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FROM THE EDITOR

While Volume 4 began with the proceedings of the Silicon Flatirons Telecommunications Program's Fifth Anniversary Symposium, we close with what may be the final chapter on the layered regulatory model debate and a continuation of the communications law reform for the digital age.

This issue begins with a debate on the viability of a layered framework to support communications regulation. David Reed, Chief Strategist of CableLabs, argues against the use of a layered regulatory framework, because it lacks market-based checks and balances, results in a loss of technical neutrality, and stifles innovation.¹ Douglas Sicker, Assistant Professor of Computer Science and Telecommunications at the University of Colorado, counters this argument and insists that the original motivation and design of a layered regulatory model has been misinterpreted. In his article, Professor Sicker argues that a "layered model is still a useful framework for policy making in the current environment."²

Recognizing that the pace of technological advancement demands a forward-looking and future-proofing approach to communications regulation, Kyle Dixon, Senior Fellow at Progress & Freedom Foundation, along with Professor Phil Weiser, Associate Professor at the University of Colorado School of Law, proposes an alternative approach that may moot the layered regulatory model debate. In their article, Dixon and Weiser propose various solutions to pressing issues in communications reform, which alter the roles of both federal and state regulators in three broad areas: rate regulation, competition policy adjudication, and consumer fraud.³

Paul Teske, Professor of Public Affairs at the University of Colorado at Denver and the Health Sciences Center, comments that the Digital Age Communications Act federal-state framework rightly proposes a more narrowly defined role for state regulation and policy in the future.⁴

1. David P. Reed, *Critiquing the Layered Regulatory Model*, 2 J. ON TELECOMM. & HIGH TECH. L. 281.

2. Douglas C. Sicker, *Misunderstanding the Layered Model(s)*, 2. J. ON TELECOMM. & HIGH TECH. L. 299, 301.

3. Kyle Dixon & Philip J. Weiser, *A Digital Age Communications Act Paradigm for Federal-State Relations*, 2. J. ON TELECOM. & HIGH TECH. L. 321.

4. Paul Teske, *Wither the States? Comments on the DACA Federal-State Framework*,

Robert Atkinson, Director of Policy Research at Columbia Institute for Tele-Information (CITI), offers yet another strategy for communications law reform: regulatory gridlock avoidance. Atkinson argues that a fundamental problem facing the telecommunications industry is a gridlocked regulatory process. In his article, he suggests that, given the pace of technological advances, law makers will confront ongoing challenges in their attempts to write “forward-looking” policies and “future-proofed” statutes. The solution, Atkinson argues, is: flexible new statutes that rely on market forces wherever possible, and simple regulatory principles and procedures when necessary as opposed to the gridlock-inducing statutory micromanagement dictated by the 1996 Telecom Act.⁵

We conclude our discussion on digital age communications law reform with an article on privacy and security. Susan Landau, a Distinguished Engineer with Sun Microsystems, argues that the implementation of the Communications Assistance for Law Enforcement Act requirements in Internet networks not only pose risks to the U.S. economy, but also to national security and the freedom of U.S. citizens. Such requirements, she explains, run counter to the U.S. policy trends in the protection of communications privacy begun in the 1970s.⁶

The final article in this issue was the winner of the 2005 Silicon Flatirons Student Writing Competition. Andrew LaFontaine, a JTHTL Comment & Casenote Editor, highlights the concerns and implications of the *SCO v. IBM* copyright and licensing suit on the future of open source development.⁷

This issue was made possible with the contributions from these authors, for which we are most grateful. In addition to the contributions of our eight authors, this issue was published with the tremendous efforts of our staff, the foundation of our Journal’s success. In particular, our Articles Editors, Todd Hoy, Eric Lentell, and Alison Minea, worked tirelessly with the authors to develop and publish their articles in this issue, and but for their efforts this issue would not be possible. Additionally, I am awed by our incredibly talented Production Editor, Rita Sanzgiri, and her team of assistants, Jennifer Loyd, Micah Schwalb, and Margot Summers, as their efforts continue to raise the quality of our publication.

2 J. ON TELECOM. & HIGH TECH. L. 365.

5. Robert C. Atkinson, *Telecom Regulation for the 21st Century: Avoiding Gridlock, Adapting to Change*, 2 J. ON TELECOMM. & HIGH TECH. L. 379.

6. Susan Landau, *National Security on the Line*, 2 J. ON TELECOMM. & HIGH TECH. L. 409.

7. Andrew LaFontaine, *Adventures in Software Licensing: SCO v. IBM and the Future of the Open Source Model*, 2 J. ON TELECOMM. & HIGH TECH. L. 449.

I am particularly grateful for the 3L members of our staff. As the end of the year and graduation drew nigh, you continued to stay engaged to finish our tasks. I am equally impressed by our 2L members, all of whom have benefited from the able assistance of our fantastic team of Comment & Casenote Editors: Molly Ferrer, Andrew LaFontaine, and Cynthia Sweet—the true Unsung Heroes of our Journal staff. The contributions of our Executive Editor, Zachary Lange, have enabled us to efficiently operate as a team and to ensure that the communications needs of our staff are met; I could not have done it without you. I cannot forget the tremendous efforts of our Managing Editor, Travis Litman; his contributions to both the Journal operations and business management enabled us to increase our subscriptions by thirty percent this year.

Beyond the Journal staff, there are many others who deserve recognition. First, we welcome two new faculty supporters: Brad Bernthal and Professor Paul Ohm. Brad Bernthal, our Silicon Flatirons Fellow Research Associate, supported the introduction of our 2L Scholarship Review Luncheon and mentored and supported our Journal members as participants in the Trademark and Telecommunications National Moot Court competitions. Additionally, we are also grateful that Professor Paul Ohm accepted the challenge to serve as our faculty co-advisor along with Professor Weiser. We look forward to your contributions to the Journal and recognize the gift that we have been given in your mentorship. Second, we cannot find words to express our gratitude for the Silicon Flatiron Telecommunications Program and JTHTL Board. Your continued support allows our Journal to reach new heights; thank you.

Finally, we are humbled by the commitment to student development that Professor Phil Weiser has continued to demonstrate throughout this past year. We are blessed to have such an exceptionally talented and caring advisor. We cannot thank you enough for your personal touch—you meet us where we need you and deliver every time. You epitomize the professor, counselor, mentor, and friend that all should seek in an advisor; you make us want to learn and do more. Thank you!

These expressions serve as a token of our gratitude for those who support our efforts. As such, it is with great pleasure that we publish Volume 4, Issue 2 of the *Journal on Telecommunications and High Technology Law*. We are certain that this issue will continue to feed your intellectual curiosity in telecommunications and technology law and policy.

Lisa M. Neal-Graves
Editor-in-Chief

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