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THE LAW AND ECONOMICS OF PROPERTY RIGHTS TO RADIO SPECTRUM: INTRODUCTION

WHEN Ronald Coase devoted himself to a study of radio spectrum regulation in the 1950s, it led to the “discovery” of the now famous Coase Theorem and delivered this subject matter into “a special, almost holy, place in the economic analysis of law and the economics of property rights.”¹ Yet the idea of assigning property rights by competitive bidding—a key policy suggestion that sprang from this research—was denounced by leading experts in the communications field and could muster only tepid political support. Congress refused to authorize the use of auctions for Federal Communications Commission (FCC) licenses, even when permitting the use of lotteries for cellular telephone licenses in 1981 legislation. Awarding billions of dollars via random draw proved curiously preferable to a demonstrably more efficient competitive bidding process.

Finally, however, the auction idea sold: in 1993 Congress approved the new assignment scheme. Within a year FCC licenses were going to the highest bidders; within 2 years, over \$20 billion in receivables were generated for the U.S. Treasury. Many who had recently denounced the policy as life-threatening to democratic institutions were now claiming credit for the visible success of reform. Yet many valuable licenses continued to be assigned by political fiat, and the underlying resource, radio spectrum, remains allocated by central authorities. Big-picture efficiency issues are still of interest to public policy—perhaps more intensely than ever, given the policy movement in this area and the emerging importance of wireless technologies in information-based economies.

Hence, a conference on the “Law and Economics of Property Rights to Radio Spectrum” was convened at the Marconi Conference Center in Tomales Bay, California,² on July 27–29, 1996. The conference was kicked off with a first-person account of the intellectual genesis of FCC license

¹ Dean Lueck, *The Rule of First Possession and the Design of the Law*, 38 *J. Law & Econ.* 393, 419 (October 1995).

² This was a most splendid, and appropriate, venue. The facility was first built as a relay station by the British Marconi Company in 1914 and served as part of the company’s original global wireless telecommunications grid.

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auctions by Leo Herzel, the University of Chicago law student (class of 1951) who deposited the idea into the literature. I attempted to explain why auctions were so long in coming and why nonauction assignment tools continue to be used for important broadcasting licenses. Ronald Coase discussed this explanation and provided fascinating detail about the somewhat violent reaction to his own policy position in favor of auctions some 4 decades ago. Howard Shelanski and Peter Huber detailed the gradual liberalization of de facto property rights embedded within the FCC license, inspiring a response from Glen O. Robinson. Art De Vany proposed further reforms to increase the efficiency of spectrum allocation, which merited a paper on this topic by Evan Kwerel, John Williams, and Peter Cramton. Pablo Spiller and Patrick Moreton examined the efficiency of auctions held by the Federal Communications Commission, with Dean Lueck and Peter Cramton responding. Molly Macaulay estimated the value of orbital slots, a resource typically bundled with spectrum rights. Eli Noam critiqued the current auction policy and outlined a bold program for unlicensed use of the airwaves, with commentary by Timothy Brennan and myself. Finally, Robert Crandall evaluated the successes and shortcomings of New Zealand's recent experiment with spectrum liberalization.

It should be noted that the Bradley Foundation generously provided support making possible both the conference and the publication of this volume. It is the hope of the participants that such research will continue the law and economics tradition of borrowing keen insights from, and lending fruitful suggestions to, public policy governing wireless communications.

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