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Regulatory Reform General Principles: Some Examples From the Telecommunications Sector

by

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Introduction

Achieving true meaningful regulatory reform is a challenge for federal agencies. Even the best agencies struggle to craft rules that meet a number of regulatory reform goals that often include economic efficiency, treating similar cases similarly, compensating for adverse effects, and encouraging technological advancement. Most of these goals produce different effects, at least in the margins. This means that regulators usually must balance conflicting goals. A final challenge is that the social, technological, and political environments can change rapidly, making existing rules obsolete or even counterproductive, sometimes quickly. Nevertheless, meaningful regulatory reform, including deregulation, can bring large benefits if done properly.

This *FSF Perspectives* addresses a set of regulatory reform principles that should be considered by policymakers. It uses the telecommunications industry as an example both because of its rapid market and technological change and its regulator's proactive attempts to enact reform. Rather than pursue one or two reform goals exclusively, as a general rule regulators should consider a combination of eight interrelated principles in their approach to regulation:

1. Anticipate Innovation
2. Embrace Transparency
3. Concentrate on Metagoals
4. Trust the Customers
5. Reduce the Cost of Overregulation
6. Adhere to Cost/Benefit Analysis
7. Recognize the Value of Time
8. Take Into Account the Impacts of Regulation on Competition

In many circumstances, telecommunications markets offer a valuable example of how these principles apply to a specific industry. Rapid technological change has made many existing telecommunications regulations obsolete. Cable, fiber, and satellite technologies have emerged as alternative sources of content delivery. The desire to expand broadband access more widely has required large financial commitments from the private sector, while the implementation of various government subsidies has often been delayed, even after Congress has authorized funding. As policymakers study efforts to improve the regulatory process, the field of telecommunications offers some good examples of the type of issues they will need to face.

The Need for Regulatory Reform

Federal regulations play a large role in the U.S. and world economy. As of 2025, the Code of Federal Regulations took up about 200 volumes of regulations affecting every industry in the economy. The timeliness, relevancy, and directness of these rules can have a significant effect on economic growth, efforts to address social problems, and technological change. Done correctly, regulatory reform can also play a large role in boosting national competitiveness.[1]

Without faster economic growth, America will be unable to deliver on the promise of high employment and increased living standards. Yet the nation faces significant constraints. High federal debt levels reduce the nation's ability to invest in new programs and policies. Inadequate incentives and regulatory obstacles hamper our ability to compete with China in developing the latest military and scientific technologies. Regulatory reform can significantly improve the nation's ability to deal with these and other challenges.

Nations compete on many fronts, including reducing marginal tax rates, increasing tax credits for innovation and investment, increased spending for research and infrastructure, attracting the world's best talent, and setting international standards that favor domestic industry. However, achieving regulatory reform is often vital to each of these because the value of these programs often depends on the rules that implement them. For example, the benefits of subsidies for semiconductor production and solar power are significantly reduced if regulatory agencies cannot approve the necessary construction permits and power lines in a timely manner.

Poor regulation is especially damaging to industries that face strong international competition. Almost all regulations have some effect on competitiveness through their effect on the environment within which other firms compete. Unlike firms that face little global regulation, industries facing

[1] Joseph V. Kennedy, "Reforming Regulation to Drive International Competitiveness," Information Technology and Innovation Foundation, March 2015, https://itif.org/publications/2015/03/16/reforming-regulation-drive-international-competitiveness/.

foreign competition are more likely to move their production to jurisdictions where the cost of regulation is lower. Failing that, they may find themselves losing global market share to less burdened rivals in other nations. In either case, the U.S. economy suffers.

At bottom, the debate is not over whether any rules should exist, but whether those rules help society accomplish its goals in an efficient and effective manner and whether they can be further improved. However, given the current general prevailing morass of excessive regulation, true regulatory reform usually requires, as a default, reducing, simplifying, and minimizing the burden of existing rules rather than going in the opposite direction.

Why Use Telecommunications as a Case Study?

It often helps to put regulatory reform into context by applying it to specific agencies, markets and/or issues. The telecommunications industry offers several advantages as a case study. First, the industry has undergone dramatic marketplace changes as a result of significant technological progress over the last several decades and it continues to do so. Technology and auctions have revolutionized the allocation and use of spectrum. Once focused primarily on wireless television and radio service and the mostly monopolistic analog phone companies, the industry now features several technologies competing for a growing number of markets. Fiber, cable, and satellite which operate over Internet Protocols have become alternative competitive modes for delivering communication services to the home. A wide variety of multichannel video programing distributors have gotten into the business of generating content and/or transmitting information, which has increasingly become a main source for profits as consumers switch from one service to another. The Internet allows any person to generate content and deliver it to a universal audience. Finally, to its credit, the current Federal Communications Commission has taken up a number of important initiatives that can be used to put regulatory reform in a clearer perspective.

Common Impediments to Reform

Several common factors routinely limit regulatory reform in all industries. These impediments stem from structural problems that are often difficult to overcome. First, regulators usually suffer from an information handicap. Modern industries often are extremely complex, involving hundreds of firms and millions of consumers. Regulated parties often have better access to information about the industry but the information they provide regulators is often naturally biased by self-interest. Regulators also face significant time constraints. Markets often move much faster than agencies, weakening the ability to respond in a timely manner. But these impediments can be offset by adhering to the following set of principles.

General Principle #1: Anticipate Innovation

Companies must constantly innovate in order to remain competitive. As a result, the rules governing markets must also adapt. But the requirements of the Administrative Procedure Act (APA) and Congressional stalemate often delay any necessary regulatory and legislative responses. It is especially important for agencies to anticipate the need for new rules and prepare the groundwork by trying to build, where possible, a consensus regarding both the problem and possible ways to fix it.

As stated above, the telecommunications industry has undergone significant change. Future policies will have to answer a number of questions. A few examples: Should the FCC's public interest mandate remain in place in an era of vastly increased access to transmission facilities and content?[2] How should the Commission respond to the anticipated growth in the need for spectrum for various industry participants? How should the agency use its quadrennial review of media ownership rules to determine whether they remain necessary in the face of growing competition?

To the extent that the Commission can lead rather than trail developments in this field, both the industry and public will benefit. Agencies can increase their awareness of technology by seeking more viewpoints and conducting pilot programs to gather important information about the likely effect of different approaches. For example, the FCC is considering a decision that would allow cellphone jamming near prison facilities in order to reduce the use of contraband cellphones. The Free State Foundation and others have suggested that the FCC should test the viability of jamming with a pilot program prior to making a final decision.[3]

General Principle #2: Embrace Transparency

Agencies will generally suffer from an information deficit. Rather than make decisions when there are known "information deficits," regulators are usually much better off seeking information from as many sources as possible. Over the last year the FCC has generally done a good job of issuing requests for information to solicit different views.

General Principle #3: Concentrate on Metagoals

Rather than trying to micromanage companies by telling managers how to accomplish a certain goal, regulators are usually more effective when they state the goal clearly then let the market participants find the best ways to achieve it. Public conversations over the general direction of the industry can often accomplish more than imposing a mandatory approach.

For the FCC, metagoals could include, for example, ensuring adequate transmission speeds, being agnostic about transmission technologies, and ensuring that the private sector has sufficient incentives to build out both wireless and wireline infrastructure.

General Principle #4: Trust the Customer

Regulators often see themselves as the bulwark protecting the public against industry excesses. This often results in minimization of the consumer's voice and default overregulation. Consumers are almost always more intelligent regarding marketplace choices than agencies assume. They are very effective at demanding constant improvements in performance and price from companies. This forces firms to innovate. Where market competition is forcing companies to constantly improve their products the need for regulation is greatly reduced. This can be seen in the telecommunication

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[2] See, Randolph J. May, "The Public Interest Standard: The Historical Legislative Context," *Perspectives from FSF Scholars*, November 7, 2025, Vol. 20, No. 44, https://freestatefoundation.org/wp-content/uploads/2025/11/The-Public-Interest-Standard-The-Historical-Legislative-Context-110725.pdf.

[3] Comments of Randolph J. May, for "Promoting Technological Solutions to Combat Contraband Wireless Device Use in Correctional Facilities," Third Further Notice of Proposed Rulemaking, January 12, 2026, https://freestatefoundation.org/wp-content/uploads/2026/01/FSF-Reply-Comments-Combat-Contraband-Wireless-Device-Use-011226.pdf.

sector, where consumers have the ability to move to services that provide them with the best value in terms of price and content – and they do so.

The FCC should trust customers to be the best judges of transmission pathways and content availability, taking into account cost and other service features. It should support this ability by helping to ensure that buyers have the information they need to make these tradeoffs and by making it easier for new entrants to enter the market. Consumers are moving in masse. For example, Starlink recently added 1 million new subscribers in just 47 days.[4] Looking at which technologies are gaining or losing subscribers can provide the Commission with insights into the future of the market. For example, a matter of current interest is whether the government should give fiber an advantage over satellites and other technologies when subsidizing expansions of service. The National Telecommunications and Information Administration recently rectified the Biden Administration's unwarranted preference for fiber through its "Benefit of the Bargain" reforms to the BEAD program.

General Principle #5: Reduce the Cost of Overregulation

Regulators are often more focused on minimizing Type II errors, those in which harm is caused by the agency's failure to act. They tend to ignore Type I errors, those in which unnecessary or overly complicated rules impose significant costs on market participants. When markets change slowly and international competition is minimal, the cost of Type I errors may be low.

Off hand, the current FCC seems to have taken this principle to heart. Its 2025 "Delete, Delete, Delete" initiative seeks to review and eliminate outdated, redundant, or burdensome rules in order to promote innovation and reduce adverse regulatory impacts on media and telecom market participants. Among other actions, it already has identified 396 rule provisions and parts that no longer serve the public interest because they govern obsolete technologies, address outdated market conditions, or impose unnecessary legal obligations.[5] Further efforts are promised.

General Principle #6: Adhere to Cost/Benefit Analysis

Regulation brings both costs and benefits. As a general matter, rules should not be adopted unless their benefits exceed their costs. The balance of costs and benefits can change over time, making periodic cost/benefit reviews worthwhile. Various Executive Orders already require executive agencies to perform cost/benefit studies for all major decisions. The Supreme Court's apparent push to expand the power of the presidency may soon extend this requirement to independent agencies as well, many of whom, including the FCC, have voluntarily adopted the policy. Publishing the results of a cost/benefit analysis allows the public to understand how the agencies identify and evaluate the various factors affecting the decision. This in turn allows them to respond more intelligently to the regulator's statements. Although some costs and benefits are difficult to quantify, cost/benefit analysis promotes social welfare by forcing agencies to explicitly state their assumptions and reasoning in a way that other parties can consider.

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[4] Polly Thompson, "Elon Musk's Starlink Is Adding 20,000 New Users a Day as it Hits 9 million Customers," *Business Insider*, December 23, 2025, https://www.businessinsider.com/spacex-starlink-customer-numbers-surge-9-million-elon-musk-ipo-2025-12.

[5] "Delete, Delete, Delete: Removal of Obsolete Regulations," Federal Communications Commission, *Federal Register,* December 12, 2025, https://www.federalregister.gov/documents/2025/12/12/2025-22633/delete-delete-delete-removal-of-obsolete-regulations.

General Principle #7: Recognize the Value of Time

Delays associated with waiting for regulatory approval often impose higher costs than the direct cost of complying with regulations. Regulators should therefore move swiftly to implement their actions and, to the extent possible, provide industries with advance notice of future issues that might require action by the Commission.

This principle impacts the FCC and telecommunications markets in a number of ways.[6] Deployment of transmission infrastructure often requires local approval. Unfortunately, governments sometimes delay the permit approval process in order to increase their bargaining power or for various other reasons. The Commission is currently considering a "shot clock" that would give local agencies a fixed amount of time to consider an application. After the time limit, approval would automatically be granted. The proposal allows the agency to request more time or information if needed, but the main effect should be to eliminate unnecessary delays to the approval process, concentrating negotiations on the main issues involved in deployment. The FCC has also issued a Notice of Proposed Rulemaking to future accelerate the buildout of wireless infrastructure,[7] along with a Request for Information on eliminating barriers to wireline deployments.[8]

General Principle #8: Take Into Account the Impacts of Regulation on Competition

Regulators often focus on the domestic market. Although this may make sense on the surface, it is misguided when the industry faces foreign competition. For one thing, rules that wrongly restrict access to the U.S. market hurt American consumers and can cause the domestic industry to fall behind its foreign peers. More important, regulations that impose unnecessary costs on domestic firms may limit their ability to compete in both domestic and foreign markets. It can also slow their ability to invest in developing future technologies. In general, robust competition is the best state of affairs. Where it exists, agencies should be wary of impeding it. Where absent, rules should try and reinstate it.

The telecommunications sector holds large value to the United States. It encompasses many industries on the forefront of technological advancements, often with significant economic and strategic value, such as 5G standards. This creates issues, for example, relating to reassignment of key spectrum, investment of billions of dollars in infrastructure and technology, protection of underwater sea cables, and the proper regulatory framework for broadband Internet services. So far, the current Commission is aware of the competitive impacts of regulation – and the need for deregulation – having proposed a number of requests for information and rules designed to address these issues.

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[6] Randolph J. May and Seth L. Cooper, *Comments of the Free State Foundation, Build America: Eliminating Barriers to Wireline Deployments, WC Docket No. 25-253*, filed November 18, 2025, https://freestatefoundation.org/wp-content/uploads/2025/11/FSF-Comments-Eliminating-Barriers-to-Wireline-Deployments-Final-111825.pdf.
[7] "FCC Build America: Eliminating Barriers to Wireless Deployments," *Federal Register*, December 1, 2025, WT Docket No. 25-276, https://www.federalregister.gov/documents/2025/12/01/2025-21620/build-america-eliminating-barriers-to-wireless-deployments.
[8] FCC Notice of Inquiry, Build America: Eliminating Barriers to Wireline Deployments, September 30, 2025, WC Docket No. 25-253, https://docs.fcc.gov/public/attachments/FCC-25-66A1.pdf.

Conclusion

Ideally, in appropriate circumstances, the process of regulation should involve an ongoing discussion between government officials and industry. Regulators should have a set of policy goals that voters and consumers want to accomplish. Industry and other stakeholders should bring forth ideas about the best methods to accomplish these goals. Where possible, both parties should encourage innovations that allow better performance of both public and industry goals. Success is most likely when the following principles guide the process:

1. Anticipate Innovation
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