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A grand communication bargain

Eli Noam NOVEMBER 12 2008

In the classic political film *The Candidate,* Robert Redford plays a progressive contender running with an increasingly vague message of change. When he wins his long-shot race, Redford turns to his campaign manager and blurts out the film's closing line: "What do we do now"? Today, President-elect Barack Obama finds himself in a similar position. Millions of people around the world have used his inspirational candidacy as an ink blot test for their hopes and aspirations. Can these expectations be conceivably met?

I will focus on one area, the communications, media and internet field. The Obama campaign established a Technology Policy Committee that numbered over 400 people. Not surprisingly given its size, its position paper was lengthy but largely innocuous: it favours such bland goals as privacy, science education, innovation, US international competitiveness, fair trade, pro-diversity in content, etc. Where Obama supporters must have clashed, such as in intellectual property or sexual content over the internet, the position paper has it both ways. The main instance of tackling controversy is a pro-"net neutrality" position, which favours the non-discriminatory use by internet companies and users of the telecom and cable infrastructure. That conflict has been poisoning things in the communications sector, pitting the infrastructure companies of the telecom and cable industries against the internet applications companies and free speech advocates.

Now, with the election over, there is great hope that the new administration will take on the problems of the media and communications sector. Let us start by pouring some cold water.

First, many of the policies and problems of the communications sector cannot be blamed on the Bush administration but are bipartisan in origin. For example, media concentration accelerated even more during the Clinton years than afterwards*. Both parties strongly supported the landmark Telecom Act of 1996, imposing morality on the airwaves, and generous copyright protections. Therefore, being bipartisan in nature, many policies will not crumble with the ascendancy of a Democratic administration

Second, established media companies, their owners and employees, are among the most reliable financial supporters of liberal campaigns**, and affect public opinion. Any Democratic administration will treat them with great care.

Third, important as media and communications issues are to those involved, on the greater canvas of national policy they are secondary. The country has to deal with a fundamental economic crisis. It must deal with what to do about the banks. The automobile industry. Two wars. Energy dependency and prices. The budget deficit. The trade deficit. Healthcare reform. Iran. North Korea. The Middle East. Immigration reform. Tax reform. Homeland security. The environment and global warming. All of these issues are controversial and require an administration to expend political capital. Copyright reform or internet openness, while important, are simply not in the same league.

This suggests that the most likely priorities for communications will be those policies that actively support more pressing goals. Contributing to healthcare and energy efficiencies are two examples. But by far the most important target is dealing with the economic crisis.

To keep the communications and high-tech industries humming and to generate positive impacts on innovation and on the economy as a whole, the priority of the next few years has to be investment in infrastructure, and the policy priority has to be to create incentives for such investment. Other reforms should also be put on track. But the calculus of tradeoff and priority among such goals has changed for a while.

Network companies can create the expensive upgrades (to high capacity fibre, in particular) on which applications and technology can ride, thereby re-establishing American technological leadership. This requires major capital investments just at a time when financial markets have become reluctant lenders and risk takers. Internet companies and the user community should be cheering on the upgrade of the platforms on which they operate. But they also need an assured openness of such networks. And such regulation would reduce the financial returns for the infrastructure companies and their incentives to invest. This is the dilemma.

The rivals in this debate at times exhibit a messianic fervour and are quick to slay messengers of unwanted news. If a policy might conceivably help also their rivals, it is suspect. One side invokes a danger to the survival of diversity, democracy, competition and the internet, while the other side predicts a grave damage to technology and economy. Who is right? In a way, both sides have a legitimate point. This makes their reconciliation difficult but essential.

The time has now come for a grand bargain, with network companies and internet companies and users lowering their contentiousness and joining together with a government whose role in this crisis has become more accepted than during the past two decades.

The two main dimensions of investment are accelerating and widening the infrastructure. Network companies are already making such investments gradually, in well-populated and reasonably prosperous areas. The aim is to have them speed up existing plans for a quick impact. The aim of widening is to spread advanced network connectivity to areas or users more marginal in their economic potential for private investors, but valuable in terms of social benefits.

Many options for government incentives exist***. But perhaps the simplest and quickest way to generate acceleration would be to offer network companies significant tax advantages for incremental capital investment, with the benefits sunsetting in three years. The way to further widen investment would be to provide still higher federal tax incentives for marginal areas and to have local and state governments add their own benefits for those areas or users they wish to support.

Other approaches are possible, for example direct subsidies to providers or to users, or by government as a lead user and applications provider. But given the sorry state of public treasuries it is not realistic to expect in-budget subsidies, or a rapid creation of government services. An off-budget tax benefit is much easier and quicker to create.

Should network industries be singled out? As long as no particular network technology or network company type is favoured, yes. Virtually every individual, organisation, or business operates over electronic networks. In the information economy, information highways are fundamental and benefit everyone. The multipliers are large for the information sector directly and for the economy as a whole indirectly.

But precisely because of this central importance, networks must be free of gatekeeping power. This would have to be a condition for the investment incentives. Widespread utilisation is in the network providers' interest, too. But requiring openness reduces some of their control and potentially their returns. The governmental tax benefits are therefore, first, a way to offset the negative investment impact of openness on investment incentives, and second, to provide positive incentives beyond for openness and upgrade.

To generate such openness for users and applications providers does not require the kind of protracted religious wars of communications policy of days past. The worst way to proceed would be to spend the next several years in struggling, arm-twisting and litigating over legislation and regulation to satisfy the often hypothetical fears on either side, while the world passes by. And in any event, no divisive regulation is likely to be stable, given the dynamic nature of the sector and of political fortunes. It would be much better for all if the regulators would issue general principles beyond the existing ones, create speedy mechanisms for dispute resolution where abuses occur, and show a determination for enforcement. This is an area where the evolutionary common law approach makes common sense.

Thus, in this grand bargain, network operators would accept a reasonable openness, while receiving incentives, together with their competitors, to upgrade their networks. In turn, internet companies and the user community would provide political support to the upgrade of networks, while receiving reasonable but not highly detailed openness policies. And government would forgo some tax receipts in favour of an upgraded infrastructure and a construction boom with its multiplier for the economy, spread it across the country and at the same time create the openness that the new administration champions.

To reach this grand bargain will not be easy. Battle-scarred warriors are reluctant to step back. But the economic disruption we are experiencing puts question marks to many established ways. Used creatively, this can set into motion a process of productive change. A decade ago, South Korea was hit by a wrenching economic crisis. Out of those ashes it rose to world leadership in broadband communications, mobile handsets, interactive gaming and flat-screen TVs. Today, America is facing a similar crisis and a similar opportunity.

**Eli Noam, Media Ownership and Concentration in America, Oxford University Press, forthcoming.*

***In the 2004 election cycle the employees and managers of major media companies made, on average, 69 per cent of their $10.7 in contributions to Democrats, according to the Federal Election Commission. This ranged from 5% at Sinclair to 100% at National Public Radio and the New York Times. Even News Corp employees gave 69% to Democrats. In the recent election cycle these percentages are likely to be still higher.*

****To list just a few, in no particular order: government as lead user; direct subsidies, especially to rural areas or to low income users; ease* *of access to ducts, poles, and public rights of way; coordination of civil construction activities; 'social compacts' of upgrade commitments in return for approval of higher prices; permission of infrastructure sharing among competitors; local or state ownership, especially in rural areas; stimulation of basic research; provision of more spectrum, especially from under-utilized government frequencies; creation of wireless usage regimes for secondary and low power usage; collection of data on infrastructure availability to facilitate targeted policies and investment; reduction of localities' ability to unreasonably delay construction; support of the demand side by removing barriers to the entry of entertainment providers, educational services, and tele-medicine; financial and regulatory support of the supply of content and its access.*