

1-1-2001

Panel Four: Revolutionary Regulatory Strategies for Managing the Uncertainty of Technological Innovation

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Recommended Citation

Michael A. Lawrence, Panel Four: Revolutionary Regulatory Strategies for Managing the Uncertainty of Technological Innovation, 2001 L. Rev. M.S.U.-D.C.L. 327 (2001).

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PANEL FOUR: REVOLUTIONARY REGULATORY STRATEGIES FOR MANAGING THE UNCERTAINTY OF TECHNOLOGICAL INNOVATION*

*Michael A. Lawrence***

2001 L. REV. M.S.U.-D.C.L. 327

Like the rest of our speakers today, I would like to say how much of a pleasure it has been to be involved in this process. I have worked with Barbara Cherry and Steve Wildman in this our second collaborative effort, and it has been a real pleasure, something in which the law school is delighted to be involved. One of the advantages of moving to Michigan State University from our long-time home in Detroit is our ability to participate in this sort of event. We are truly enjoying ourselves, and we thank all of you for coming today.

The topic of our fourth panel today is "Revolutionary Regulatory Strategies for Managing the Uncertainty of Technological Innovation." I want to bring you back for a moment to Barbara Cherry's¹ initial statements as she outlined the day for us, and what she said with regard to this panel. We are examining whether we should move in the direction of incremental change, as opposed to revolutionary change.

Throughout the day, we have heard many different perspectives on that topic. We return full circle to our current panel to discuss, in light of the various comparative analyses we saw, for example on our last panel, and all of the difficulties that arise, as we saw in the controversies of the second panel, different perspectives from the Bells, and AT&T and so forth, and from government regulators. Where do we go from here? That is the topic of our discussion, as well as whether we have other models that we might look to that might help us in deciding where to go from here. Should we go the route of further incremental change? Rather, should we go with revolutionary change?

* This text is from a speech delivered at the Second Annual Quello Telecommunications Policy and Law Symposium, held jointly by The Law Review of Michigan State University-Detroit College of Law and The Quello Center for Telecommunication Management and Law at Michigan State University, on April 4, 2001, in Washington D.C.

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1. See Barbara A. Cherry, Symposium Theme and Framework (Apr. 4, 2001), *in* 2001 L. REV. M.S.U.-D.C.L. 229.

Dr. Cherry talked about whether, in the incremental change area, we might attempt continual change in the current cycle of legislation, agency order and judicial review; maybe by using more sunset dates, or through the creation of new trigger mechanisms for regulatory and judicial action, as opposed to revolutionary change, for example the creation of agencies a hundred years ago. One of the incredible developments in U.S. law over the last century was the creation of the administrative state. In constitutional law, we discuss how the twentieth century is noted for the rise of the administrative state, when in former times, administrative law was virtually nonexistent, because of the nondelegation doctrine. Do we have something more revolutionary in mind with the FCC, such as more radical deregulation, or radical reallocation of state versus federal jurisdiction, such as creation of extensive public-private initiatives or imposition of accountability and disclosure requirements on policymakers to increase awareness of consequences and tradeoffs of policy choices? Our panelists today will talk to us about these potential strategies.

We are honored today to have a very distinguished panel. Our first speaker will be Dr. John W. Kingdon, Professor Emeritus of Political Science at the University of Michigan, Ann Arbor, who retired a few years ago and is now living in Washington, D.C. Dr. Kingdon developed a political model, showing that a publication really serves as the template for how the political process can develop. Though he has not worked in the telecommunications industry, his model is very useful. Dr. Barbara Cherry has written an influential article in this area, discussing how this model can be used in different regulated industries. Dr. Kingdon has received numerous honors and awards, including the Aaron Wildavsky award in 1994, given by the Public Policy Section of the American Political Science Association for his contribution to the study of public policy, and has been a guest scholar at the Brookings Institution in Washington, D.C. six times.

Christopher Marsden,² from whom we have heard in the last panel because he is doing double duty today, is a Research Associate at the Centre for the Study of Globalisation and Regionalisation at the University of Warwick, England. He was the Information Infrastructure Project Research Fellow at the Kennedy School of Government, Harvard University, in 1999-2000, and worked as a consultant with the Council of Europe MM-S-PL Committee on digital media pluralism. Dr. Marsden has been advising the European Commission since 1996, and has been a frequent speaker at international communications events.

2. See Christopher T. Marsden, article cite.

Finally, Mr. Rudy Baca from The Precursor Group will give us the investor/analyst perspective. We have heard at various times throughout the day how various regulations affect investors. What is the Wall Street perspective? Mr. Baca, hopefully, will give us some insights into that perspective. He is the Vice President and Global Strategist for The Precursor Group.

Before I turn the microphone over to Dr. Kingdon, I would like to mention that the Law Review will have these speeches available in their Quello Symposium issue. The speeches will also be on the website in a video streaming format, hopefully within the next several months. Please visit the MSU-DCL website at <http://www.dcl.edu> to see the video. With that, I will turn it over to Dr. Kingdon.

