FCC accused of unfairly aiding some firms

Some groups or companies got inside information on crucial votes, investigators say.

By Jim Puzzanghera, Los Angeles Times Staff Writer
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WASHINGTON -- From giant phone companies to small consumer advocates, the Federal Communications Commission is supposed to treat every group equally. But congressional investigators have found some companies and trade groups have received special treatment.

FCC officials tipped them off to confidential information about when regulators planned to vote on important issues -- a clear violation of agency rules that provided an unfair lobbying advantage, according to a report by the Government Accountability Office to be released today. Other interested parties -- generally consumer and public-interest groups -- did not get such favorable treatment, the report said.

"It is critical that FCC maintain an environment in which all stakeholders have an equal opportunity to participate in the rulemaking process and that the process is perceived as fair and transparent," the report said.

"Situations where some, but not all, stakeholders know what FCC is considering for an upcoming vote undermine the fairness and transparency of the process and constitute a violation of FCC's rules."

With oversight of many aspects of telephone, TV, radio and Internet services, the FCC has a major effect on people's lives. Its decisions also can affect entire sectors of the telecommunications industry.

Privileged information, leaked in violation of FCC rules, could give some companies and organizations advantages when trying to sway the commission, the GAO said.

Rep. Edward J. Markey (D-Mass.) requested the review of the FCC rule-making procedures -- a complex process that involves public notices of lobbying efforts and periods of mandatory confidentiality to avoid last-minute arm-twisting. Though the GAO found that the FCC generally followed its procedures, four case studies from 2002 to 2006 turned up breaches of confidentiality. The report did not specify which companies or groups got the special treatment.

The period covered the chairmanships of Michael Powell and current head Kevin J. Martin. FCC officials could not be reached for comment Tuesday night. The FCC did not provide any comment to the GAO after reviewing a draft of the report and did not take a position on its recommendations that procedures be established to prevent leaks and investigate them.

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The FCC voted in 2000 to penalize lobbyists who leaked confidential agency information after drafts of staff recommendations regarding some high-profile mergers were made public. One FCC staffer reportedly was fired in 2000 for leaking documents in connection with the agency's review of the AOL-Time Warner merger.
People are allowed to submit comments and meet with FCC commissioners and staff until one week before a public meeting. The FCC circulates drafts of its proposed rulings and decisions among its staff so they know what items are scheduled to be voted on. But the information is confidential, and FCC rules prohibit anyone from releasing it without the chairman's authorization.

"FCC officials told us that, for stakeholders to successfully make their case before FCC, 'timing is everything,' " the report said. "Specifically, if a stakeholder knows that a proposed rule has been scheduled for a vote and may be voted on in three weeks, that stakeholder can schedule a meeting with FCC officials before the rule is voted on."

Those who don't know about an upcoming vote until the agenda is announced are frozen out of lobbying by the one-week prohibition, the GAO said.

"FCC staff who disclose nonpublic information about when an issue will be considered could be providing an advantage to some stakeholders, allowing them to time their lobbying efforts to maximize their impact," the report said.

In addition to the case studies, several businesses or groups said they were tipped off about upcoming votes by FCC staff. "One stakeholder -- representing a large organization that is involved in numerous rulemakings -- told us that FCC staff call them and tell them what items are scheduled for a vote," the report said.

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