

**DAVID SOLOMON**\*

The FCC's implementation of the 1996 Telecommunications Act<sup>1</sup> transformed a great institutional challenge into a great institutional success. Congress required the agency to complete dozens of rulemaking proceedings to implement the bipartisan congressional vision for pushing telecommunications markets toward competition and deregulation. Congress imposed strict deadlines, directing the Commission to complete numerous major rulemakings within six months.

While one can certainly disagree with some of the FCC's specific decisions, the agency rose to the occasion. Virtually everyone at every level—from junior staff to the Chairman and Commissioners—worked extraordinarily hard as a team to meet the congressional deadlines. The FCC produced decisions at a record pace, with nearly five hundred full Commission decisions in 1996 and over four hundred in 1997. The Commission met all the congressional deadlines and also completed numerous related rulemakings not mandated by the Act (e.g., access charge reform) within the same short time frames. The FCC acted unanimously in virtually all its early 1996 Act implementation decisions, and the courts affirmed the majority of them. The agency did all of this in a technological era very different from today; for example, its “master tracking system” was a huge, hand-written flow chart on the Chief of Staff's wall.

Implementation of the 1996 Act also led to important structural change at the FCC. Policymakers and stakeholders understood the significance of effective FCC enforcement to ensure compliance with the competitive rules of the road and to protect consumers against any side effects of an increasingly competitive market. Accordingly, in 1999, the Commission established the Enforcement Bureau.<sup>2</sup> I am proud to have served as the first leader of the Enforcement Bureau, from 1999 to early 2005.

The FCC viewed enforcement as a central complement to deregulation. In the words of Chairman Kennard, “in an increasingly competitive communications marketplace,” enforcement was of “enormous importance” in the FCC's “transition from an industry regulator to a market facilitator.”<sup>3</sup> Chairman Powell also underscored the link between enforcement and deregulation, saying the FCC would “shift from constantly expanding the bevy of permissive regulations to strong and effective

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\* David H. Solomon is a partner at Wilkinson Barker Knauer LLP. He was FCC Deputy General Counsel from 1994 to 1999 and Chief of the Enforcement Bureau from 1999 to early 2005.

1. Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (codified as amended in scattered sections of 47 U.S.C.).

2. See Establishment of the Enforcement Bureau & the Consumer Info. Bureau, *Order*, 14 FCC Rcd 17924, *passim* (1999).

3. Press Release, FCC, Chairman Kennard Delivers to Congress Draft Strategic Plan for 21st Century, 1999 WL 606942 (Aug. 12, 1999).

enforcement of truly necessary ones.”<sup>4</sup> Consistent with this bipartisan approach to enforcement, the Enforcement Bureau focused in the early years of 1996 Act implementation on “firm, fast, flexible, and fair” enforcement of the rules adopted by the Commission to help implement Congress’s pro-competitive, deregulatory vision.

From a personal perspective, being part of the FCC’s implementation of the 1996 Act was an exciting and invigorating experience. While debate can and will continue about the wisdom of various FCC decisions, the agency has a right to be proud of its accomplishments.

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4. Hearing on Agenda and Plans for Reform of the FCC Before the Subcomm. Telecom. & the Internet of the H. Comm. on Energy & Commerce, 2001 WL 310970 (opening statement of Chairman Michael K. Powell, FCC) (Mar. 29, 2001).