

5. The 1980s: Liberalization and Seeds of Change

The 1980s was characterized by major changes in both the political climate and the type of communication-information policy issues under consideration. Public contention over the content of the mass media continued, but the emergent “information society” was increasing the importance of CIP. As this happened, economic and regulatory issues associated with technological change assumed center stage. The media activists of the 1970s were not well prepared to handle this shift in the terms of the policy debate. They were mostly on the defensive during this period.¹

But the decade also planted the seeds of a new kind of CIP activism. Computer professionals and technologists organizing around computer-related policy issues show up in the organizational population of the 1980s for the first time. A decade later the rise of computer-related activism would produce major changes in the topical focus of CIP advocacy, the composition of the population, congressional testimony patterns, and mode of advocacy (see next chapter).

This chapter begins its discussion of the 1980s with an overview of organizational foundings and the general population ecology (section 5.1). It then discusses advocacy related to content (section 5.2). Next, liberalization of telecommunications (section 5.3) and broadcasting (section 5.4) are considered. Section 5.5 analyzes the battles over cable regulation. Section 5.6 describes the early computer-oriented advocacy and activism.

5.1 The Organizational Ecology of the 1980s

The 1980s were perceived by many of the activists themselves as a period of retrenchment and defensiveness among activist organizations.² Although we lack systematic data, it is probably true that funding from liberal foundations was not as readily available, and it is certainly true that the political climate was less favorable for liberal groups. In terms of organizational *foundings*, however, our data indicate that the period from 1979 to 1985 was one of the most active in the entire study. An average of 7 new CIP advocacy organizations formed every year, and during the whole decade 59 new organizations were founded. It was the elevation of the *death rate* from 1977 to 1987 that is new. The main difference between the 1980s and the 1960s and 1970s is that the overall size of the population stopped growing rapidly. The total population flattened out at around 100 organizations. The population started to approach the social “carrying capacity” – the upper limit on the cumulative total of organizations devoted to CIP that the surrounding society would support.

Also during the 1980s, the ideological composition of the advocacy organization population shifted in the conservative direction. During the 1970s, 57% of the organizational observations were classified as liberal or socialist, and only 15% as conservative. In the 1980s, the conservative organizational observations jumped to 21% and the left-liberal declined to 50%.

¹ It should be noted that the activities of public interest groups during the 1980s are not as well documented in the secondary literature as the broadcast-oriented activism in the 1970s.

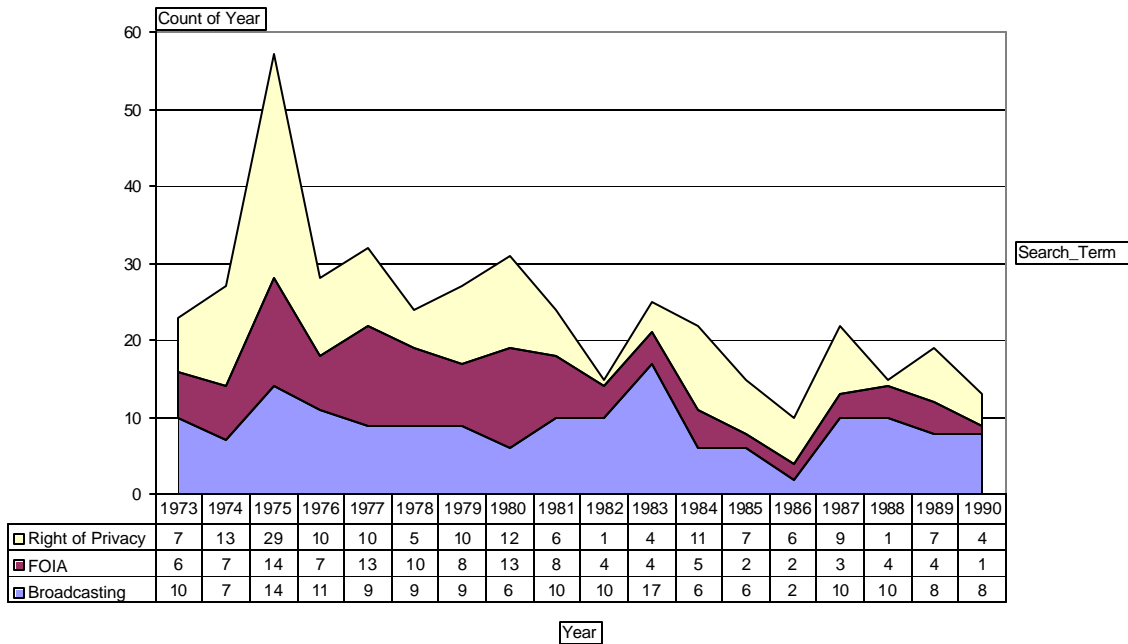
² One contemporary observed that what had once been a fairly robust media reform infrastructure had “dissipated” by the early 1980s, with only a few survivors holding down the fort. Interview with Kathy Montgomery, Feb. 7, 2003.

The decade is correlated with a major change in the policy environment; Charts 5.1 and 5.2 document the dramatic shift in the nature of the CIP issues considered by Congress. Chart 5.1 shows that the number of hearings devoted to the three main preoccupations of the 1970s – broadcast policy, privacy, and freedom of information – declined steadily throughout the 1980s from its peak in 1975. In contrast, Chart 5.2 shows telecommunication infrastructure-related hearings rising from consistently under 10 in the 1970s to a peak of 56 in 1989.³

With such major changes in the focus of communications information policy, one would expect to see elevated death rates among public interest groups. In Chapter 3 we indicated that the population of public interest advocacy organizations tends to adapt in the Darwinian manner. Old organizations suited to old conditions die off while new ones grounded in the new conditions are founded. Trade and professional groups, in contrast, are more likely to adapt through continuous modification of the behavior, membership and agenda of established organizations.

Chart 5.1

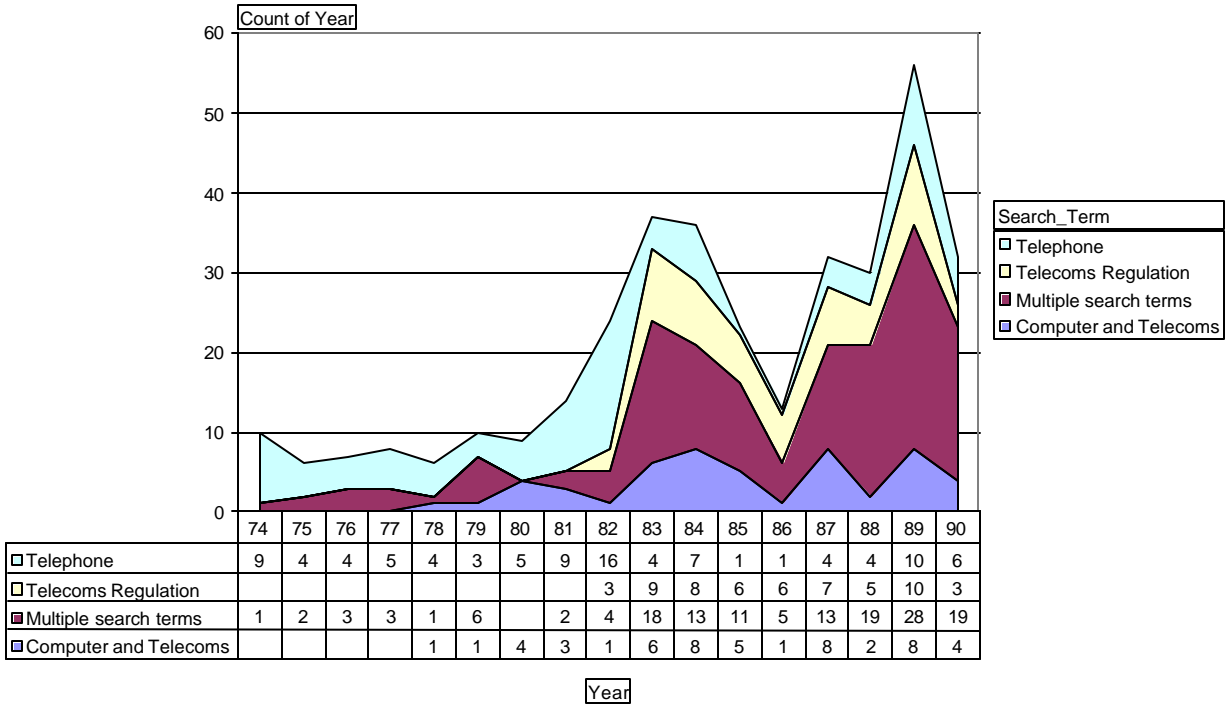
Hearings on FOIA, Broadcasting & Privacy, 1970s-1980s



³ It should be noted that most of the hearings categorized under multiple search terms involved duplication of the terms “telecommunications regulation” with the term “telephone” or “cable TV” or “computers and telecommunications.”

Chart 5.2

U.S. Congressional Hearings on Telecom Infrastructure-Related Topics, 1974 - 1990



Throughout the 1980s, mass media content attracted the most attention from CIP advocates, as it did in the 1970s. Exactly half of the organizations in the total population we have identified are classified as part of the public discourse about content – only a one percent decrease from the 1970s. However, the survival rate of content-oriented organizations established in the 1980s was quite low, as Table 5.1 (next section) documents. Only four of the 18 organizations formed in the 1980s and primarily concerned with content still existed in 2003.

Surprisingly, given the importance of the AT&T divestiture and cable television regulation, not many new public interest organizations devoted to telecommunications infrastructure economics and policy were created during this period. Only two, or arguably three, new organizations focused on those issues appear on the list.⁴

5.2 The Content Wars, Continued

The growth of mass media channels and content production in the 1980s intensified competition for viewers. Media outlets responded with programming that was more controversial and pushed the boundaries of established norms regarding taste, violence and sexuality. Quite apart from the

⁴ The Telecommunications Research and Action Committee (TRAC) was formed in 1983 when the old National Citizens Committee for Broadcasting was reoriented to concentrate on telecommunications issues. Concerned Citizens for Universal Service was a reaction to the rate rebalancing of the AT&T divestiture and may have been a telephone industry front group. Alliance for Public Technology, formed in 1989, focused on telecom policy but was more a part of the public dialogue about access to infrastructure characteristic of the NII debate of the early 1990s.

relaxation of FCC licensing standards (see section 5.4 below), pressure to attract audiences in a more competitive and diversified environment worked against traditional self-regulatory program standards. (Hill & Beaver, 1991) In the incumbent networks, standards and practices departments were cut back by 25% between 1986 and 1987. (Montgomery, 1989) Newer media outlets entering the market in the 1980s, such as Fox and TBS, did not have formal standards for the review of programming.

Table 5.1 Content-Mode Advocacy Groups Formed in the 1980s

Organization Name	Founded	Disbanded
American-Arab Anti-Discrimination Committee	1980	2001
Asian Media Coalition	1980	1989
National Coalition on Television Violence	1980	
Alternative to the New York Times Committee	1981	2001
Coalition for Better Television	1981	1985
Citizens Against Pornography	1982	1993
Foundation for Moral Restoration	1982	2001
National Coalition Against Pornography	1983	2001
Citizens for Media Responsibility Without Law	1984	1999
Feminists Fighting Pornography	1984	1997
Media Watch	1984	
Project Smart	1984	1987
Fairness in Media	1985	1995
Parents Music Resource Center	1985	2000
Fairness and Accuracy in Reporting	1986	
Institute for Media Analysis	1986	1997
Strategies for Media Literacy	1988	1999
Children Now	1988	

Whereas the '70s were dominated by left-liberal content advocacy, during the 1980s conservative groups were equally likely to mobilize around media bias and the emergence of more controversial, sexual or violent programming. But while the left-liberal activism of the 1970s had died down, its cultural pressure had not been eliminated. It had, in fact, been internalized and institutionalized within the major content networks' standards and practices departments and among scriptwriters and program producers. Initially, as Montgomery (1989, p. 59-64) explains, networks such as NBC hired advocacy groups as "technical consultants" when developing programs that might be perceived as objectionable. Eventually, however, there was more integration between network elites and ethnic groups, and minority hiring replaced consultations with outside groups. Relationships with advocacy groups were institutionalized; standards and practices executives, according to Montgomery (1989, 199) became "uniquely skilled at spotting a word, a phrase, or a plot sequence that would evoke a negative reaction from any one of the two hundred or so groups that had made themselves known to the networks."

Religious conservatives on the other hand adopted different and more confrontational tactics in the 1980s. Donald Wildmon's Moral Majority bypassed network standards and practices departments and focused on boycotting advertisers. The founding of the Parents Music Resource Center by Tipper Gore in 1985 indicated the growing importance of digital content as a packaged commodity. The group mobilized around offensive lyrics published to young people on music CDs and came to advocate rating of published content.

Over the long term, however, the nature of mass media content was being driven more by the actions of consumers, producers and advertisers in the commercial marketplace than by political activism and regulation. Content rating is the perfect bargaining result of content-focused advocacy in a market context. It adopts the paradigm of product labeling and gives informed consumers the right to make their own choices. The new market paradigm did create some space for activism: advertisers have a strong natural incentive to avoid alienating sizable segments of the audience. Even without government regulation, protests, petitions and boycotts by advocacy groups can scare advertisers into withdrawing support for a program. Advocacy was recognized by networks, producers and advertisers alike to have an effect on the norms governing mass media content (Hill & Beaver, 1991), but it served more as a minor adjustment to the prevailing directions dictated by the market.

On issues where society is divided, the diversity of opinion usually makes content-oriented advocacy a zero sum game. In cases such as homosexuality, abortion, or portrayals of controversial politicians, programs that satisfy one ideological point of view are bound to anger those with opposing views. In the 1980s portrayals of gays on TV series like *L.A. Law* and *thirtysomething* won support from the Gay and Lesbian Alliance Against Defamation, but outraged the American Family Association. On the other hand, truly dominant social norms will be reinforced by content advocacy. Few groups would form to actively speak out in favor of gratuitous violence or pornography on prime time television, or to promote positive portrayals of narcotics use. Thus, content-oriented activism around dominant social norms can be effective but actually works against the airing of diverse views. Truly challenging programs will attract political challenges that may result in their withdrawal, segregation into time zones that restrict access, or similar restrictive measures.

When groups attempt to resist content-oriented advocacy's reinforcement of dominant norms, they adopt the advocacy mode of individual rights. Defenses of content that threatens dominant norms will take the form of anti-censorship campaigns or promotion of individual rights to free and diverse expression. In 1980, liberal television producer Norman Lear founded People for the American Way as a counter to the Moral Majority, adopting the language of constitutional rights. Rock Out Censorship was formed in 1989 as a counter to Tipper Gore's campaign against music lyrics. In American society at least, rights advocacy trumps content-mode advocacy.

Most of the media activist organizations created in the 1970s, and many of the new ones formed in the 1980s, did not participate in the infrastructure regulation battles. But the changes in economic regulation were fomenting a revolution in communication and information industries that would do more to define the terms of content delivery than any of the policies and regulations sought by content-oriented advocates.

5.3 AT&T Divestiture & Telecom Liberalization

From the second half of the 1970s until 1996 the communications infrastructure of the nation went through systematic and sustained institutional change. In telecommunications, the model of a monopoly utility subject to public interest regulation was replaced by the idea of a competitive marketplace guided by norms of efficiency, consumer choice and entrepreneurial freedom, although substantial regulation remained. Cable television and broadcasting also went through various levels of deregulation.

Telecommunications liberalization – the most appropriate label for this process⁵ – started in the U.S. but came to include virtually every developed country and many developing ones as well. (Drake, 2001) The liberalization trend constituted a global institutional change that was as significant – and as irreversible – as civil rights and environmentalism. For the most part, left-liberal activists were on the defensive during this period. Although that change in the underlying policy paradigm has now run its course, many current activists still have not progressed beyond the regulation-deregulation dialectic set in motion during the 1980s.

Liberalization of the communications industry had its roots in a scholarly critique of business regulation that had been building for two decades. Critical examination of regulatory agencies and processes by academics in the 1960s and 70s discovered that regulatory agencies often were captured by the regulated industry. Established businesses themselves often created the political demand for regulation and other forms of government intervention. The effect of regulation was often to protect incumbent businesses from competition. More generally, the new political economy held that it was wrong to view government action as somehow always in the interest of the public and exempt from self-interested behavior. Regulators, bureaucrats, politicians and economic interest groups advocating regulation have something to gain from their actions, and much could be learned about government behavior and appropriate policy by keeping that in mind. Far from being a rightwing conspiracy, that critique was rooted in research spanning the spectrum from leftist (See the work of Gabriel Kolko on early railroad regulation), to mainstream liberal (Marver Bernstein), to free market “Chicago School” thinkers (Ronald Coase, Harold Demsetz, George Stigler). The essential outlines of this critique were accepted by liberal as well as conservative legislators and regulators, and the ideas came into prominence in the mid-1970s.⁶ There was a newfound appreciation for values such as efficiency, competition, consumer choice, and innovation, and for the costs and problems associated with government action.

In short, liberalization constituted a countervailing social movement that introduced new ideas and new norms into communications policy making. The new norms were politically salable and backed by academically respectable research, as well as solid experience with the perversities of monopolies and regulation. Just as in the 1960s new norms pertaining to consumer protection, civil rights and environmental protection cut across multiple policy domains at once, making it difficult for an unprepared business community to fend off change, so the new norms of economic liberalization cut across multiple communication policy domains at once, making it impossible for the small community of pro-regulation media activists to fight on all the relevant fronts.

⁵ We use the term “liberalization” rather than “deregulation” because deregulation of prices, exit and entry is typically only one part of the process. Many aspects of telecommunications have been regulated as a result of liberalization; e.g., interconnection, numbering, and network infrastructure unbundling. Also, the divestiture of AT&T itself involved an act of fairly aggressive antitrust intervention in the industry’s market structure.

⁶ Liberal Democratic FCC Commissioner Nicholas Johnson supported the early admission of new entrants into common carrier markets. Deregulator Fred Kahn was appointed CAB chair by President Carter, and the bill deregulating airlines in 1978 was sponsored by Ted Kennedy. Henry Geller, a former FCC Counsel, NTIA head and policy analyst funded by the Ford Foundation, came to support eliminating broadcasters’ public trustee requirements and in its place imposing a spectrum fee on stations and auctions for all new frequency assignments, using the money to support noncommercial telecommunications.

The AT&T divestiture and the 20-year process of revising the legislation and regulations structuring competition in telecommunications were set in motion by contention among economic interests. Alternative suppliers of equipment and services allied themselves with major business users to demand greater choice and openness in the public telecommunications network. (Brock, 1994; Cowhey, 1990) Incumbent telephone monopolies and state regulators resisted the changes. The economic stakes were vast; at this time telephone monopolies were often the largest single enterprises in a nation.

During this period economists assumed the lead role in offering a vision of the public interest. The theoretical and analytical tools of economists (especially the law and economics analysis associated with Chicago-School economists) provided the primary basis for comprehending the interaction of law, regulation, economics and technology. Economic modes of analysis filled a dire need, as regulators were confronted with complex technological changes and new institutional and legal problems caused by them.

Media activists who were focused more on culture and content had a difficult time participating in this dialogue. Instead, the lead public interest role in responding to telecommunications liberalization was assumed by consumer organizations. Consumer organizations defended distributional bargains favoring local telephone consumers at the expense of long distance users, while supporting the shift to a competitive model when it delivered benefits to residential users. Consumer organizations also fought for a pro-consumer mix of regulation and competition in the cable television industry. In the complex mix of business interests contending over telecom policy, they found that coalitions and alliances with different business groups could provide the leverage for influencing policy. They sided with newspaper interests against telephone companies to prevent the latter from entering information services; with cable companies against telephone companies or sometimes vice-versa; with competing smaller telephone companies against larger ones; etc.

Initially in the late 1970s, AT&T co-opted some consumer and advocacy groups by claiming that a regulated monopoly using cross-subsidies promoted universal service and made local telephone service more affordable. Consumer advocate Sharon Nelson, who later became head of the Washington State Utility Commission, laid the foundations for a break with the traditional pro-monopoly view. Nelson was a Carter-style Democrat and believed that economic deregulation could be a progressive policy with the right safeguards.

Consumer organizations had a substantial impact on the AT&T divestiture and its aftermath. But their agenda, as noted before, was to moderate the distributional effects. They wanted to preserve low rates for local telephone subscriptions and continue to allocate the joint and common costs of the network according to the equity principles that had been used by regulators in the past, rather than the efficiency principles advocated by economists. They were influential in Congress because they were resisting rate shocks that voters would not like. Moreover, they were in a position to take advantage of divisions among industrial lobbyists.

The Lifeline and Linkup programs exemplify the type of success consumer organizations achieved. In the early 1980s, economists and regulators had proposed a “Subscriber Line Charge,” an immediate increase in monthly local telephone subscription rates designed to facilitate a cost-based realignment of local and long distance rates. The SLC as originally proposed would have doubled

local rates for most consumers. Organizations such as Consumer Federation of America, Public Citizen's Congress Watch and Consumers Union filed comments at the FCC opposing the SLC, and requesting creation of a program to directly subsidize local rates for low-income consumers – a program that became known as “Lifeline.” Eventually the SLC was reduced and its implementation phased in over time. Later in the 1980s, targeted subsidies for phone line installation (“Linkup America”) were created. As a subsidy restricted to the needy, Lifeline and Linkup were more efficient than the untargeted subsidies of the old regulatory regime. The Consumer Union’s Gene Kimmelman feels that consumer groups deserve credit for making the transition to competition with “minimal consumer pain.”⁷

The pattern is clear: the initiative for change came from economic interest groups, and the vision and policy model came from pro-market political economists, but advocacy groups had an impact on how the cost burdens were distributed.

5.4 Broadcasting Regulation

Liberalization of communications industries had a major impact on the U.S. public interest groups involved in mass communications. In the prior decade, advocacy groups had learned to rely heavily on the public trustee regulations to gain leverage over the programming, employment practices and community relations of broadcasters. Liberalization and deregulation eroded those forms of leverage, diminishing their ability to push for policy goals in the ways in which they had become accustomed.

Movement toward a market paradigm was bipartisan and preceded Ronald Reagan’s election as President. But the election of Reagan put people into policy making positions in the federal government who were more pro-business and more willing to take bold measures breaking with the past. This was especially true of the Federal Communications Commission, where outspoken former broadcaster Mark Fowler was appointed Chair. Fowler and others directly attacked the scarcity rationale that had served to justify regulation in the past. Noting the diversification of program outlets, they argued that consumers could “vote with the dial.” “The public’s interest [in programming] defines the public interest.” Papers in law review articles articulated a new approach to the public interest standard that equated the public interest with promoting a free and competitive marketplace. (Fowler & Brenner, 1982)

In January 1981, in a move that started under Carter, the FCC eliminated rules and policies requiring radio programming logs, commercial time limitations, ascertainment of community problems, and non-entertainment programming requirements. License terms were extended to five years for TV and seven years for radio. In 1984, similar changes were made for commercial television licensees. The number of television stations a single entity could own was increased from 7 to 12 in 1985. From 1985 to 1987, the Commission found that the Fairness Doctrine undermined the First Amendment by inhibiting coverage of controversial issues by broadcasters, and ruled that its enforcement was no longer in the public interest. The decision was upheld on appeal.

In one of the few case studies of CIP advocacy groups in the deregulation era, H. Kim (1995) examined the role of citizens groups in the Direct Broadcast Satellite proceeding from 1979 to

⁷ Interview with Gene Kimmelman, September 30, 2002.

1982. The study shows that the basic contours of the debate over broadcast regulation had been recast in economic terms. Advocates of the new service characterized DBS as “a new source of video competition” and “the initiation of [a] new, innovative and competitive communications service for the American public.” Incumbent broadcasters, on the other hand, advanced a protectionist argument, complaining that competition from DBS would siphon away advertising revenue from local broadcasters and destroy localism in broadcasting.

Eight citizens groups drawn from the civil rights-oriented 1970s media activism intervened in the DBS proceeding.⁸ While not opposing the introduction of DBS, their goal was to fit the new service into the mold of traditional broadcast public trustee regulation, imposing on it ownership restrictions, program diversity requirements and similar public interest obligations. That viewpoint failed to resonate with policy makers in the new conditions of the 1980s. The government and the prospective new entrants saw such regulation as an impediment to the development of new technologies and services. The advocacy groups failed to convince policy makers why new businesses should not be allowed to enter the market with minimal burdens, or why consumer choice in an expanded marketplace was not sufficient to protect consumer interests.

5.5 Cable Deregulation and Re-Regulation

Cable Television was a major preoccupation of the 1980s. As a mass medium involving content, the media activists of the 1970s showed more interest in cable than in telecommunications. But in this policy arena as well, the pro-market paradigm was more influential. The first major institutional change was the passage of the Cable Communications Act of 1984. Near the end of the decade, consumer advocates spearheaded an attempt to re-regulate the cable industry that met with temporary success in 1992.

The Cable Communications Act of 1984 represented an accommodation between two interest groups: municipal franchising authorities, represented by the National League of Cities, and the cable industry, represented by the National Cable Television Association (NCTA). NCTA was concerned about the uncertainty of franchise renewals and the rate regulations and franchise fees imposed on them by municipalities. The basic bargain was that the cable systems would be deregulated and cities would receive significant franchise fees. The law regularized franchise renewal procedures, capped franchise fees at 5%, and deregulated rates. The impact of public interest groups was felt mainly through the law’s institutionalization of public access channels. The law authorized local franchising authorities to require set-asides of channel capacity for public, educational or governmental (PEG) use. It also required that 10-15 percent of cable channel capacity be devoted to leased access.

The channel access provisions represented a somewhat lopsided compromise between advocates of the “common carrier” concept, wherein cable system operators would serve as a neutral conduit for content produced by others, and the “electronic publisher” model, wherein cable system owners, like newspapers, actively selected which content to publish and promote. The parameters of this

⁸ NCCB, NABB, National Black Media Coalition, UCC, Citizens Communications Center, Black Citizens for Fair Media, Committee for Community Access, Chinese for Affirmative Action, Citizens Committee on the Media, and Metropolitan Washington Coalition for Latino Radio.

compromise were constrained by court decisions ruling some forms of common carrier regulation unconstitutional.⁹

Few would argue that public access channels have revolutionized mass communication, as some of the more utopian advocates had hoped they would. In general they lack the resources for self-promotion and attract tiny audiences. Their usage by the public has been constrained by the need for video production equipment and facilities, and more fundamentally by the fact that the demand for programming has expanded to the point that most capable producers of programs with the potential for popularity will be picked up by the commercial marketplace. But public access channels continue to hang on and play a valued if marginal role in cable communications. The 1984 Act's provision for leased access also seems to have had little effect on the industry structure; we are not sure why. Overall, cable has developed more as an electronic publisher than as a common carrier.

Following the 1984 Act's deregulation of cable rates in January 1987, frustration with cable companies grew among consumers. Many local franchises were exclusive, shielding them from competition. Subscription rates increased by 61%, three times faster than inflation. The responsiveness of cable monopolies to service calls became a national joke.

The Consumers Federation of America played a leading role in translating this consumer frustration into legislation. CFA's campaign began in April 1989, when it issued a press release claiming that consumers were being overcharged and poorly served. It criticized the vertical integration between content producers and cable operators and the use of programming to impede head to head competition between cable systems. It proposed a new law re-regulating cable rates and instituting measures to promote competition.

The defeat of this proposal in 1990 made Gene Kimmelman of CFA realize that he needed more powerful allies. Consequently, CFA enlisted broadcasters in the fight against the cable industry. Broadcasters now viewed cable as a dangerous competitor that siphoned programs and advertising away from them. They proposed that cable systems pay them money, known as "retransmission consent fees" for the carriage of their signal. A new version of the bill containing retransmission consent was co-sponsored by Senator John Danforth, a Missouri Republican, and eventually supported by nearly half the Republicans in Congress.¹⁰ The retransmission consent ploy turned Hollywood content producers against the bill, however. After a major political battle in which broadcaster interests spent almost \$400,000, Hollywood \$350,000 and cable interests over \$1,000,000, the bill was passed and President Bush's veto overridden. In April 1993 the FCC issued new regulations fleshing out the details of the act.

⁹ United States v. Midwest Video Corp., 440 U.S. 689 1979. Quincy Cable TV, Inc. v. FCC, 768 F.2d 1434 (DC Cir. 1985).

¹⁰ The 1992 Cable re-regulation bill: 1) Enabled local governments to regulate rates for the basic package of services based on FCC guidelines, and authorized the FCC to step in when they didn't do it right. 2) Set minimum customer service standards; 3) Mandated retransmission consent for broadcasters; 4) prohibited exclusive franchises; 5) permitted local governments to operate a cable system without going through the franchising process; 6) required cable operators to sell programming they owned to all comers, e.g., satellite and wireless competitors.

In pushing for the 1992 law, Kimmelman took as a starting point industry interest group politics, and strategically maneuvered within them. This was marked as a notable shift of strategy at the time. Critics and admirers alike described CFA as engaged in a kind of “balance of power” politics. According to the New York Times, he “deliberately picks issues where he can use the money and muscle of one industry to take on another.”¹¹ Regarding retransmission consent, Kimmelman said “it was a deal with the devil that I think was not a bad deal. The only way you win on this kind of an issue is if you’ve got enough muscle on your side. We had the perfect combination of rural, urban, consumers and broadcasters. And still it wasn’t easy.”¹²

Kimmelman’s assessment of political necessity was supported by academic research on PAC contributions and the 1992 cable re-regulation act. In a statistical test of influence, Cohen and Hamman (2003) “detected little congressional responsiveness to constituent demands... .”

Despite rising cable rates and consumer complaints to policy makers, it was not until broadcasters mobilized against cable interests to secure rebroadcasting fees that cable interests lost their hold on cable policy. (p. 366)

The disturbing conclusion is that in the American polity (and probably in many other developed industrial societies) general public demand for a policy by itself is insufficient to create institutional changes. Organized special interests must be enlisted. That fact has important implications for the future of public interest advocacy.

The 1992 Cable Act was hailed by liberal advocacy groups as the first major re-regulation of an industry since Reagan was elected in 1981. However, the bill did not reverse and in some ways was intended to foster the long term trend toward liberalization of the industry. By prohibiting exclusive franchises and exclusive deals for programming, the bill fostered competition. Regulation was positioned as a near-term substitute for competition in those areas of the market still monopolized. After only three years of implementation, the 1992 bill was superseded by the Telecommunications Act of 1996. The new law eliminated rate regulation but retained many of the pro-competitive aspects of the 1992 Act.

5.6 Early Computer Advocacy

The 1980s contained the seeds of a new kind of CIP activism. Five organizations in particular represent the beginnings of a change in the organizational ecology that would intensify in the 1990s: the Free Software Foundation, Computer Professionals for Social Responsibility, the Public Interest Computer Association, Public Cryptography Study Group, and the League for Programming Freedom. FSF became a leader of the open source software movement. CPSR began with a focus on anti-nuclear and military issues, but has since grown into an international membership organization that focuses on the entire range of communication-information policy issues. The advocate behind PICA had ties to CPSR and later played a role in the formation of the Electronic Frontier Foundation and Electronic Privacy Information Center.

¹¹ Edmund Andrews, “Cable Bill Advocate Divides and Conquers,” New York Times, 27 September 1992.

¹² Phillip Davis, “Bush Asks for Sign of Loyalty; Congress Changes the Channel,” Congressional Quarterly October 10, 1992, p. 3149.

The new organizations reflect the existence of both new issues (policies related to computers) and a new constituency (computer-literate professionals). The members of these organizations were involved in programming computers, computer science research, and the implementation of new networking technologies and applications. Often they were based in research institutes, including military-funded ones, or universities. They were an elite group, but had a strong sense of responsibility regarding the new information technology they were developing. The Association for Computing Machinery (ACM), a professional association, was one of their organizational homes.

Table 5.2 Computer-related organizations founded in the 1980s

Organization Name	Founded	Disbanded
Computer Professionals for Social Responsibility	1981	
Public Cryptography Study Group	1983	1987
Public Interest Computer Association	1983	1987
Free Software Foundation	1985	
League for Programming Freedom	1989	

In the 1980s, the political battle over encryption that would define online activism in the 1990s was already taking shape. From 1974 – 1980, the government’s intellectual monopoly on cryptographic knowledge and technology was broken by researchers. (Diffie & Landau, 1998; Levy, 2001) The technologists who attempted to develop tools of privacy protection using computer technology encountered systematic opposition and harassment by the government. In response, they began to organize and resist. The first “Crypto conference” was held in 1981. The Public Cryptography Study Group was an expert group formed in 1983 to support liberalization of encryption. Advocacy activity converged around the 1987 Computer Security Act, which passed with support of business and civil liberties groups. The law transferred responsibility for securing the nation’s computer infrastructure and standards from the secretive, military oriented National Security Agency to the civilian National Bureau of Standards (which later became NIST). (Levy, 2001, 182) Marc Rotenberg, founder of EPIC, was a staff person for Senator Patrick Leahy, a key proponent of this legislation, at the time.

Another way in which computer professionals became a new source of energy in the CI policy realm is illustrated by the formation of the RISKS-Digest by Peter G. Neumann in August 1985. A researcher at SRI and early user of the ARPA-Internet, Neumann became Chair of the ACM’s Committee on Computers and Public Policy in the mid-1980s. RISKS-Digest was set up as an ftp-based newsletter/bulletin board system, allowing the community of online computer scientists to stay informed and exchange ideas about “our increasingly critical dependence on the use of computers.” One of the inspirations for the Digest and similar activities was the Reagan administration’s Strategic Defense Initiative, better known as “Star Wars,” which proposed to develop a computer-driven system to shoot down incoming missiles. The first issue of the RISKS-Digest quoted ACM President Adele Goldberger giving voice to concerns about the intersection of computer science with public policy:

“Contrary to the myth that computer systems are infallible, in fact computer systems can and do fail. Consequently, the reliability of computer-based systems cannot be taken for granted. This reality applies to all computer-based systems, but it is especially critical for systems whose failure would result in extreme risk to the public. Increasingly, human lives depend upon the reliable operation of systems such as air traffic and high-speed ground

transportation control systems, military weapons delivery and defense systems, and health care delivery and diagnostic systems.”¹³

PICA was established by Marc Rotenberg as a service organization to advise public interest organizations on how to use computer systems. Rotenberg was also on the Board of Directors of CPSR in the mid-1980s. “After working for the Senate, I thought it was important to establish a stronger voice for NGOs interested in technology policy.” So he convinced the CPSR Board to establish an office in Washington and run a “Computing and Civil Liberties” project. One of the first activities of the new Electronic Frontiers Foundation in 1990 was to make a grant to the Computing and Civil Liberties project.

This new constituency of computer professionals and developers, small and elite but strategically placed, created in the 1980s an infrastructure of human resources and online communication, the fruits of which would be reaped later during the privacy/crypto activism of the early 1990s. (See Chapter 6)

5.7 Conclusion

In the 1980s, CIP started to be defined as much through battles of expert ideas as through the demands of politically mobilized constituencies. As emphasis shifted from content to infrastructure, economic issues moved to the forefront of policy, but the population of advocacy organizations did not reflect this change. Although left-liberal media activists of the 1960s and 1970s successfully institutionalized many of their cultural and social norms, they failed to impede politically or challenge intellectually liberal/market economic institutions. On the contrary, a new epistemic community with liberal and libertarian ideas about computers and telecommunications took root in this decade.

¹³ Communications of the ACM, February 1985 (pp. 131-133).

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