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THE TELECOM INDUSTRY EFFORT TO DEREGULATE IP-ENABLED SERVICES THROUGH CREATION OF A DIGITAL IMAGINARY

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Introduction

This study explores how major phone and Internet providers transformed public perception of voice-over Internet protocol (VoIP) deregulation by associating it with widely supported ideas—including net neutrality, job creation and technological innovation. These concepts, which frequently clash with the actual intent of the legislative proposals, have become central to the “digital imaginary” created by the telecommunications lobby. Their representation provides insight into how culturally symbolic phrases are used to legitimize anti-consumer policies and evoke universal themes. The digital imaginary conceived by the telecommunications industry also obfuscates technological realities.

By mid-2015, about 36 states had adopted legislation that eliminates or reduces the authority of local and state agencies to regulate VoIP telephone services (Lichtenberg, 2014; Lichtenberg, personal communication), which transmit voice communications digitally. Legislators in a handful of other states have introduced similar measures. Some deregulation legislation goes so far as to bar state public utility commissions (PUCs) from regulating all “IP-enabled” services. Given that IP is the fundamental protocol for transmitting data packets across the Internet, the potential reach of the legislation is enormous—which explains the intense interest from both industry and consumer advocates. In fact, California’s VoIP deregulation bill was characterized as one of the most heavily lobbied measures in the state during 2012 (Modesto Bee, 2012).

Significance of the research

Ideological clashes, disparate cultural values and political fissures are at the core of all policy debates. By examining the discourse surrounding policy decisions, we gain an understanding of the interplay between power and meaning that is operationalized on a daily basis. Legislation is a form of symbolic communication meant to send a message to lawmakers and their constituents.

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In fact, law is language. As Gibbons (1999) writes, “The legal system puts into action a society’s beliefs and values” (p. 156). Additionally, language can be a strategic resource enabling politicians and special interests to obtain and hold power (Hudson, 1978). Lessig (1999) expands on this idea for the digital age with his mantra, “Code is law.” He points out that rules are artifacts reflecting the values and intentions of those who design them. When corporations control the code, these values may be inconsistent with the public interest.

Theoretical framework and methodology

This study applies critical discourse analysis (CDA) to examine how power and authority influence digital technology policies. CDA merges the critical tradition in social analysis with language studies, and asks basic questions such as, how do powerful groups control public discourse and what are the consequences of such control (van Dijk, 2003)? Although the CDA approach lacks a unified theoretical framework, this study is influenced by a research direction laid out by Fairclough (2013). In his view, CDA must go beyond a focus on discourse and semiotics to analyze “relations between semiotic and other social elements” (Fairclough, 2013, p. 179). In broad terms, a CDA critique begins with a social problem. It then identifies the discursive dimension to the problem, including all relevant texts—which may encompass documents, videos, conversations, etc. The researcher then analyzes those texts with the goal of illustrating how power and other social structures come into play. Finally, the researcher shows how the discourse connects to this larger power system.

I identified 36 state bills introduced between 2009 and March 2015 that included language proposing to lessen or eliminate state oversight of VoIP services. I then obtained not only the legislative measures themselves, but also searched for related media coverage, press releases, written hearing testimony, and stakeholder comments. I located these texts through state government websites, individual news outlet archives, advocacy organization websites (of both proponents and opponents of deregulation), and dozens of keyword searches in Google. Press articles were also identified through the Lexis-Nexis database of major national newspapers. I also searched organization websites for blog posts, newsletter articles and policy statements relevant to reducing or eliminating state oversight of VoIP or IP-enabled services. These websites ranged from those hosted by free-market advocates like the Heartland Institute, to those hosted by consumer advocacy groups such as AARP and The Utility Reform Network.

After closely reading the compilation of texts, I analyzed and coded them according to 1) structure and 2) substance. The structural analysis was aimed at understanding the flow of the arguments—as arguments emerged upon introduction of measures, during legislative debates, and after passage of laws. Another goal of the structural analysis was to gain an understanding of where/from whom message frames originated. According to CDA, social context plays a key role in how people receive a message (van Dijk, 2003). These links consider discourse as social information, and recognize that discourse is a communally shared product (Ruiz, 2009). The telecom industry’s strategy to convince the public of consumer benefits included incorporating claims directly into legislative language, into hearing testimony and into editorials. Presumably, messages delivered in these formal contexts had greater influence than the same words

casually spoken.

Findings

Many VoIP deregulation bills reference the need to “modernize” existing policy—a concept consistent with the telecom industry’s digital imaginary. For instance, Arkansas’ Senate Bill claims to “eliminate outdated, unnecessary, and burdensome laws and regulations.” Florida’s bill promises to remove “obsolete” regulations. Michigan lawmakers deregulated VoIP in 2011 when they adopted the Telecommunications Modernization Act. The phrase “modernization” tends to be associated with superiority, such as states that are wealthier and more powerful. Additionally, modernity is sometimes considered a synonym for democratization and progress.

This analysis also identified “economic growth” as part of the digital imaginary created by VoIP deregulation supporters. Georgia called its law the “Telecom Jobs and Investment Act.” New York lawmakers asserted that VoIP deregulation would allow rural residents to “connect to a new world of remote job opportunities.” In Rhode Island, pending legislation states that VoIP deregulation is necessary to “promote the creation of new jobs.” This framing exploits a pervasive belief that the private sector is more capable than government when it comes to solving economic challenges. It also assumes “the free market” will result in wealth trickling down to generate jobs. This study also identified “innovation” as an overriding theme in the digital imaginary surrounding state VoIP deregulation bills. The sponsor of Kentucky’s legislation testified his bill would create a regulatory environment that encourages “investment in new technologies.” During a Connecticut House hearing, an industry representative testified that VoIP regulations burden companies “eager to deliver innovative products and features.” Language adopted by proponents of VoIP deregulation suggests that state oversight threatens America’s venerable history as home to inventions as diverse as the light bulb and the airplane.

Finally, VoIP deregulation supporters routinely frame it as critical to protecting net neutrality and expanding broadband access—another aspect of the digital imaginary devised by telecom companies. An industry consultant characterized California’s bill as “a glorious victory for Internet freedom” and necessary to prevent “would-be regulators from tinkering with the mechanics of the Internet.” A Verizon lobbyist proclaimed that Massachusetts’ proposal would encourage “deployment of broadband technology.” By repeatedly alluding to digital inclusion and an open Internet, supporters of VoIP deregulation imply that reforms provide not just broadband connectivity, but also the positive externalities associated with access—such as professional and educational opportunities.

Conclusion

IP is ushering in changes in communications technology. This provides an opening for state legislatures to alter the rules—with massive implications for both consumers and ISPs. Because telecommunications involve dynamic and complex technologies, the industry is able to create a “digital imaginary” to support its agenda. Specifically, AT&T, Verizon and cable companies have seized on the move to IP technologies as an opportunity to push lawmakers to eliminate their “carrier of last resort” obligations.

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