

From Broadcast to Broadband: Policy Silences in the ‘Compromise and Consensus’ of Industry Capture

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Abstract

Through a narrative policy framework (NPF) analysis, we compare official White House press releases from Bill Clinton’s 1996 Telecommunications Act, and Joe Biden’s 2021 Infrastructure Investment and Jobs Act (IIJA). Our purpose is to identify similarities and differences in the way the two administrations, 25 years apart, addressed issues pertaining to telecommunication regulation. This analysis reveals major distinctions between how the acts were framed, specifically in terms of who was responsible for the policy problem being addressed. Most significant was the shift from clearly addressing media consolidation as a threat (in the 1996 Act), to avoiding any mention of the increasingly consolidated media industry (in 2021). We reflect on these distinctions through Des Freedman’s notion of ‘policy silences’—the omissions of policy discussions—as they relate to contradictions between normative democratic theory and the role of private interests in US policymaking.

In March 2020, as stay at home orders to reduce the spread of Covid-19 stifled ‘normal’ American life, conversations on the need for accessible high speed broadband internet as a public good in 21st century life began to crop up in mainstream discussions (Kang, 2020). In an increasingly partisan political culture, the shared sense that accessible broadband for all was needed bridged the divide. Taking advantage of this rare bipartisan consensus and framing, President Biden’s newly elected administration passed the Infrastructure Investment and Jobs Act (IIJA) in 2021. It included the nation’s single largest investment in broadband accessibility, a whopping US\$65 billion allocated to providing greater access to high-speed internet, largely through broadband deployment and low-income subsidies. As a part of what President Biden described as the “Bipartisan Infrastructure Law”, the broadband initiative was described in official White house press releases as providing equal access, greater choice and agency to consumers. It would, they stressed, help unify the nation

through the transformative power of media. Yet, in these narratives from the White House, the details and logistics of who exactly would reap the benefits of such a massive investment was rather murky.

President Biden announced that the US\$1 trillion Infrastructure Act was a step in the right direction for the shaken nation, noting “America is moving again, and your life is going to change for the better” (Naylor and Walsh, 2021). This is not the first time that a shift in communications policy has been framed as transformative for American society by a US President. Biden’s claim that telecommunications policy would “connect America” echoes Bill Clinton’s soaring descriptions of the Telecommunications Act of 1996. Often lauded as a hallmark of Clinton’s neoliberal legacy, this legislation set off a major re-regulation of the telecom industry that favored private over public interest. Despite similarly lofty aspirations in the name of serving the American public, the Act ended up giving away the rights of broadcast distribution to private corporations who used them to profit with minimal regulatory oversight (see Aufderheide, 1999). History, it would seem, has a tendency to repeat.

By studying official White House press releases, we compare how the two Acts were presented by the respective administrations 25 years apart. We adapt the Narrative Policy Framework (NPF) to break down complex policy dynamics through the analysis of familiar narrative tropes used to inform different publics about policy. This includes classifying the setting, characters, plot and the moral of the stories deployed by both administrations. Our critical perspective is that Federal-level telecommunication policy should serve public over private interest. How then did the official White House narratives frame the stakes of these two Acts? Here, we examine, amongst other matters, how the two narratives identified ‘heroes’, ‘villains’ and ‘beneficiaries.’ By comparing these narratives, we aim to determine if and how the discourse surrounding media policy in America has changed over recent decades. Throughout this analysis, we highlight what Freedman (2014) has described as ‘policy silences.’ Omissions of certain policy areas mask how private interests would profit from an act ostensibly serving the public good. Freedman went on to explain that we must consider “not simply the priorities that dominate the visible policy process but rather the forces that are responsible for the silences that permeate media policy as a whole” (73). In this context, silence is “a socially constructed phenomenon that reflects the unequal distribution of power in society”. This serves to “render the system of control of industrial capitalism extremely resistant to criticism” (Jansen, 1991 as cited in Freedman, 2014: 73). Building on these insights, we reflect critically on how industry power is exerted through government to frame policy issues during these two distinct time periods.

In our comparison, we found a growing unwillingness over time to identify who was responsible for, and likely to benefit from, digital inequalities within the telecommunications sector. Culpability rested with a handful of private, profit-driven, highly consolidated telecom corporations (see Aufderheide, 1999; Bagdikian, 2004; McChesney, 1999; Schiller, 2023). Discussions of the dangers of media consolidation in the 1996 Telecommunications Act assigned blame to entities responsible for the problems that the Act was designed to overcome. By 2021, however, the policy silences in Biden’s Infrastructure Act were deafening, manifesting themselves in the absence of any attempt to assign responsibility for the nation’s entrenched digital divide. Drawing from literature on the substantial role of private industry in the telecommunication field, we argue that this growing silence about the problematic trend of media consolidation demonstrates a decline in the willingness of policymakers and government officials to criticize an increasingly powerful telecommunications industry that was exerting dominance over policy formation.

From Broadcast to Broadband

Signed under the Clinton administration, the 1996 Telecommunications Act was sold to the American public as a transformative piece of legislation that would foster competition amongst telecom service providers and encourage innovation amidst rapid technological changes (Aufderheide, 1999: 8). It was framed as a way to advance widespread access to the internet across America, largely for educational purposes (just as conversations surrounding broadband access were discussed in 2021). Clinton's 1996 Act aimed to open up markets and increase competition by restricting governmental regulation across the growing sector.

Leading up to the passage of the Act, neoliberal telecommunications legislation had been gaining voice and momentum through the tactful planning and communicative action of the 'Gingrich class' of Republicans, members of the Clinton administration (including Vice President Al Gore), and the thousands of industry lobbyists who were invited by policymakers to help write the bill (Pickard and Berman, 2019: 53-54; Bagdikian, 2004). Government regulation was framed as an obstacle to be overcome, and the neoliberal policy narrative offered the relaxation of ownership restrictions in the Telecom Act as a remedy that would encourage competition and thus drive prices down. Yet the Act, as many critics warned, triggered a familiar pattern often seen after the so-called "deregulation" [1] of an industry: a wave of mergers and industry concentration (McChesney, 2008: 419). The Telecom Act's impact on the media market was particularly deleterious. Scholars have referred to "the greatest wave of media consolidation in history" (Schwartzman et al, 2005 as cited in Pickard and Berman, 2019: 54), and the "first step in a decisively different regulatory universe for communications" (Aufderheide, 1999: 9). In short, the significance of the 1996 Act is that while the policy narratives appealed to the 'public interest' principle of user access, the deregulation that actually unfolded marked a turning point in American communication policy. Opportunities for industrial corporates were favored over public wellbeing.

Joe Biden's 2021 Infrastructure Act—which promised to invest in overdue infrastructural initiatives such as eliminating lead pipes, fixing roads and bridges, and strengthening/expanding public transportation—allocated US\$65 billion to broadband accessibility. This investment is substantial, as demonstrated in the Benton Institute's (2021) description of it as the "largest U.S. investment in broadband deployment ever." Beyond the vast amount of dollars allocated to the broadband cause, the funding is significant for multiple reasons: broadband is recognized as a form of public infrastructure and, as such, access to it ought to be guaranteed by way of deployment and affordability. The biggest tranches of Infrastructure Act investment included US\$42.45 billion for broadband development under the Broadband Equity, Access, and Deployment (BEAD) Program, and US\$14.2 billion for the Affordable Connectivity Program (ACP) to help subsidize the high costs of broadband for low-income Americans [2].

The Infrastructure Act (and the greater IJA) does not alter communication or media regulatory guidelines pertaining to ownership as the 1996 Telecommunications Act did. Instead, the 'barriers' Americans faced in 2021, per the policy narrative, concerned limited access to the communication medium of choice (from broadcast to broadband) because of 'outdated regulation' blocking the way to a transcendent future. Thus, whereas the policy narrative in 1996 stressed that regulation was hindering market competition, the 2021 narrative positioned infrastructural and economic barriers to individual access as the primary obstacle impeding American progress. The two Acts have distinctive mandates: legislative alterations in 1996 versus more explicit economic investments in 2021. There is, however, a shared legislative foundation purporting to provide communicative access to as many

Americans as possible. Using the rollout of the 1996 Act to think about the political and economic incentives driving the 2021 Infrastructure Act, we aim to understand how narratives surrounding similarly motivated federal policies have changed over 25 years. In doing so, we consider the increasingly prevalent role of telecommunication industry players in policy decision making.

De-Naturalizing Broadband Policy

Because the intricacies of the 1996 Telecommunications Act have been thoroughly examined and critiqued by scholars over the past few decades (see Aufderheide, 1999; Bagdikian, 2004; McChesney, 2008; Pickard and Berman, 2019), it is worth exploring some of the main lines of criticism associated with the 2021 Infrastructure Act by way of comparison. On its surface, the Infrastructure Act's investment in broadband deployment and subsidization seems like something most Americans would stand behind. Yet while the investment of US\$65 billion into increased broadband access might seem like a progressive shift towards providing more Americans with high-speed internet, the reality behind the policy narrative is less straightforward. Understanding the logistics of the broadband industry helps to better demonstrate the problematic nature of the legislation. Researchers have long been critical of how standardized industry accommodations baked into broadband policy end up benefiting what some describe as the 'Broadband Cartel' (Feld, 2012; McChesney, 2013: 113; Pickard and Berman, 2019: 58) [3]. Consisting of four companies (Comcast, Charter, Verizon and AT&T), the Broadband Cartel incorporates 76 percent of internet subscribers in the United States. They band together as a coordinated oligopoly dedicated to profit when negotiating with regulators (see Pickard and Berman, 2019: 58-59). None of the Broadband Cartel have safeguarded the privacy of their users' data and have lobbied hard to mould law that allows them to keep monetizing that data (Zuboff, 2019).

In his work exploring the inner workings of American telecommunications policy, Christopher Ali (2021) identified various concerns within broadband policies that favoured large internet service providers (ISPs)—specifically the Broadband Cartel—over American users. These policies have been justified by way of a narrative Ali (2020) has described as “the politics of good enough”: a standard upheld by ISPs that justifies inadequate speed, insufficient ISP reporting, subpar technologies, and—as perhaps best demonstrated in the IIJA—massive subsidies to the companies providing these subpar services (Ali, 2020: 5983). Ali (2021) provided examples of how the ‘good enough’ standards were incorporated into broadband policy, including the extremely low bar set for internet speed whereby broadband was classified at 25/3Mbps (a remarkably slow threshold compared to America's average download speed of 96.25). Deeming this ‘good enough’ protects the cartel “from expensive and resource intensive upgrades to their work” while allowing them to remain eligible for grants, loans, and regulatory favour (75-76). Another Telco-friendly priority that made its way into policy was the inclusion of a “technological neutrality” clause, which deemed all technologies used to access the internet (fiber, coaxial cable, DSL, fixed wireless, and satellite) as competitive and interchangeable (Ali, 2021: 76). This favours large incumbents with existing (though outdated) technologies such as DSL or satellite, over newer technologies such as fibre optics.

While Ali's critical assessment of policy practices pre-dated the release of the IIJA, both low-speed requirements and the promise of tech neutrality appeared in Biden's new legislation surrounding broadband deployment. The continued adoption of policies prioritising the Broadband Cartel's profit over serving the public can thus be understood as the perpetuation of failed public policy made possible by the repeated use of pro-industry narrative tropes that continue despite policy

failures. The narrative surrounding the IJJA's massive investment into broadband infrastructure and deployment, as well as its subsidization for low-income Americans is highly problematic because it amplifies and reifies the ideological constructs which contributed to previous policy failures. The clearest example of the Broadband Cartel's power to shape the narrative is that they are positioned as addressing public interests despite the fact that they have traditionally underfunded investment into non-profitable communities and locations. Contemporary broadband deployment funding, dispersed at the Federal level through the National Telecommunications and Information Administration (NTIA) to individual states, is based on "the relative number of 'unserved' locations" (NTIA, 2022: 2). It is telling that explanation of what it means to be 'unserved' relies solely on broadband mapping data from the FCC, which has been repeatedly scrutinized for significant inaccuracy (see Ali, 2023; Bode, 2018; Meinrath et al, 2019) [4]. For years the FCC's broadband map was measured via census blocks, which required only a single connected household in a neighbourhood block. A 'connected' area might range from a few streets in dense metropolitan areas to nearly 8,500 square miles in states like Alaska (Ali, 2023). Additionally, these points of connectivity (if one building was connected or *could be* connected within 10 business days it was deemed connected) relied on industry-reported data on advertised (not actual) speeds. Overall, FCC maps are estimated to have exaggerated broadband availability by upwards of 50% (Ali, 2023; Meinrath et al, 2019), guided by the corporate incentives to flaunt widespread coverage areas unquestioningly. Again, by shaping the policy narrative around corporations better serving individuals, those very same corporations create the terms for what counts as success.

Even when the FCC is tasked with improving existing policies, the pro-privatization language surrounding the policy is further reified because of the narrative tropes and characters it deploys and omits. In 2020, the Broadband DATA Act required the FCC to change its broadband data collection approach, which resulted in the outsourcing of broadband mapping to the private company CostQuest. This change resulted in the abandonment of census blocks and the subsequent adoption of 'location fabric'; a terminological shift nominally meant to provide an account of connectivity down to specific addresses. Such an approach, however, created more industry-friendly accounting. Ali (2023) has described three main problems with it: 1) continued reliance on industry-reported data; 2) coverage and speeds reported were continually found to be drastically inaccurate; and 3) houses and entire neighbourhoods were completely absent from the new maps in several cases because of an encumbering and degrading process described as 'digital deletion'. The distribution of IJJA funds, thus, relies on a broken system of allocation flowing from pro-corporate framing and recording before funds even get to the individual state level.

Once funds are distributed for the purpose of deployment to the states, the issue of who gets what amount is then determined by criteria and policy language that is silent about the public interest problems posed by ownership consolidation. The few corporations pushing the politics of 'good enough' in order to establish low expectations for the broadband sector are the same corporations tirelessly lobbying for state and nation-wide bans on municipal broadband alternatives that offer a public-sector solution to the problems caused by the profit motive of private interests. More importantly, this public interest solution is seen as a competitive threat (Brodkin, 2021a, 2021b; Hollister, 2023; Pickard and Berman, 2019) and framed as such in the policy narratives. These relentless efforts of the Broadband Cartel to stave off public-based competition have prevailed, particularly in the 16 states that have bans on municipal broadband (Cooper, 2023). The dominance of private interest criteria in the debate also influences what is not said. For example, early drafts of the IJJA released by the Biden administration contained language that brought to mind notions of

public service and strongly advocated for the public benefits of funding municipal broadband (Brodkin, 2021b, 2021c). By the time the final version was released, this language and the public interest frame had been silenced. The cartel was able to shape the policy narrative to fit its private interests.

These signs of corporate domination in the language surrounding the bill reflect the broadband industry's power. The repercussions of privileging their power over the public good within telecom policy can be seen in how inaccessibility was determined and in the ability of corporations to institute digital redlining for neighbourhoods deemed less appealing (as in, those that are less profitable) (see Popiel and Pickard, 2022). That the Act allows for this demonstrates the clear prioritization of corporate economic gains by an initiative financed by public funding. For example, the US\$14.2 billion allocated to the Affordable Connectivity Program, meant to subsidize high-priced internet for low-income Americans by US\$30 a month after the phasing out of a pandemic-era subsidy, was found to be widely exploited by Big Telco through price hikes, speed cuts and fraud risks (Romm, 2022).

Biden's IJA did not alter existing policies concerning ownership and consolidation issues within the telecommunications field established at the time of the 1996 Telecommunications Act. The IJA was significant because it acquiesced to a consolidated system that props up a large, increasingly powerful ISP oligopoly. The combination of extreme ISP consolidation and the way that the IJA policy institutionalized pro-corporate advantages from the ground up derives from the industry power behind the policy narratives of the 1996 Telecommunication Act. However, the IJA deviates from its ancestor in important ways. Referring to the promises of greater competition that the 1996 Act was founded on, McChesney (2008) explained that "If deregulation were to threaten a ferocious wave of genuine competition, powerful private interests would never let it take place" (419). This is to say, while the promoted policies may promise big plans for reformation, the likelihood of such policies actually coming to fruition is partly determined by the powers that form policymaking spaces to begin with. In acknowledging the regulatory influence described by McChesney along with the complications of regulatory capture, Popiel (2020) advanced the critical policy scholarship approach. He explained that this would allow for the exploration of "subtler dimensions of industry influence on policymaking, more visible in policy discourses than immediate policy outcomes" (344). Building from this rationale, the following analysis aims to identify consistent or 'sticky' narratives that remain across both policies. Additionally, their differences will be identified in order to effectively examine subtler dimensions of industry influence within telecommunications policy domains landscapes.

Method: Narrative Policy Framework Analysis

Policy narratives are strategically constructed stories meant to generate or diminish support for a given policy preference. They have been described as the "lifeblood of politics" (Shanahan et al, 2011: 734), as they are used by competing interests to sell policy to the public. Pickard (2020) describes policy narratives as producing "a way of thinking about challenges and what can be done about them" (17). Different policy narratives often exist in conflict as a result of varying values, ideologies, or stakeholder interests in the policy making process. Consequent 'policy debates' can thus be understood as "political contests in which narratives and the values, norms and policy principles upon which they are constructed are promoted and challenged... [and] take place in policy documents, media coverage, policy forums, hearings, and the range of activities involved in policy making" (17).

When looking at the policy narratives surrounding both the Telecommunications Act and the Infrastructure Act, particularly those generated by the White House, it is clear that similar conflicts and political forces are at work. Popiel (2020) explains that “policymakers issue statements and give speeches to articulate their regulatory philosophy, to legitimize their decisions, and to signal to the industries that they oversee” (341). Thus, the policy narratives stemming from the nation’s first office aims to represent the ‘final draft’ of policy debates, encompassing both the voice of the individual actor speaking (the President himself), as well as those who managed to push their narratives up the discursive ladder. White House press releases, presidential remarks, and fact sheets from the 1996 Telecommunications Act (through digital archives of original postings) and the 2021 Infrastructure Act were examined as texts for analysis throughout this article.

Deploying the Narrative Policy Framework (NPF) approach allows us to examine how power expressed itself in the policy process through the familiar lens of storytelling (see Crow et al, 2017; Jones et al, 2014). The struggle among various actors over the narrative meaning of each Act, which framed and shaped the public’s perceptions, centred on four core elements: the Setting, Characters, Plot and Moral of the story (Shanahan et al, 2018). Setting establishes where the action of the story takes place in order to “focus the audience attention to a particular space and time” (Shanahan et al, 2018: 335). Policy narratives also contain characters who act or are acted upon. Common character tropes that pertain to this article include a hero (the potential fixer of an issue), a villain (the entity causing the policy problem), a beneficiary (who aims to benefit from the policy solution) and allies (entities aligned with the hero) (see McBeth et al, 2005; Shanahan et al, 2018; Weible et al, 2016). The plot of a policy narrative “links characters to each other as well as to the setting” (Shanahan et al, 2018: 336). Finally, the ‘Moral of the Story’ is the policy solution to the problems outlined in the narrative. It is often made by the hero to create a beneficiary or protect a victim (Shanahan et al, 2018).

Setting

In the case of The Telecommunications Act of 1996, the space in need of new policy was the American ‘airwaves’, and the policy narratives pointed to a future transformed by new technology. The discourse is symptomatic of a societal and ideological shift described by Nancy Fraser (1993) as ‘progressive neoliberalism’. This ideology emerged from the prior decade and guaranteed a future determined not by government serving the public interest, but by the dynamically disruptive engine of private enterprise. It was brought to fruition by the Clinton administration, which deployed the language of progressive neoliberalism in order to, as Fraser described it, instantiate a “reconfiguration of common sense” (14). Clinton softened the conservative edge of neoliberal politics by aligning such economic logics with seemingly progressive movements such as feminism and anti-racism (19). Yet at the same time the rhetoric coming from the White House normalized neoliberal hostilities towards the public sector by adopting conservative linguistic frames on a variety of issues. These included the role of government in providing social welfare or regulating in the name of public interest. However, these tensions between the public and private interest were not resolved and can be heard in the 1996 Telecommunication Act policy narratives. On the one hand, Clinton emphasized the societal value of communication access and technology as “advance[ing] the public interest;” on the other, he subsequently rejected government intervention, reassuring citizens that such benefits would “not [be] through a big government program, but through a creative ever-unfolding partnership led by scientists and entrepreneurs, supported by business, government and communities working together” (The

White House, 1996b). In this neoliberal framing of telecommunications regulation at the forefront of the digital age by the Clinton administration, linguistic frames supporting privatization were smuggled in through an act that was heralded as supporting the public interest. This shaped the way that subsequent technological advancements in the American media policy landscape would be addressed. The setting established in these Clinton era narratives still dominate the time and space of policy discourse about emerging telecommunication technologies today.

Though the context of progressive neoliberalism as a narrative feature is different from the Clinton era, the setting offered by the Biden administration has several similar features. Fraser (2017) described the election of Donald Trump as marking the “end of progressive neoliberalism”, and the “collapse of neoliberal hegemony” due to the blatant rejection not of the neoliberal tendencies that were causing societal collapse, but of the party that was supporting progressive causes. However, while the Trump presidency may have served as an interim between two progressive neoliberal administrations, the Biden administration was an extension of Obama’s Presidency, which was notorious for its hesitancy to make substantially progressive decisions on public interest matters (Sirota, 2022). Both the Clinton and Biden administrations leaned into and deployed the discourse of progressive neoliberalism. While Biden’s constant call for a return to a progressive public interest orientation for government (after the reactionary lurch of the Trump years) might be perceived as a pivot away from Clinton’s breed of progressive neoliberalism, the policy narratives reveal the same rhetorical features in relation to the evocation of setting. The most significant example of this can be seen in the policy silences surrounding where and how federal funding ought to be distributed, and in how Big Telecom organizations’ substantial advantages guarantee them benefits from IJA funding.

Characters

Hero

In narratives supporting the 1996 Telecommunications Act and the National Infrastructure Act, the President and Vice-President were clearly and promptly identified as the heroes behind the policies. Each was a modernizer fighting obstacles to the imagined future. One White House (1996a) press release describing the Telecommunications Act started off by stating: “For the past three years, President Clinton and Vice President Gore have worked for telecommunications reform”. Similarly, the first sentence of a White House (2022a) briefing room statement noted “the Biden-Harris Administration has made major progress implementing the largest long-term investment in America’s infrastructure and competitiveness in nearly a century”. Because the narratives examined here are from the White House, it is unsurprising that the heads of state are praised for their involvement.

Villain

Opposite the heroes in policy narratives are villains. The heroes must battle them and the obstacles they represent to protect the people. Indeed, the opposing forces identified in White House press releases for the 1996 Telecommunications Act are positioned as villains. Some are implied through vague threats, as in “media influences” on children, or as the unnamed perpetrators of “electronically violent or other objectionable material” (The White House, 1996a). Another force perceived to be working against the public that the hero must confront in the narratives is monopoly power, in this case media ownership consolidation. The narrative warns that “because President Clinton and Vice President Gore believe that diversity of voices and viewpoints is critical to our democracy, the Act

will prevent undue concentration of television and radio ownership” (The White House, 1996a). Thus, the narrative articulates the conglomerates’ threat against media markets and positions the heroes as offering the best policy against them.

Yet while the government intervention here is working to battle threats against the people, it is not always on the side of the good. Indeed, one symptom of progressive neoliberalism as a dominant ideology is that ‘government regulation’ is positioned in the policy narrative as a foe blocking the people from realizing their potential future. The Clinton White House stated, “The President and Vice President believe that when the walls of regulations are brought down, prices come down for American consumers”. This framing of government regulation as a block was further emphasized, even as the White House sought to allay possible public anxieties pertaining to media consolidation: “This Act breaks down the Berlin Walls of regulation that previously kept local Bell Telephone companies and long-distance telephone companies from competing with one another, while keeping safeguards in place to ensure competition and serve the public interest.” When discussing the roll-out of the 1996 Act, Clinton explained that his aspiration to connect America—a longstanding imagined future of communication policy and telecommunications companies (see Carey, 1998)—would “not [be] through a big government program, but through a creative ever-unfolding partnership led by scientists and entrepreneurs, supported by business and government and communities working together” (The White House, 1996b). The two-headed foe that the narrative hero is battling, monopoly power of media corporations and competition-blocking regulatory bodies is seen to threaten the imagined future of a connected people.

Narratives surrounding the 2021 Infrastructure Act, on the other hand, did not present such easily identifiable foes. While the policy statements emphasized the need to “help make available reliable, affordable high-speed internet to every family in America” (The White House, 2022b), the forces blocking this imagined future were not articulated. This rendered the lack of connectivity and the presence of socioeconomic inequality as a natural backdrop to the progress of communication technology. One early statement implied that it was due to lack of an adequate hero: “for far too long, Washington policymakers have celebrated ‘infrastructure week’ without ever agreeing to build infrastructure” (The White House, 2021a). Indexing Trump’s inability to deliver a better future without naming him directly, the statement went on to explain that Biden had “negotiated a deal with members of Congress from both parties”. Further, Biden spoke of infrastructure as a unifying priority across the aisle that required partisan labour to achieve, explaining “Republicans ... did not want to go along with my—any of my Family Plan issues—the childcare tax credits, the human infrastructure that I talk about... We made serious compromises on both ends” (The White House, 2021b). Thus, the few times that responsibility for the lack of broadband access was discussed, it was framed as simply being yet another issue lost to partisan divisiveness in a divided system, rather than being linked to the consolidated power of telecommunications corporations. By deflecting blame this way, the Biden administration ignored the critiques from scholars, journalists and activists who had laid bare the practice of ‘digital redlining,’ whereby broadband access investment is guided by monetary incentives for private ISPs who see no profit in serving lower income and rural communities. These public interest-based critiques emphasized how corporations serving private interests (predominantly those of the Broadband Cartel) had a deleterious impact on racial minorities and the already socio-economically disadvantaged (see Pickard and Berman, 2019; Popiel and Pickard, 2022; Rose, 2010; Skinner et al, 2021). While anxieties surrounding the increased power of such corporations were addressed and discussed throughout policy narratives surrounding the 1996 Act, these foes were entirely absent in IJJA narratives.

This absence concerning the blocking force of media conglomerates is significant. While the 1996 Telecommunications Act had, notoriously, deregulated the media sector, leading to the vertically and horizontally integrated market known today (Corcoran, 2016) [5], the policy narrative surrounding it identified media consolidation as a societal concern from which Americans should be protected. While policy narratives in the 1990s appeared to acknowledge collective anxiety over the prospect of a highly concentrated media environment, two decades later such concern had largely disappeared from similar policy conversations. Absent in the IJA policy narrative are any precautionary justifications or in-depth scrutiny of media conglomerates. The closest policy narratives in the IJA came to acknowledging a source for the continued digital divide was the half-hearted assessment that political divisiveness had been overcome by ‘negotiating’ a deal with both parties in Congress. In doing so, the Biden administration deflected questions about the state of consolidated ISPs and their subsequent business decisions favouring profit over access. This shift—from addressing the collective threat of media consolidation in the 1996 Act to a complete avoidance of the role giant corporations play in the perpetuation of digital inequities—highlights the dominance of neoliberal rhetoric and the extent to which industry capture impacts the media regulatory process.

Beneficiary

As mentioned, the story generated around both Acts emphasized the benefit to American families in the future, though differences in how that future would be realized are telling. In 1996, one technological innovation that was going to win the future was V-chip technology, a device installed on American television sets to enable parental control to limit children’s viewing of shows deemed inappropriate. Clinton’s policy narrative emphasized the value of consumer choice and control afforded to individual parents of children, and families as a whole, a trope characteristic of neoliberal discourse. The benefit to the American public was also couched in neoliberal economic terms. In the signing ceremony speech, Clinton emphasized that the Act “will create opportunity, many more high-wage jobs and better lives for all Americans” (The White House, 1996b). A press release noted that the Telecommunications Act “will lead all Americans into a more prosperous future by preparing our economy for the 21st Century” (The White House, 1996a). The Act was linked to the idea of connectivity advanced during the Progressive Era of 1900-1929. There was also progressive public interest framing surrounding the Act as well. The Clinton administration spent a significant amount of time emphasizing the public educational benefits of the Act: “It will help connect every school child in every classroom in America to the information superhighway—opening up worlds of knowledge and opportunities in rural and low-income areas” (The White House, 1996a).

The contrast with the 2021 narrative is significant. As the Biden administration was rolling out the Infrastructure Act, they too positioned broadband access for American families and workers as the primary consequence of the investment. Only now, broadband connectivity was framed (all but in name) as a question of public utility. “Broadband internet is necessary for Americans to do their jobs, to participate equally in school learning, health care, and to stay connected” (The White House, 2021b). Yet though framed in terms of a public utility, the narrative avoided association with older ideas about regulating public utilities to protect captive consumers. Commensurate with Biden’s neoliberal approach, it was assumed that unfettered market forces would serve the public interest. By arguing that obstacles to realizing universal broadband connectivity were solvable through the existing, highly concentrated market—at the individual rather than structural level—the Biden administration ceded control of the telecommunications future to private interests whose handprints were visible in the legislation. By focusing policy narratives on Americans who could not afford

broadband access, they made realizing the future a question of increased government subvention on the demand side: “the legislation will also help lower prices for internet service and help close the digital divide, so that more Americans can afford internet access” (The White House, 2021b). This statement, while it acknowledges the issue of high prices, ignores the oligopolistic causes. This allowed the Biden administration to position Americans as beneficiaries of the new Act without confronting those who contributed to the current unequal situation in the first place. These were the same corporations who sought to benefit from the official deployment of funding and subsidies. Missing from the description of beneficiaries were references to the handful of ISPs who received an investment allotment. There is no public service obligation impinging on their business plan, only the guarantee that the public purchase of broadband will be underwritten by the government.

Plot

While there are significant differences in the two narratives concerning what is said and not said, both share the idea that resolving broadband provision difficulties requires bipartisan support in a time of polarization. In the signing ceremony for the 1996 Act, Clinton stated “This bill is an indication of what can be done when Republicans and Democrats work together in a spirit of genuine cooperation to advance the public interest” (The White House, 1996b). Vice President Gore described the bill as receiving “overwhelming bipartisan support” (1996c). Similarly, when describing the Infrastructure Investment and Jobs Act, the Biden administration incorporated the unification of party standpoints into the name of the Act itself—often referring to it exclusively as the “Bipartisan Infrastructure Law” (The White House, 2022d). Emphasis was placed upon Biden’s “work across the aisle to deliver results and rebuild our crumbling infrastructure” (The White House, 2021a). Once again, it appears as if bipartisanship—rather than the policy—was an end in and of itself in a partisan world. This priority within the policy narrative plot deflected attention from the realities of a captured regulatory process.

Another similarity between the plotline of both narratives is the emphasis on communication systems as transportation infrastructure. This reflects a longstanding notion that communication is tied to transportation and made possible by government infrastructure initiatives. In this context, the analogy was made with another such investment, the 1956 Highway Act. In a press release predating the signing of this Act, the “historical significance” of one of the pens that were to be used by Clinton to sign the document was described as follows:

The pen President Eisenhower used to sign into law the Federal Aid Highway Act of 1956, legislation.... The Highway Act, which created the nation's vast interstate highway system, is in many ways analogous to the Telecommunications Act which will help to develop the nation's information superhighway. (The White House, 1996d)

Clinton solidified this highway metaphor, stating “The Interstate Highway Act literally brought Americans closer together... that same spirit of connection and communication is the driving force behind the Telecommunications Act of 1996” (The White House, 1996b). Biden went beyond bipartisan metaphorical explanations as to how communication access represented infrastructure by positioning the record-breaking broadband investment within the greater Infrastructure Act (IIJA, 2021).

Moral of the Story

In both policies, the moral of the story appears to be a broadly defined increase in access to communication technologies for Americans in the future. In the case of the 1996 Telecommunications Act, this is made clear by a policy narrative which justified the deregulation of ownership rules (based on purported predictions intended to allay concerns over looming media consolidation). One White House briefing explained that the 1996 Act:

stimulates private investment, promotes competition, protects diversity of viewpoints and voices among the media, provides families with technologies to help them control the kinds of television programs that come into their homes, and strengthens and improves universal service so that all Americans can have access to the benefits of the information superhighway. (The White House, 1996a)

In his remarks at the signing ceremony of the Telecommunications Act, Clinton tied these objectives and aspirations to the teleology of progressive neoliberalism: “We will help to create an open marketplace where competition and innovation can move as quick as light” (The White House, 1996b). Importantly, as mentioned previously, the White House tropes of progressive neoliberalism paid homage to Progressive era discourses which had prioritized consumer protection against market concentration. Overall, the policy was depicted as a win-win where everyone would act responsibly. Clinton explained that:

This law also recognizes that with freedom comes responsibility. Any truly competitive market requires rules. This bill protects consumers against monopolies. It guarantees the diversity of voices our democracy depends upon. Perhaps most of all, it enhances the common good. (The White House, 1996b)

Here, the public was led to believe that neoliberal pro-corporate regulation, by unleashing the dynamic power of the free market, would naturally serve the common good. History shows that the rhetoric was as empty as the promise of regulatory oversight.

As discussed, the 2021 Infrastructure Act policy narrative, with a similar emphasis on extending access across socioeconomic and geographic divisions, did not provide a clear villain or an explanation concerning these divisions. Narratives often praised the policy action, without identifying a clear reason as to why such action was required. Yet there was a glimpse at what the Act would make possible:

The Bipartisan Infrastructure Law invests \$65 billion to help make high-speed internet available to all Americans, to bring down high-speed internet prices across the board, to provide people with the tools they need to close the digital divide, and to provide technical assistance to rural and other communities seeking to expand broadband. (The White House, 2022c)

The reason why many Americans struggle to gain broadband connection is left completely unaddressed. This omission, despite the availability of research criticizing corporate digital redlining or the marginalization of less profitable areas of the country by for-profit ISPs, projected a frictionless realization of future objectives. The only obstruction standing in the way of that future, seemingly, was partisan politics.

In praising Congress for passing the Infrastructure Act, a press release described the act as “a once-in-a-generation investment in our nation’s infrastructure and competitiveness” (The White

House, 2021d). Instead of identifying media consolidation as the cause of unequal access across socioeconomic and geographic populations, Biden presented the Infrastructure Act as a neutral and naturalized realization of what the market could provide. The policy narrative hinted at the surrounding transformation of technology, yet still managed to incorporate an emphasis on the necessity of industry market competition (specifically in Broadband). This broadly stated position of American ‘competitiveness’ was linked to only one section of the entire press release designed to breakdown the Infrastructure Act. This section stated that “our airports lag far behind our competitors” (The White House 2021d). ‘Competitors’ can presumably be read as global US allies and trading partners. By staying silent on the role of monopoly power and corporate concentration in the telecommunications industry, the policy narrative demonstrates not only a shift away from the concerns highlighted by Clinton’s administration during the 1996 Act, but also an indication of how naturalized market orthodoxy had become. Emphasizing broadband as an integral part of social infrastructure (something long overdue), without addressing the role of private organizations who control such infrastructure, demonstrates a clear policy silence concerning competition within the industry.

Conclusion

Between the two policy narratives that explored Federal policy pertaining to media and communication over two and a half decades apart, key commonalities and differences were evident. One constant was the trope of bipartisanship pushed by Clinton and Biden. Both Democratic Party leaders emphasized unified support for their communication policies; a tactful way of naturalizing the supposed universal consensus that communication media access is a cause above the quarrels of politicians. In doing so, both administrations positioned communication technology as public infrastructure. Clinton’s administration linked the connectivity promised by the Telecommunication Act to Eisenhower’s 1956 Interstate Highway Act, and Biden, more bluntly, asserted the public significance of internet access, and decided to include Broadband within the broader Infrastructure Investment and Jobs Act. Curiously, while both policy narratives associate the value of communication access to the roads Americans drive on and to the pipes they drink out of, the government’s role in assuring that the public good is protected against the power of private corporations was unaddressed. Further, in neither narrative were partisan standpoints addressed or explained. Rather, the broad claim that bipartisan support drove the policies seemed to be, in and of itself, all voters needed to know about the regulatory processes involved in the Acts.

Frequently identified throughout our analysis of policy narratives was the lack of discussion about important aspects of the telecommunications industry. Following Freedman’s (2014) notion of policy silences, the role of telecommunication giants was, largely, omitted in regard to private interests profiting from legislation nominally serving the public good. Most notably, we found that both policy narratives avoided identifying media corporations as contributors to communication problems the legislation was aiming to solve. The Clinton administration fostered an extremely friendly relationship with media industry players and changed the regulatory structure to suit them. They addressed the potential market threat of media consolidation (granted only to suggest safeguards to stop this from happening). On the other hand, the Biden administration’s policy silences surrounding corporate responsibility for prolonged digital inequalities was deafening in narratives surrounding the IIA. To be sure, the Clinton administration did not cast media or telecommunication organizations in the role of the villain, but they did call out problematic commercial logics inherent in their drive

to consolidate and maximize profits. The narratives surrounding Biden's Infrastructure Act, as discussed, included no such warning or problem identification. We see this growth of silences pertaining to the pitfalls of media concentration as indicating the dominance of neoliberalism and market fundamentalism, as well as the strengthening relationship between the needs of industry players and policymakers in the telecommunications realm.

Pickard's (2015) 'discursive capture' formulation explains that the power of concentrated media effectively narrows the scope of policy discussions by cultivating and naturalizing "common assumptions about the proper relationship between media and government" (83). Pickard refers to the neoliberal hegemonic forces that shape these shared understandings about the "role of media in a democratic society and the government's role in managing that relationship" (83). We found a clear shift from addressing the possible consequences of government policy on ownership consolidation in Clinton's Telecommunications Act, to blatantly ignoring the role of, and benefits to, the consolidated industry in Biden's IIJA. Such a change, evident in the near absence of any real villain in our analysis of the Infrastructure Act suggests an evolution in the ideology of telecommunication policy from the 1990s to the 2020s. The naturalization of market fundamentalism is increasingly marked by policy silence about potentially irreconcilable tensions between public and private interests.

While bipartisan co-operation and the value of communication was emphasized in both policy narratives, the overall scope of discussion appears to have narrowed to exclude considerations of who exactly should be held responsible for the problems identified (lack of broadband availability and unaffordability). We do not present empirical data here for the assertion that media coverage of communication policy-related issues is directly shaped by ownership structures (others have done exceptional work on the subject, see Ali and Puppis, 2018). However, the growing avoidance of discussion concerning pertinent ownership issues suggests an important shift. Politicians and policy makers are no longer even mentioning the regulation of markets to check oligopolistic practices and ensure the kind of competition necessary to deliver public good. Instead, the policy narratives and the policies that they support leave the state of the market unscrutinized, while purporting to ensure that customers can afford the services provided by corporations. This naturalization of structural power within the telecommunications sector indicates the ideological influence of market fundamentalism that, in turn, reflects the unquestioned dominance of lobbyists and industry champions in the highly concentrated telecommunications industry.

In President Biden's speech before signing the IIJA into law, he explained that:

Too often in Washington, the reason we didn't get things done is because we insisted on getting everything we want – everything. With this law we focus on getting things done. I ran for President because the only way to move this country forward - in my view - was through compromise and consensus. That's how the system works. That's American democracy. (The White House, 2021d)

As the President of the United States, a nation pervaded by strong degrees of partisanship and polarization (Edsall, 2022), Biden presumably speaks of compromise and consensus across political lines. Yet since our analysis demonstrates a shift in policy towards the frames and narratives pushed by major industry players, it is worth postulating that bipartisan consensus has come to mean yielding to the industry's terms. Indeed, the emergence of policy silences on issues that reflect badly on Big Telecom infers their influence at regulatory and political levels in the United States government. Compromise is something that politicians and their constituencies have to adopt as a virtue, but the lack of any criteria to limit Big Telecom's actions seems to indicate that they have all the negotiating

power. In this context, cooperation for the public good means yielding to Big Telecom's capture of policy discourse and to the government agencies that purport to regulate the telecommunications sector fairly.

This analysis of two telecommunication Acts over 25 years apart reveals shifts in how the highest office in the United States discusses policies that have been widely critiqued as privileging industry players over the American people. Both Acts presented questionable solutions to the problems they sought to solve. The major distinction between the 1996 and 2021 White House policy narratives was the total lack of acknowledgement in the 2021 Infrastructure Act that media consolidation was undermining market functions in the broadband industry. The critical policy studies approach applied here adds to our understanding of the pitfalls in our legislative process by revealing how power and ideology shape the conversations we have about telecommunications policy—not just by exploring what is said, but by paying attention to what is not.

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Endnotes

- [1] McChesney (2008) complicates the notion of 'deregulation' when discussing media policy, explaining that "all media systems are the result of explicit government policies, subsidies, grants of rights and regulations" (416). He goes on to note that "the real issue is not regulation versus free markets, but, to the contrary, regulation in the public interest versus regulation to serve purely private interests". Thus, when discussing deregulation throughout this article, it should be understood not as an abolishment of government control towards a more "free market" approach, but rather as the "re-regulation" of policies away from serving the interests of the greater public and towards serving those of private industries (see Freedman, 2008: 49).
- [2] See *Division J: Appropriations* of the IJA for a thorough breakdown of the US\$65 billion federal allocation.
- [3] Meinrath et al (2011) articulated this decline of competition within the US broadband space over a decade ago, noting census data that found "nearly 75% of independent ISPs have gone out of business over the past decade", and that FCC data found "only 4% of Americans have more than two wireline ISPs to choose from". The authors concluded that deregulatory practices by the FCC had led "broadband competition in the United States [to] collapse" (247). The continuation of deregulatory practices of the FCC allowing for non-competitive tactics—thoroughly outlined in Ali (2021) and Pickard and Berman (2019)—have further perpetuated this consolidation and the problematic effects.
- [4] The new Infrastructure Act defined "unserved locations," those lacking broadband access, as an internet connection that "lacks access to reliable

broadband service offered with a speed of not less than: (aa) 25 megabits per second for downloads; and (bb) 3 megabits per second for uploads” (Division F, Title 1, Sec. 60102(a)(1)(A)). Furthermore, under Sec. 60307 General Provisions of the Infrastructure Act, (b) Technological Neutrality is addressed under the vague description that “The Assistant Secretary shall, to the extent practicable, carry out this title in a technologically neutral manner” (p. 721).

- [5] As described by Aufderheide (1999), the Telecommunications Act, in the area of mass media, “endorsed concentration, conglomeration, and vertical integration” (62). As McChesney (1999) explained in the years shortly after the 1996 Act was introduced, the classic form of media concentration arose through vertical integration “where a handful of firms tried to control as much production in their particular fields as possible” (2). But he went on to note that trying to assess the market from such a standpoint today is particularly difficult: “looking at specific media sectors fails to convey the extent or the nature of the system today, for no longer are media firms intent on vertical integration. Today, they seek ‘horizontal integration,’ not only producing content but also owning distribution” (2).

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