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Articles

This Article traces the development of the FCC's distinction between "telecommunications services" subject to common carrier services under Title II of the 1934 Communications Act and "information services" regulated under Title I of the Act from the *Computer Inquiry* line of cases through the *Brand X* decision and recent *Wireline Broadband Report and Order*. The Author pays particular attention to the *Brand X* decision and the FCC's *Wireline Broadband Order* and its implications, suggesting that the *Order* may be subject to reversal when it is challenged in court and proposing how the Commission might react to a reversal. The Author concludes by applauding the Commission's effort to level the playing field for similar services provided over different platforms despite the remaining challenges and uncertainties facing incumbent local exchange carriers.

The Authors criticize recent statements by leading legal commentators suggesting that the development of spread spectrum has eliminated radio interference and helped make the underlying legal foundations for regulating spectrum obsolete. The Authors provide a non-technical explanation of how spread spectrum works and why it does not have the effect of eliminating radio interference. The Authors conclude that new technologies are likely to increase the availability of usable spectrum, but they have not wiped out the problem of interference.

This brief Article responds to Randolph May's article, *Recent Developments in Administrative Law—The FCC's Tumultuous Year in 2003: An Essay on an Opportunity for Institutional Agency Reform*, 56 Admin. L. Rev. 1307 (2004). Taylor disputes May's anecdotal evidence that the FCC's poor handling of the *Triennial Review* and the media ownership proceedings are symptomatic of a broad agency inefficiency that should be remedied by drastically cutting the size of the FCC and placing it under the exclusive control of the executive branch to ensure electoral accountability. Taylor argues that while these suggestions may have value, such a rush to action should not be premised on anecdotal evidence, but instead must rest on a more empirical, objective undertaking that would study the FCC's track record. Furthermore, Taylor points out that there are numerous other avenues for reforming the communications regulatory regime: Congress, states, and international organizations. Taylor concludes by analogizing the United Kingdom's OFCOM to the FCC proposed by May. He argues that though OFCOM's centralized

Book Review

A Review of J. H. Snider's *Speak Softly and Carry a Big Stick: How Local TV Broadcasters Exert Political Power*, iUniverse, Inc. 2005. Assistant General Counsel for CBS Andrew J. Siegel reviews this critique of the spectrum award given to television stations as part of *The Telecommunications Act of 1996*. Using a principal-agent theory, this book examines the complicated relationship between politicians, local television broadcasters, and the U.S. public in an attempt to explain why television broadcasters received the additional spectrum.

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