

A Fresh Start in Communications Policy:

Two Modest Reforms

by

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Recommendations and Conclusion

It is often laudable and no evidence of corruption or incompetence that politicians use compromise to resolve conflicts among economic interest groups, even if they do so at the expense of consumer welfare, because consumers also have an interest in “preserving the Union” in the sense of preserving a system that is able to maintain political stability. We need to accept that the policymaking regime produces policies that cannot be explained rationally as supporting a narrow consumer welfare objective. But keeping the coalition intact is not the only legitimate task of government. Consumer welfare should not unnecessarily be sacrificed to resolve current conflicts, and consumer welfare losses attributable to policies that resolved obsolete conflicts should be stemmed. Foundational myths that no longer serve a useful purpose should not be allowed to prevent improvements in consumer welfare that threaten no extant political interest.

In communications policy we can take two modest steps, steps that will permit technological progress and shifting industrial structure to improve consumer welfare more quickly than will otherwise be possible. First, we can permit spectrum users to do what they like with their spectrum, subject to the usual competition laws, so long as they create no new interference with other users. Second, we can create a presumption in the law that any regulatory provision becomes defunct after a number of years fixed at the time of enactment, unless its proponents can convince the majority anew that the provision makes sense. These steps, like the Rule Against Perpetuities, would improve the lot of the living, and provoke only the dead.

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