

High-Stakes Gamble

■ Democrats may be sensing trouble ahead, so they've stepped up efforts to craft a bill addressing FCC authority.

By David Hatch

As negotiators continue their high-stakes poker game aimed at crafting major telecommunications legislation that would be fast-tracked through Congress this fall, they must contend with a new wild card: possible Republican control of the House.

For months, powerful Democrats in Congress and at the Federal Communications Commission have been conducting closed-door meetings with industry lobbyists in an effort to resolve differences over the scope of the FCC's reach over broadband.

Until now, Democrats appeared to have the upper hand, prompting major telecom and cable companies to offer concessions aimed at dissuading FCC Chairman Julius Genachowski from moving ahead with tough new regulations.

But with polls indicating a resurgent GOP, it's the Democrats who are suddenly sweating. This past week, as House lawmakers returned home to campaign over the August recess, the FCC began a last-minute blitz to finalize an agreement that could be codified through narrowly focused, "targeted" legislation this fall, when Congress briefly reconvenes before the midterm elections. Such an accord would also trigger commission action on Genachowski's initiatives.

For industry lobbyists who have been on the ropes, the strategy now is to "play along and buy themselves time" in the hope of a GOP victory in November, said one government source familiar with the talks. Jeff Silva, a telecom analyst with Medley Global Advisors, predicted, "There will be a dramatic change in the tone and tenor on everything" if Republicans wield the gavel in the lower chamber. Emphasizing that the party would have "a lot of levers" at its disposal to pressure the commission, he suggested, "Overall, it would likely make the FCC's life a lot more difficult."

Since late May, key Democrats in both chambers have been leading the charge

to rewrite the 1934 Communications Act for the first time in 14 years, a process that was expected to intensify next year.

Hanging in the balance are controversial initiatives championed by Genachowski to regulate broadband as a telecom utility and to expand network-neutrality guidelines designed to preserve the Internet's openness.

If no deal materializes soon, Genachowski might be forced to schedule com-

band providers has brought him to the negotiating table.

Republicans, the government source said, are "chomping at the bit" to exert oversight authority and keep Genachowski at bay.

Rep. Rick Boucher, D-Va., chairman of the House Energy and Commerce's Subcommittee on Communications, Technology, and the Internet, insisted in a recent interview that the legislative process would continue unabated if Republicans retake the House.

"Given the fact that it's currently a bipartisan process, with both parties participating essentially on equal terms in these conversations, [whatever happens this fall] will not affect to any great extent the pace of this change," said Boucher, who has been conducting private talks on these matters since April.

Boucher contends that both sides of the aisle "prefer to see legislation at this point" and that the overarching goals for such a measure would remain the same. "I would not see the election affecting that very much at all," he argued.

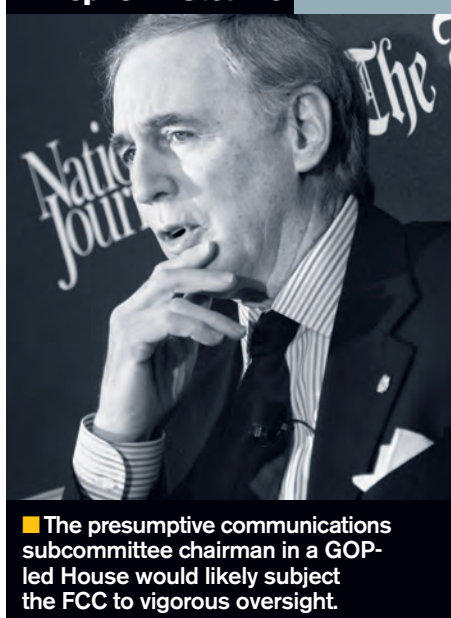
Some telecom experts disagreed, noting that if the GOP takes the House and Democrats hold the Senate, the chambers could find themselves out of sync on telecom issues. The result: dim prospects for even targeted legislation.

In fact, the FCC may be rushing its negotiations because signs indicate that the GOP will try to prevent the agency from shaping broadband policy. Last week, Rep. Cliff Stearns, R-Fla., the ranking member of Boucher's subcommittee and the panel's likely chairman in a GOP-led House, co-sponsored legislation that directs the FCC to wait for Congress to act.

And he's not alone. Rep. John Culberson, R-Texas, threatened earlier this year to amend appropriations legislation with language that would block the FCC from regulating the Internet.

Despite the challenges facing Democrats, another wild card could emerge that would play to their advantage: a possible lame-duck session offering their last chance to pass targeted telecom legislation. ■

■ Rep. Cliff Stearns



■ The presumptive communications subcommittee chairman in a GOP-led House would likely subject the FCC to vigorous oversight.

mission votes on his proposals either before or after the midterms—and without congressional backup. Under that scenario, industry opponents such as AT&T, Verizon, and the National Cable and Telecommunications Association, buoyed by a newly empowered GOP, could seek to weaken or unravel any FCC actions through legislation.

Another school of thought has Genachowski retreating because he can't stomach the backlash. Despite having the votes he needs now to adopt his proposals, pressure from scores of Republicans, at least 81 Democrats, and irate broad-

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