

The Washington Times

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Obsolete regulators

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Published July 28, 2005

How many companies offer phone service -- traditional land-line telephone companies, cable companies, satellite providers, numerous wireless telephone providers?

Whatever the number, it certainly is not a monopoly and the providers are highly competitive. Yet, we still have a telecommunications regulatory agency, the Federal Communication Commission, that in many ways still operates as if we had but one land-line company.

The U.S. lags well behind many countries in Asia and even some in Europe in broadband deployment, not because many companies in the U.S. are unwilling to provide the service but because they are hobbled by regulators. Some people at the FCC and their sister organizations within the states not only lack a vision of the future, but seem incapable of understanding both the industry economics and technologies now available.

Telecommunications expert Peter Huber noted that even though AT&T operated cellular phones experimentally in 1962, "the FCC did not issue the first cellular license until 1983. Nationwide cellular service could have been in place a decade earlier; consumers lost at least \$85 billion because it wasn't." You might ask, "Why do we need a regulatory agency that denies us the benefits of new technology?" We don't. The FCC has increasingly become self-serving bureaucrats making spurious arguments to justify their own existence.

We were treated to the same type of scare stories we now hear from FCC apologists a quarter-century ago. Then, the Civil Aeronautics Board (CAB) that had regulated airline routes and fares and of the Interstate Commerce Commission (ICC) that regulated trucks, buses and trains were eliminated. (In real dollars, air fares and truck rates are much lower than under the old regulated environment and somehow we have managed to get by without the CAB and ICC.)

The FCC has become a tumor in our economy, and it needs to be cut out before it kills us.

Antitrust regulation also should be junked. When, as a student, I took my first course in antitrust, the great fear was IBM, U.S. Steel and General Motors would all become monopolies and the government had to do something about it. The people who wrote the antitrust laws had little conception of how quickly products become technologically obsolete, and how broad markets are -- many of them, in fact, are global. If you define

products and markets too narrowly, you will see all types of monopolies where, in fact, none exist. You may find Ford Motors has a 90 percent market share for 4X4 pickup trucks in a certain weight category in the color red in Albany County, Ga.

Of course, the red pickup trucks compete with every other color and style of pickup, and even SUVs, cars, bigger trucks, tractors, etc. The real market is the world, not Albany County.

The above may seem obvious and silly, but an equally silly (but economically destructive) ruling was made by the U.S. 3rd Circuit Court of Appeals, which ruled that 3M (maker of Scotch Tape) maintained an unlawful monopoly (under the Sherman Act) through a "bundled rebates" program. In essence, the court said it is unlawful for a dominant firm to give discounted, though above-cost prices, for volume purchases of either individual products or multiple products, in order to provide an incentive for the buyer to shift purchases away from a smaller rival. Bundled discounts are a very common way to do business. Examples include season offerings of sports tickets; furniture sold in suites and individual items; travel packages involving air travel, hotels and car rentals; and computer hardware and software packages. Bundled packages benefit consumers and economically efficient. Most bundled packages are a form of quantity discount which, by increasing sales, allows firms to reduce their unit costs economies of scale, and reduced marketing expenses.

In the 3M case, the company was not charged for selling "Scotch Tape" or its other products (all of which have many competitors) below cost, but only that by giving a combined quantity discount it was making it more difficult for its less efficient competition. (Note to lawmakers and judges: Hey guys, that is what the capitalistic system is all about -- getting the best product to the consumer at the lowest price to make the most money.)

We see in the above and thousands of other illustrations the enormous ignorance of lawmakers, regulators and judges about economics and technology. The obsolete laws and regulatory agencies need to be junked. If our economy is to remain vibrant and internationally competitive, universities and public policy organizations need greatly expanded programs to educate judges and lawmakers about technology and economics.

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