

Redefining the Landscape of Internet Regulation

by

James B. Speta

Recommendation and Conclusion

I recommend that the new Administration order systematic, substantive inquiry into Internet policy. New leadership is needed at and from the FCC, and, if that agency cannot be relied upon to provide it, then the Administration must appoint a new commission to do so, perhaps along the lines of the recent Antitrust Modernization Commission which was charged with making recommendations to update our antitrust laws. New leadership on Internet policy is especially needed, given the significant uncertainties created by the FCC's recent *Comcast Order*. That *Order* suggests a fundamental and ill-conceived departure from the "nonregulation" of the Internet that the FCC has long practiced and which many experts regard as having been successful.

Indeed, the FCC articulated a vision of its regulatory authority over the Internet as broad as its authority over traditional common carrier services, going so far as to suggest that economic regulation of Internet services could be part of the agency's agenda. This new theory and the agency's new tone were hardly based on a substantial inquiry into the state of Internet competition. Even the agency's proceedings concerning Comcast's specific practices were more theater than fact-finding, and its *Order* created a far broader limit on network management than was necessary to decide the case (a limit that was, of course, not specifically noticed or substantially evaluated).

Given the importance of communications to our economy and our polity – and given that communications is increasingly dominated by Internet communications – we need a vigorous and rigorous investigation of Internet markets, Internet economics, and Internet regulatory possibilities and a clearly articulated set of policies.