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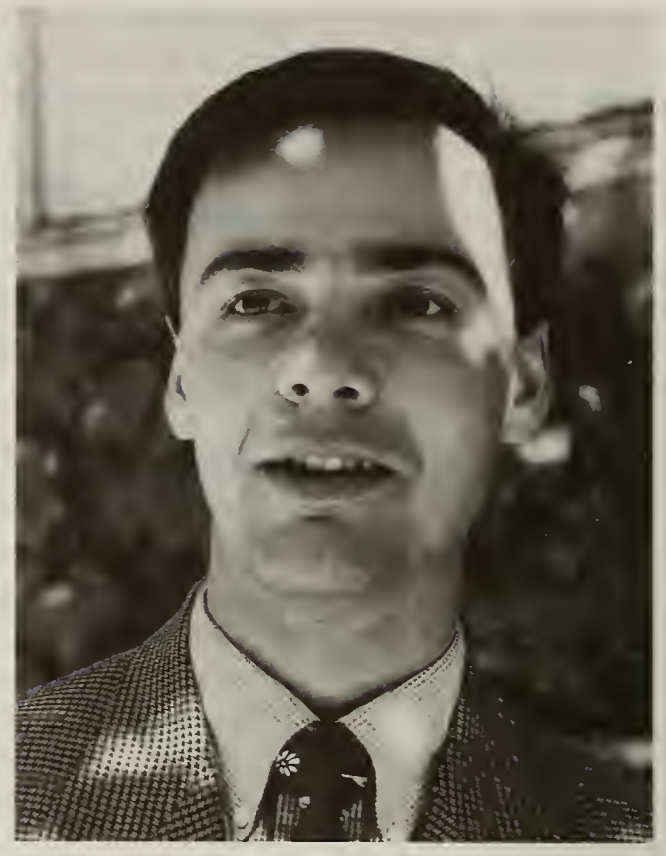

Introduction

The 104th Congress is in the midst of the first wholesale reform of telecommunications regulation in one-half century. The new regulatory framework emerging in the Republican-controlled Congress, if enacted, will usher in a radically deregulated, market-driven telecom environment, one in which the benefits of the emerging national information infrastructure will likely be distributed differentially, based on ethnicity and socio-economic status. Many U.S. residents may actually be charged higher rates for essential telecommunication services after deregulation (just as they did when cable television was deregulated), which may force many vulnerable users off the network. In addition, the concentration of media ownership eschews the viability of greater minority control of telecommunications and media outlets. The irony then is that although advanced, interactive technologies promise empowerment and choice, a *laissez-faire* approach to reform may exacerbate fault lines in the information society between those who are already advantaged and less affluent ethnic and racial minorities.

In the 1940s, Joseph Schumpeter coined the term "creative destruction" to refer to the rapid economic and technological transformations that typify societies dominated by market economies.[1] The act of creating new products inescapably leads to the destruction of what preceded it. Knowing that the market is dynamic, it is difficult at best to prognosticate with any confidence how the destruction of the old industrial-age order—centered on the production and movement of commodities—will affect communities of color. There will no doubt be opportunities as well as hurdles to overcome as the creation of the new order—founded on the commodification of digital bits—supersedes the transfer of material things. But a just, reasonable, and compassionate public policy is necessary (although insufficient) to ensure that these opportunities are available to all strata of society. Rather than pinpoint the exact nature of these changes, this essay will simply provide guideposts with which interested persons can hopefully find their bearings as day breaks over the information society.

Latinos and Telecommunications Today

The telecommunications debate in the U.S. is at a crossroads. However, the voices of Latinos[2] have been conspicuously absent. When the White House Advisory Council on the National Information Infrastructure was first announced, for example, not a single Hispanic was on it. Only later was Eduardo Gomez, president and general manager of Albuquerque's KABQ radio added to the Council. The importance of this Council (and of telecommunications policy in general) for Latino communities cannot be overstated. In a society that is becoming more technology-dependent, all communities of color must have access to the tools that will both meet their information/communication needs and increase their prospects for success in the global economy.

The lack of access to the policy process on the part of Latinos is all the more disconcerting since Hispanics currently lag behind non-Hispanics in access to and use of telecommunications tools, namely, telephones and computers. While most take for granted the presence of a telephone in the home, Hispanic households lack basic service at a rate 2 1/2 times the national average. In November 1994, for example, the national telephone penetration rate was 93.8 percent. However, for Latino households, only 85.8 percent had access to a phone.[3] Without links to the outside world, many Latino residents may face further marginalization from the society at large.

Although they are fast becoming vital components of work, school, social and private media environments,

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advanced telecommunications technologies such as computer networks are also disproportionately absent from the lives of America's Hispanic communities. In terms of home computer access, the rate for whites, as of November 1994, was twice that for Hispanics, with over one in four whites (28.6%) in the U.S. having a home computer compared to one in eight Hispanics (13.1%).[4] Hispanics are also less likely to use a computer at work, with 29.3 percent of Hispanics using a computer on the job compared to 45.8 percent of all persons.[5] Although some of the gap between Hispanics and non-Hispanics can be explained by income (after all, Hispanics are disproportionately low income), a Tomás Rivera Center report finds that even when income and education are held constant, Latinos are still less likely to have access to essential information technology.[6]

Creative Destruction in the Technological Society

Fostering computer literacy among Hispanics, especially children, cannot be overemphasized, since the emerging information society will leave in its wake those who lack the skills needed to compete. Those who have PC skills already earn more than those without. Conversely, individuals without computer literacy may face obsolescence in a dynamic marketplace.[7] As Peter Drucker has pointed out, "universal literacy of a very high order is the first priority . . . without it, no society can hope to be capable of high performance in the post-capitalist world and in its knowledge society."[8] This knowledge society about which Drucker writes is one in which the manipulation of computers and an understanding of the dynamics of technology are essential.

Latinos face formidable challenges in being disproportionately implicated in the technologies and social relations of the late industrial age—an age that is currently experiencing its eclipse by the post-industrial, information-based economy. To illustrate: Latinos attend classrooms with fewer computers per capita than their non-Latino counterparts;[9] go to schools with facilities not designed or equipped for a twenty-first century educational infrastructure;[10] live in media environments dominated by passive, one-way tele-technologies such as television, rather than interactive, computer-based multimedia;[11] and work disproportionately in jobs that are susceptible to obsolescence due to advances in technology.[12]

In many ways, how Schumpeter captured the dynamic of capitalism in the early 1940s—describing its frenetic impulse to found new markets and new consumer goods—is more relevant today than ever before. The rhythm of change is more rapid, which puts greater burden on people to adapt more quickly. The example of the computer is relevant here. The processing power of the microchip doubles at least every eighteen months, demanding the birth of new hardware and software and the simultaneous banishing of the older technology to yard sales and attics. The newer technology—e.g., the Pentium processor—puts pressure on public and private institutions to upgrade so as not to "fall behind." This means schools must spend precious resources on extremely capital-intensive equipment; parents must ponder purchasing a multimedia system with enough memory to run the array of images that keep their children so enthralled; and employers must invest in retraining their workers to compete in a hi-tech, global economy. For those shrinking numbers who are fortunate enough to make the adjustment to a technology-intensive society, their opportunities for success are greatly enhanced. Conversely, the multitudes who do not have the resources, skills, and knowledge to adapt (a disproportionate number at present being ethnic and racial minorities) will likely continue to experience high rates of unemployment, poverty and marginalization.

The Dawning of a New Regulatory Framework

Although the development of the national information infrastructure is largely market-driven, prudent public policy can help ease the transition process so that access to the information and communication tools of the future will be made available to all residents. A policy that unleashes the market before the conditions are in place for viable competition may adversely impact low-income customers. Following the divestiture of AT&T and the subsequent end of cross-subsidization of basic residential service, for example, most states developed universal lifeline policies that eased the cost burden on low-income users. As California State Senator Richard G. Polanco has suggested, "the 'tools of technology' that we use in government must provide maximum benefit to all our residents. We must do all we can to remove the glass ceiling that separates the information poor from the information rich. What that requires is thoughtful policy..."[13] What this statement reveals is the enduring relevance of good public policy to the development of just, reasonable, and compassionate telecommunications laws.

We must do all we can to remove the glass ceiling that separates the information poor from the information rich.

The U.S. Congress is currently overhauling telecommunications policy. In March, the Senate passed the "Telecommunications Competition and Deregulation Act of 1995" (S. 652), whose stated purpose was to "provide for a pro-competitive, de-regulatory national policy framework." In many respects S. 652 conflates the concepts "deregulation" and "competition," as if the elimination of current regulatory barriers would ineluctably lead to competition. On the contrary, the "Communications Act of 1995," which by most accounts was more radical than the Senate bill, calls for an end to many cross-ownership rules and the rapid deregulation of cable television rates. These provisions by no means assure the cultivation of a competitive

telecommunications environment.

The Clinton Administration has circulated its misgivings about the Senate and the House versions of the telecommunications bill. In a letter to Senator Ernest Hollings, President Clinton summed up his concerns as follows:

> Legislation should protect and promote diversity of ownership and opinions in the mass media, should protect consumers from unjustified rate increases for cable and telephone services, and, in particular, should include a test specifically designed to ensure that the Bell companies entering into long distance markets will not impede competition.[14]

The Administration seems to understand perhaps better than the majority in Congress that "real competition" does not follow directly from the elimination of the rate-of-return regulatory model. Pushing for Department of Justice (DOJ) involvement in the determination of whether entry by local exchange carriers into new markets would indeed promote competition, for example, provides a check against unbridled concentration of ownership. While the Congress is pushing for an end to traditional government regulation of the telecom industry and a downsizing of the Federal Communications Commission (FCC), the Administration remains committed to as much governmental oversight as will protect the public interest.

The States are already opening their local telephone markets to competition, with twelve states now open to competition (including Illinois and New York) and twenty others (including California, Texas, and Florida) allowing partial competitive status to telecommunications providers.[15] The states have been experimenting with alternative regulation for some time, and have offered companies various incentives to build innovative infrastructures while preserving universal service and keeping rates down. Since 1987, for example, state regulatory commissions have ordered rate reductions totaling $4.11 billion.[16] They wince at the thought of federal preemption of state and local barriers to competition (see S. 652, § 201; HR 1555, § 243), arguing that they have a better understanding of their markets and local exchange companies than the federal government.

Impacts of Telecommunication Deregulation

Following the break-up of AT&T in 1984, a number of smaller Regional Bell Operating Companies (RBOCs) were carved out of Ma Bell to provide local telephone service in the United States. These companies (NYNEX, Bell Atlantic, Bell South, SBC Communications, Ameritech, U.S. West, and Pacific Bell), along with a few independent local telephone service providers (most notably GTE), are some of the greatest proponents of competition. Since these companies have abundant economic resources (1993 revenues totaling $84.2 billion)[17] they favor immediate deregulation, which would give them a green light to enter the long-distance business. They oppose the language of "facilities-based competitors" which they claim would delay their entry into long-distance. To influence key legislation such as this, the RBOCs have contributed over $12.5 million to members of Congress between 1984 and 1994.

Long-distance companies, such as AT&T, Sprint, and MCI, are also major players in the telecommunications arena, with revenues topping $60 billion in 1992.[18] They intend to compete on the local level while providing national backbones for telecommunications services. Thus, they favor relatively rapid deregulation, with the precondition that the RBOCs face actual competition in the local phone market before they are permitted to compete head-to-head for long-distance services. Armed with high profile lobbyists like Howard Baker and having sunk over $9 million into the war chest of elected officials, long-distance companies have had enormous impact on the shape of this legislation. The industry is also branching out into the provision of cellular, wireless and Personal Communications Services (PCS). PCS will include portable personal faxes, data telecommunications, and a number of other new applications.

The effects of deregulation on Latino communities will be dramatic. Those in favor of immediate deregulation often point to the tremendous benefits that are forecast by some economists. Those in favor of a more moderate, protracted process not only contest these economic forecasts but also point to the potential social impacts of removing the regulations that currently bind telecommunications companies, most notably, cross-ownership and universal service provisions.

Many advocates of immediate, complete deregulation, the RBOCs in particular, point to the substantial benefits that fewer regulations could have on the U.S. economy. To this end they have funded several studies to measure the economic impact of deregulation. A recent report by the WEFA Group, an international economic forecasting firm, projected that there would be significant consumer savings over the next decade following *immediate* deregulation.[19] PNR & Associates, a marketing research organization specializing in telecommunications, analyzed the WEFA data to determine to what extent savings would be realized by all ethnic groups. The report found that Hispanic consumers would save more than average because they spend more per household on various communication services. The projected monthly savings, by industry, are $17 per household on long-distance service; $8 per household on cable TV services; and $2 per households on local telephone service.[20] In sharp contrast, a study conducted by the Consumer Federation of America (CFA) on the impact of S. 652 reveals that residential rates would initially increase from the current average of $13.21 to $22.45 after the first year, and $40.00 after four years.[21] As is clear from the CFA study, basic rates for phone service would increase by over 200 percent over the next four years under the deregulatory conditions of S. 652, resulting in a cost to consumers of $44 billion.

In addition to the economic impacts of deregulation,

certain provisions which the current legislation addresses (as well as features that the bills ignore) are sure to have a profound impact of the social, political and interpersonal lives of Latinos. There are three issues of particular importance. The first issue is universal service, the provision of advanced telecommunications and information technologies and services to all U.S. residents at "just, reasonable, and affordable rates."[22] Both the House and the Senate bills call for a Federal-State Joint Board, instituted by the FCC, to recommend rules regarding the definition, implementation and enforcement of a universal service policy. While the issue of telecommunications is undoubtedly complex, it is intriguing that yet another entity must be created to provide recommendations about what is just and reasonable. As early as the 1920s, John Dewey worried about the control of society by experts—those elites who were "in the know" about complex issues—since they often not only clarified the technical issues for the larger policy but also the moral, political and social ones as well. A universal service policy that attends more to the advancement of higher capacity conduits and more powerful hardware and less to the improvement of the human community (e.g., valuing the network for the diversity of voices that are on it) is one of which the public should be suspicious.

The erosion of cross-ownership barriers and the continued consolidation of telecommunications and media output, secondly, will send tremors through minority communities. It is clear that the "media monopoly," to use Ben Bagdikian's term,[23] is inimical to the diversity of sources that could carry the voices of Latino and other minority communities. The cost of entry is so high to acquire licenses for broadcasting and advanced telecommunications services such as PCS that minorities are at a distinct disadvantage relative to established media goliaths. What is more, the relaxed cross-ownership restrictions on broadcasters means that smaller minority companies may lose out in publishing and producing the images and words that portray their communities in the most authentic manner. A recent report by the National Council of La Raza, for example, suggested that Hispanics are almost invisible in both the entertainment and news media, and when they did appear, they were "consistently and uniformly portrayed more negatively than other racial and ethnic groups."[24]

The final issue surrounds the development of an "open architecture platform" that would enable all users to access a low-cost, switched, digital network. If an open platform were constructed (rather than one in which end-users can merely choose from a preselected menu of movies, products, channels, etc.), then users could be publishers as well as consumers of information; they could participate in public forums and access a wealth of information, services and applications that could potentially meet their needs. One key is to have sufficient upstream capacity to originate and to receive these services, many of which require enough bandwidth to transmit full-motion video, multimedia, etc. As a recent release by the Electronic Frontier Foundation (EFF) stresses:

> If new network services are deployed with adequate down- and up-stream capacity, and allow peer-to-peer communication, then each user of the network can be both an information consumer and publisher. Network architecture which is truly peer-to-peer can help produce in digital media the kind of information diversity that only exists today in the print media.[25]

Actually, the EFF probably overestimates the diversity in today's media, as the NCLR report shows. The benefit of the interactive network is to empower *individual users* to publish their own stories, rather than having these be mediatized by the dominant culture.

One concern in the development of an open platform—the sort that cable and telephone companies have promised—is the circumvention of low-income and minority communities in the provision of advanced services. A recent report released by the Center for Media Education (CME) found that several local exchange carriers were engaged in electronic redlining, bypassing low-income and minority communities in the advancement of video on demand.[26] According to CME, the communities that are now being outfitted for video dialtone have median incomes of between $50,000 and $60,000, about 2½ times the income of the median Latino household.

Conclusion

A critical issue for policymakers is to ensure that a flexible baseline for essential service be established, above and beyond which the *users*, not the basic subscribers, will pay for services. The deregulation of the telecommunications industry is going to pose a number of new challenges to society. To ensure that the goals of universal service, access, and affordability are promoted will require the concerted efforts of policy makers, non-profits, the private sector, consumer groups, etc. While facilitating greater competition would likely create the conditions for greater media ownership for Latino firms and lower rates for residents, imprudent legislation might destroy this foundation. The result could well be a fractured society in which low-income persons as well as ethnic and racial minorities are isolated from the rest of society. To mitigate against growing inequalities in society between (information) rich and poor, policy makers and industry must be held accountable for their decisions on such vital issues as telecommunications policy and development. They ought to respond to the needs of their constituents/ customers—in particular, those who for too long have been ignored—and not only to the affluent society.

Notes

[1]See Joseph Alois Schumpeter, *Capitalism, Socialism, and Democracy* (New York: Harper, 1942). I borrow from Schumpeter his dynamic analysis of the market. Although the economist had plenty to say about monopoly capitalism, it plays no part in this analysis.

[2]This article uses the terms Latino and Hispanic interchangeably to refer to people who can trace their ancestry to the Spanish-speaking regions of Latin America and the Caribbean. The term Latino communities is also used to recognize the perceived heterogeneity among the major Latino national origin populations in the United States.

[3]Alexander Belinfanter, *Telephone Subscribership Data* (Washington, D.C.: Federal Communications Commission, 1995).

[4]U.S. Department of Commerce. *Current Population Survey* (Washington, D.C.: Bureau of the Census, 1994).

[5]U.S. Department of Commerce. *Current Population Survey* (Washington, D.C.: Bureau of the Census, 1993).

[6]A new study by the Tomás Rivera Center reveals that even when we control for age, education, income and occupation, non-Latinos are still 1½ times more likely than their Latino counterparts to have a computer in the home. See Anthony Wilhelm, *Latinos and Information Technology: Preparing for the Twenty-First Century* (Claremont, CA: The Tomás Rivera Center, 1995).

[7]For an intriguing argument on how innovations in technology are actually responsible for the loss of millions of jobs in the U.S., many of which having been performed by Latinos in the agricultural and manufacturing sectors, see Jeremy Rifkin, *The End of Work: The Decline of the Global Labor Force and the Dawn of the Post-Market Era* (New York: Jeremy P. Tarcher/Putnam, 1995).

[8]Peter F. Drucker, *Post-Capitalist Society* (New York: HarperBusiness, 1993). For another version of the story about the decline of work and the rise in currency of an elite group of *symbolic analysts* responsible for the manipulation of information and knowledge, see Robert B. Reich, *The Work of Nations* (New York: Random, 1991).

[9]According to Henry Jay Becker, the average Hispanic student's school nationwide has nineteen percent fewer computers per capita than the average student's school. See *Analysis and Trends of School Use of New Information Technologies*, prepared for the U.S. Congress, Office of Technology Assessment (Washington, D.C.: U.S. Government Printing Office, 1994).

[10]See U.S. General Accounting Office, *School Facilities: America's Schools Not Designed or Equipped for 21st Century* (Washington, D.C.: U.S. Government Printing Office, 1995). The report states that "to prepare the nation's children and teenagers to be competitive workers in the 21st century, experts and business leaders say modern telecommunication technologies should be part of America's elementary and secondary education, not just the sole province of a few schools" (7). However, many schools lack the conduits, fiber-optic cables, wiring and power to be able to support advanced hardware.

[11]For an interesting article on the dominant place of the television in today's American household, see Todd Gitlin, "Flat and Happy," *The Wilson Quarterly* 17:4 (1993): 47-55. Although it could be argued that the television as a passive medium will soon be replaced by a more interactive medium, video on demand and other broadband services will arrive first in the homes of the affluent, not in most Latino households, the overwhelming majority of which being low and middle income.

[12]See Jeremy Rifkin, *The End of Work: The Decline of the Global Labor Force and the Dawn of the Post-Market Era* (New York: Putnam, 1995) and Benjamin R. Barber, *Jihad vs. McWorld* (New York: Times Books, 1995) for an analysis of how the service and information sectors are displacing employment, particularly those jobs in manufacturing and agriculture. Since Latinos are disproportionately laborers, farmers, operators, etc., many face bleak prospects without retraining and relearning opportunities.

[13]Senator Richard G. Polanco, Press Release on California's telecommunications technology.

[14]William J. Clinton, "Letter to Senator Ernest Hollings Regarding Telecommunications Legislation," October 26, 1995. Available from roundtable@cni.org. Internet.

[15]National Association of Regulatory Utility Commissioners, "Summary of Competitive Status by Population." In Comments of Sharon L. Nelson, Washington Utilities and Transportation Commission. Before the Senate Judiciary Subcommittee on Antitrust, Monopolies and Business Rights. Washington, D.C.

[16]National Association of Regulatory Utility Commissioners, "Letter to Senator Ernest Hollings Regarding S. 1822," September 13, 1994. Available from NARUC.

[17]John Healey, et al., "The Information Arena," *Congressional Quarterly* 19 (supplement) (1994): 7-74.

[18]Ibid.

[19]Immediate deregulation refers to entirely and permanently eliminating the Modification of Final Judgment (MFJ) restrictions, which bar local exchange carriers from providing long-distance telephone services, information services and manufacturing telephone equipment as well as the video programming prohibition, which forbids Bell companies from providing video programming to subscribers in their respective telephone service areas. See the WEFA Group, *Economic Impact of Eliminating the Line-of-Business Restrictions on the Bell Companies* (Bala Cynwyd, PA: The WEFA Group, 1993).

[20]PNR & Associates, Inc. "Spending and Saving on Communications Services by Minorities" (PNR & Associates, Inc., 1994).

[21]The Consumer Federation of America, *Impact of S. 652 Rate Deregulation on RBOCs* (Washington, D.C.: CFA, 1995).

[22]Quality services are to be provided in this manner, according to §103 of S. 652 and at "just and reasonable rates" in §246 of HR 1555. I have inserted the term "compassionate" to suggest the value of a network is not only based on what people "deserve," in the narrow sense of justice, but rather how many people can access the system, including the most vulnerable resident in the society.

[23]Ben Bagdikian suggests that just twenty-three corporations control "most of the business in daily newspapers, magazines, television, books and motion pictures." See Ben J. Bagdikian, *The Media Monopoly*, fourth edition (Boston: Beacon Press, 1992).

[24]The National Council of LaRaza, *Out of the Picture: Hispanics in the Media* (Washington, D.C.: NCLR, 1994).

[25]Electronic Frontier Foundation, "Open Platform Campaign: Public Policy for the Information Age" (Washington, D.C.: EFF, 1993).

[26]See Center for Media Education, *Petition for Relief from Unjust and Unreasonable Discrimination in the Deployment of Video Dialtone Facilities* (Washington, D.C.: CME, 1994).

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