

Beyond Interests, Ideas, and Technology: An Institutional Approach to Communication and Information Policy

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This article examines the theoretical assumptions generally used in communication and information policy studies, and suggests that more attention to the institutional determinants of public policies is needed. The first part discusses three alternative theoretical approaches: the interest-group approach, the ideological approach, and the technology-centered approach. The second part outlines the conceptual tools of the new institutionalism approach and discusses its application for the study of regime change in telecoms and media. The third part presents an abbreviated example of such application to the case of U.S. spectrum policies and the licensing of digital broadcasting. The conclusion suggests new directions for research aimed at broadening the set of social actors participating in the global governance of new technologies.

Keywords digital TV, new institutionalism, new technology governance, political economy theory, U.S. spectrum policy

Over the past decades, communication and information policy research has generated an impressive amount of knowledge about the wide range of public policy issues that have accompanied the emergence of the information economy. From spectrum licensing to interconnection, access, privacy, standards, intellectual property rights, and ownership, scholars have dissected every major policy issue of the day. However, much less attention has been paid to the dynamics of the policymaking process itself. In other words, we know quite a lot about the intricacies of each policy question (though we might not agree on the policy prescriptions that follow) but relatively little about the un-

derlying forces shaping actual policy outcomes. As argued in this article, this has often precluded scholars and public interest advocates from participating more effectively in substantive policy debates alongside industry stakeholders, regulators, and legislators, particularly as the locus of policy debate shifts toward nontraditional rulemaking bodies.

The field of communication and information policy studies comprises a wide range of theoretical approaches borrowed from a number of preexisting disciplines, in particular economics, political science, law, and sociology. Throughout these disciplines we find different theoretical assumptions about how public policies are formed and embedded into legislation and government initiatives. These assumptions, though not always explicitly articulated, are critical for they provide the analytical link between policy inputs (i.e., collective demands and preferences regarding a particular issue) and outputs (i.e., the actual policies adopted). This article discusses the assumptions generally used in the field of communication and information policy studies and suggests that the field would benefit—in terms of both academic progress and policy impact—from greater attention to the institutional setting within which policy actors operate.

The article begins with a taxonomy of theoretical approaches that have traditionally informed communication and information policy research. Three main approaches are identified: the interest-group approach, the ideological approach, and the technology-centered approach. I suggest that these approaches often overlook long-term institutional factors that shape the way in which regulators and legislators react to policy demands and translate those demands into government action. Drawing on the new institutionalism approach, I then suggest that closer attention to state actors and structures is needed, as well as to the links between societal preferences and actual policy outcomes. In turn, I illustrate this conceptual framework by

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examining the case of spectrum allocation policies in the introduction of digital broadcasting services in the United States. The conclusion suggests new directions for communication and information policy research that informs the current debate on how best to govern new communication technologies that extend beyond traditional policy-making institutions.

A TAXONOMY OF THEORETICAL APPROACHES

Gourevitch correctly asserts that in order to explain public policies scholars must “have some way of accounting for the connection between policy and choice—between what could be done and the various factors that shape what decision makers actually choose to do” (1986, p. 54). In other words, we must somehow link politics and policies. With a few notable exceptions (e.g., Mosco, 1988; Horwitz, 1989; Dutton, 1992; Mueller, 1995), the determinants of government action remain remarkably undertheorized in the field of communication and information policy studies. Nonetheless, it is common to find analytical assumptions about the dynamics of policymaking that explain why governments make certain choices and not others. Within the vast universe of communication and information policy studies these theoretical assumptions vary widely. For simplicity, I focus here on the large body of work that has attempted to explain the dramatic changes in the regulation of communication and information industries in both developed and developing nations since the 1980s. By focusing on that subset of the field I necessarily ignore many nuances, as well as a sizable body of literature published prior to those changes.¹ Such focus is nonetheless necessary to provide a useful mapping of the intellectual field that outlines dominant approaches and reveals research gaps.

The Interest-Group Approach

For every major policy issue in the media, telecom, and information technology industries there are competing groups and organizations advocating different courses of action. These range from well-funded trade associations to small think tanks and informal advocacy networks. Their battle in different policy arenas—legislatures, regulatory agencies, the courts, and often the media—is the most visible aspect of the contested regulatory changes associated with the rise of the information economy. The interest-group approach stresses this push and pull between competing stakeholders. The basic unit of analysis is a social aggregation called the interest group, whose preferences are typically determined by its long-term economic interests. Because policies affect the distribution of resources among market actors, it is logical that these actors attempt to influence policy outcomes in a variety of ways. As

Olson (1971) and others have shown, the higher and more concentrated are the stakes, the more a group will seek to organize and participate in the policy process to promote its cause. It is thus not surprising to observe the mushrooming of trade groups and advocacy organizations dedicated to communication and information policy in the past decades.

In this approach, policy outcomes are typically explicated by the organization and the resources available to interest groups and their support coalitions. In other words, policy outcomes are a function of the power that each interest group is able to amass and wield in support of its preferred outcome. Such power can be measured in a number of ways: the amount of campaign contributions to political candidates, the ability to provide votes, the resources available for lobbying regulators and influencing public opinion, the sheer wealth of the organization and/or its members, etc. As a general rule, the more powerful is the interest group, the more likely it is that government policies will reflect its preferences (Posner, 1974; Becker, 1983). As the preferences and/or the distribution of resources among these groups vary over time, so do the relevant regulatory regimes. For example, the breakup of AT&T has been often explained as a result of changes in the preferences of large telecom users and the emergence of new market entrants, which together successfully organized to challenge the monopoly regime (e.g., Brock, 1994). The weakening of the labor unions has often been cited as a decisive factor behind telecom and media reforms in Europe (e.g., Thatcher, 1999).

There is much variety within the interest-group approach. Pluralists regard elected officials and bureaucrats as rather neutral brokers of compromises between competing stakeholders (e.g., Krasnow & Longley, 1978), while neo-Marxists (e.g., Schiller, 1982) tend to think of them as systematically captured by the most powerful ones. What these scholars have in common is a focus on the balance of power between interest groups as the key explanatory variable of regulatory action. Because state actors are weak, acting only reactively to regulatory demands from self-interested actors, the translation of preferences into policies is generally not problematized. The underlying logic of interest group analysis is often circular: Regulation reflects the interests of the most powerful stakeholders, and the evidence that these are in fact the most powerful stakeholders is that government rules protect and serve their interests.

Most varieties of the interest group approach see a rather small margin for public interest advocacy. For the pluralist, the key problem is one of collective action. The benefits of policies that supply collective goods are typically diffused among users and would-be market entrants, while the costs are highly concentrated among incumbents (Stigler, 1971). These will therefore have greater

incentives to organize and influence policy—the fewer are the beneficiaries, the easier it is to amass resources and coordinate actions against public interest reforms. Regulatory politics will thus tend to favor concentrated interests at the expense of the public interest (e.g., Geller, 1998). Neo-Marxists are, generally speaking, equally pessimistic: Elected officials and bureaucrats tend to be biased toward the most powerful economic groups, either because they share ideological prescriptions or because their interests are aligned with those of large corporations. Government policies, in the long run, will tend to protect the large firms upon which the state depends for investment, employment, and taxation (Garnham, 1990; Murdock & Golding, 1999).

Identifying the economic interests at play and the distributional effects of alternative courses of action is important to understand government action. Nonetheless, the determinants of public policies are too often inferred from a post facto analysis of winners and losers, when in fact several empirical studies have proved that such analysis is often misleading. For example, Vogel (1996) has convincingly shown that the liberalization of entry in the British telecommunications industry did not occur as a result of pressure from large users or potential market entrants (who ultimately benefited from the introduction of competition to British Telecom), but rather emerged from a militant Conservative cabinet determined to reduce the power of the labor unions and overhaul the industrial structure of the “old Britain.” As Hall (1997) and others have argued, the main analytical problem of the interest group approach stems from its conceptualization of political power. Such power is not an inherent property of social actors, but rather a relational variable—a function of certain institutional arrangements that make policymakers more receptive to certain demands and ideas than others. In short, identifying winners and losers is not enough to make causal assertions about the determinants of public policies. While communication and information policy scholars often equate favorable outcomes with interest group power, more rigorous attention to the links between competing social demands and government action is needed.

The Ideological Approach

Ideas play a powerful role in shaping communication and information policies. They permeate policymaking not only because they define how political actors interpret the issues at stake but also because they alleviate uncertainties and help define “acceptable” courses of action (North, 1990). This is particularly important when the likely effects of alternative policy choices are largely unknown, which is often the case in the regulation of rapidly evolving technologies (e.g., Will unlicensed bands lead to spectrum congestion? Will open access rules inhibit infrastructure investments?). In contexts of high informational uncer-

tainty, prior beliefs about the nature of the policy problem, acceptable courses of action, and the most effective policy instruments become critical (Goldstein & Keohane, 1993). Thus, ideological paradigms often provide the basic cognitive template through which decision makers interpret complex problems and assess the validity of alternative policies.

Paradigm shifts have often been linked to policy changes in information and communication industries. According to Derthick and Quirk (1985), the American bureaucratic tradition of recruiting “inners and outers” provided a fertile ground for the dissemination of the academic critique of regulation among regulatory agencies in the late 1970s and early 1980s, which set the stage for the reforms later adopted in telecommunications and other sectors. Others have suggested that the international diffusion of the information economy paradigm helped galvanize support for privatization and liberalization in communication infrastructure sectors (Dutton, 1992; Mosco, 1998). Likewise, scholars have attributed the liberalization of the European media sector to a fundamental ideological shift in the policy goals associated with broadcasting: Once conceived as a reservoir for public debate and national culture, the Euro bureaucrats now considered television as a critical component of the European information economy (e.g., Burgelman, 1997).

Ideology has a natural importance in explaining policy choices. After all, what are these choices but ideas translated into government action? Ideological paradigms, however, do not emerge *ex nihilo*, nor do they diffuse automatically. There must be vehicles for the creation and transmission of ideas. Several organizations perform this function, among them universities, think tanks, trade groups, companies, government agencies, advocacy groups, and so on. For any policy issue at stake there is no lack of competing paradigms to choose from. The problem is to explicate why policymakers embrace certain ideas and not others. This directs our attention to the operating procedures that routinely filter information into the policymaking process, among them the recruiting practices of government agencies, the personal networks that might exist between regulators and stakeholders, the established practices for information seeking, and so on (Hall, 1986). In other words, the task is to understand the patterns by which certain policy prescriptions are formed, disseminated, and validated within a context of incomplete information and competing interpretations about the issue at stake and the desirable course of action.

The Technological Approach

Technological change has played a central role in reshaping information and communication industries in the past decades. It is thus not unusual to find interpretations of

technology as the critical determinant of public policies in telecommunications and media (e.g., Mulgan, 1991). Such interpretations were popularized by a large body of “grayliterature” (i.e., publications issued by government agencies, trade organizations, research centers, professional associations, etc.) that brought attention to the significance of the changes taking place (e.g., EC, 1993; OECD, 1997). While this perspective has seeped into academia, scholars have generally taken a more nuanced approach to the role of technology in driving policy change. An influential body of research stems from the seminal work of Ithiel de Sola Pool (1983). Pool argued that each new advance in communications technology disturbs the established industry arrangements, challenging economic privileges as well as the existing legal apparatus. New technologies—in his words, “technologies of freedom”—compel policy reforms as governments and firms seek to adapt business practices and policy instruments to the new technological environment. Pool correctly notes, however, that such adaptation can take many forms:

The characteristics of media shape what is done with them, so one anticipates that these technologies of freedom will overwhelm all attempts to control them. Technology, however, shapes the structure of the battle, but not every outcome. While the printing press was without doubt the foundation of modern democracy, the response to the flood of publishing that it brought forth has been censorship as often as press freedom. (1983, p. 251)

Pool’s work has nonetheless been often used to advance the idea that new technologies make most existing regulatory controls in telecoms and media obsolete. In this approach, innovations in information processing linked with advances in transmission technologies have created exogenous pressure on the regimes that sustained telecom monopolies and sheltered broadcasters from competition. In response, governments have been forced to liberalize entry, relax controls on pricing and technical standards, and take a back seat on matters of content. The argument rests on three main propositions. First, technological change has raised the cost of regulation relative to its benefits (Huber, 1997). Second, digital convergence has undermined the industry equilibrium based on clear demarcations between types of services (OFTEL, 1995). Third, serious enforcement problems have emerged as governments struggle to impose national laws on increasingly global networks (Johnson & Post, 1996).

It is beyond dispute that technological innovation is a major factor shaping communication and information technology policy. But the intermediating factors between new technologies and changes in the regulatory environment must be spelled out in the analysis. Because new technologies have altered the basic parameters of the in-

formation and communication industries (relative prices, industry boundaries, entry and exit barriers, etc.), political and market actors have sought to adapt the rules of the game to their benefit—either to preserve the established regime (as in the example discussed later) or to challenge it. But the outcome of such battles has varied widely, dictated more by a political than a technological logic. For example, it is well established that government responses to innovations in telecommunications have been quite different among developed as well as developing countries (Levy & Spiller, 1996; Petrazzini & Krishnaswamy, 1998).

While new technologies enable some choices and preclude others, policy outcomes ultimately depend on the interaction between the attributes of innovations and the permeability of existing regimes for change (Zysman, 1994; Benkler, 1998). The variety in national approaches to every major issue in communication and information policy, from local loop unbundling to digital copyright law, amply demonstrates that technology alone cannot explain the course of policy. This type of reasoning has been more often used to justify than to explain policy changes. The fact remains that institutions and social actors are key mediators between technological innovation and policy reforms, which ultimately makes the outcome more unpredictable than many would like to think, or preach.

INSTITUTIONS, INCENTIVES AND POLICY CHOICES

The taxonomy of theoretical approaches just presented is neither exhaustive nor exclusive. There are certainly other ways to explore the determinants of information and communication policies, and one often finds studies that—either implicitly or explicitly—span more than one approach. The mapping nonetheless reveals major gaps in our understanding of why policymakers embrace certain paradigms and favor certain interests over others. Two important points have emerged from this review. First, policymakers often make choices that are not reducible to the preferences of powerful interest groups. Of course, political autonomy varies widely for different policy bodies as well as across nations. For example, British ministers typically have at their disposal an array of instruments to enact regulatory reforms that American policymakers can only dream of (Weaver & Rockman, 1993). Still, it remains analytically important to consider the preferences of different government actors—however constrained they might be—as separate from those of other stakeholders.

Second, the state is not simply an open arena where interest groups wage rent-seeking battles. The organization of the political system, the operating procedures of regulatory agencies, the opportunities for judicial reviews—these and other arrangements are significant because they often determine whose voices are heard in the policy

process and whose are silenced, which groups sit at the bargaining table and which do not, or whose proposals are deemed acceptable and whose are not. Therefore, in order to understand why certain stakeholders are consistently favored over others, why certain governments are capable of passing reforms and others are not, or why diffused interests are represented in some cases and not others, it is necessary to examine the institutional fabric that underlies the making of information and communication policies.

Such is the starting point for the conceptual framework generally known as new institutionalism. The label refers to a broad range of studies bound together by their emphasis on institutional factors to explain policy and economic outcomes (Krasner, 1989; North, 1993; Cowhey & McCubbins, 1995). The term "new" is intended to acknowledge the roots of this approach in the works of classic political economists such as Max Weber, Thorstein Veblen, and Karl Polanyi, who first conceptualized the relation between legal institutions, economic performance, and social interactions (Stinchcombe, 1997). The new institutionalism approach nonetheless differs from earlier institutional analysis in a number of ways. First, it takes a broader view of institutions, looking not only at formal political structures but also at informal arrangements such as routine organizational procedures and accepted behavioral norms (March & Olsen, 1984). Second, current institutional analysis avoids the grand theorizing characteristic of earlier social thinking, focusing instead on middle-range studies that connect specific economic and policy outcomes with particular institutional patterns at the regional, national, or even local level.

Institutional analysis focuses attention on state actors and structures to explain public policies. It underscores how both formal and informal arrangements shape political interactions and influence the outcome of government action. In general terms, institutions refer to, as North explains, the "composite of rules, informal constraints (norms of behavior and conventions) and their enforcement characteristics. Together they define the humanly devised constraints that shape human interaction. They are the rules of the game and therefore define the way the game is played" (1990, p. 364). Hall (1992) further distinguishes three layers. At the more general level lie the basic organizational arrangements associated with the state (e.g., a democratic political system) and the economy (e.g., market capitalism). This the level at which classical political economists and contemporary neo-Marxist work.

Second follows the more specific organizational arrangements of the modern state, such as regime type (e.g., parliamentary vs. presidential systems), the organization of interest groups, the electoral system, and the regulatory design. There is a growing body of work that demonstrates the analytical strength of these variables to explain communication and information policies, partic-

ularly in comparative perspective. For example, Noll and Rosenbluth (1995) find that the differences in telecommunications reforms adopted in Japan and the United States can be traced back to their distinct political arrangements: In Japan, centralized decision making and a single legislative body elected in multimember districts stacked the deck in favor of piecemeal deregulation to protect large domestic equipment manufacturers, while the American system of federal government, separation of powers, and legalized rulemaking created less opportunities for managing market entry and exit, thus favoring more rapid liberalization.

At the lowest level of generalization are the standard procedures and operational routines of bureaucratic agencies. These include both formal rules (e.g., mandatory consultation procedures) and informal patterns of behavior (e.g., standard recruiting practices). These variables have also proved fertile for policy analysis. For example, Noll (1986) suggests that the complex, evidence-based procedure for rulemaking and the adjudication of disputes that the FCC must follow, while minimizing bureaucratic discretion, also tends to benefit stakeholders with significant informational and organizational resources. This tends to inhibit new technology adoption because the agency is often reluctant to endorse technologies that well-organized incumbents are likely to challenge in the courts or Congress.

An institutional approach does not ignore ideological factors or interest-group pressure as important determinants of policy outcomes. It nonetheless suggests that a complex web of institutions mediates between these and government officials, filtering ideas and pressure in specific ways. As noted, policymakers make choices within an institutional structure that defines the information available to them, the policy instruments at hand, the way interest groups are organized, the costs and rewards associated with alternative courses of actions, and the legacy of past policies. This structure not only determines the capabilities and constraints of those who *make* policy but also of those who try to *influence* policy. Thus the choice of institutional design affects the ability of different interests to influence outcomes. As we discuss in the conclusion, this has been at the core of debates about the emerging governance regime for the global Internet.

Another strength of institutional analysis is the internalization of so-called path-dependency effects. These result when long-term commitments made by individuals or firms constrain future policy trajectories (Krasner, 1989; North, 1993). Because these commitments often represent sunk costs, market actors tend to resist policies that significantly alter the established rules of the game, thus facilitating policy choices consistent with the existing institutional regime and inhibiting those deflecting from it. Changes are possible at the margin, but major shifts require the mobilization of considerable political resources,

and often side payments to compensate losses incurred by individuals or organizations. These conceptual tools, borrowed from the work of economic historians (e.g., David, 1986; Arthur, 1989), have been increasingly applied to understand the evolution of policy in communication and information industries, where sunk costs in infrastructure, research and development (R&D), and so forth can be substantial. For example, Cherry and Bauer (2002) argue that the peculiar historical path of telecom reforms in the United States made tariff rebalancing more difficult than in the European Union (EU) because the breakup of AT&T created intense regulatory conflict between the regional Bell operating companies (RBOCs) and long-distance operators. Similarly, Benkler (1998) finds that spectrum management policies in the United States solidified a model of infrastructure development dependent on large investments by a handful of licensees, which over time has inhibited alternative models based on unlicensed spectrum bands and small-scale operators.

The new institutionalism approach thus provides a solid conceptual foundation to examine the determinants of communication and information policies, and is particularly useful for international comparisons and the study of long-term policy patterns. It fills significant theoretical gaps in the field by redirecting attention to the institutional context within which public policies emerge. The following section provides an abbreviated example of such approach. It examines long-term trends in spectrum licensing policies in the United States, with particular attention to the licensing of digital terrestrial broadcasting in the mid-1990s, and discusses alternative explanations for the observed bias in favor of incumbent local broadcasters. A more exhaustive elaboration of the argument can be found in Galperin (2004).

THE DETERMINANTS OF U.S. SPECTRUM POLICIES, OR WHY BROADCASTERS ALWAYS GET WHAT THEY WANT

The broadcast spectrum band comprises 67 channels spanning 402 MHz in the VHF and UHF bands. These valuable frequencies are home to 1,700-plus full-power stations across 210 local markets, an average of only about 8 stations per market.² There are two main reasons for this underutilization: first, technical rules that provide for wide separation between stations to prevent interference (so-called “guard bands”), and second, the fact that many small local markets cannot support more than a few stations. Until the 1980s there was little pressure to address this situation because demand for spectrum grew slowly, and technological innovations made possible the utilization of previously unusable frequencies as well as the more intensive use of existing ones. While tensions occasionally surfaced, increased spectrum supply minimized conflict.

Since then, however, demand has soared as a result of the exponential growth of mobile telephony and other wireless communication services. Pressure to revise the existing allocation of spectrum rights began to mount as analysts warned of a severe frequency drought. Digital broadcasting, on the other hand, promised to bring some relief to the spectrum crunch. The new technology made possible better utilization of radio frequencies by allowing several stations to be transmitted within a standard broadcast channel (6 MHz), and by allowing licensees to broadcast much closer to each other, thereby reducing the need for large vacant intervals between stations. Digital broadcasting thus invited sweeping reforms in the allocation of broadcast spectrum. Yet a series of policy choices made by the Federal Communications Commission (FCC) since the late 1980s and ratified by Congress in 1996 left the existing spectrum regime almost intact.

The original plan for the introduction of digital broadcasting grew out of political maneuvering by incumbent local stations to deter spectrum sharing with new wireless services. In 1985, a number of parties petitioned the FCC to relax restrictions on the sharing of UHF channels by land mobile operators. The coalition was led by Motorola, which manufactured the two-way radios used by public safety organizations and commercial delivery companies. Since the early 1970s, land mobile and analog TV had been sharing a small portion of the UHF spectrum (channels 14–20). The coalition demanded that the sharing agreement be extended to other unused UHF channels and that interference-prevention rules be relaxed. Broadcasters vehemently opposed the proposal and persuaded the FCC that such reallocation would obstruct the upgrading of existing services to high-definition TV (HDTV). This sparked a chain of events that led to the formulation of a government plan to upgrade the entire broadcast TV infrastructure from analog to digital.

The plan was conceived in the late 1980s by an FCC advisory committee (the Advisory Committee on Advanced Television Service) largely controlled by incumbent broadcasters. Not surprisingly, it called for limiting the allocation of digital TV licenses to local incumbents, each of which would receive a second 6-MHz channel to launch digital services. After a transition period (initially 15 years, later reduced to 10), analog transmissions would cease and the channels would be returned to the government for reallocation to new services. In the most crowded markets, some low-power broadcasters would have to be displaced to make room for new digital allotments to full-power incumbents. Ironically, the American public would end up with less choices than in analog TV.

As the process unfolded, a broad alliance of interest groups, political entrepreneurs, academics, and public interest advocates coalesced against the plan. The context resembled the 1967–1975 period, when an heterodox

political coalition challenged the existing license renewal process (Horwitz, 1989). The new coalition was also heterodox: It included free-market academics and taxpayer groups demanding that the new licenses be auctioned, media access advocates pressing for better opportunities for community and noncommercial TV, and wireless operators seeking cheaper access to the airwaves. Key allies were found in the White House, in Congress, and even within the FCC.³ For the first time, having broadcasters pay for spectrum was being seriously debated in Congress and elsewhere.

Broadcast trade groups led by the National Association of Broadcasters (NAB) mounted a formidable lobbying campaign in support of the original licensing plan. Local stations across the nation ran spots prepared by the NAB claiming that spectrum auctions threatened free local TV and urged viewers to mobilize against the "TV Tax." The context presaged an uphill battle for broadcasters. Both parties agreed on the need to balance the federal budget, and the billions of dollars raised by the PCS license auctions in early 1995 created strong incentives for considering alternative licensing schemes, including auctions. The demand for spectrum continued to soar, and the White House as well as several senior FCC staff members clearly favored a plan that could make more frequencies immediately available for other users. Moreover, the elite press was unabashedly critical of the plan for its largesse with broadcasters, a largesse estimated to be worth somewhere between \$11 and \$70 billion.

The issue came to a climax in early 1996, when Congress prepared for a final vote on the new Telecom Act. Ultimately, the bill that passed met broadcasters' key demands: The FCC would dole out digital TV licenses to existing licensees exclusively, with few strings attached.⁴ Combined with a number of other favorable provisions (a rise in ownership caps, the extension in the duration of broadcast licenses, and reduced scrutiny for license renewals), there was hardly more than broadcasters could have bargained for. A year later, Congress introduced an equipment penetration safeguard that effectively extended the deadline for the return of analog channels well beyond the original 10-year period.

Let us now consider how each of the theoretical approaches discussed earlier sheds light on this outcome. To some, the answer is evident: The Congressional majority yielded to the lobbying campaign organized by the powerful broadcast interests. But the question of why this lobbying effort was more effective than that of the coalition that opposed the plan remains open. After all, the coalition also included large corporations such as mobile telephony operators and many of the information technology industry heavyweights. In terms of their degree of organization and the resources available for political action, these stakeholders can hardly be considered less "powerful" than

local broadcasters (unless power is measured by successful influence on policy outcomes, which as noted before is a circular argument). The interest-group approach thus tells us little about why broadcasters were able to block reforms. The ideological approach seems equally unsatisfactory. In fact, if anything, there was growing consensus among academics and the policy elite that the transition to digital demanded serious spectrum management reforms (e.g., Pepper & Levy, 1999; Sunstein, 2000). The technology approach is also of little explanatory value: As a matter of fact, most other nations have introduced a digital multiplexing scheme whereby incumbents broadcasters are expected to share capacity with new entrants (Galperin, 2002).

Let us turn now to the examination of the institutional arrangements within which U.S. spectrum policies are formulated. Consider the American electoral system. The system is based on single-member districts elected in most cases by plurality of votes, creating strong incentives for congressional representatives to develop a personal vote (Cain et al., 1984; Cox & McCubbins, 2001). In other words, the fortunes of individual congressional members are tied less to the party's national performance than to each one's ability to raise campaign funds and deliver benefits to constituencies within their districts. The system is also unique for its lax rules on political advertising and the lack of mandatory free airtime for political candidates (Norris, 2000). Cultivating friendly relations with local broadcasters is therefore crucial for nurturing a personal vote. These relations are based on what Hazlett and Spitzer (2000) have described as a quid pro quo between legislators and broadcasters: Valuable spectrum rights are traded for "good" political behavior.

Therefore, in rejecting auctions and endorsing the licensing plan, legislators were not simply reacting to pressure from a powerful interest group. They were also self-interestedly defending a convenient arrangement that tends to favor incumbent reelection, since incumbents are typically better funded and attract more coverage than challengers (Snider, 2001). With general elections only months away, the Congressional majority acted conservatively against alternative licensing plans which carried high political risks in the present but uncertain future rewards. The original licensing plan was an attempt to reinvent spectrum scarcity when the new technology in fact challenged it, and thus extend the existing quid pro quo between legislators and local broadcasters into the digital TV era.

In historical perspective, the fact that U.S. spectrum policies have consistently benefited incumbent broadcasters (at the expense of other well-organized and well-financed interest groups) reflects not only the "power" of the NAB and other broadcast trade groups but more critically the organization of the American electoral system which tends to create shared preferences between local

licensees and incumbent legislators. While the FCC has in recent times often challenged this arrangement, legislators have a variety of instruments at their disposal to secure agency compliance, including—as in the preceding example—direct legislation.⁵ It is interesting to note that in other nations different political arrangements have favored different licensing schemes for digital TV. In Britain, for example, a prohibition on political advertising on TV and strict rules about editorializing and reporting create less opportunities for bargains between broadcasters and elected officials, since there is less at stake to begin with. Not surprisingly, the licensing of digital broadcasting has been accompanied by drastic reforms in the allocation of spectrum rights.

CONCLUSION

The new institutionalism has much to offer to communication and information policy scholars at a time when the governance regime for new technologies is growing in complexity. Today, the rules created and enforced by traditional regulatory bodies on a national scale are now only part of a multilayered regime that includes international treaties, voluntary self-regulation, and semipublic cooperative arrangements under the umbrella of a vast collection of organizations (Marsden, 2000; Drake, 2001). This opens a fertile new territory for institutional analysis, for it provides the conceptual tools to investigate the implications of different institutional designs for the global governance of new information and communication technologies. There is a growing body of literature exploring how different choices in the operating procedures of nontraditional policymaking arenas such as ICANN and IETF affects the ability of different interests to influence outcomes (e.g., Froomkin, 2000; Mueller, 2002; Price, 2002). While the implications of different policymaking arrangements at the national level are rather well understood, we are only now starting to grasp those of a more fluid, ad hoc, non-sovereignty-based process of regulating global networks. For example, what would be the result of increased ITU oversight of the Internet as demanded by many developing nations in the World Summit on the Information Society? In this sense, institutional analysis can productively inform these ongoing debates.

An important component of this research agenda will be to map out the changing balance of power resulting from this transformation in the global communication order. As noted, an important contribution of institutional analysis has been to reveal the structural barriers faced by public interest groups in communication and information policymaking at the national level, among them lack of bureaucratic transparency (particularly in developing nations), complex rulemaking processes, and lengthy consultation and appeal procedures, all of which militates against

representation of diffused interests. Generally speaking, traditional rulemaking bodies, at both the national and international level, were not designed to accommodate participation by nontraditional political actors (e.g., NGOs). As new policymaking arenas emerge and old ones are reconfigured, an institutional perspective could similarly contribute to detect new mechanisms of exclusion, and hence could inform the creation of arrangements that enable broader participation by new actors in the governance of global communications.

NOTES

1. In particular, this ignores the seminal work of Harold Innis, Dallas Smythe, Herbert Schiller, and several others.
2. According to the most recent data produced by the FCC Media Bureau (September 2003).
3. In fact, FCC Chairman Reed Hundt proved to be one of the more staunch critics of the digital TV licensing plan (see Hundt, 2000).
4. In return, local incumbents agreed to the formation of an ad hoc Presidential committee to advise the government on the public interest obligations to be imposed on digital broadcasters. After fifteen months of deliberations, the committee produced a rather toothless report that is yet to translate into any substantive rules (Taylor & Ornstein, 2002).
5. For a discussion see McCubbins and Schwartz (1984).

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