

Annals of Communications Policy Series Memorandum

Re: The FCC and the Cellphone Lotteries.

Introduction

These days, the FCC's really become a "giant regulatory cash register," hasn't it -- just as Senator Ted Stevens forecast in 1992. Raising money for the U.S. Treasury has become the agency's primary purpose, what they like to do most. Spectrum management decisions are made, first, with a view toward their Federal revenue impact. Other factors are folded into the decision-making equation -- but only later. For the FCC, making money and helping the U.S. Treasury is their number one goal.

Just Like the PowerBall

It wasn't always this way, however. After years of gridlock -- Motorola and AT&T disagreed, you see -- the Fowler FCC in 1985 pricked the cellular licensing boil. The FCC scheduled comparative hearings between various A-block and B-block applicants. Some hearings were actually held, where traditional regulatory factors were taken into account -- investment plans, area coverage schedules, financial solvency, etc.

But the FCC's long regarded trial-type hearings the way small children do green vegetables. Facts, after all, can be very policy choice-constraining, can't they? Thus, the agency sought alternative ways to award cellphone licenses, and FCC economists all recommended lotteries. Some "weighted lotteries," too.

The Secretary's Office dutifully complied by purchasing air-powered, ping-pong ball-type machines -- just like the systems many state lotteries employ. The FCC staged public lottery sessions, where the ping-pong ball machine was wheeled in, and the winning balls popped up. It was sort of like bingo -- "B-4"! "N-6"! and so forth. No Vanna White. No Bob Barker. But close.

Application Mills

Now, the cellular lottery process didn't exclude the Federal Communications Bar Association membership entirely, of course. Not just anyone could participate. It wasn't like those scratch-off or "Instant Winner" games you see these days in grocery stores.

Soon, organizations popped up in Washington which offered to file FCC lottery applications -- and, even though there wasn't an Internet back then, soon there were lots of applicants. And, there also was a lot of money made.

Senator Clinton -- Feeding at the Trough

One of those who benefitted substantially from the FCC and the cellular lottery process was Hillary Clinton. In between mastering the art of cattle futures trading, Mrs. Clinton secured a minority interest in one of the Little Rock cellphone

applicants. (Also in her group were other Arkansas politicians -- a standard thing, back then.)

As your Review reported years ago, there's no indication Mrs. Clinton ever actually ponied up money to be a member of this partnership -- but they won, and then sold out to another company. Mrs. Clinton walked away with better than \$40,000 -- which, in Fairness, was a relatively modest return compared with what many others in other markets earned. But then this was Arkansas in the 1980s.

Santa Claus and the End of the Process

The FCC's cellphone lotteries worked well. In 1990, the last of the lotteries was conducted, around Christmas. By then, the lottery participants had formed something of a little informal club. So, in recognition of the season and the end of the process, at this final lottery, the FCC Secretary and her staff appeared with Santa Claus hats and other seasonal garb.

This was to create a problem. In 1991-92, various groups were pressing to change the spectrum management process -- they wanted auctions and were working with Congressmen who wanted them, too. Proceedings in the FCC's main meeting room were videotaped. Somehow, this group obtained a videotape of that final lottery -- with all the FCC staff wearing Santa Claus hats. As part of their lobbying effort, then, one of these lobbyists handed the videotape over to one of the major national TV networks's crack investigative staff. Remember the Laskin Rule - - "A free press exists to get free press releases"? Well, this time the free press received an FCC videotape, and even prepared to run it.

"Raised Eyebrow" Pushes Back

But FCC staff dutifully told one of Chairman Sikes's aides. This was a person unwilling to be horsed-around by mere journalists -- and, well-known for not getting mad, but also keeping a list. Thus, a call was made to the head of the TV network's Washington office, and the tiresome situation explained. Making fun of the FCC staff, the NBC fellow was told, just wasn't necessarily a good thing to do. It was unseemly, and all that. And, the NBC fellow was encouraged to caucus with his network news division, to explain the institutional sensitivities here. And, to make sure the network maintained its good relations with FCC leadership and staff.

Not soon thereafter, the FCC aide was assured that if the NBC program on FCC lotteries were ever aired, there wouldn't be footage of FCC staff dressed as Christmas elves or Santa. The machine, the ping-pong balls, and other stock footage might appear. But not the embarrassing footage. "Mission Accomplished!" right?

Conclusion

In 1993, the Clinton Administration asked Congress to give it the spectrum auction authority the Bush Administration had sought unsuccessfully. Legislation was passed, and the U.S. Treasury Department began counting its anticipated

money.

But whatever happened to those lottery ping-pong ball machines? That's a good question, isn't it? Perhaps they were shipped off to the Federal records center at Silver Hill -- it's like that giant warehouse seen at the end of Raiders of the Last Ark. Perhaps the machines were transferred to the U.S. General Services Administration, Region 3. They're always auctioning off things. Who'd notice a lottery machine?

Perhaps the lottery machines are still in the FCC's Secretary's Office -- though they've since moved to a new building and there've been many changed in personnel. If we hear where they disappeared to, we'll let readers know, of course.

And, the Santa Claus videotape? Well, what are Uhler tape machines for, right? It's probably long been erased, wouldn't you think. Or, maybe... . Oh no! If it surfaces we'll let you know, too.

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