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Editor's Note

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EDITOR'S NOTE

I am delighted to welcome you to the second issue of Volume 57 of the *Federal Communications Law Journal*. This issue is the first of the Bush Administration's second term and the first since Chairman Powell announced his resignation as chair of the Federal Communications Commission. As a result, the Editorial Board decided to focus this issue on the communications policy successes and failures of the past four years, and the lessons they offer for the next four.

The issue features essays by a number of distinguished and knowledgeable communications law experts, reflecting a diverse array of perspectives and experiences:

Daniel Brenner is Senior Vice President for Law & Regulatory Policy at the National Cable & Telecommunications Association. Previously he served as Senior Legal Advisor to FCC Chairman Mark Fowler; Professor, Director of the Communications Law Program, and Faculty Advisor to the *Federal Communications Law Journal* at UCLA Law School; and Vice-Chairman of the Board of Directors of the Corporation for Public Broadcasting.

Antoinette Cook Bush is a partner in the Communications Group of Skadden Arps Slate Meagher & Flom, LLC. Previously she served as Executive Vice President of Northpoint Technology Ltd. and BroadwaveUSA, Inc., and Senior Counsel to the Communications Subcommittee of the U.S. Senate Commerce, Science and Transportation Committee. She is joined by Skadden associates John M. Beahn and Malcolm Tuesley, a former Editor-in-Chief of the *Journal*.

Allen Hammond is Professor of Law at the Santa Clara University School of Law and Director of the Broadband Institute of California. Previously he served as an attorney and Program Manager of the Minority Telecommunications Development Program at the National Telecommunications and Information Administration; General Counsel of WJLA-TV; Senior Attorney at the Media Access Project; Associate General Counsel of MCI Communications Corp.; and Professor and Director of the New York Law School Communications Media Center.

John Sturm is President and Chief Executive Officer of the Newspaper Association of America. Previously he served as Senior Vice President for Public Policy and General Counsel at the NAA; Vice President for Government Affairs in the Washington office of CBS; an attorney in the Washington office of NBC; and a legal advisor to the FCC Chairman.

Wendy Seltzer is an attorney with the Electronic Frontier Foundation and a fellow with the Berkman Center for Internet & Society at Harvard Law School. Previously she taught Internet Law as an adjunct professor at St. John's University School of Law and practiced intellectual property and technology litigation at Kramer Levin.

Adam D. Thierer is Senior Fellow and Director, Center for Media Freedom, Progress & Freedom Foundation in Washington, D.C. Previously he served as Director of Telecommunications Studies at the Cato Institute, Alex C. Walker Fellow in Economic Policy at the Heritage Foundation, and as an analyst at the Adam Smith Institute in London.

Ted Turner founded CNN, Headline News, CNN International, TNT, Cartoon Network, CNNRadio, Turner Classic Movies, Ted Turner Pictures, Ted Turner Documentaries, and many other media enterprises. He served as Vice Chairman of Time Warner and of AOL Time Warner.

Richard E. Wiley is a partner at Wiley Rein & Fielding, LLP, where he heads the nation's largest communications practice. Previously he served as Chairman, Commissioner, and General Counsel of the FCC; Chairman of the FCC's Advisory Committee on Advanced Television Service; President of the Federal Communications Bar Association; President of the Federal Bar Association; and Chair of the American Bar Association's Committee on Governmental Affairs, Section of Administrative Law and Regulatory Practice, Forum Committee on Communications Law, Young Lawyers Section, and *ABA Journal* Board of Editors. He is joined by Lawrence W. Secrest, a Partner in the Washington, D.C. law firm of Wiley, Rein & Fielding; he formerly served as FCC "Chief of Staff" and as Acting General Counsel.

The issue is introduced by Senator Conrad Burns, the longest-serving Republican senator in Montana history, and Chairman of the Subcommittee on Communications of the Senate Committee on Commerce, Science and Transportation.

It is a privilege to welcome Senator Burns and each of the other experts to the pages of the *Journal*. Most have appeared here before, and we are deeply grateful for the opportunity to publish them again.

To each we have posed a single question: What advice would you offer the second Bush Administration on communications policy? Some of their answers may surprise you. We hope you will let us know what you think, and we welcome responses to the essays.

This issue also features an important article by Harvey Reiter, a

partner with Stinson Morrison Hecker, LLP, addressing the different treatment of open transmission networks in downstream competitive markets by the FCC and the Federal Energy Regulatory Commission, and a note by third-year student Debra Kaplan on the role of digital flags in the war against digital television piracy.

Finally, I want to call your attention to our upcoming third issue, introduced by FCC Chairman Powell, which addresses a range of issues at the intersection of national security and communications. Few topics have proved more controversial or timely. The issue will be available in print and on the *Journal's* website—www.law.indiana.edu/fclj—in May.

The *Journal* welcomes your feedback on this issue, submissions concerning topics that are of interest to the communications bar, and your questions and comments at any time. The *Journal* may be contacted by telephone at (812) 855-5952, by facsimile at (812) 855-5871, and by e-mail <fclj@indiana.edu>.

Jennifer J. Monberg
Editor-in-Chief