

FOR IMMEDIATE RELEASE

TELECOM EXPERTS SUGGEST PACE OF TECHNOLOGICAL CHANGE & COMPETITION MAKE EXISTING LAWS PASSÉ

NMRC Transcript: Federal Preemption and Clear Demarcation of State Roles Will Spark Broadband Diffusion

Washington, D.C./December 1, 2004 – A report released today by the New Millennium Research Council (NMRC) reveals that senior Federal Communications Commission (FCC) staff and state public utility officials believe that a new paradigm for Internet Protocol (IP)-based networks and applications providers is best left to market forces with minimal regulation at the federal and state levels. Officials note that important social policies such as E-911, universal service, and access for law enforcement and people with disabilities should be ongoing topics of interest for regulators.

The October 27, 2004, NMRC event, titled “The End of Regulation? Reforming Telecom Policy & Regulators’ Roles,” focused on four topics including: (1) the proper role of regulation; (2) the future role of regulators; (3) the state of competition in the broadband world; and (4) whether a proposed Internet “layers” framework would work in an IP world.

The edited transcript can be found at www.newmillenniumresearch.org.

Most panelists agreed that the old circuit-switched telephony rules would be hard to apply to new broadband and IP networks and applications. *“I think the purpose of regulation is pretty simple and that is to promote big broadband,”* said **Rob Atkinson** of the Progressive Policy Institute. Achieving big broadband could be done without greater regulation because there needs to be a balance between competition and investment, he added. **Randy May** of the Progress and Freedom Foundation said that the principal role of regulation was to protect consumers if the marketplace didn’t. *“I think we are now in an environment where the free marketplace can do that,”* he said.

As IP networks grow, regulators will need to address discrete social policy goals and not impose economic regulation on these nascent markets. *“I think that the FCC is going in the right direction, moving toward a framework that recognizes that a lot of the principles have changed and also recognize that there is no need for economic regulations but rather focuses on discreet social policy objectives,”* said **Matt Brill** of the FCC.

Most panelists stated that there needed to be a national policy for IP-based networks and services to encourage investment, expansion, and innovation. *“I think it’s very important that the Feds step in and preempt things like VoIP, whatever that is, so that we don’t try to define it ourselves,”* said **Susan Kennedy** of the California Public Utilities Commission. *“The FCC, I believe, should be restructured to resemble the Federal Trade Commission or the FTC should replace most of the functions of the FCC,”* added **Connie Murray** of the Missouri Public Service Commission.

State regulators would still have some roles, several panelists noted, such as consumer protection, universal service oversight, and public safety. **Adam Thierer** of the Cato Institute recommended that state and federal regulators *“find some ways to trade off some power, and take some things back to the States and keep some at the Federal level.”* **Braden Cox** of the Competitive Enterprise Institute said, *“Congress should prevent the states from regulating and taxing all communications services such as VOIP including consumer protection laws.”*

Charles Davidson of the Florida Public Service Commission noted that “*regulators have to have a clear understanding of Economics 101 and 201. Regulators have to understand what does consumer welfare mean and how do we get there.*” **Paul Vasington** of the Analysis Group and a former Massachusetts regulator added, “*the role for the state regulator should be focused only on their role in public service regulation. Public service, in the sense of, essential public service, the requirements such as E-911, billing and termination regulations, and disability access.*”

New IP-based services and technologies offer the possibility of greater competition and innovation, according to most panelists. The main question asked here was whether enough competition currently exists in these new markets. “*I think the answer is yes, we're in a competitive market even though people would disagree on that point...In looking at the industry as a whole, there's no question it is highly competitive,*” said **Susan Kennedy** of the California PUC.

“*I think there needs to be presumptions that there is competition that will be difficult – that, you know, will need to be rebutted,*” said **Bob Rowe** of the Montana PSC. There is enormous potential on other platforms – broadband over power lines, wireless, including licensed and unlicensed, and satellite, noted **Matt Brill** of the FCC. “*As the broadband market develops and it becomes more and more competitive, regulation will actually be observed as an impediment,*” he added.

Most panelists noted that a market-based paradigm would be the best course for a competitive new market. Panelists disagreed on the utility of a proposal offered by MCI Corp. known as the “Layers Model” of regulation that would follow the technical layers of Internet architecture such as the logical, applications, network, and physical layers.

“*Using the layers model is a good metaphor for five or six years,*” said **Jeffrey Carlisle** of the FCC. “*But it's only a model, and it certainly isn't something that has to be legislated for a number of reasons.*” **Randy May** of PFF added, “*Is [the layers model] helpful in terms of then deciding how and when to regulate something? I don't think so. I think it replaces essentially the same problems.*”

The critique of layers “*often assumes that with that there is heavy regulation of the physical layer, and I don't think that's necessarily the case,*” said **Matt Brill** of the FCC. “*I think there is some violent agreement to the facility of the metaphor [layers model] and the danger of legislating that metaphor,*” said **Bob Rowe** from the Montana PSC. Enacting a layers model might limit investment and innovation as networks develop. “*One of the goals, again, is to create an environment where, whether you are a rural co-op or national footprint carrier, you invest in your network and you get a return,*” he added.

Contact: Ed Rovetto at (202) 263-2922 or edrovetto@newmillenniumresearch.org.

Edited Transcript

The edited transcript can be found at www.newmillenniumresearch.org.

About the New Millennium Research Council

The New Millennium Research Council (NMRC) is composed of a network of policy experts who develop workable, real-world solutions to the issues and challenges confronting policymakers. Its work has focused primarily in the fields of telecommunications and technology. For more information, please visit: <http://www.newmillenniumresearch.org>.