

**KEVIN WERBACH**\*

*WordPerfect kept crashing.*

We were at the moment of truth, assembling the *Interconnection Order*<sup>1</sup> from separate files that teams had worked on frantically for weeks. To our horror, the massive, heavily-footnoted document choked the under-powered PC.

In hindsight, the scene was ironic. The FCC staff implementing the 1996 Act<sup>2</sup> had none of the broadband-based tools—cloud storage, online document collaboration, mobile messaging, video chat—which grew out of the digital infrastructure we helped to enable. And I had personally set aside my mostly-completed working paper on internet issues, *Digital Tornado*,<sup>3</sup> to plunge into the minutiae of local unbundling. The FCC's number one job was to implement the telephone-focused statute Congress passed.

Yet we were not ignorant of the coming technological transformations. It was during the immediate aftermath of the 1996 Act that the FCC put off requests to ban VoIP, declined the Justice Department's invitation to bolster the Communications Decency Act, refused to allow per-minute access charges for internet service providers, articulated a policy of avoiding knee-jerk legacy regulation of online services, helped lay the groundwork for internet governance with the transition of the domain name system, created favorable regulatory environments for cable and wireless data services, helped the Clinton Administration develop a landmark framework for global electronic commerce, and pioneered open government as one of the first federal agencies to offer electronic comment filing. Not a bad record.

For all the competitive shortcomings (and there are many), today's communications marketplace is far more dynamic than it was twenty years ago. The even more extraordinary ecosystem of networked digital platforms and services on top was never a foregone conclusion; it owes something to the FCC's actions during that formative period.

And thankfully, we eventually got WordPerfect to process the order.

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1. Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, *First Report and Order*, 11 FCC Rcd 15499 (1996).

2. Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (codified as amended in scattered sections of 47 U.S.C.).

3. Kevin Werbach, *Digital Tornado: The Internet and Telecommunications Policy* (FCC Office of Plans & Pol., Working Paper No. 29, 1997), [http://www.fcc.gov/Bureaus/OPP/working\\_papers/oppwp29pdf.html](http://www.fcc.gov/Bureaus/OPP/working_papers/oppwp29pdf.html).