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KMI Research Conference Report: 'Screwing people' to stay alive

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By: [Kirk Laughlin](#)

America's Network Weekly

KMI Research Conference Report: 'Screwing people' to stay alive

What does it take to survive telecom's Darwinian fight to the death? A wizard CEO, major cash reserves or maybe a friendly nod from a benevolent politician? Perhaps. But, a more certain route to survival may be found by expertly negotiating narrow legal passages, written in both United States and bankruptcy law and regulatory policy.

That is one of the conclusions one could draw from a pair of presentations — one from a C-level executive and the other from an academic — made during the KMI 25th Annual Conference on Fiberoptics Markets, held earlier in the week in Newport, R.I.

The conference was highlighted — or perhaps more fitting for telecom — lowlighted by an unusually candid account of the course 360networks followed into bankruptcy and, if all goes according to plan, it's reemergence as a solvent operator beginning Oct. 22 when a governing court releases the firm from bankruptcy protection.

Jimmy Byrd, the carrier's chief operating officer, explained during the conference that last year's bankruptcy filing triggered a major reduction in the size and scale of the company and its long-haul network, which previously spanned several continents. The harrowing restructuring journey also prompted a more realistic assessment of business conditions. "We immediately said, 'We've got to stop drinking the Kool-Aid.' This business plan of 'scale is everything' doesn't work," said Byrd.

Faced with the choice of selling all of the company's assets, or trying to preserve the North American footprint (as the carrier ultimately did), Byrd reasoned that relationships and previous promises would have to be sacrificed. "When you file for Chapter 11, it's a fight for survival. Pardon my French, but we screwed a lot of people.... We should always should feel bad about that," said Byrd. "This is an ugly process."

The re-entry of 360networks on the long-haul scene does present questions about pricing competition. The debt-cleansed 360networks clearly could initiate pricing wars against carriers with less pricing latitude because they are saddled with heavier debt loads.

"We clearly have an advantage," Byrd said. "But does that cost advantage translate to us raping the market from a price perspective? The fact that our cost of goods is near zero — I don't think you'll see that translate into over-aggressive pricing to put others out of business."

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Still Byrd did not shy away from forecasting a "bloodbath" in markets where supply is abundant and demand is limited.



Another speaker, Lawrence Spiwak, the president of the Phoenix Center for Advanced Legal and Economic Public Policy Studies, took aim at the FCC's "cynical regulatory quid pro quo" positioning and charged that Chairman Michael Powell is preparing to eviscerate the Telecom Act of 1996.

Spiwak argued that policymakers need to broaden the regulatory debate, present real incentives to incumbent operators and foster competition so that the local loop can be inhabited by more than one dominate operator.

"The object is to find out ways to change the incentives of the incumbents so that it is their interest to compete because no amount of regulation is going to force someone to do something that is against their own self-interest," said Spiwak.

Until such incentives are introduced, incumbents will rest on their monopolistic laurels, the professor said. "Monopolists by definition raise prices and restrict output. They do not seek to innovate or deploy new services."

Spiwak charged that the FCC's interest in establishing facilities-based competition is woefully off target. Instead, he said that policy should be aimed at creating an environment where the number of networks may be few, but the number of operators would be many. However, Spiwak dismissed the introduction of structural separation, whereby incumbents would partition wholesale and retail operation, as a "political non-starter." He also charged: "As long as you have the inherent wholesale supplier — retail competitor problem, the shenanigans are going to continue." — Kirk Laughlin

About the Author



Kirk Laughlin

Executive Editor, Specialization: Business and Wireless

[About Kirk Laughlin](#)

email: klaughlin@advanstar.com

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