Regulated Industries
Law 315; George Mason University School of Law; Spring 2013
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Description
This course introduces students to the law and economics of government regulation. Topics include key concepts and analytical frameworks (e.g., natural monopoly, externalities, network effects) as well as legal and procedural issues (e.g., the limits of regulatory agency discretion, presidential review of government regulations, the “independence” of independent regulatory agencies). While focusing on such traditionally regulated industries as electricity and telecommunications, the course also seeks to expose students to the breadth of Federal (and to a lesser extent) state regulation.

Grades
Grades are based primarily on two research projects, the first of which is a paper which constitutes 35 percent of the grade and the second of which is an oral presentation/short paper, which constitutes 45 percent of the final grade. The remaining 20 percent of the grade is based on class attendance and participation.

Text and Other Materials
The primary text for the course is W. Kip Viscusi, Joseph E. Harrington Jr. and John M. Vernon, Economics of Regulation and Antitrust 4th Ed. (MIT Press, 2005). As a secondary text, we will also rely on Susan E. Dudley and Jerry Brito, Regulation: A Primer 2d ed. (Mercatus Center, 2012) (available at http://mercatus.org/sites/default/files/RegulatoryPrimer_DudleyBrito_0.pdf). Other materials will be provided online at the TWEN website for the course or are available through JSTORS. Materials marked with an asterisk (“*”) are “recommended.” The remainder should be considered “required.”

Course Outline and Readings

Week 1 (January 10): Class Introduction and Overview
• Viscusi, Harrington, Vernon, Chap. 1.
• Dudley and Brito.

Week 2 (January 17): History of Government Regulation
• Viscusi, Harrington, Vernon, Chaps. 2, 10 (relevant sections).
• Charles Francis Adams, “A Chapter of Erie,” in Charles Francis Adams and Henry Adams, Chapters of Erie and other Essays (Boston: Osgood and Company, 1871)*
• Frederick W. Taylor, The Principles of Scientific Management (New York: Harper & Brothers Publishers, 1911), (Chapter 1, pp. 5-29) (available online at http://books.google.com/books?id=5ek4cYPdndY&pg=PA30&dq=%22principles+of+scientific+management%22+1911#PPA9,M1).

• Joan Hoff Wilson, *Herbert Hoover: Forgotten Progressive* (Boston: Little, Brown & Company, 1975) (Chapter 4, pp. 79-121).*

**Week 3 (January 24): The Political Economy of Regulation**

• Viscusi, Herrington, Vernon, Chap. 10 (esp. 375-398).

• Dudley and Brito.


**Week 4 (January 31): Economic Regulation and Traditional Market Power**

• Viscusi, Herrington, Vernon, Chaps. 11-12.


**Week 5 (February 7): Market Power with Network Effects and “Tipping”**

• Viscusi, Herrington, Vernon, pp. 332-343.


**Week 6 (February 14): Externalities and Public Goods, Social Regulation, and the Regulatory Review Process**

• Viscusi, Herrington, Vernon, Chaps. 2, 10, 19 (relevant sections)

• Dudley and Brito.

• OMB Circular A-4.

Week 7 (February 21): Net Neutrality I

Week 8 (February 28): Net Neutrality II
• FCC, In the Matter of Appropriate Framework for Broadband Access to the Internet over Wireline Facilities, Policy Statement (CC Docket 02-33, September 23, 2005)
• Comcast Corp. v. FCC, 600 F.3d 642 D.C. Cir. (2010).

Week 9 (March 7): Net Neutrality III
• Verizon v. Federal Communications Commission, Notice of Appeal, U.S. Court of Appeals for the DC Circuit (September 30, 2011)

Week 10 (March 14): No Class (Spring Break)

Week 11 (March 21): Intellectual Property and the Copyright Royalty Board I
• Readings TBA

Week 12 (March 28) Intellectual Property and the Copyright Royalty Board II
• Readings TBA

Week 13 (April 4): Privacy Regulation and COPPA
• Readings TBA

Week 14 (April 11): Privacy Regulation and COPPA
• Readings TBA

Week 15 (April 18): Assignment 2: In Class Presentation of Oral Arguments
Law 315: Assignments

Assignment 1: The Political Economy of Regulation (15 pages, or about 3,750 words)
Apply the analytical frameworks discussed in Richard Posner’s “Theories of Economic Regulation” to a specific Federal regulation or area of Federal regulation. Specifically, discuss whether the existence of the regulation or regulatory activity is best explained by the public interest theory of regulation or by some variant of the interest group theory; or, whether both theories apply. The paper should include: a clear explanation of each of the theories you apply (citing, as much as possible, original sources); a brief discussion of the origins and institutional history of the regulation at issue; a description of the rule’s economic effects; an analysis supporting your conclusion regarding which theory is most applicable to the regulation at issue. Due March 8.

Assignment 2: Statement Defending or Opposing a Major Regulatory Decision (5-10 page précis, plus 15-minute Oral Argument): Taking as your topic one of the three major rulemakings studied in the class (FCC/Net Neutrality; CRB/SDARS II; FCT/COPPA), prepare a 15-minute oral argument defending or opposing the agency’s actions in adopting the regulation, focusing on the substantive aspects of the case, e.g., the adequacy of the agency’s regulatory analysis of the regulation at issue. Be prepared to take questions “from the bench.” Supplement your Oral Argument with a concise (5-10 page double spaced, or about 1,250-2,500 words) summary of your arguments. Due April 19.

General Guidelines for Written Papers
First, papers should be well-constructed, well-written and well-referenced. A well-constructed paper has a clear, concise introduction which introduces the topic and describes what follows, headings or clearly defined sections that address individual components of the argument, and a well-reasoned conclusion which brings the arguments together and restates the paper’s findings. A well-written paper has no misspellings, is grammatically correct, adheres to proper usage of words and terminologies, and presents arguments and ideas in a logical, easily understood order, each leading naturally into the next. A well-referenced paper contains relevant, authoritative citations in support of key evidentiary points; and, of course, it accurately attributes ideas and quotations to their original sources.

Second, papers should evidence familiarity with the readings and topics addressed in the class, and demonstrate the ability to apply key principles, concepts and frameworks to the analysis of regulatory issues. Paper topics should be chosen with this goal in mind – i.e., to provide an opportunity to demonstrate the student’s knowledge of and fluency with the course’s curriculum.