

Philip J. Weiser

Goldwasser, *The Telecom Act, and Reflections on Antitrust Remedies*

55 Admin. L. Rev. 1 (2003)

Abstract by Carol Willette

In this article, author Philip Weiser advocates the use of antitrust law to complement and supplement the existing regulatory framework of information industries. He acknowledges that the *Goldwasser* case has two possible interpretations: that antitrust law must be per se excluded from matters covered by regulation “the aggressive approach” or that antitrust law may, where appropriate, be used when properly plead and in situations where it would complement regulation. The author rejects the usefulness of per se rules. In explaining the benefits of antitrust law versus regulation, the author nonetheless admits that there exist circumstances in which antitrust law should not be used. Though antitrust law is more focused and efficient, there are instances when the use of antitrust law would undermine existing regulation.

The author concludes by acknowledging a concern raised in *Goldwasser*. Advocates of the “aggressive approach” to interpretation feared that antitrust courts would be required to take on a supervisory or traditionally regulatory role in order to provide adequate remedy. This article provides four possible remedies that would be appropriate judicial remedies and avoid such a situation. It proposes that courts should craft remedies that are consistent with the regulatory regime.