Business as Usual or Genuine Change? Deciphering Contemporary Media Policy

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Over the last two years, the Trump administration has recklessly pursued a set of unprecedented policies on immigration, trade, foreign relations, and taxes. Media doesn't really belong on this list; the government's approach to regulating this sector has been far from radical. This is not to say that there aren't serious problems in media policy that deserve our attention, only that, few, if any, of the current administration's regulatory moves represent a fundamental break with the past. Even the FCC's opposition to net-neutrality is basically consistent with decades of policy (under both republican and democratic administrations) that has doggedly helped strengthen already established players in the media business.

At the top of the media policy newsfeed this summer have been mergers, which despite some regulatory resistance, have generally moved forward unhindered. There is Disney's buyout of 20th Century Fox, which will increase the studio's share of the domestic box office to 40%. This poses a considerable threat to already-struggling theater owners, who faced bullying from behemoth Disney earlier this year, and will soon be in an even worse negotiating position. The Justice Department took no notice of the deal, however, preferring to focus instead on the AT&T-TimeWarner merger, which it unsuccessfully challenged in court. Observers found this effort bewildering, since AT&T's vertical takeover seems to many to be less threatening than Disney's horizontal grab. But I fear that the unobstructed merging of content production and distribution that the AT&T deal represents ultimately poses greater risks. This is especially true given that once this marriage is consummated, it is unlikely to ever again face any kind of restrictions or regulations, in the form of, say, net neutrality rules, or price controls. This means that various distributors, including cable providers like Comcast and AT&T, as well as digital platforms like Netflix, will be able to use their physical infrastructure and/or established market dominance to push their own content over that of competitors. This will mean higher costs for consumers, less access to outsiders and upstart creators and aggregators, and a media environment that, despite the innovations of digital technology, will continue to be controlled by a few very large and sometimes very familiar companies (i.e. AT&T, Disney, Viacom).

Which is to say, the more things change, the more they seem to stay the same; while the Department of Justice used to be in the business of trust-busting, the agency has stood down in recent decades, prompting one wave of media mergers after another. This busy year of consolidation seems very much in line with this pro-market regulatory history. But the shocking and incomprehensible nature of the Trump presidency tends to muddle this underlying truth. Consider Sinclair's attempted takeover of Tribune. Initially, the FCC eliminated ownership rules that cleared the way for the deal, but then the agency turned around to block it, a move Trump immediately denounced on Twitter.

The administration's interests here are inscrutable. But presidential incoherence is not exactly unprecedented. Since at least the days of Reagan (another popular Republican with long ties to media), cronyism and personal interests have rendered the road to deregulation uneven and unpredictable, but unbroken just the same. Here again, Trump walks in a well-worn path.

Before I conclude, I want to point briefly to two areas that may be generating a genuinely new direction in media policy—neither of which, notably, has a *direct* relationship to Trump. First is the rise of the #metoo movement, which I believe represents a real (if only incremental) cultural shift in Hollywood, and which is changing accepted standards of conduct. What remains to be seen is if this movement will effect structural change—can new ideas about appropriate workplace behavior unseat entrenched sources of power? Can it effect corporate organizational structures? Can it change working conditions or increase legal rights for those who are overworked, underpaid, and undervalued? Recent accusations about the past sexual misconduct of Les Moonves, who has been embroiled in a power struggle over CBS, have put some of these questions in the spotlight. The particular way in which this controversy plays out is likely to provide some answers about what the future holds.

Second, given the increasingly light hand of government regulation, I've come to think that financing will ultimately have a much greater impact on culture than any form of state-sponsored media policy. And I worry that while the press has been talking about the Justice Department's thwarted attempts to stop the AT&T merger, everyone has ignored the important role debt financing has played in that deal, not to mention the return of junk bonds to Hollywood, most recently with Netflix's latest efforts to raise cash. While financing tends to be a more inscrutable space than media regulation (which is already too opaque), its power over the media business is worth closer attention.