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Promises, Promises

By Duane D. Freese

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Duane D. Freese
 Columnist, TCS
[✉ Email Author](#)
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Federal Communications Commission Chairman Michael Powell is beginning to look more like the Los Angeles Lakers' Kobe Bryant than the Detroit Pistons' Rasheed Wallace when it comes to delivering on his promises.

You may recall in the basketball playoffs how Wallace guaranteed "front page, inside page, back page, wherever you want to put it" a win by the Pistons in game two of the Eastern Conference finals against the Indiana Pacers. Thanks to teammate Tayshaun Prince's block of Pacer guard Reggie Miller's lay-up, he delivered.



Kobe, though, when he guaranteed a win in the fifth game against the Pistons in the league finals didn't, miserably so as the Pistons thrashed the Lakers to win the title no one thought they could win, 100-87.

Well, Powell got into making promises, too, after the FCC and White House forsook an appeal to the Supreme Court of a lower court ruling that abrogated FCC rules for incumbent Bell monopolies leasing their local phone lines to competitors.

Powell, a la Wallace and Bryant, made a vow. "There is competition, there is going to be more competition, it's going to be better than what we had before," he said, then adding: "And I'll even go so far as to say: this isn't a prediction, it's a promise."

So, is Mike like Rasheed, or Kobe? Does he know his teammates determination and himself enough to deliver, or, like Kobe, is he just spouting hot air?

So, far, things don't look good for consumers.

Though on Tuesday Powell announced the FCC would have interim rules in two weeks to keep wholesale prices in check, at least through the end of the year, Bell competitors are in no position to delay business decisions.

Thus, Z-Tel Communications, the same day, informed state commissions in eight states -- Arkansas, Idaho, Iowa, Maine, Montana, Nebraska, New Mexico and West Virginia -- that starting in October it would take no new orders for residential phone service.

"While it may seem premature to make business decisions based upon the uncertainty of future regulatory action, it would also be imprudent for Z-Tel not to recognize that the [Bell companies] are planning on implementing significant changes in their pricing of CLEC services soon after the November elections," the Z-Tel notice pointedly read.

Then, on Wednesday, AT&T announced it would halt marketing local *and* long distance services in seven states, Ohio, Missouri, Washington, Tennessee, Louisiana, Arkansas and New Hampshire.

"We foresee a future with less choice for consumers," David Dorman, chairman and chief executive officer of AT&T, said in a statement. "Competitive alternatives are simply not available today for most Americans."

How can Powell turn things around?

Well, if he's to have any chance to be like Rasheed, he needs to do a couple things like the Pistons -- stop star gazing and get to work on the basics.

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Stop Star Gazing

Almost everybody expected the Lakers to win because they had the stars -- four of them, Kobe, Shaquille O'Neal, Gary Payton and Karl Malone. But what many didn't see was that two of the stars were hobbled -- Malone and Payton -- while Kobe and Shaq often failed to mesh.

Powell has long held that competition would be robust because new technology -- his star power -- would open many platforms into homes and businesses. He used to tick them off -- old wireline, cable, satellite, cellular and electricity. Look more closely, and those platforms fall down.

Electric lines? Counting on it would have been like the Pistons depending solely on Darko Milicic. He may be great, but not now, maybe not ever. Pistons President Joe Dumars wasn't depending on him to win this years title.

Satellite? Well, if so, the FCC gave it short shrift when it rejected a merger between Hughes' DirectTV and EchoStar's Dish Network. The move left satellite hobbled in providing telephone service, and instead set it up as a video conduit for the monopoly Bells in their competition with cable.

Wireless? Ah, this is the one the Bells keep saying is taking their business. Only it's giving it to themselves. The FCC has permitted ownership of wireless and wireline to become incestuous. Verizon and Cingular, owned by BellSouth and SBC, are the biggest wireless providers, controlling 75 percent of that market, to go with their 85 percent share of the local market.

And as Lawrence Spiwak of the Phoenix Center has pointed out, the Bells don't think cellular is really competition. Cingular's economic expert Richard J. Gilbert justified allowing the purchase of AT&T Wireless by Cingular by declaring: "The relevant product market for this transaction excludes wireline services. Although there is some competition between wireless and wireline service, it is not currently sufficient to conclude that a wireless-only product market is too small for antitrust analysis of this transaction." Spiwak noted that SBC President Ed Whitacre last fall said that wireless is "not going to displace the wireline network. ... Reliability is one reason."

Wireless' biggest competition is with long distance providers -- the competitors seeking entry into the Bells local markets. Sprint, AT&T and MCI are all losing revenue to people using wireless as a substitute for long distance calls among family and friends. And while that suits the Bells just fine, it should give Powell pause about counting cellular as a promoter of competition.

So, what about cable? Cable can offer competition in the consumer sector. But its shared nature, as opposed to the dedicated lines that phone companies can provide, makes its configuration for business enterprises difficult. And what happens when the power goes out? Wireline telephones work; cable phones won't.

Powell and the FCC rather than gazing at these stars of the future need to focus on the bottom line reality of the present -- 80 percent of phone calls end on local wireline phones. If the FCC is to break that stranglehold, it needs to get to work on the basics.

Focus on the Basics

The Pistons didn't beat the Lakers with a bunch of glitzy plays, but with an emphasis on the right way to play -- basketball fundamentals of tough defense, everyone hitting the boards for rebounds and then sharing the ball on offence.

The FCC needs to create the right environment for competition to flourish. What are the conditions for a truly competitive market place? Well, you need a good number of buyers and sellers, similar enough services that consumers can readily and willingly substitute one for another and no restrictions on supply. Those are the keys to not having monopolists dictate prices.

Those conditions exist in long distance, thanks to the break up of AT&T. The Bells entry into that field -- garnering a third share in just a couple of years -- has been enabled by seven long distance networks willing to sell them minutes at wholesale market rates. The conditions exist among Internet Service Providers, in large part thanks to an earlier Federal Communication Commission restricting the Bells from assessing them per

minute access charges and having to treat them like a local exchange carrier instead. It exists in wireless, too, thanks to a previous FCC opening up the airwaves.

It definitely does not exist at the local level. Despite the Bells promises to open up their local loops to competitors in return for being allowed into long distance, they basically were able to shut out competitors until the FCC set up a wholesale pricing formula that state utility commissions then applied. Those rules finally gave consumers some choice, leading to nearly 20 million consumers switching to competitors to the Bells for local service.

Powell, the FCC and White House in deciding not to defend those rules in court, and allowing them to lapse will close that door permanently unless they their new interim rules pry the door open in meaningful ways. At the same time they have to open some other doors to awaken the competitive environment long term.

Long distance competition companies still face paying access fees to the Bells of more than \$15 billion a year -- an outrageous subsidy by a competitive market to a monopoly market. It took a backward step on access charges when it recently ruled that phone-to-phone long distance Voice over Internet Protocol service would be charged those fees, though Internet Service Providers may provide computer based long distance voice service and cell phones that also are used for long distance don't pay them.

Speaking of VoIP, the FCC still has yet to set up an appropriate regulatory framework for it, discouraging the kind of investment in that technology that could foster competition in the telecom sector.

And finally, the FCC won't auction off spectrum space until January, giving the Bells even more time to consolidate their hold on cellular services.

Kobe may have been wrong in his prediction, but at least he and the Lakers showed up for the game. Powell and the White House failed to when they didn't take the FCC to the Supreme Court. Now they've dug a hole under competition that needs filling and soon, for if they lose this game, unlike in sports, there is no next year.

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