

American University Washington College of Law

From the Selected Works of Fernando Laguarda

2010

Introduction to Essays on the Future of Digital Communications

Fernando R. Laguarda, *American University Washington College of Law*



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I. STIMULATING DISCUSSION: THE ROLE OF THE TIME WARNER CABLE RESEARCH PROGRAM ON DIGITAL COMMUNICATIONS

The Time Warner Cable Research Program on Digital Communications is pleased to have supported the five essays in this *Federal Communications Law Journal* symposium. We launched the research program with the goal of encouraging debate and discussion on ideas of importance to the future of our industry and its role in the communities we serve. We hope to do so by providing a new forum for scholars to engage with the community of stakeholders who make and influence policy. We want to encourage increased dialogue and generate new ideas that bring us closer to solving the challenges we face. The research program will award stipends to scholars to produce twenty-five- to thirty-five-page papers that increase understanding of the benefits and challenges facing the future of digital technologies in the home, office, classroom, and community.

For this symposium, we invited five noted scholars to write an essay discussing a major challenge they anticipate arising as we debate and set

* Fernando R. Laguarda is vice president for external affairs and policy counselor for Time Warner Cable. For more information on the TWC Research Program on Digital Communications, visit the program's website: www.twcresearchprogram.com.

digital communications policy during the next decade. Their Essays are published in this symposium. While each author chose a different challenge, they all raise interesting questions that deserve further discussion and debate.

II. OVERVIEW—POLICY PERSPECTIVES

The first three policy papers are by a law professor, a sociologist, and an economist. John Palfrey is a professor of law at Harvard Law School and codirector of the Berkman Center for Internet and Society. Palfrey writes about the connection between law and social science and the challenge of incorporating current research into policymaking. He uses the example of youth media policy, specifically *privacy regulation*, to frame a challenge to policymakers: learn how young people actually use digital communications or risk making public policy that is irrelevant to (or poorly meets the needs of) the digital generation. Palfrey recommends establishing “mechanisms that enable collaboration between those who set policy . . . and those who best understand youth media practices.”

In her paper, Dr. Nicol Turner-Lee, vice president and director of the Media and Technology Institute at the Joint Center for Political and Economic Studies, discusses the Internet as a platform for civic engagement. She explains that digital communications tools present both opportunities and perils for the next decade of social activism and political discourse. In particular, “unequal access to the Internet affects civic engagement when groups are underrepresented or on the periphery of online activity.” She offers specific strategies for ensuring the Internet and social media tools provide a constructive forum for deliberative exchange. Turner-Lee’s challenge to policymakers is to take steps to ensure that broadband adoption does not create or further solidify existing social stratification and alienation.

Next, Dr. Scott Wallsten, vice president for research and senior fellow at the Technology Policy Institute, reviews the approach policymakers have taken to broadband technology and challenges several key assumptions driving recommendations for the next decade. While policymakers “hope that home broadband access will [quickly] spur economic growth,” Wallsten suggests that this narrow focus may be misguided. He specifically questions whether residential broadband adoption can have the transformative economic impact many assume it will have. Instead, he writes, the focus should be on “how new communications technologies affect business” because these are the impacts on productivity that will determine whether broadband will “radically reshape the economy.” Wallsten calls for a deeper research agenda into the long-term impact of broadband on the business sector.

Palfrey, Turner-Lee, and Wallsten all raise questions about the status quo and challenge the reader to think outside the box. Palfrey seeks to reconceptualize the process of making public policy as a dialogue with social science research, especially when it comes to the way young people are interacting with digital media. Turner-Lee challenges the reader to rethink policy towards digital social media platforms so as to engage communities that may otherwise be alienated from broadband. Wallsten questions important assumptions about how broadband affects the economy. We hope these papers inform as well as stimulate discussion.

III. OVERVIEW—TECHNICAL PERSPECTIVES

In the remaining two papers in the symposium, two highly regarded authors review trends in technology and their impact on policy. Dale Hatfield, executive director of the Silicon Flatirons Center for Law, Technology, and Entrepreneurship at the University of Colorado, is a noted expert on telecommunications technology and former chief technologist for the FCC. His paper addresses the challenge of encouraging broadband deployment, as set forth in the FCC's *National Broadband Plan*. Hatfield urges policymakers to seek a deeper understanding of the technology underlying different types of broadband networks, and the implications for policy arising from those differences. His analysis of the opportunities and limitations of wireless and wireline technologies leads him to challenge policymakers to consider strategies that would bring fiber significantly closer to end users.

In his paper, Christopher Yoo, professor of law at the University of Pennsylvania, reviews the impact of rapidly evolving broadband networks and notes that “change is inevitable” when it comes to the architecture of the Internet. Yoo notes that as demand on the network becomes heterogeneous, “different portions of the network will respond in different ways to meet this demand.” Rather than looking to the past, he challenges policymakers to allow the network to evolve in new directions. The future success of the Internet does not depend on “preserving the architecture that has made it successful in the past.” Since change is inevitable, policy should be flexible. Incorporating the insights of engineers and network architects into policy would be of great benefit, as Professor Yoo demonstrates.

The intersection of technology and policymaking is a significant component of the Time Warner Cable Research Program's agenda for the coming year. Consumers have increasing choices when it comes to digital communications services, applications, and devices. Many questions are raised as a result of rules and policies enacted without regard to the rapid evolution of digital communications technology. Yoo and Hatfield each

make a contribution to the policy debate by explaining not only *how* digital technologies work but also *why* policy choices should be informed by the best possible understanding of technology.

We are pleased that the five papers presented in this symposium offer a wide range of perspectives on the future of digital communications and the challenges that must be confronted in the next decade. Perhaps the singular theme that arises from looking at the challenges of the next decade is the need to be flexible and pragmatic, not only in terms of policy, but also in terms of the research that can help inform policymaking. We believe that a research agenda that is multidisciplinary and collaborative can make a distinct contribution to the next decade of telecommunications discussions. We hope to play a role in encouraging scholars to contribute to such an agenda.