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*Technology and Competition Come to Telecommunications:
Re-Examining Exemptions to the Federal Trade Commission Act*

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Abstract By Alex M. Johnson

This article addresses the competing tension surrounding the authority of regulatory agencies, particularly the Federal Communications Commission (FCC) and the Federal Trade Commission (FTC), to enforce policies directed toward regulating telecommunications providers in the face of increased trends away from “industry specific” regulation towards competition. The author questions whether discernable boundaries exist between the FTC and FCC’s oversight authority and suggests that authority to regulate this market should be vested in the FTC. Using the Interstate Commerce Commission (ICC) as a paradigm, the author engages in a tripartite analysis that explains the continuing shift away from regulation to a focus on consumer protection; highlights the rise of the railroads and the response of the independent agencies that served as precedent for future actions; and examines the legislative policies that have raised the specter of unease over congressional oversight.

The author examined the creation of the FTC as a regulatory body emboldened to protect consumers against unfair activities within the market. With the establishment of the FTC a number of problems arose including judicial apprehension towards the FTC’s authority, and a lack of clarity regarding the specific functions of the agency. The author contends that the shift toward consumer protection in the electronic marketplace has evoked issues of consumer confidence based on advertising approaches, concerns surrounding the impending lack of consumer protections over telecommunication resellers, and challenges facing the future of electronic commerce in the areas of internet funds transfers.