



THE BLOG 06/03/2015 09:01 pm ET | Updated Jun 03, 2016

FCC Chief Tom Wheeler Is Five Sixths of a Superhero



By Marty Kaplan



JIM WATSON VIA GETTY IMAGES

The last best hope to stop Big Money's rout of American democracy is a former trade group lobbyist who's reluctant to stretch his spandex superhero suit too thin.

Plutocrats have been on a roll for a while in the U.S., and campaign finance reform is in full retreat. Though Americans hate money's "obscene" role in politics, according to a new *New York Times*/CBS poll, they feel hopeless about changing it. Thanks to the Supreme Court's *Buckley* and *Citizens United* decisions, money is speech and corporations are people, so forget about limiting what billionaires and Super PACs can contribute to campaigns.

"The few rules that are left, people feel free to ignore," says a Democratic commissioner on the Federal Election Commission, which is "perpetually locked in 3-to-3 ties along party lines." Its chair, Ann M. Ravel, admits that the "likelihood of the laws being enforced is slim.... People think the F.E.C. is dysfunctional. It's worse than dysfunctional."

But for the media-industrial complex, it's happy days. "The 2016 presidential election is right around the corner," said CBS president Les Moonves in a February investor call, "and thank God the rancor has already begun." Campaign spending will exceed \$5 billion — a windfall that goes straight to TV station owners — and that's just for the presidential race. Soon, ads that will make you want to take a shower will be pumping political sewage 24/7. Don't look to TV news to fact-check them; with few exceptions, political advertising will likely swamp political news, as it did in Philadelphia last year, by 45 to 1.

Worse, those ads will be funded anonymously. Many of the slimiest and most deceptive will end with something like this: "Paid for by Americans for an American America." We will have no clue what these anonymously named front groups really are or whose dark money is behind them, because the law doesn't require transparency or accountability. We'll get good and mad at the dog crap soiling democracy's lawn, but we won't even know whom to shame.

What are we doing to prevent the anti-democratic horror show now unfolding? In the *Citizens United* opinions, eight Supreme Court Justices said new donor disclosure laws would be not only constitutional but good for us: “[T]ransparency enables the electorate to make informed decisions and give proper weight to different speakers and messages.” Yet Congress isn’t remotely interested in legislating disclosure. And as that *Times/CBS* poll found, a majority of Americans of both parties know that elected officials are unwilling “to fight the system they inhabit or to change the rules they have already mastered.”

But the Federal Communication Commission already possesses the power to rescue us from dark money. Tomorrow morning, says Michael J. Copps, who was a commissioner for 10 years, FCC chairman Tom Wheeler could say: We have had on the books since the original Telecommunications Act of 1934 a requirement that the sponsors of ads, including political ads, must be identified, and we’re going to start enforcing it. We don’t have to wait for the president to send a disclosure bill to Congress that won’t go anywhere; we don’t have to wait for Congress to bite the hand that feeds it. The FCC can do that rulemaking on its own, and after a 120-day public comment period, if you conceal who’s paying for those ads, you’ll get nailed. Enforcing that provision is “at the top of my bucket list,” says Copps, “and I’m looking for company, Tom.”

When President Obama appointed Wheeler in 2013, my heart sank. I wanted a trustbuster and consumer advocate in that job; instead, we got the former head of the Grocery Manufacturers of America and of the National Cable & Telecommunications Association. I’m so glad I was so wrong about him. In less than two years at the FCC, he’s made bold moves, and scored some important victories, on five key fronts.

Competition: Wheeler’s disappointing predecessor, Obama appointee Julius Genachowski, submitted to Comcast’s takeover of NBC-Universal. But Comcast abandoned its subsequent bid to acquire Time Warner Cable when regulators at Wheeler’s FCC and at the Department of Justice were poised to block Comcast from becoming the de facto national cable monopolist.

Open Internet: Genachowski also set up net neutrality to fail, paving the way for Internet providers to extract pay-to-play fast-lane tolls from big tech and content companies, leaving everyone else to suffer slow-mo buffering. But Wheeler, bucking fierce industry and partisan opposition, and buoyed by 4 million public comments triggered in part by a brilliant segment on *Last Week Tonight With John Oliver* that crashed the FCC’s servers, led the commission to classify the Internet as a public utility. No wonder Wheeler’s successor at the cable lobby, Michael Powell, who was also George W. Bush’s appointee as FCC chair, is now suing to overturn the decision.

Privacy: In April, Wheeler kicked off an FCC workshop on consumer broadband privacy with the clarion statement that “privacy is unassailable.” A few weeks later, the commission put Internet service providers on notice that the FCC will “no longer be napping at the wheel” when it comes to practices like Verizon’s creation of undeletable zombie cookies and AT&T’s “charging its gigabit fiber users a \$44-\$66 fee if they want to opt out of having their traffic snooped on via deep packet inspection.”

Digital divide: In May, Wheeler proposed that the Reagan-era Lifeline program, which subsidizes the telephone service of 12 million low-income households, be extended to broadband access. Within days, Republicans pushed back against the plan. Wheeler’s FCC has also preempted industry-backed state laws that prevented underserved communities like Wilson, North Carolina, and Chattanooga, Tennessee, from expanding municipal broadband networks.

Robocalls: On June 18, the FCC will vote on Wheeler’s plan to crack down on telemarketers and scammers who — despite the Do Not Call Registry — have invaded consumers’ landline and wireless devices with robocalls and spam texts.

So ex-lobbyist Tom Wheeler’s courage in battling deep-pocketed corporations on those five fronts transformed him in my mind from oligarch apologist to American Avenger. That’s why I’m so bummed he won’t use his superpowers to fight the super PACs.

“Maybe you have noticed,” he said a couple of weeks ago, when asked if the FCC will use the authority it already has to require disclosure of the secret sponsors of political ads, “we have a long list of telecommunications-related decisions that we are dealing with right now, and that will be our focus.” He punted to the Hill: “Well, if the Congress acts, then we will clearly follow the mandate of Congress.” But as he had to know, just two days before he said that, the House Communications and Technology subcommittee, on a party-line vote, shot down a law that would have forced dark money into the light.