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Overview and Introduction

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This dossier addresses the applicability of the regulatory process to the current environment in which intermodal rivalries exist, the paradigm for the framework no longer obtains, or the models or tools have not been understood and hence, applied inappropriately. These papers can roughly be divided into three overlapping areas: Those that critique the current mode of regulation and policy making; those that critique the tools and instruments used in the policy process; and those that proposed dynamic models to develop efficient and cogent public policy. These papers are particularly important in light of the New European Regulatory Directives and telecommunication legislation under consideration by U.S. Congress.

Inappropriate framework

The first two papers examine the current regulatory framework. The first, by Howard SHELANSKI, argues that the original paradigm for current regulatory practice in the United States no longer applies. Thus the rules and prescriptions used by the regulators must be changed to a model which examines, on a case-by-case basis, how a firm should be regulated. The author does not call for the elimination of regulation, but rather for a model more in line with the antitrust policy measures as practiced in the United States.

Scott MARCUS, on the other hand, argues that over the last three years the Federal Communications Commission in the United State has changed its policy dramatically, and without any foundation for this transformation. This trend is worrying not because it is based on false foundations, but because it has no foundation! In contrast to Europe, U.S. policy is moving a way from competition as policy tool and, worse, if current policy fails, it will be difficult to reverse.
Johannes M. BAUER's paper draws out attention to the loose and careless manner in which the term "convergent" is used. This seemingly innocuous term turns out to be used in a variety of circumstances. But definitions matter. And if convergence is used to justify a "hands-off" policy, it is critically important to be able to determine when convergence occurs. Convergence can enhance the intensity of competition or have the opposite effect, thus its impact should be considered with respect to bundling, merger and acquisition policies.

Inappropriate theory

The paper by Alain BOURDEAU de FONTENAY, Jonathan LIEBENAU, & Brian SAVIN questions the rationale for the presumption of a "natural monopoly" structure in the telecommunications industry due to inherent scale and scope economies. The authors note that the incumbent's "production" has to be look at in a new way, such as – trench digging, wiring and cabling, data transmission, and operator services to name a few – and any attempt to measure scale and scope economies at the level of a telephone company is meaningless in light of the inherent heterogeneity of vertically integration over the past century. In their view, the conventional neoclassical hypothesis cannot reasonably justify the exogeneity of innovations and technology progress. As a result, established firms have an incentive to select technologies to obtain a competitive advantage and foreclose entry by new players into their market. This paper offers a new neoclassical-based view.

They also challenge the neoclassical models that have been extensively applied in the policy arena. Conceptually, their model allows for a more complete evaluation of the current market structure, including the network of networks. They transition nicely into the next set of papers by noting the neoclassical, static models cannot be apply to the issues, which is the subject of the next set of papers.

Dynamic foundations

The papers by James ALLEMAN & Paul RAPPOPORT, and by Pio BAAKE, Ulrich KAMECKE & Christian WEY argue that dynamic considerations are of paramount importance.

Alleman and Rappoport take issue with the static paradigm, which they feel has been the policy makers' model in developing regulatory tools and
policies. Indeed, they argue that this and other regulation costs may be worse for social policy than the market failures that such tools are to designed to correct. They go on to argue that, by looking at dynamic models and tools, it is possible to correct the failings of the static analysis.

In a similar vane, Pio Baake, Ulrich Kamecke and Christian Wey make a case for a dynamic analysis based on Schumpeterian analysis. Like Schumpeter, they argue that innovation and technical progress is based upon the inventors reaping the rewards of their inventions. If this means that some short-term monopoly rents will be generated, so be it. This is a small price to pay for long-term economic growth and increased productivity. Moreover, the authors make a specific proposal to control any long-run market power by the innovator. Both this and the previous paper make an important contribution to reconsidering how one regulates and what is the correct model to use in the development of regulatory tools.

**Conclusion**

Taken as a whole, these papers point to a serious lacuna in policy. Policy has failed in one way or another and cannot be corrected by the current institutional and political process. Overall, these articles address significant issues, which the policy community would be well-advised to take note of. Legislators should seriously consider the questions raised in these articles before putting pen to paper.