

On the Merits of Antitrust Liability in Regulated Industries

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We examine the merits of subjecting an incumbent supplier of regulated services to antitrust review. We show that antitrust review can harm consumers even when the review entails no direct costs of implementation. The consumer harm arises because antitrust review can fail to assess the incumbent supplier's actions accurately and because antitrust penalties "crowd out" regulatory penalties that otherwise would accrue to consumers. More generally, antitrust review can usefully complement regulatory oversight, but affects the nature of the optimal regulatory policy.