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Government Investigates Itself, Finds Itself OK!!!

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Two different investigations of the FCC were made public in October and both determined that overall the FCC was behaving appropriately. However, one of the investigations did determine that the FCC has been leaking advanced information to in-the-know stakeholders who were given an unfair advantage.

In September 2006, three U.S. Senators asked the FCC's Inspector General to investigate whether the Commission or its staff was suppressing or destroying reports. In particular, the Senators were concerned about allegations raised by a former FCC employee that the agency was ordering staff to destroy a TV localism report and another radio industry report. Concerned about these allegations, the Chairman of the FCC also asked the Inspector General to investigate the situation.

The Inspector General conducted a year-long investigation into the matter. The results of the investigation indicated that the allegations regarding orders to deliberately destroy a TV localism report were unfounded. Although the former employee readily alleged in numerous media interviews that the FCC misbehaved, he refused to be interviewed for the resulting investigation. The FCC interviewed 35 employees and reviewed more than 100,000 documents and a terabyte of electronic data and determined that there was no support for the former employee's allegation.

The Inspector General also determined that the FCC did not deliberately conceal the results of a report on the radio industry. After his interviews and review of the record, the Inspector General reported that the failure to issue a final version of the report was not improper. In addition, there were no reported incidents of the FCC or its staff intentionally suppressing or otherwise delaying unfavorable reports.

In a separate request, Congress asked the Government Accountability Office (GAO) to investigate how well the FCC conducted its rule making proceedings. The GAO found

that overall the FCC was obeying the law but that the agency was giving advantages to “inside the Beltway” organizations.

The GAO looked at four different FCC proceedings and determined that the agency “generally followed the rule making process.” However, in conducting its investigation, the GAO interviewed a dozen organizations and groups — no law firms were interviewed — and found a problem with the FCC’s leaks of information. When the GAO spoke with FCC officials, the officials claimed that they do not give special advance notice about items up for a vote to anyone outside of the FCC. In contrast, when the GAO spoke to 12 organizations outside of the FCC, nine of the 12 admitted that FCC staff and officials leak information about which items will be voted upon. One organization admitted that the FCC actually called them and listed what items would be vote upon.

The GAO asserts that the problem with this leaked information is that those in the know get an advantage. In general, the FCC notifies the public one week before it votes on proposed rules. During that week, nobody is permitted to discuss the matter with the FCC; the GAO found that the FCC followed this law. However, the GAO alleges that to get around this limitation, the FCC alerts interested parties to the possible vote more than one week prior to the vote. As a result, those “in the know” can lobby the FCC before the one week prohibition begins. The GAO noted that this FCC tactic gives an unfair advantage to the organizations that have the last minute opportunity to get the last word in while leaving others in the cold.

Although the overall tenor of the report was that the FCC was following the law, Congressmen immediately issued statements denouncing the insider atmosphere at the FCC and the Washington lobbying set. The FCC had no official response to the report.