

central importance of the regulation variable in Professor Hausman's analysis.<sup>9</sup>

19. Professor Hausman's discussion of his price elasticity estimates is also misleading. Firms may have market power sufficient to engage in activities that can be properly viewed as an abuses of market power and yet not be capable of acting as monopolists. It is certainly not true, as Professor Hausman seems to suggest, that a price elasticity for a market of at least -1.0 is the criteria to use to decide if duopolists are setting prices consistent with excessive market power. Just because firms are not as effective in controlling a market as a monopolist would be no reason to conclude that the firms are not capable of setting prices above the level that would prevail if there were vigorous competition.

20. Professor Hausman's price elasticity estimates are also biased downward. As mentioned earlier in paragraph 9 there is measurement error in Professor Hausman's price estimates. In the demand model, where price is an independent variable, this measurement error causes the elasticity estimate to be biased towards zero. Given the importance that Professor Hausman attaches to his low elasticity estimates, this bias problem is especially noteworthy.

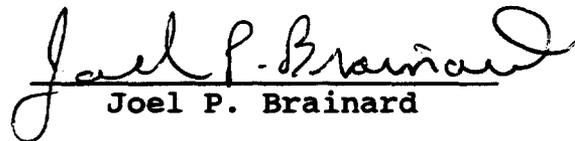
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<sup>9</sup>To better understand the effects of regulation, if not for other reasons, Professor Hausman should also account for the likely lagged response of demand to price changes when analyzing demand.

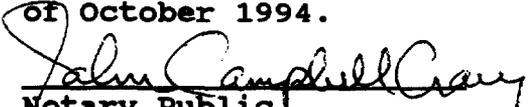
21. Finally, in Professor Hausman's analysis of demand, there are no variables for substitutes. The price elasticity is estimated as being invariate over time and, apparently, unaffected by the availability of substitutes, either in the past or present. It is clear that Professor Hausman should have attempted to include in his model, by MSA, variables for some substitutes, such as pagers, pay phones, voice mail, private radio service, and other forms of radio communication, even though such substitutes are not perfect substitutes for cellular service. This might have allowed him to determine whether markets that were less competitive because they lacked substitutes have higher prices which in turn would have resulted in continued regulation.

III. Conclusion

22. Based upon the deficiencies in Professor Hausman's analysis that I have identified and discussed, it is apparent that he has not supported his contentions that prices are higher and that penetration is lower due to regulation in large MSAs in New York.

  
Joel P. Brainard

Subscribed and sworn to  
before me this 14th day  
of October 1994.

  
Notary Public

My commission expires 7/31/96.

JOHN CAMPBELL CRAY  
4516825  
Notary Public, State of New York  
Qualified in Albany County  
Commission Expires July 31, 1996

**EXHIBIT VI**

RECEIVED

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

OCT 17 1994

FCC MAIL ROOM

In the Matter of )  
 )  
Implementation of Sections 3(n) and )  
332 of the Communications Act )  
 )  
Regulatory Treatment of Mobile Services )  
\_\_\_\_\_ )

PR Docket No. 94-108

**CERTIFICATION**

I, William J. Cowan, declare

1. I am the General Counsel of the New York Public Service Commission (NYPSC).

2. The NYPSC is an administrative agency established under laws of the State of New York.

3. The NYPSC is charged with regulatory oversight of telephone corporations in New York, in order to ensure, among other things, that rates for services offered by telephone corporations are just, reasonable, and nondiscriminatory to New York consumers.

4. Cellular carriers are telephone corporations within the meaning of the New York Public Service Law, and have been subject to the NYPSC's regulatory oversight, including oversight of rates, since such carriers began providing intrastate cellular service in 1983.

5. Pursuant to Section 12 of the New York Public Service Law, I am duly authorized to represent and appear for the People of the State of New York and the New York Public Service Commission in proceedings in which the Commission's jurisdiction is involved.

6. In accordance with the requirements of the Omnibus Reconciliation Budget Act of 1993 and In the Matter of Implementation of Sections 3(n) and 332 of the Communications Act, Regulatory Treatment of Mobile Services, GN Docket No. 93-252, Second Report and Order (1994), I hereby certify that the NYPSC is the administrative agency responsible for the regulation of telecommunications services within New York, and is the agency duly authorized to file a petition with the Federal Communications Commission for the purpose of retaining state regulatory oversight of cellular service rates.

WHEREFORE, I hereby certify that the foregoing is true and correct. Executed this 14th day of October, 1994, at Albany, New York.



WILLIAM J. COWAN  
General Counsel  
State of New York  
Public Service Commission

Dated: October 14, 1994

CERTIFICATE OF SERVICE

I hereby certify that on this 14th day of October, 1994, I caused copies of the foregoing "Opposition" to be mailed via first-class postage prepaid mail and federal express to the following:

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