

The Metropolitan Corporate Counsel

www.metrocorp-counsel.com

June 2013

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Volume 21, No. 6

Former Obama Administration And FCC Official Offers Insight Into Regulation's Impact On Innovation

The Editor interviews Anna M. Gomez, Partner in the Communications Practice of Wiley Rein LLP. Ms. Gomez serves in a senior leadership role in the firm's Telecommunications Group, which is one of the largest and broadest-based practices in the world.

Editor: Please tell us about your professional background.

Gomez: I started in telecommunications in 1994, when a law firm partner with whom I worked recruited me to join her at the FCC's new Cable Bureau, where she was being named Deputy Chief. I spent 12 years total at the FCC, moving from the Cable Bureau to what is now called the Wireline Competition Bureau (formerly the Common Carrier Bureau) and ending at the International Bureau, with a stint as senior legal advisor to the chairman of the FCC.

I spent some time on Capitol Hill working for the Senate Commerce Committee and in the Clinton administration working for the National Economic Council. I returned to the FCC for eight years, and when I finally left in 2006, I went to Sprint Nextel, where I served as head of state and federal regulatory affairs.

When President Obama was elected, I served as co-chair of the U.S. Trade Representative (USTR) transition team after which I was appointed the Deputy Administrator of the National Telecommunications and Information Administration (NTIA), where I served until coming to Wiley Rein.

Editor: At the FCC you developed and implemented policy on international telecommunications and satellite spectrum. Considering how rapidly the technology changes, how often are these policies revisited?

Gomez: For my last six years at the FCC, I was the Deputy Chief of the International Bureau, where we developed and implemented policy on international telecommunications and satellite spectrum. We also represented commercial carriers internationally in all spectrum matters.

Regulations struggle to keep up with the pace at which technology changes today, and it's important to maintain some type of organization in the meantime. In the realm of spectrum management, certain rules of the road are necessary to ensure that services can be provided on an interference-free basis. This can entail some challenges, especially in international spectrum matters, because the international table of allocations is only amended at the World Radiocommunication Conference, which is held at three-to-seven-year intervals.

That is why when I was at the FCC, we advocated for maximizing flexibility within those allocations to ensure companies can leverage new technology. In non-spectrum matters in particular, we sought to find non-traditional ways to address telecommunications policy issues so innovative companies would not be constrained by that lag time in regulation. To that end, at NTIA and at the White House, we espoused multi-stakeholder processes to develop codes of conduct and to address policy issues instead of rigorous rule-making processes, which can take years. We followed a similar process in the Internet policy arena because we found that to be a more flexible and effective way to address issues.

Editor: How do the goals of regulatory



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agencies such as the FCC, the NTIA and the ITU align with those of your clients? What are the obstacles facing global spectrum harmonization today?

Gomez: In the end, everyone's goal is to ensure that all citizens can benefit from a robust and innovative market for communications services. They might take different approaches based upon history and cultures, but every country is seeking to grow its economy and create jobs by developing new, innovative telecommunications services. Virtually every government recognizes that telecommunications facilities and services are the foundation of its future economies and therefore all countries have much to learn from each other. When I was at the FCC and NTIA, I was actively involved with developing relationships with governments around the world regarding these issues and I found that they served as an important bridge between countries even during difficult times. Being in the private sector and working at Wiley Rein gives me additional opportunities to build on those relationships and help to make significant progress for everyone's benefit.

As for global spectrum harmonization, it has become clear that many traditional obstacles need to be overcome for the United States and other countries to benefit fully from the Internet economy. When I was in government I focused on helping our team create innovative solutions to change the old dynamics and develop new opportunities for increased harmonization. This is because the advent of new technologies together with the exploding demand for efficient use of spectrum and the need to harvest technological changes on a massive, global scale are driving the world to come together to find forward-looking solutions to old problems. One of the reasons I chose to join Wiley Rein is its

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unmatched combination of creative engineers and experienced lawyers and policy makers who are working together to find practical solutions to these old, difficult problems.

Editor: Please share with us your work at the NTIA overseeing the digital television transition program.

Gomez: NTIA ran a coupon program for digital television converter boxes, and also developed an education campaign to ensure consumers were prepared for the switch from analog to digital television. When I started at NTIA in 2009, a substantial portion of the U.S. population was not prepared for the switchover. When Congress passed the American Recovery and Reinvestment Act in February of 2009, it provided new resources for NTIA to fund more coupons and to run educational campaigns. By the time the switchover occurred in June of 2009, all but half a percent of American households were prepared for that digital conversion. I am very proud of the converter box program and how well the transition went. It serves as a model internationally as other countries prepare for their own conversions to digital television.

Editor: Please tell us about the NTIA's Internet policy activities.

Gomez: NTIA serves as a principal advisor to the President on telecommunications and information policy issues. During my tenure at the agency, we advised and advocated on behalf of the administration before agencies such as the FTC and the FCC. NTIA has had the lead in developing Internet policy, both domestically and internationally, for the Obama and previous administrations. In that role, NTIA also serves as the expert convener of the Department of Commerce's Internet Policy Task Force, which includes representatives of NTIA, the National Institutes of Standards and Technology (NIST), the U.S. Patent & Trademark Office (USPTO) and the International Trade Administration.

The task force focused on four primary areas: online privacy, cybersecurity, online copyright and the global free flow of information. Most recently you've seen work on privacy and cybersecurity come out of this task force. On privacy, NTIA worked with the White House to issue the administration's blueprint for a privacy bill of rights to protect consumers online, an important component of which was to con-

vene commercial and public interest stakeholders to develop enforceable codes of conduct to implement the principles of this bill of rights. NTIA is running a similar multi-stakeholder process to develop a similar code of conduct for mobile applications. As I mentioned earlier in the context of spectrum allocation, these collaborative multi-stakeholder groups of governmental, NGO, civil society and commercial interests can develop standards in a way that is much more flexible, efficient and timely than the traditional method.

NTIA will also advise the administration on any potential legislation that would strengthen the ability of the FTC or others to enforce these codes of conduct. If this multi-stakeholder process succeeds, it will serve both domestically and internationally as a model alternative to treaty-based or regulatory-based rule making on privacy issues.

As for cybersecurity, starting with the White House's Cyberspace Policy Review in 2009, I had the opportunity to play a crucial role in developing the administration's cybersecurity policy. Right now, NTIA and NIST are implementing the President's Executive Order on improving the cybersecurity of critical infrastructure. Critical infrastructure involves many industries, including communications, and Commerce, NTIA and NIST in particular are developing frameworks for improving cybersecurity and identifying incentives for commercial adoption of these cybersecurity practices. This will be an important area for many of our clients to follow as we see what cybersecurity regulations are coming down the line.

Editor: You led efforts that resulted in FirstNet, the agency that administers the Public Safety Broadband Network program. Please tell us about its inception, development and implementation.

Gomez: Developing the nationwide Public Safety Broadband Network was a top priority for the Obama administration, and I was honored to be part of the administration's efforts from the very beginning. In his 2011 State of the Union address, President Obama discussed the importance of establishing this nationwide network, and we had three primary goals for this network. The first was adequate spectrum for public safety; the second was a strong governance structure; and the third was financing for the deployment of this network. I worked heavily on the administration's proposals, and in the end, Congress

adopted many of them as part of the Middle Class Tax Relief and Job Creation Act of 2012. It gave public safety a broad swath of spectrum for the nationwide network. It granted \$7 billion for deployment (to be raised via spectrum auctions), and, in terms of a strong governance structure, it created an independent authority housed within the NTIA called FirstNet. I served as the lead for establishing FirstNet, which included supporting the Department of Commerce's selection of the members of the board, creating the actual organization, and obtaining the funding authority through Treasury.

Since last year, the FirstNet board has focused on getting itself organized, which included hiring its senior leadership, including FirstNet's general manager, Bill D'Agostino. The board has also been very busy educating itself about public safety's requirements, developing a robust plan for outreach and consultation with all of its stakeholders, and developing a number of Requests for Information to gather data on technical aspects of the network. I expect that FirstNet's activities will pick up significantly this summer.

Editor: How will your experience with these impressive organizations benefit your clients?

Gomez: Three things immediately come to mind. First, the common goal of the FCC, NTIA and the wireless industry is to find spectrum for wireless broadband services. However, each of these three spectrum participants has different perspectives, constraints and priorities. Having served at the FCC and NTIA, I expect that my background will help Wiley Rein's wireless clients in their efforts to assist the FCC and NTIA in achieving this critically important objective. Second, thanks to my mix of international and domestic responsibilities for the FCC and NTIA, I see opportunities to help communications companies in other countries better understand the United States and U.S. companies looking to go abroad to better comprehend the international governing bodies and the approaches in other countries. Last, but not least, my recent work has focused on expanding broadband and the move from plain old telephone service (POTS) to Internet protocol (IP), so I have been fortunate to have a running start on the big issues facing the industry and government as Wiley Rein's clients make the transition to a new digital and web-based communications world.