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Introduction

It's no secret that during the last two to three years both the airline and the telecommunications industries have experienced catastrophic declines in the value of their securities.¹ Since these industries were among the most important—and most visible—to have been unleashed from regulation in recent decades (albeit in widely differing degree), their wrenching experience has understandably raised the question of whether their deregulation should be reconsidered or even reversed.²

The airlines were comprehensively deregulated in 1978 in one bold stroke. Six years later, the Civil Aeronautics Board (CAB), the government apparatus for controlling domestic fares and routes, was abolished. And although the wisdom of that change is still disputed—not least because of the hard times the airlines have experienced since the economic boom of the 1990s ended—Congress is not about to reverse the process.³

Telecommunications is in the midst of a parallel initiative, but one that is both more gradual and more complex. Perhaps most significant, the progression is being comprehensively managed by the

regulatory agencies themselves.⁴ Indeed, as J. Gregory Sidak points out, in the purported deregulation arena, less often translates as more: the number of pages in the official compendium of Federal Communications Commission (FCC) decisions and proceedings has nearly tripled since passage of the Telecommunications Act of 1996, while membership in the Federal Communications Bar Association increased by 73 percent between December 1994 and December 1998 and has remained essentially at that level.⁵

There are, of course, reasons, good and bad, for the sharp differences in the course of deregulation and deregulatory policies in these two industries—reasons of history, technology, and politics. What there is in common is the successful demonstration of the superiority of open competition over direct comprehensive regulation. In my view, however, every passing year demonstrates also the superiority of the road we chose for the airlines and—I think it not an exaggeration to say—the bankruptcy of the highly managed or regulated course we have taken in telecommunications.

The financial collapse of these two industries did not, of course, take place in isolation. Technology-related stocks in general, and the dot-coms in particular, suffered at least as dramatic a meltdown.⁶ Since these latter companies have essentially been free of direct economic regulation throughout, their experience provides a useful counterpoise to the natural tendency to blame all the woes of aviation and telecommunications on government policy. (There is obviously a separate story to be told of derelictions, whether of the government or private groups, in the enforcement of non-industry-specific prescriptions of accounting and financial reporting standards and in the prohibition of simple fraud, which apparently played a very important role in the cases of both dot-coms and telecoms.)⁷