Is it Time to Unify Telecommunications Policy?

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October 2012

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“The problem is we still have an archaic, 20th-century regulatory system for 21st-century ... markets.”

- Barack Obama

“Regulation is essential. You can’t have a free market work if you don’t have regulation...At the same time, regulation can become excessive...it can become out of date.”

- Mitt Romney

INTRODUCTION

In a fall of polarizing political debates, it is sometimes difficult to find consensus. Yet both political parties agree that getting legislative and regulatory oversight of commerce “right” is a fundamental building block of economic growth. As easy as it is to agree with this principle, the tangible manifestations of how to conduct regulatory and legislative oversight may, and often do, differ. Unfortunately, all too frequently concrete proposals for governmental policies are driven by ideological, rather than practical considerations. As noted by John Stuart Mill as early as 1860:

There is, in fact, no recognized principle by which the propriety or impropriety of government interference is customarily tested. People decide according to their personal preferences. Some, whenever they see any good to be done, or evil to be remedied, would willingly instigate the government to undertake the business; while others prefer to bear almost any amount of social evil, rather than add one to the departments of human interests amenable to governmental control. And men range themselves on one or the other side in any particular case, according to this general direction of their sentiments; or according to the degree of interest which they feel in the particular thing which it is proposed that the government should do; or according to the belief they entertain that the government would, or would not, do it in the manner they prefer; but very rarely on account of any opinion to which they consistently adhere, as to what things are fit to be done by a government. And it seems to me that, in consequence of this absence of rule or principle, one side is at present as often wrong as the other; the interference of government is, with about equal frequency, improperly invoked and improperly condemned.1

The fickle propensities toward governmental oversight of business have led to a remarkable coincidence of regulatory and deregulatory policies with the ideological “mood” of the American people toward government in general. See Figure 1. But this mood—reflected in a mercurial affinity for or distrust of governmental policies— is undiscriminating across the many different sectors that drive our economy. It can overlook the facts on the ground in specific industries. These facts on the ground, however, are critically important to “getting it right” in matters of economic policy formation. The optimal policy toward the energy, financial or internet and telecommunications sectors cannot sensibly be determined independent of an assessment of the key economic metrics of those industries, including an assessment of the evolution of price, output, investment and innovation. These metrics, in turn, are the tangible manifestations of what are often complex changes in both consumer behavior and industry structure.

THE TELECOMMUNICATIONS AND INTERNET SECTOR:
ECONOMIC “TAKE-AWAYS”

Fortunately, an examination of key economic metrics in the telecommunications and internet sector reveals a number of encouraging statistics about the workings of this market. Since 2000, the average price of wireless voice communications has fallen significantly—from over 20 cents per minute to under 5 cents per minute. At the same time, as the result of significant investment in telecommunications and internet infrastructure, the quality of wireless service has grown significantly. For example, the number of cell sites has grown from 104 thousand to over 283 thousand in the past decade, which has dramatically reduced geographic areas of “dead zones” and “dropped calls.” The results of these price declines and quality increases are that there are over 330 million subscriptions to wireless telephony in the United States today.

Moreover, as consumer behavior continues to expose the tremendous value of (especially mobile) broadband communications, telecommunications infrastructure providers have invested well over $100 billion in just the past five years (in a particularly investment-soft economic environment) to accommodate not only voice, but data and video as well. As seen in Figure 2, consumers’ exploding demand for “anywhere, anytime” voice, data and video communications has led to the dramatic rise of wireless telephony. Today, there are three times as many wireless subscriptions as wireline subscriptions in the United States and, as seen in Figure 3, wireless call minutes now exceed interstate landline call minutes by ten-fold.

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2 This average price actually understates the effective amount of decline in prices. The emergence of “buckets” of minutes ensures that for consumers that do not exceed their bucket limit the marginal price of an additional call is effectively zero.
This dramatic growth has spawned a corollary demand for wireless-enabled broadband-capable equipment. For example, by the end of 2011, over 111 million Smartphones and wireless-enabled PDA devices were deployed across the country, up fully 43 percent from even one year before.\textsuperscript{3} Similarly, by the end of 2011, there were over 20 million wireless-enabled laptops, netbooks, and wireless broadband modems, an increase of 49 percent from 13.6 million at the end of 2010.\textsuperscript{4} And unlike 20\textsuperscript{th} century consumers, the expanded breadth of the communications and internet sector gives consumers powerful choices. In 2011 alone over 20 million consumers voluntarily switched their wireless telephone provider, and roughly one-third of all households are now “wireless-only.”\textsuperscript{5}

**ECONOMIC POLICY IMPLICATIONS**

These indicators—price, output, investment and innovation—point toward two critical conclusions. First, while other sectors of the economy have implicitly languished or explicitly been the source of market failures, the telecommunications and internet sector has been a remarkable economic success story. Second, the era of wired, voice-only narrowband service has rapidly given way to an exciting era of “anywhere, anytime” voice, data and video communications that both enhances personal lives and U.S. competitiveness.\textsuperscript{6} Both of these results provide important input to the forward-looking conduct of public policy toward this sector.

Specifically, consider that the principal legislative oversight of the telecommunications industry is governed by the Communications Act of 1934 and the Telecommunications Act of 1996. Both of these Acts are set firmly in a world in which telecommunications firms were seen principally, if not exclusively, as wired telecommunications companies to be governed by public utility-style regulation. Unfortunately, neither Act anticipated the very rapid industry evolution driven by the emergence of the internet and the explosion of wireless telephony. The result is that both the language and structure of regulation in this industry is constrained by anachronistic distinctions between wireline and wireless telecommunications. The Federal Communications Commission (FCC), for example, maintains separate wireline and wireless bureaus with distinct


\textsuperscript{4} Ibid.


rules, regulations and oversight responsibilities with each. If consumer behavior reflected these distinctions then such a structure might make sense as a forward-going matter. But a careful assessment of consumer behavior in this market points toward the rapid erosion of any sensibilities to such distinctions. In research with colleagues at Georgetown University and at the University of California, Berkeley we have examined the evolution of consumer demand for telecommunications services over the 2003-2010 period. We find that consumers of all ages, incomes and demographic groups are rapidly and forcefully making the shift from wireline to wireless telephony.

This shift has made wireless communications a ready, if not entirely superior, substitute for wireline service. Moreover, the shift from wireline to wireless services is occurring not only with voice communications, but also with broadband-enabled data and video services. As recently observed by Julius Genachowski, Chairman of the Federal Communications Commission, “U.S. mobile data traffic grew almost 300% last year, and driven by 4G LTE smartphones and tablets, traffic is projected to grow an additional 16-fold by 2016.” At this point, public policy must align with the overwhelming marketplace reality that as a consequence of rapidly emerging technologies in the telecommunications and internet sector, consumers have massively altered their communications demand from voice-only service between wired “nodes” to broadband-enabled anywhere anytime voice, data and video service. Today, over 90 percent of Americans have a choice of five or more providers for communications services. The 20th century era of a single, wireline monopoly provider of voice-grade telephony is simply gone.

Smart forward-looking economic policy toward this sector should reflect these new marketplace realities. In a world in which consumers have the power to rapidly drive providers to new and innovative provision of telecommunications service that are increasing wireless, the era of 20th century wired telecommunications regulation must sensibly give way to a 21st century model that reflects the unified nature of the telecommunications and internet sector. Such a unified policy framework will be best anchored not in the ephemeral “mood” of the American people toward government or the public-utility models of the 20th century but rather in the practical realities that the “light touch” approach to policy oversight that has been applied in the internet and wireless communications sectors has been strikingly successful.

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Explanation of Figure 1 – This Figure plots the “Mood” over the past sixty years of the American people toward government. This index is calculated by James Stimson, a political scientist at the University of North Carolina. Stimson’s Mood is an indicator of aggregate U.S. public opinion over time. Specifically, the index is constructed using the results of survey research questions of public opinion over many decades. Over 200 questions gauging the mood of Americans on specific policy areas are administered over numerous time periods to generate the underlying data. Using factor analysis, Stimson has discovered that a prominent underlying dimension to U.S. public opinion exists, which can be described simply as a “more government, less government” dimension. The dimension is scaled between 0 and 100, with higher values indicating a shift in public opinion in favor of greater government involvement in the affairs of private citizens and businesses. Overlaid on the Stimson Mood Index are dates of major regulatory changes.

Figure 2: Wireless Subscribers vs. Wired Subscribers
Figure 3:

Wireless vs. Wired (Interstate) Minutes of Usage