

Tuning into the Fine Print: Law and Social Change in Media

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Beyond "Official" Policy: Popular Policymaking in Critical Scholarship

Let's talk about the loneliness of the media policy scholar. While thought pieces about Dragon Con and *Mad Men* get the whole internet in a tizzy, the media policy scholar is thrilled to get a single comment on her blog post. While conference panels on transmedia are SRO, the media policy scholar delivers his papers to audiences of six. And despite all the lip service paid to "policy-relevant research," there's a suspicious air that attaches to the policy scholar: is she one of those activists who is forever trying to get me to sign a petition or watch public access? Is he one of those unreconstructed McChesneyites, snobbish about *Jersey Shore* and full of conspiracy theories about the "mediapoly"?

To put it bluntly, if we're asking how media scholars should approach regulation issues proactively in their work, we could start with the culture of media studies itself and the way that academic fashion rewards the sexy topic over the wonkish one, the fun and accessible subject over the potentially dry and arcane one.

This isn't mere sour grapes from the kid picked last for the media studies version of dodgeball, since the loneliness of the policy scholar extends far beyond the academy. Critical work on media policy also gets shunned by the very people who have a vested professional interest in the subject: the media policymaking and regulatory communities themselves. Ian Hunter wrote, "To travel to [the official policy sphere] is to make a sobering discovery: They are already replete with their own intellectuals. And they just look up and say, 'Well, what exactly is it that you can do for us?'"¹ It's fair to say that the answer they are looking for is *not*, "Well, I can deconstruct your paradigms in order to advance counterhegemonic policies that will disempower your legitimated stakeholders! How does that sound?"

This is a Catch-22 for academics intervening in regulation, one that Thomas Streeter identified in *Selling the Air*: as scholars, our primary contribution is an informed, critical stance questioning the assumptions underlying policy debates, yet acceptance of those assumptions is usually a criterion for participation and proof of seriousness.² In other words, those with institutional authority define as "unrealistic" the same critical scholarship that might move regulatory debates beyond entrenched parameters. Our insights are ignored at best, ridiculed at worst.

The apparent recent exception is McChesney's media reform movement that, for all its effectiveness, relies on crass political-economic analyses and Manichean rhetoric to mobilize the masses for ownership caps and net neutrality. As a citizen, I suppose I'm okay with that—I'll join the Facebook group and email my congressman about the latest corporate policy outrage. But as

¹ qtd. in Tony Bennett, *Culture: A Reformer's Science*, Cultural & media policy (London: Sage Publications, 1998), 34.

² Thomas Streeter, *Selling the Air: A Critique of the Policy of Commercial Broadcasting in the United States* (Chicago: University of Chicago Press, 1996).

a scholar, that's not the kind of work I want to do, and if policy-relevance requires oversimplification and demonization, I'd rather be irrelevant and intellectually honest.

So how can we, in the words of the prompt, "combine policy debates within our critiques of media culture"? I'll offer three possible routes.

Accept the long march through the institutions. This is admittedly an unsatisfying option. But with respect to Thomas Kuhn, sometimes paradigms change slowly, and this can mean relentlessly insisting on the value of our critical insights even if—perhaps especially if—policymakers see them as unserious or unrealistic. On a practical level, this may (or may not) mean: ditch the "policy-relevant research" bullshit, since the dream of directly affecting policy in the short term may (or may not) be getting in the way of shifting the broader policy discourse. Ergo: keep putting your ideas out there—your theoretically informed critiques, your cultural analyses, your counterhegemonic policies—in books and articles, conference papers and blog posts, wherever, and trust that they will have some kind of impact over the long haul.

Don't wait for the policymakers to take you seriously. Go ahead and make policy yourself by building things. The most important academic in U.S. media and cultural policy over the past decade is not Robert McChesney, it's Lawrence Lessig, guiding spirit behind the Creative Commons. Faced with fully unacceptable policy outcomes, he built an alternative policy regime that at least gave the broken system a little competition. Creative Commons is still relatively small and can't begin to fix everything that needs fixing with copyright, yet it represents a great example of academic insights being translated into practical policy. There are many more such projects—less visible, perhaps less ambitious, but no less important. It's also potentially more satisfying than Option 1, which requires waiting for some theoretical right-minded regulator to finally buck entrenched power-holders and enact our policy for us.

Rethink what we mean by policy. This is the approach that I've been taking in my own research: expanding our understanding of policy beyond the official policy sphere. This includes bottom-up or vernacular policymaking, i.e. sites outside of Congress, the FCC, and the corporations where we might find and intervene in media policymaking and regulation. My hope is that this "turn to the popular" will challenge the frameworks that consign people to circumscribed roles as "citizens," "activists," and/or "consumers," considering them instead as popular policymakers with distinct regulatory powers that need to be recognized, respected, and understood. The public produces and lives policy every day, and scholars need to identify and analyze the multiple levels where policy is created, negotiated, enforced, or subverted.

It obviously makes sense to engage with top-down official policy when we can hope to achieve positive effects. Lessig, Siva Vaidhyanathan, Jay Rosen, Patricia Aufderheide, and other public intellectuals are able to advance often radical policy ideas. For most of us, our research topics, career stage, or personality doesn't lend itself to that kind of highly visible work, but we can still rethink what policy is, how it gets made, and how, in the short and long term, we can contribute to the thought and structures that shape our media and culture.