocates are grumbling that the Federal Communications Commission under Kevin J. Martin has not held true to conservative principles, in particular in regard to broadband technology. They are wrong. Martin's tenure as chairman of the FCC has been characterized by a consistent pro-entry/pro-consumer-welfare mandate, the very hallmark of economic conservatism.

Martin understands all too well that because telecommunications is a very expensive business and entry barriers remain high, responsible policy must provide an environment where firms have the incentive to invest and compete. For example, while Martin has adhered to the philosophy that there should be "competition first, then deregulation," he also has recognized that legacy regulation (or regulations now on the books) can act as a barrier to effective competition and investment. For these reasons he has long espoused the notion that firms should be able to "invest their way out of regulation."

Putting this belief into practice, the FCC under Martin has taken aggressive steps to make sure that wireless broadband, broadband over power lines, cable modems, digital subscriber lines, and fiber are freed from onerous legacy regulation so that these platforms can compete for customers on a level playing field

Martin also is the first FCC chairman to recognize that video deployment drives broadband deployment. As such, he pushed local governments to give consumers more choices by enacting cable franchise reform for both new and incumbent video providers.

In addition, Martin had the FCC extend very successful program access rules, which prevent vertically integrated cable operators from anti-competitively locking up key programming, such as local sports. More recently, the FCC took steps to ban exclusive contracts between cable operators and the owners of apartment buildings in order to encourage competitive entry.

Martin has resisted tremendous pressure from some leading Democrats on the Hill, and some of his colleagues at the FCC, to impose bright-line network neutrality rules. Instead, Martin's FCC has chosen to adopt an Internet Protocol Policy Statement designed to provide "guidance and insight into [the commission's] approach to the Internet and broadband" under numerous provisions of existing law. In so doing, Martin has made certain that consumers are amply protected without imposing prescriptive rules that would unduly inhibit the ability of competitors to introduce innovative new services.

Unlike his ideological critics, Martin also recognizes that markets are sometimes imperfect, and thus has taken bold steps to stop anti-competitive or other entry-deterring behavior. For example, when rural phone companies refused to terminate third-party traffic using Voice over Internet Protocol (VoIP) technology, Martin and the FCC pounced on this anti-competitive conduct and made sure calls went through.

Similarly, the FCC recently made sure that wireless carriers are obligated to honor roaming requests from other carriers, thus ensuring that your cell phone will work from coast-to-coast. We could provide a host of similar examples, but space constraints prevent us from doing so.

Finally, Martin gets very little credit for his tremendous efforts to clean up waste, fraud, and abuse, and make government work more efficiently at the FCC. To wit, the FCC's inspector general, hired by Martin at the outset of his administration, found erroneous payment rates to the estimated tune of 9.5 percent for the FCC's low-income program; 12.9 percent for its schools and libraries program; 16.6 percent for its high-cost fund; and a whopping 20.6 percent for its rural health care program. All in all, an estimated $1,266 billion in erroneous payments (about 21 percent of the FCC's total funding program) were made for funding-year 2005.

Equally as important, Martin has tried to take proactive steps to shrink the overall size of the universal service fund by pushing the market-based solution of competitive bidding. Does this sound like a person advocating pork-barrel projects and the heavy hand of government? Not to us.

This is not to say reasonable minds cannot differ on the myriad decisions the FCC is forced to make on a daily basis. Free-market advocates have raised legitimate concerns about recent FCC proposals that would set the auction rules for valuable spectrum and place new regulations on the cable industry. However, when the record is reviewed on the whole, there can be no doubt that the GOP-controlled FCC under Kevin Martin has been a positive force for investment in the telecommunications sector, acceleration of broadband deployment, and economic growth overall.

If the Democrats win the White House in 2008 and take back control of the FCC, these very same free-market advocates will view Martin's tenure in a more favorable light.

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