

New Federal Initiatives Project

**Introducing Julius Genachowski,
Nominee for FCC Chairman**

**By
Raymond L. Gifford***

April 23, 2009



*The Federalist Society
for Law and Public Policy Studies*

www.fed-soc.org

Introducing Julius Genachowski, Nominee for FCC Chairman

On March 3, 2009, President Obama formally announced his intent to nominate Julius Genachowski to be Chairman of the Federal Communications Commission (“FCC”). President Obama said, “I can think of no one better than Julius Genachowski to serve as Chairman of the Federal Communications Commission. He will bring to the job diverse and unparalleled experience in communications and technology, with two decades of accomplishment in the private sector and public service”

Mr. Genachowski is a corporate executive and entrepreneur with deep experience in technology and media-related issues. He is a co-founder and Managing Director at Rock Creek Ventures. He is also a Founding Partner of LaunchBox Digital (an early stage investment firm started in October 2007), and a chairman and cofounder of Thummit (an online social recommendation service), both Rock Creek Ventures companies. Since 2006, he has been a special advisor at General Atlantic, a private equity and venture capital firm.

From November 1997 until September 2005, Mr. Genachowski was a senior executive at IAC/InterActiveCorp (“IAC”), serving as Chief of Business Operations, General Counsel, and a member of the Office of the Chairman. In his 8 years at IAC, he helped to lead the company’s growth into a major e-commerce and new media company that included Expedia, Hotels.com, Hotwire, TripAdvisor, Ticketmaster, HSN, LendingTree, RealEstate.com, Match.com, Citysearch, ServiceMagic, Evite, and Ask.com.

Mr. Genachowski also served at the FCC from 1994 until 1997, first as Special Counsel in the Office of General Counsel and then in the Chairman’s office as a legal advisor and as Chief Counsel to Chairman Reed Hundt. He came to the FCC after being a law clerk to U.S. Supreme Court Justice David Souter (1993-1994), to retired Justice William Brennan, Jr. (1992-1993), and to Chief Judge Abner Mikva of the U.S. Court of Appeals for the D.C. Circuit (1991-1992). He worked in Congressional staff positions from 1985-1988. Mr. Genachowski received his J.D., *magna cum laude*, from Harvard Law School in 1991, and his B.A., *magna cum laude*, from Columbia College.

Mr. Genachowski’s relationship with President Obama goes back to Harvard Law School. Mr. Genachowski was an editor of the *Harvard Law Review* when President Obama was its President. The New York Times has reported that the two would “briefly escape” the law review offices for games of pickup basketball, and that they remained close over the years. Mr. Genachowski was an early supporter of President Obama, and chaired the campaign’s technology, media and telecommunications (“TMT”) policy group. Mr. Genachowski led the TMT in creating President Obama’s Technology and Innovation Plan.

As head of the FCC, a 5-member independent federal agency established by the Communications Act of 1934, Mr. Genachowski will have primary responsibility for directing federal regulation of interstate and international communications by radio, television, wire, satellite and cable. The FCC’s jurisdiction reaches to all 50 states, the District of Columbia, and U.S. possessions.

If confirmed, Mr. Genachowski will become Chairman during an historic period of economic turmoil that has raised concerns about the health of the technology and innovation sector as well as print and broadcast media companies. With passage of the economic stimulus bill, President Obama has made the expansion of high-speed Internet to rural and underserved areas a key component of his job-creation strategy. Although the FCC will serve only as an advisor to other government agencies who will distribute the broadband stimulus funds, Mr. Genachowski’s agency will be responsible for developing a national strategy for deploying high-speed broadband access to all U.S. citizens. Meanwhile, the FCC

may still be coping with the Nation's transition to digital television, which has been delayed until June 12, 2009.

Consistent with these goals, the FCC's regulatory initiatives under Mr. Genachowski may well focus on facilitating new entrants and other non-incumbent players in the telecommunications and media spaces such as Internet application and content providers. Indeed, Mr. Genachowski helped spearhead the Obama campaign's groundbreaking use of Facebook and YouTube.

Mr. Genachowski is also expected to focus on issues around regulatory transparency, open markets, and net neutrality. President Obama's Technology and Innovation Plan, developed under Mr. Genachowski's leadership, placed a strong emphasis on an "open" Internet, media ownership diversity, and more transparent government oversight. Mr. Genachowski once summarized the Plan as being about "Open Government, Open Networks and Open Markets."

Mr. Genachowski's public statements further reflect his understanding that technology regulation should be clear and consistent to allow business owners to plan for the future and to provide a strong foundation for investment. He has also expressed concern that small business should have "as much a chance to succeed" as big business. In addition, Mr. Genachowski has expressed a strong interest in mitigating technological threats to privacy, noting that there is a "compelling need for a revisiting of how we approach privacy," and a need for "appropriate regulations on the use of information in the hands of companies and the government."

Mr. Genachowski's nomination will have to be approved by the Senate. That process is expected to take several weeks.

*Mr. Gifford is head of the Communications, Internet and Intellectual Property practice area at Kamlet Shepherd. He was most recently President of the Progress and Freedom Foundation, a Washington, D.C.-based think tank that focuses on studying the digital revolution and its effects on law and public policy. From 1999-2003, Mr. Gifford served as Chairman of the Colorado Public Utilities Commission. Before that, he served as First Assistant Attorney General in the Regulatory Law Section under then-Colorado Attorney General Gale Norton. His expertise lies in public utilities law, principally telecommunications and energy. In addition, his law and policy work focuses on antitrust, competition policy and intellectual property law.