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EDITORIAL

Tuning In

Spring Cleaning

by Edith Lennon, N2ZRW

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It's been a tough winter for the FCC, caught in the icy grip of what's been described as a "climate of fear." But the heat was turned way up on the Commission's top dog, Chairman Kevin Martin, who is under fire for abusing "FCC procedures by manipulating or suppressing reports, data and information." On December 9, 2008, the House Committee on Energy and Commerce, the congressional body that oversees the FCC, released its majority staff report, concluding a nearly year-long investigation. The report was ominously titled "Deception and Distrust: The Federal Communications Commission under Chairman Kevin J. Martin."

Among Martin's key transgressions—for our readers at least—was his handling of the broadband over power line (BPL) issue. Martin vigorously promoted BPL during his tenor as FCC Commissioner, apparently to the point of "egregious abuses of power," though not necessarily criminality. Congress has been looking into allegations that the agency ignored complaints from broadcasters concerning interference caused by BPL, delayed an enforcement investigation for two years, and withheld engineering data regarding BPL from the public. BPL systems use frequencies between 1.7 MHz and 80 MHz, and the interference they cause can affect the spectrum used by amateur radio, low-band VHF public service, and shortwave communications—the only frequencies in the entire radio spectrum on which worldwide communications are possible without satellites or other relays. Obviously, cherry-picking data concerning a technology that can seriously hamper such a broad swath of communications is not in the public good.

In addition to its findings concerning BPL, the report also concluded that:

- The results of an FCC study of possible consumer benefits in requiring cable companies to sell channels on an "a la carte" basis were manipulated by Martin. The House investigation found Martin "undermined the integrity of the FCC staff and may have improperly influenced the congressional debate on the matter by ordering agency employees to rewrite a report to conclude that a la carte mandates would benefit consumers."

- Martin attempted to manipulate findings of an annual FCC report on the state of competition in the market for cable and other video services "to show that the industry had a big enough market share to permit additional government regulation. When the full commission voted to reject that conclusion, Martin suppressed the report by withholding its release."

- The FCC's oversight of the Telecommunications Relay Service Fund, which pays for special services for people with hearing or speech disabilities, was slack under Martin's leadership, resulting in overcompensation of the companies that provide these services by as much as \$100 million a year—costs that were ultimately passed along to phone company customers.

In a more general condemnation of Martin's reign, which was expected to end under the new administration, the report also found that the commission had become politicized, had failed to carry out some important responsibilities, and suffered an undermining of open and transparent regulatory process.

Luckily, winter is nearly over, and with the coming of spring we look forward to a new chairman who will throw open the FCC's windows, put the house back in proper order, and get down to the business of faithfully serving the public good.