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Reality Bytes: 1994 Telco Legislation and the End of Library Innocence

by Patrick Flannery

What can you say about a legislative year that saw the collapse of Ernest Holling's public access telecommunications bill, the triumph of Newt Gingrich, and the banning of a tour of Graceland from the Internet?

The 1994 legislative session is rapidly drawing to a close as I write, and the library community in the United States is already crossing it off the books as a particularly strong lesson in political reality. Nineteen-ninety four began as a year in which anything seemed possible for librarians seeking to influence the political

debate over the National Information Infrastructure. It ended with serious discussion of budget cuts, agency dismantling, and the elimination of government involvement in the NII. And punctuating the year was the Hindenburg-like explosion of S. 1822, the most concerted legislative effort yet to concern itself with guaranteeing public, and hence library, access to the Internet.

The 103rd Congress second session opened with a land-rush of legislative proposals for the care and feeding of the kudzu-like Internet. Vice-President Al Gore managed to push the NII issue to the forefront of the Clinton Administration's agenda, something rarely accomplished in vice-presidential history. Two of the five key features of the Gore proposal struck a chord in the hearts of librarians: provide open access to the network and avoid creating a society of information haves and have nots. Several House bills emerged from the dying days of the 1993 legislative session, including the Brooks-Dingell bill (HR 3626), the Markey-Fields bill (HR 3636), and the Danforth-Inouye bill (S. 1086); all involved input from the library community, often through close collaboration with ALA's own lobby on the Hill, the Washington Office. For once, librarians stood in the unusual position of being key players in the drafting of telecommunications legislation which would enshrine many of the profession's core values.

Then on February 3, Gore was scooped by one of his own party. Acting partly out of concern that Administration proposals didn't do enough to guarantee access to the NII for rural areas, Sen. Ernest Hollings (D-SC) introduced S. 1882. The library community could scarcely believe it as Hollings discussed the rationale behind his legislation: "How can the public interest be guaranteed? The bill establishes a detailed framework to protect universal service, and allows public entities such as schools, libraries, local governments, public broadcasters and other public entities to receive preferential rates for access to the telecommunications infrastructure." Here was an articulation of public policy which far surpassed other bills in guaranteeing the future involvement of libraries in the NII. The reaction to the Hollings' bill was strongly supportive.

The summer brought continuing good news. Both the Brooks-Dingell bill (HR 3626) and the Markey-Fields bill (HR 3636) were passed by the House with bi-partisan support. The way looked clear for S. 1822. But by September 23, Sen. Hollings was forced to declare his legislation dead. While the debacle seemed swift and stunning, strong anti-Hollings forces had been building throughout the summer. Industry lobbyists pressured Senate Republicans, in particular Sen. Robert Dole, to amend the bill substantially, turning a vision of benign government involvement in the question of universal access into a virtual deregulation bill for the industry. By late September, Hollings quit compromising and, rather than see his legislation turn into something it was not, killed his own bill. With the death of S. 1822, library-supported telecommunications reform died in the 1994 legislative session.

A full discussion of the forces and counter-forces at work in Washington this summer is well beyond the scope of this article. Instead, I would like to focus on a single issue around which much heat was generated: public, or "universal", access to the Network.

At the core of ALA's discussions of the Internet lay the concept of public access. In discussion after discussion of the many bills introduced in the House and the Senate in 1994, librarians harkened back to the structural enshrinement of public access in the Communications Act of 1934 (sometimes referred to as the phones-to-farms bill). Without such legislation, it has been pointed out, the wiring of the U.S. hinterlands for telecommunications service would have taken far longer to accomplish. By defining a basic level of telecommunications service for all Americans, and by mandating provision of this service by local phone companies, the Act made an expensive technology ubiquitous, permanently altering the communications infrastructure of the nation. S. 1822, drafted for a Senator from a state (South Carolina) keenly aware of these issues, was seen as a philosophical successor to the 1934 legislation.

Attempts to apply this lesson in 1930's economics to the American economy of 1994, however, floundered for two reasons. First, the explosive growth of the world electronics industries throughout the 1980's saw a corresponding drop in unit prices of the building blocks of the Internet: computers, modems, telecommunications data lines. As librarians debated how to offer public access to the NII, they began to notice a disconcerting phenomenon: the public was frequently bypassing libraries for commercial online services or CD-ROM products. Advertising in any hometown newspaper highlighted the phenomenon: users were now purchasing their own powerful on-ramps to the NII at prices below what most libraries had paid for older, less-flexible equipment. While libraries struggled to keep up with their public's demand for higher modem speed access to their OPACs, an increasing number of admittedly affluent users were shopping (for want of a better term) elsewhere. America Online had to suspend temporarily the granting of new accounts in order to keep up with the demand for fee-based Internet access by individuals.

A second, perhaps more telling reason was a paradox largely unexamined and unexplained in librarians' discussions of public access. Despite the existence of industry subsidies for local phone service, a larger percentage of American homes in 1994 owned a television than a telephone. Opponents of universal access provisions (including most of the telcos bound by the existing 1934 legislation) frequently cited this statistic to imply that market forces, not federal legislation, would do more to guarantee the wide distribution of network technology. A very conservative version of Economics 101 reared its head and librarians flinched. Rather than face this paradox squarely and incorporate it into their discussions, librarians largely ignored it and continued to speak of the Internet in terms of running phone lines to farms in North Dakota and barrios in East Los Angeles....

...which leads directly into another highlight of the 1994 legislative season: the Great Democratic Election Debacle. For the first time in 40 years, the library community faced a Congress philosophically opposed to our most basic legislative presumption: that the Federal government had a role to play in guaranteeing public access to information. This role had mutated over the years, from bricks and books (LSCA) to electronic access (GPO Windows), but its underlying rationale remained largely unquestioned. The Newt Gingrich/Bob Dole Congress of 1995 will not attack libraries themselves; the notion has always been political suicide. But libraries stand to lose heavily in the cross-fire over the broader questions of government involvement in matters of concern to private industry. The ALA Washington Office, always an effective advocate of libraries despite minimal funding by the profession, has its work cut out for it in dealing with a Congress with much clearer ties to the information and telecommunications industries than previous Congresses.

And what about the Graceland debacle? While not a legislative matter, Elvis Presley Inc.'s decision to seek the legal suppression of a free hypertext tour of Graceland from the Internet highlights something which librarians have often overlooked in their discussions of the Internet: the explosive growth in both awareness of and financial interest in the Internet as a basic tool of a capitalist economy. No longer a tool of academe and government, the Internet has ignited a prairie fire of monetary interest in 1994. This interest, symbolized by EP Inc.'s recognition that someone else was giving away for free what they could be making money from, will in turn inevitably change the nature of the Internet. Such changes could potentially destroy those values hard-coded into the Net from its inception which librarians in particular value: wide-area distribution of and access to information in a wide variety of formats. Already, serious discussions are underway which would result in the elimination of those features of the Net of most interest to the library community. A concept such as postage charges for e-mail, for example, might cause the immediate shut-down of dozens of library listservs as administrators struggle to determine the economic impact of running such an open service.

Much like the cartoon character Popeye resting on the back of a whale he presumes to be an island, librarians in 1995 need to relearn that legislation often rides the whale's back more than it provides an island of stability in an ocean of economic change. It remains to be seen in 1995 if librarians, and the library profession, are able to ride the whale's back, or be swept away in the flood.

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Selective NII URLography

by Thomas C. Wilson

The following URLs provide access to a variety of perspectives on the National Information Infrastructure. Most of them also point to other relevant resources, in some cases to each other.

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- URL <http://sunsite.unc.edu/nii/NII-Table-of-Contents.html> (<http://sunsite.unc.edu/nii/NII-Table-of-Contents.html>)

The University of North Carolina's U.S. Government Hypertexts includes the searchable text of "The National Information Infrastructure: Agenda for Action" and access to a number of related documents.

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- URL <http://iitf.doc.gov/> (<http://iitf.doc.gov/>)
 - URL <http://iitf.doc.gov:70/> (<http://iitf.doc.gov:70/>)
 - URL <gopher://ntiaunix1.ntia.doc.gov/> (<gopher://ntiaunix1.ntia.doc.gov/>)
 - URL <http://www.ntia.doc.gov/> (<http://broadbandusa.sc.egov.usda.gov/>)
 - URL <gopher://gopher.ntia.doc.gov:70/1> (<gopher://gopher.ntia.doc.gov/1>)

National Telecommunications and Information Administration and the Information Infrastructure Task Force maintain gopher and http servers offering committee and working group rosters, press releases, calendars, speeches, testimony, selected legislation, conference information, and government program updates.

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- URL <http://bell.com/bell.html> (<http://bell.com/bell.html>)
 - URL <gopher://bell.com:70/11/Legislation> (<gopher://bell.com/11/legislation>)

House and Senate bills, other relevant documents, a pointer to a WAIS database of U.S. House Legislation for the 103rd Congress, and perspectives from the telecommunications industry are available at this site.

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- URL <http://farnsworth.mit.edu/index.html> (<http://farnsworth.mit.edu/index.html>)

The MIT Research Program on Communications Policy provides a guide to institutions and organizations dealing with the National Information Infrastructure.

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- URL <http://stdsbbs.ieee.org:70/0/pub/NII.GII/giiintro.htm>
(<http://stdsbbs.ieee.org:70/0/pub/NII.GII/giiintro.htm>)

IEEE offers standards and activities that relate to the requirements for an information infrastructure.

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- URL <gopher://arl.cni.org:70/11/info> (<gopher://arl.cni.org:70/11/info>)

The Association of Research Libraries maintains a gopher that includes information related to the NII, most notably this menu on information policy.

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- URL <http://www.eff.org/papers.html> (<http://www.eff.org/papers.html>)

The Electronic Frontier Foundation archives and points to papers related to the NII and other issues of interest.

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- URL <http://apt.org/apt.html> (<http://apt.org/apt.html>)

The Alliance for Public Technology, a telecommunications consumer organization, maintains a page that offers its response to the NII initiative.

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- URL <http://www.law.indiana.edu/fclj/fclj.html> (<http://www.law.indiana.edu/fclj/fclj.html>)

The Federal Communications Law Journal provides a legal analysis of a variety of issues of interest.

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