

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

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Today, I argue that the importance of media policy is twofold: policy sets limits within which culture develops, potentially shaping media in particular ways; and policy is a process, and an artifact, that is shaped by individuals who are themselves shaped by culture. Thus, media scholars could engage with policy both as researchers and, potentially, as participants. Internet access, particularly web accessibility for people with disabilities, provides an interesting model for this twofold engagement, with multiple avenues for policy participation.

First, an overview of legal accessibility policy: In general, web content is only legally required to be accessible to people with disabilities if it is created for a federal agency, as elaborated in Section 508 of the Rehabilitation Act. Yet, the Americans with Disabilities Act complicates this, as web sites are potentially bound by Titles 2 and 3 of the ADA, which require provision of reasonable accommodation and effective communication for people with disabilities.

In the past year, several developments have indicated that these issues are potentially in flux, ripe for participation in policy formation:

- All spring, the National Broadband Plan has sought public feedback on accessibility initiatives.
- In April 2010, Samuel Bagenstos of the Department of Justice told the House Civil Rights Subcommittee that the ADA should be interpreted to keep pace with technological developments, and thus public and private websites are subject to accessibility requirements.
- On the 20th anniversary of the ADA, July 26, the DoJ began soliciting comments on Regulations Requiring Entities Covered by the ADA To Make Their Websites Accessible to Individuals with Disabilities.
- In the same week, the Twenty-first Century Communications and Video Accessibility Act of 2009 passed the House, and its companion bill passed the Senate by unanimous consent on August 15. This law would require all television content produced with captions to retain them when distributed online, in addition to calling for accessible email, text messages, and mobile devices that can handle captions.

The requests for comments represent the most straightforward way for citizens, including academics, to become engaged in this tumultuous legal policy process. Requests for public comment garner little attention from most Americans, and the publicly available comments are similarly rarely studied, though these a rich resource for gauging engagement with US policy.

Yet, accessibility is notable because it is an area of media access policy that has numerous opportunities for participation other than the law. There is also policy made at the level of web standards. The World Wide Web Consortium's accessibility guidelines are influential on legal and best practice standards worldwide, and they offer a fairly open process for becoming a participant, moving up to "invited" expert status, and writing accessibility guidelines. Additionally, their archives are all online, a rich resource for understanding this policy process.

Moving even further afield from traditional governmental policy, Google/YouTube's new captioning capabilities and autocaptioning features represent a vernacular form of policy, as an industry leader takes on accessibility in a way that may influence others and even allow the products of participatory culture to become accessible without requiring amateurs to learn new

skills. The prospect of automatically accessible YouTube videos suggests a major step forward in web accessibility policies and enactment, as it is policy in action, rather than law. Thus, participating in this vernacular policy innovation must take a different form, for instance in utilizing popular captioning features in one's own videos or encouraging their use by others.

Doubtless, these advances will shape media content and technology in small ways, but they will be little noticed by an able-bodied majority that already ignores the accessibility features of their televisions, computers, and iPhones. What accessibility policy does illustrate, however, are the many ways in which scholars can become involved in legal, professional and vernacular forms of policy making, thus potentially influencing the direction of innovation and staying abreast of developments as they occur. Even beyond the examples I've discussed, there are possibilities of getting involved via activist groups or through personal implementation of accessibility. Policies often only take effect through implementation; as accessibility has been largely poorly implemented, adequate implementation itself represents a significant form of involvement in the policy process.

The bulk of my comments today have addressed the basics of web accessibility, and ways for academics to follow and participate in these policies, with little attention toward the study of policy. I can only excuse this by emphasizing that access is a question of justice (even civil rights) and thus is subject to strong reformist tendencies, and any reformist motivations would be well-served by academic engagement in the process, as well as critique of the results.