



Perspectives from FSF Scholars
January 6, 2025
Vol. 20, No. 2

DOGE Shouldn't Overlook the Outdated Video Regulations

by

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Washington is wonderfully abuzz with talk of DOGE, the new Department of Government Efficiency. This refreshing review of government functions, created by President-elect Donald Trump and to be led by Elon Musk and Vivek Ramaswamy, is intended to root out government bureaucracy and streamline the burdens on American companies to generate positive economic growth and a stronger America. Fiscal and regulatory sanity are in vogue again.

As DOGE seeks out ideas, burdens in the communications sector are incredibly ripe for such bulldozer treatment. In particular, the video marketplace is still stuck with many mandates and obligations created 30 years ago or more. DOGE could provide a great service by giving this sector a good shakeout and squaring any remaining obligations with how American families actually consume video content. In other words, let's dump the unnecessary and slim-down what's left. Could DOGE dare push the idea of regulatory forbearance for video statutory provisions and related regulations (i.e., applying Section 10 of the Communications Act of 1934 to its "cable services")?

Quite frankly, no one can look at today's video marketplace and say with a straight face that it hasn't gone through a massive transformation since the 1980s and 1990s. When the current rules were imposed, the world looked much, much different. Then, a small set of financially strong broadcasters and cable companies fought over consumers' attention. Think of the average consumer's programming options: ten to twenty cable channels, three broadcast networks, a smattering of other local channels, two superstations, and a public broadcaster. These entities dictated what video content was available and when it was shown.

Comparing today's video environment to its predecessor is like comparing space travel to a donkey ride. Consumers now have at their fingertips a vast array of video programming choices. Traditional programming includes hundreds upon hundreds of cable channels, over-the-air broadcasters with multiple subchannels, and the addition of 2 more television networks. But this pales in comparison to the immeasurable video content available for streaming or downloading. Popular cable alternatives like Netflix, Hulu, Disney+, Max, Paramount+, and their compatriots really are just in their infancy.

Without debate, the Internet has revolutionized consumer video preferences. Consider that cord-cutting is now a serious reality, shedding almost 30 percent of American cable households in the last five years, and becoming a go-to for small and medium cable providers dropping video altogether. Further, the video market's dissolution is so significant that programmers are moving whole catalogs of content and premier offerings to streaming sites, using cable channels and broadcasters as second-run options. Similarly, legendary programming giants are looking to offload cable channels from their operations and books. And this doesn't consider the massive diversion of consumer interest to short-clips and other video fancies.

Part of the reason for the acceleration away from traditional video distribution models of cable or satellite is attributable to the government. Certainly, the ease of technology and Gen Z's viewing habits are major culprits, but old government burdens in law and regulation governed by my previous institution, the Federal Communications Commission, make it economically smart to ditch the "cable provider" morass. That's why DOGE should focus a target on burning most of this deadwood.

Despite any pushback by narrow constituencies, there can be no justification for keeping current burdens when providers can and should escape to new business models in response. And it would be ridiculous to impose these tedious and expensive burdens on new video offerings. Can anyone imagine policymakers arguing that the space-wasteful and unwatched public access programming must be included on YouTube or Meta's Reels? That's like mandating rearview mirrors on autonomous cars.

Eliminating outdated video regulations probably should come with at least some practicality. That is, any rule or statutory elimination which will cause an incendiary reaction from other industry sectors is not likely worth the hassle at this stage. That is not to suggest that striking the mess that is retransmission consent, which is showing its age and helping to serve as cord-cutting lighter fuel, is unworthy of attention, but doing so likely will cause broadcasters to try to kill the entire effort. Ignoring this area and others may seem like suggesting a dodge for the DOGE; in reality, it should be about making tangible progress in the near-term.

Thumping old agency requirements that are no longer needed in the modern world is a worthy and sensible task. Having spent decades relishing the possibility of reforming communications laws and policies, I see the DOGE as having a wonderful opportunity to reset the federal framework for the video marketplace.

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