SUPREME COURT OF THE UNITED STATES

Nos. 93–356 AND 93–521

MCI TELECOMMUNICATIONS CORPORATION, PETITIONER

93–356 *v.*

AMERICAN TELEPHONE AND TELEGRAPH COMPANY

UNITED STATES, ET AL., PETITIONERS

93–521 *v.*

AMERICAN TELEPHONE AND TELEGRAPH COMPANY ET AL.

ON WRITS OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

[June 17, 1994]

JUSTICE SCALIA delivered the opinion of the Court.

Section 203(a) of Title 47 of the United States Code requires communications common carriers to file tariffs with the Federal Communications Commission, and §203(b) authorizes the Commission to "modify" any requirement of §203. These cases present the question whether the Commission's decision to make tariff filing optional for all nondominant long distance carriers is a valid exercise of its modification authority.

Like most cases involving the role of the American Telephone and Telegraph Company (AT&T) in our national telecommunication system, these have a long history. An understanding of the cases requires

a brief review of the Commission's efforts to regulate and then deregulate the telecommunications industry. When Congress created the Commission in 1934, AT&T, through its vertically integrated Bell system, held a virtual monopoly over the Nation's telephone service. The Communications Act of 1934, 48 Stat. 1064, as amended, authorized the Commission to regulate the rates charged for communication services to ensure that they were reasonable and non-discriminatory. The requirements of §203 that common carriers file their rates with the Commission and charge only the filed rate were the centerpiece of the Act's regulatory scheme.

In the 1970's, technological advances reduced the entry costs for competitors of AT&T in the market for long distance telephone service. The Commission, recognizing the feasibility of greater competition, passed regulations to facilitate competitive entry. By 1979, competition in the provision of long distance service was well established, and some urged that the continuation of extensive tariff filing requirements served only to impose unnecessary costs on new entrants and to facilitate collusive pricing. The Commission held hearings on the matter, see *Competitive Carrier Notice of Inquiry and Proposed Rulemaking*, 77 F. C. C. 2d 308 (1979), following which it issued a series of rules that have produced this litigation.

The *First Report and Order*, 85 F. C. C. 2d 1, 20–24 (1980), distinguished between dominant carriers (those with market power) and nondominant carriers —in the long distance market, this amounted to a distinction between AT&T and everyone else—and relaxed some of the filing procedures for nondominant carriers, *id.*, at 30–49. In the *Second Report and Order*, 91 F. C. C. 2d 59 (1982), the Commission entirely eliminated the filing requirement for resellers of terrestrial common carrier services. This policy of optional filing, or permissive detariffing, was extended to all other resellers, and to specialized common carriers, including petitioner MCI Telecommunications Corp., by the *Fourth Report and Order*, 95 F. C. C. 2d 554 (1983),[1] and to virtually all remaining categories of nondominant carriers by the *Fifth Report and Order*, 98 F. C. C. 2d 1191 (1984). Then, in 1985, the Commission shifted to a

[1]The *Third Report and Order*, 48 Fed. Reg. 46791 (1983), extended the Competitive Carrier Rulemakings to carriers providing service to domestic points outside the continental United States, such as Hawaii, Puerto Rico, and the United States Virgin Islands.

mandatory detariffing policy, which prohibited nondominant carriers from filing tariffs. See *Sixth Report and Order*, 99 F. C. C. 2d 1020 (1985). The United States Court of Appeals for the District of Columbia Circuit, however, struck down the *Sixth Report*'s mandatory detariffing policy in a challenge brought—somewhat ironically as it now appears—by MCI. See *MCI Telecommunications Corp.* v. *FCC*, 765 F. 2d 1186 (1985) (Ginsburg, J.). The Court of Appeals reasoned that §203(a)'s command that "[e]very common carrier . . . shall . . . file" tariffs was mandatory. And although §203(b) authorizes the Commission to "modify any requirement" in the section, the Court of Appeals concluded that that phrase "suggest[ed] circumscribed alterations—not, as the FCC now would have it, wholesale abandonment or elimination of a requirement." *Id.*, at 1192.

In the wake of the invalidation of mandatory detariffing by the Court of Appeals, MCI continued its practice of not filing tariffs for certain services, pursuant to the permissive detariffing policy of the *Fourth Report and Order*. On August 7, 1989, AT&T filed a complaint, pursuant to the third party complaint provision of the Communications Act, 47 U. S. C. §208(a), which alleged that MCI's collection of unfiled rates violated §203(a) and (c). MCI responded that the *Fourth Report* was a substantive rule, and so MCI had no legal obligation to file rates. AT&T rejoined that the *Fourth Report and Order* was simply a statement of the Commission's non-enforcement policy, which did not immunize MCI from private enforcement actions; and that if the *Fourth Report and Order* established a substantive rule, it was in excess of statutory authority. The Commission did not take final action on AT&T's complaint until almost two-and-one-half years after its filing. See *AT&T Communications* v. *MCI Telecommunications Corp.*, 7 FCC Rcd. 807 (1992). It characterized the *Fourth*

Report and Order as a substantive rule and dismissed AT&T's complaint on the ground that MCI was in compliance with that rule. It refused to address, however, AT&T's contention that the rule was *ultra vires*, announcing instead a proposed rulemaking to consider that question. See *Tariff Filing Requirements for Interstate Common Carriers, Notice of Proposed Rulemaking*, 7 FCC Rcd. 804 (1992).

AT&T petitioned for review, arguing, *inter alia*, that the Commission lacked authority to defer to a later rulemaking consideration of an issue which was dispositive of an adjudicatory complaint. The United States Court of Appeals for the District of Columbia Circuit granted the petition for review. See *AT&T* v. *FCC*, 978 F. 2d 727 (1992) (Silberman, J.). The Court of Appeals characterized the Commission's failure to address its authority to promulgate the permissive detariffing policy as "a sort of administrative law shell game," *id*., at 731–732. Addressing that question itself, the Court of Appeals concluded that the permissive detariffing policy of the *Fourth Report and Order* was rendered indefensible by the 1985 *MCI* decision: "Whether detariffing is made mandatory, as in the *Sixth Report*, or simply permissive, as in the *Fourth Report*, carriers are, in either event, relieved of the obligation to file tariffs under section 203(b). That step exceeds the limited authority granted the Commission in section 203(b) to `modify' requirements of the Act." *Id*., at 736. The Court of Appeals then remanded the case so that the Commission could award appropriate relief. See *id*., at 736–737. We denied certiorari. 509 U. S. ___, ___ (1993).

Moving now with admirable dispatch, less than two weeks after the decision by the Court of Appeals concerning the adjudicatory proceeding, the Commission released a Report and Order from the rulemaking proceeding commenced in response to AT&T's complaint. See *Tariff Filing Requirements for*

Interstate Common Carriers, 7 FCC Rcd. 8072 (1992), stayed pending further notice, 7 FCC Rcd. 7989 (1992). That is the Report and Order at issue in this case. The Commission, relying upon the §203(b) authority to "modify" that had by then been twice rejected by the D. C. Circuit, determined that its permissive detariffing policy was within its authority under the Communications Act. AT&T filed a motion with the D.C. Circuit seeking summary reversal of the Commission's order. The motion was granted in an unpublished *per curiam* order stating that: "The decision of this court in [*AT&T* v. *FCC*, 978 F. 2d 727 (1992)] conclusively determined that the FCC's authorization of permissive detariffing violates Section 203(a) of the Communications Act." App. to Pet. for Cert. 2a. Both MCI and the United States (together with the Commission) petitioned for certiorari. We granted the petitions and consolidated them. 510 U. S. ___ (1993).

Section 203 of the Communications Act contains both the filed rate provisions of the Act and the Commission's disputed modification authority. It provides in relevant part:

> "(a) Filing; public display.
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> "Every common carrier, except connecting carriers, shall, within such reasonable time as the Commission shall designate, file with the Commission and print and keep open for public inspection schedules showing all charges . . ., whether such charges are joint or separate, and showing the classifications, practices, and regulations affecting such charges. . . .
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> "(b) Changes in schedule; discretion of Commission to modify requirements.
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> "(1) No change shall be made in the charges, classifications, regulations, or practices which

have been so filed and published except after one hundred and twenty days notice to the Commission and to the public, which shall be published in such form and contain such information as the Commission may by regulations prescribe.

"(2) The Commission may, in its discretion and for good cause shown, modify any requirement made by or under the authority of this section either in particular instances or by general order applicable to special circumstances or conditions except that the Commission may not require the notice period specified in paragraph (1) to be more than one hundred and twenty days.

"(c) Overcharges and rebates.

"No carrier, unless otherwise provided by or under authority of this chapter, shall engage or participate in such communication unless schedules have been filed and published in accordance with the provisions of this chapter and with the regulations made thereunder; and no carrier shall (1) charge, demand, collect, or receive a greater or less or different compensation for such communication . . . than the charges specified in the schedule then in effect, or (2) refund or remit by any means or device any portion of the charges so specified, or (3) extend to any person any privileges or facilities in such communication, or employ or enforce any classifications, regulations, or practices affecting such charges, except as specified in such schedule." 47 U. S. C. §203 (1988 ed. and Supp. IV).

The dispute between the parties turns on the meaning of the phrase "modify any requirement" in §203(b)(2). Petitioners argue that it gives the Commission authority to make even basic and fundamental changes in the scheme created by that

section. We disagree. The word "modify"—like a number of other English words employing the root "mod-" (deriving from the Latin word for "measure"), such as "moderate," "modulate," "modest," and "modicum,"—has a connotation of increment or limitation. Virtually every dictionary we are aware of says that "to modify" means to change moderately or in minor fashion. See, *e.g.*, Random House Dictionary of the English Language 1236 (2d ed. 1987) ("to change somewhat the form or qualities of; alter partially; amend"); Webster's Third New International Dictionary 1452 (1976) ("to make minor changes in the form or structure of: alter without transforming"); 9 Oxford English Dictionary 952 (2d ed. 1989) ("[t]o make partial changes in; to change (an object) in respect of some of its qualities; to alter or vary without radical transformation"); Black's Law Dictionary 1004 (6th ed. 1990) ("[t]o alter; to change in incidental or subordinate features; enlarge; extend; amend; limit; reduce").

In support of their position, petitioners cite dictionary definitions contained in or derived from a single source, Webster's Third New International Dictionary 1452 (1976) ("Webster's Third"), which includes among the meanings of "modify," "to make a basic or important change in."[2] Petitioners contend

[2]Petitioners also cite Webster's Ninth New Collegiate Dictionary 763 (1991), which includes among its definitions of "modify," "to make basic or fundamental changes in often to give a new orientation to or to serve a new end." They might also have cited Webster's Eighth New Collegiate Dictionary 739 (1973), which contains that same definition; and Webster's Seventh New Collegiate Dictionary 544 (1963), which contains the same definition as Webster's Third New International Dictionary quoted in text. The Webster's New Collegiate Dictionaries, published by G. & C. Merriam Company of Springfield, Massachusetts, are essentially abridgments of that

that this establishes sufficient ambiguity to entitle the Commission to deference in its acceptance of the broader meaning, which in turn requires approval of its permissive detariffing policy. See *Chevron U. S. A. Inc.* v. *Natural Resources Defense Council, Inc.*, 467 U. S. 837, 843 (1984). In short, they contend that the courts must defer to the agency's choice among available dictionary definitions, citing *National Railroad Passenger Corp.* v. *Boston and Maine Corp.*, 503 U. S. ___, ___ (1992).

But *Boston and Maine* does not stand for that proposition. That case involved the question whether the statutory term "required" could only mean "demanded as essential" or could also mean "demanded as appropriate." In holding that the latter was a permissible interpretation, to which *Chevron* deference was owed, the opinion did not rely exclusively upon dictionary definitions, but also upon contextual indications, see *ibid.*—which in the present case, as we shall see, contradict petitioners' position. Moreover, when the *Boston and Maine* opinion spoke of "alternative dictionary definitions," *ibid.*, it did not refer to what we have here: one dictionary whose suggested meaning contradicts virtually all others. It referred to alternative definitions *within the dictionary cited* (Webster's Third, as it happens), which was not represented to be the *only* dictionary giving those alternatives. To the contrary, the Court said "these alternative interpretations are as old as the jurisprudence of this Court," *ibid.*, citing *McCulloch* v. *Maryland*, 4 Wheat. 316 (1819). See

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company's Webster's New International Dictionaries, and recite that they are based upon those lengthier works. The last New Collegiate to be based upon Webster's Second New International, rather than Webster's Third, does not include "basic or fundamental change" among the accepted meanings of "modify." See Webster's New Collegiate Dictionary 541 (6th ed. 1949).

also Webster's New International Dictionary 2117 (2d ed. 1934); 2 New Shorter Oxford English Dictionary 2557 (1993) (giving both alternatives).

Most cases of verbal ambiguity in statutes involve, as *Boston and Maine* did, a selection between accepted alternative meanings shown as such by many dictionaries. One can envision (though a court case does not immediately come to mind) having to choose between accepted alternative meanings, one of which is so newly accepted that it has only been recorded by a single lexicographer. (Some dictionary must have been the very first to record the widespread use of "projection," for example, to mean "forecast.") But what petitioners demand that we accept as creating an ambiguity here is a rarity even rarer than that: a meaning set forth in a single dictionary (and, as we say, its progeny) which not only *supplements* the meaning contained in all other dictionaries, but *contradicts* one of the meanings contained in virtually all other dictionaries. Indeed, contradicts one of the alternative meanings contained in the out-of-step dictionary itself—for as we have observed, Webster's Third itself defines "modify" to connote *both* (specifically) major change *and* (specifically) minor change. It is hard to see how that can be. When the word "modify" has come to mean *both* "to change in some respects" *and* "to change fundamentally" it will in fact mean *neither* of those things. It will simply mean "to change," and some adverb will have to be called into service to indicate the great or small degree of the change.

If that is what the peculiar Webster's Third definition means to suggest has happened—and what petitioners suggest by appealing to Webster's Third—we simply disagree. "Modify," in our view, connotes moderate change. It might be good English to say that the French Revolution "modified" the status of the French nobility—but only because there is a figure of speech called understatement and a literary device

known as sarcasm. And it might be unsurprising to discover a 1972 White House press release saying that "the Administration is modifying its position with regard to prosecution of the war in Vietnam"—but only because press agents tend to impart what is nowadays called "spin." Such intentional distortions, or simply careless or ignorant misuse, must have formed the basis for the usage that Webster's Third, and Webster's Third alone, reported.[3] It is perhaps gilding the lily to add this: In 1934, when the Communications Act became law—the most relevant time for determining a statutory term's meaning, see *Perrin* v. *United States*, 444 U. S. 37, 42–45 (1979)—Webster's Third was not yet even contemplated. To our knowledge *all* English dictionaries provided the narrow definition of "modify," including those published by G. & C. Merriam Company. See Webster's New International Dictionary 1577 (2d ed. 1934); Webster's Collegiate Dictionary 628 (4th ed. 1934). We have not the slightest doubt that is the meaning the statute intended.

Beyond the word itself, a further indication that the §203 authority to "modify" does not contemplate fundamental changes is the sole exception to that

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[3]That is not an unlikely hypothesis. Upon its long-awaited appearance in 1961, Webster's Third was widely criticized for its portrayal of common error as proper usage. See, *e.g.*, Follett, Sabotage in Springfield, 209 Atlantic 73 (Jan. 1962); Barzun, What is a Dictionary? 32 The American Scholar 176, 181 (Spring 1963); Dwight Macdonald, The String Unwound, 38 The New Yorker 130, 156–157 (Mar. 1962). An example is its approval (without qualification) of the use of "infer" to mean "imply": "infer 5: to give reason to draw an inference concerning: HINT <did not take part in the debate except to ask a question *inferring* that the constitution must be changed--*Manchester Guardian Weekly*>." Webster's Third New International Dictionary 1158 (1961).

authority which the section provides. One of the requirements of §203 is that changes to filed tariffs can be made only after 120 days' notice to the Commission and the public. §203(b)(1). The *only* exception to the Commission's §203(b)(2) modification authority is as follows: "except that the Commission may not require the notice period specified in paragraph (1) to be more than one hundred and twenty days." Is it conceivable that the statute is indifferent to the Commission's power to eliminate the tariff-filing requirement entirely for all except one firm in the long-distance sector, and yet strains out the gnat of extending the waiting period for tariff revision beyond 120 days? We think not. The exception is not as ridiculous as a Lilliputian in London only because it is to be found in Lilliput: in the small-scale world of "modifications," it is a big deal.

Since an agency's interpretation of a statute is not entitled to deference when it goes beyond the meaning that the statute can bear, see, *e.g.*, *Pittston Coal Group* v. *Sebben*, 488 U. S. 105, 113 (1988); *Chevron*, 467 U. S., at 842–843, the Commission's permissive detariffing policy can be justified only if it makes a less than radical or fundamental change in the Act's tariff-filing requirement. The Commission's attempt to establish that no more than that is involved greatly understates the extent to which its policy deviates from the filing requirement, and greatly undervalues the importance of the filing requirement itself.

To consider the latter point first: For the body of a law, as for the body of a person, whether a change is minor or major depends to some extent upon the importance of the item changed to the whole. Loss of an entire toenail is insignificant; loss of an entire arm tragic. The tariff-filing requirement is, to pursue this analogy, the heart of the common-carrier section of the Communications Act. In the context of the Interstate Commerce Act, which served as its model,

see *e.g.*, *MCI Telecommunications Corp.* v. *FCC*, 917 F. 2d 30, 38 (CADC 1990), this Court has repeatedly stressed that rate filing was Congress's chosen means of preventing unreasonableness and discrimination in charges: "[T]here is not only a relation, but an indissoluble unity between the provision for the establishment and maintenance of rates until corrected in accordance with the statute and the prohibitions against preferences and discrimination." *Texas and Pacific R. Co.* v. *Abilene Cotton Oil Co.*, 204 U. S. 426, 440 (1907); see also *Robinson* v. *Baltimore and Ohio R. Co.*, 222 U. S. 506, 508–509 (1912). "The duty to file rates with the Commission, [the analog to §203(a)], and the obligation to charge only those rates, [the analog to §203(c)], have always been considered essential to preventing price discrimination and stabilizing rates." *Maislin Industries, U. S., Inc.* v. *Primary Steel, Inc.*, 497 U. S. 116, 126 (1990); see also *Arizona Grocery Co.* v. *Atchison, T. & S. F. R. Co.*, 284 U. S. 370, 384 (1932) (filing requirements "render rates definite and certain, and . . . prevent discrimination and other abuses"); *Armour Packing Co.* v. *United States*, 209 U. S. 56, 81 (1908) (elimination of filing requirement "opens the door to the possibility of the very abuses of unequal rates which it was the design of the statute to prohibit and punish"). As the *Maislin* Court concluded, compliance with these provisions "is `utterly central' to the administration of the Act." 497 U. S., at 132, quoting *Regular Common Carrier Conference* v. *United States*, 793 F. 2d 376, 379 (CADC 1986).

Much of the rest of the Communications Act subchapter applicable to Common Carriers, see 47 U. S. C. §§201–228, and the Act's Procedural and Administrative Provisions, 47 U. S. C. §§401–416, are premised upon the tariff-filing requirement of §203. For example, §415 defines "overcharges" (which customers are entitled to recover) by reference to the

filed rate. See §415(g). The provisions allowing customers and competitors to challenge rates as unreasonable or as discriminatory, see 47 U. S. C. §§204, 206–208, 406, would not be susceptible of effective enforcement if rates were not publicly filed.[4] See *Maislin*, 497 U. S., at 132. Rate filings are, in fact, the essential characteristic of a rate-regulated industry. It is highly unlikely that Congress would leave the determination of whether an industry will be entirely, or even substantially, rate-regulated to agency discretion—and even more unlikely that it would achieve that through such a subtle device as permission to "modify" rate-filing requirements.

Bearing in mind, then, the enormous importance to the statutory scheme of the tariff-filing provision, we turn to whether what has occurred here can be considered a mere "modification." The Commission stresses that its detariffing policy applies only to nondominant carriers, so that the rates charged to over half of all consumers in the long-distance market are on file with the Commission. It is not clear to us that the proportion of customers affected, rather than the proportion of carriers affected, is the proper measure of the extent of the exemption (of course *all* carriers in the long-distance market are exempted,

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[4]The dissent misrepresents what we say in this sentence, see *post*, at 9, and addresses two paragraphs to an argument we have not made, *id*., at 9–11. We simply say, as did the *Maislin* Court, that eliminating the tariff-filing requirement would frustrate complaint proceedings; not that eliminating those requirements, or indeed even eliminating the complaint proceedings, would frustrate the ultimate purposes of the Act. Perhaps, as the dissent asserts, it would not; perhaps even eliminating the FCC would not do so. But we (and the FCC) are bound, not only by the ultimate purposes Congress has selected, but by the means it has deemed appropriate, and prescribed, for the pursuit of those purposes.

except AT&T). But even assuming it is, we think an elimination of the crucial provision of the statute for 40% of a major sector of the industry is much too extensive to be considered a "modification." What we have here, in reality, is a fundamental revision of the statute, changing it from a scheme of rate regulation in long-distance common-carrier communications to a scheme of rate regulation only where effective competition does not exist. That may be a good idea, but it was not the idea Congress enacted into law in 1934.

Apart from its failure to qualify as a "modification," there is an independent reason why the Commission's detariffing policy cannot come within the §203(b)(2) authority to modify. That provision requires that when the Commission proceeds "by general order" (as opposed to when it acts "in particular instances") to make a modification, the order can only apply "to special circumstances or conditions." Although that is a somewhat elastic phrase, it is not infinitely so. It is hard to imagine that a condition shared by 40% of all long-distance customers, and by all long-distance carriers except one, qualifies as "special" within the intent of this limitation.[5]

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[5]The dissent suggests that we ignore subsection 203(c) of the Act, which prohibits carriers from providing service in the absence of a filed rate "unless provided by or under the authority of this chapter." The dissent asserts that that phrase must refer to the modification authority of §203(b)(2). See *post*, at 6. Perhaps it does so—though that would not at all contradict our interpretation of §203(b)(2), which we have acknowledged, see *infra*, at 17, might in some limited circumstances permit the Commission to waive the filing requirement. But §203(c) could just as (in fact, more) easily be read as referring to §203(a)'s express exemption of connecting carriers, §§201(b) & 211's authorization of services between carriers pursuant to contractual rates, §332(c)(1)(A)'s

Both sides of this dispute contend that Congress has manifested in later legislation agreement with their respective interpretations of the Communications Act. Petitioners point to the 1990 amendment of the Act to require operator service providers (OSPs) to file informational tariffs, which can be phased out after four years, see Telephone Operator Consumer Services Improvement Act of 1990 (TOCSIA), 104 Stat. 990, 47 U. S. C. §226(h) (1988 ed., Supp. IV). Petitioners reason that this must envision a background of permissive filing, since otherwise the permitted phase-out of informational tariffs would be a phase-in of even more rigorous requirements. AT&T, on the other hand, claims that Congress has manifested agreement with *its* position in the recent amendment of 47 U. S. C. A. §332(c)(1)(A) (Supp. 1994) that gives the Commission authority to limit the tariff-filing requirement for commercial mobile carriers—authority that would be unnecessary if the Commission's view of §203 is correct. At most, these conflicting arguments indicate that Congress was aware of the decade-long tug of war between the Commission and the D. C. Circuit over the authority to relax filing requirements, and at different times proceeded on different assumptions as to who would win. We have here not a consistent history of legislation to which one or the other interpretation of the Act is essential; but rather two pieces of legislation to which first one, and then the other interpretation of the Act is more congenial. That is not enough to change anything.

Finally, petitioners earnestly urge that their interpretation of §203(b) furthers the Communications Act's broad purpose of promoting efficient telephone service. They claim that although the filing requirement prevented price discrimination

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exemptions for mobile carriers, and other express statutory exemptions from filing requirements.

and unfair practices while AT&T maintained a monopoly over long-distances service, it frustrates those same goals now that there is greater competition in that market. Specifically, they contend that filing costs raise artificial barriers to entry and that the publication of rates facilitates parallel pricing and stifles price competition. We have considerable sympathy with these arguments (though we doubt it makes sense, if one is concerned about the use of filed tariffs to communicate pricing information, to require filing by the dominant carrier, the firm most likely to be a price leader). The Court itself has policed trade associations and rate bureaus under the antitrust laws precisely because the sharing of pricing information can facilitate price fixing, see, *e.g.*, *Sugar Institute, Inc.* v. *United States*, 297 U. S. 553 (1936); *American Column & Lumber Co.* v. *United States*, 257 U. S. 377 (1921), and the Court has protected regulated firms from some types of antitrust suits brought on the basis of their filed rates, see, *e.g.*, *Square D Co.* v. *Niagara Frontier Tariff Bureau, Inc.*, 476 U. S. 409 (1986). As we noted earlier this Term, there is considerable "debate in other forums about the wisdom of the filed rate doctrine," *Securities Services, Inc.* v. *Kmart Corp.*, 511 U. S. ___, ___ (1994) (slip op., at 9), and, more broadly, about the value of continued regulation of the telecommunications industry. But our estimations, and the Commission's estimations, of desirable policy cannot alter the meaning of the Federal Communications Act of 1934. For better or worse, the Act establishes a rate-regulation, filed-tariff system for common-carrier communications, and the Commission's desire "to `increase competition' cannot provide [it] authority to alter the well-established statutory filed rate requirements," *Maislin*, 497 U. S., at 135. As we observed in the context of a dispute over the filed-rate doctrine more than 80 years ago, "such considerations address

themselves to Congress, not to the courts," *Armour Packing*, 209 U. S., at 82.

We do not mean to suggest that the tariff-filing requirement is so inviolate that the Commission's existing modification authority does not reach it at all. Certainly the Commission can modify the form, contents, and location of required filings, and can defer filing or perhaps even waive it altogether in limited circumstances. But what we have here goes well beyond that. It is effectively the introduction of a whole new regime of regulation (or of free-market competition), which may well be a better regime but is not the one that Congress established.

The judgment of the Court of Appeals is

Affirmed.

JUSTICE O'CONNOR took no part in the consideration or decision of these cases.