

The Free State Foundation

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FSF Urges Market-Oriented Special Access Framework *May, Cooper Say Regulatory Framework Should Not Rely Predominantly on Market Share*

ROCKVILLE, MD – In reply comments submitted today to the Federal Communications Commission, Randolph May, President of the Free State Foundation, and Seth Cooper, FSF Adjunct Fellow, urged the agency "to adopt a set of market-oriented analytical framework principles to govern consideration of special access issues consistent with a forward-looking perspective that reflects the dynamism of today's communications marketplace."

Specifically, the comments state that the following analytic principles should govern the Commission's decisions regarding special access regulation:

- High price-cost margins, reflective of the scale and scope economies found in the telecommunications industry, often serve to constrain the incumbent's market power after deregulation because a relatively small number of marginal customers that are willing to discontinue service or switch to an alternative provider are able to defeat a price increase.
- Deregulation policies should strike the proper balance between allocative, technical, and dynamic efficiency.
- Policymakers should not rely exclusively predominantly upon market share to draw inferences about market power in telecommunications markets.
- In the real world, it is almost impossible for regulators to act with exquisite timing in deciding when to deregulate. Given a choice between "too early" or "too late," it is generally preferable for regulators to err on the side of too early.

According to May and Cooper, importantly, "the Commission should *not* make the mistake of focusing single-mindedly on present market share. Such an approach ignores the fact that potential entrants constrain whatever market power existing providers may possess." In a technologically dynamic industry such as communications, "a focus on current market share, given that it is backward-looking in nature, biases any assessment of competition against the existing providers."

A PDF version of the comments is [here](#).

The Free State Foundation is an independent nonprofit, Section 501(c)(3), free market-oriented think tank.

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