Does Digital Politics Still Matter?

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Just a few years ago, before the "tech boom" busted and the bubble burst, it seemed like issues surrounding information technology might be central to the politics of the early twenty-first century. Today, with much else on our minds, "digital politics" often seems like a boring sideshow, with technocrats, geeks, and assorted engineers arguing over the finer points of open source or proprietary software, while the rest of us use the Internet in peace.

In truth, questions of information technology are crucial today, and in many ways more so than they were in the 1990s. Computers and networks affect our politics because they reach into every nook and cranny of our lives and further complicate some longstanding political quandaries. Debates over issues such as filtering explicit content, copyright protection, privacy, unsolicited advertising, taxation, media ownership, broadband deployment, anti-trust, and equality of access have all raised familiar legal and political questions in some unfamiliar contexts, and have created interest groups and partisans that together give form to a lively and important digital politics.

The Importance of the Digital Economy

To put it bluntly, information technology fascinated many Americans in the 1990s because that was where the money was. Silicon Valley at the height of the tech boom was a money machine, and none of the usual rules of the market seemed to apply. Start-ups were golden, capital was plentiful, stock prices were high, profits were irrelevant, and the future promised more of the same. If that was the cliché of the early 1990s, then today's cliché is that the promise is gone, and the bubble has burst.

To be sure, the NASDAQ has fallen sharply, many dot-coms went bust, and investment in information technology is down from its peak. When this news is conflated with other negative economic indicators, it is easy to pronounce the death of the digital economy. Easy, but wrong. Indeed, nothing could be further from the truth. The transformation to a new digital economy is proceeding rapidly. The online market continues to grow at a robust pace, with more and more of its work done by traditional "bricks and mortar" companies diversifying into "clicks and mortar" operations. E-commerce retail sales are growing six to seven times faster than all retail sales. Over 60 million Americans use the Internet to

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make travel reservations and 40 million do banking online. VeriSign, which manages many of the Internet's domain names, now processes 9 billion domain name requests every day, up from 600 million in early 2000. Home broadband use increased 150 percent last year and is projected to continue growing rapidly, with wireless networking not far behind.

The implications of the growth of the digital economy for the prosperity of the general economy cannot be overstated. Numerous studies have documented the relationship between increased use of information technologies and economic growth. Indeed, with over 80 percent of the economy in the service sector, productivity advances over the next 20 years will be determined largely by how widely and rapidly we use information technology (IT) to transform industries. But IT's importance is not confined purely to boosting economic growth. In a host of areas, including health care, environmental protection, criminal justice, transportation, and government services, IT will play an increasingly critical role.

That's why the stakes in the digital politics debates are high. How IT issues get resolved has serious implications for a wide range of policy areas, including homeland security, rural economic development, consumer behavior, and perhaps most importantly, the overall pace of economic growth. The stakes are also significant for the political parties. To date, high-tech is one of the few business sectors that does not reflexively lean Republican, although the Republican Party is doing everything it can to change this.

The Political Battleground

As the surprising popularity of the Federal Trade Commission's new Do Not Call Registry has demonstrated, the public's frustration with some business practices in the information economy is at a boiling point. Indeed, in a number of areas (most notably the problem of out-of-control spam) the public expects government to step in and provide solutions. Yet notwithstanding the high visibility of some of these issues, digital politics is still largely an inside-the-Beltway phenomenon. In some cases, the issues pit businesses against advocacy groups; in others, industry factions battle each other and use public policy to gain competitive advantages. Because many technology issues are not on the voters' radar screens, when the two parties battle one another in the tech policy arena, it is often to gain the financial and political support of key insider interest groups rather than electoral advantage.

At least since 1992, when many Silicon Valley entrepreneurs endorsed Bill Clinton, the technology industry has been steadfastly bipartisan. In part, this is due to the liberal-leaning views that many industry players hold on social issues. But more important is the fact that the Clinton administration and key Democratic Congressional leaders aggressively reached out to the high-tech industry in the 1990s. Indeed, Clinton's appointment of Ira Magaziner as his Internet czar and Magaziner's subsequent commitment to a "light-touch" policy

toward the Internet went a long way to convince the high-tech community that Democrats see things their way. The Democratic Party came to see technology in general, and the IT revolution in particular, as a major driver of growth and an obvious candidate for vigorous government support.

In contrast, for much of the 1990s, Republicans were often seen as out-of-touch and late to the game. Emblematic of this was the comment, purportedly made by Michael Boskin, the head of the first Bush administration's Council of Economic Advisors, to this effect: "Potato chips, computer chips, what's the difference." However, realizing that Democrats were making inroads in an industry that should be "theirs," Republicans have made a concerted effort in recent years to win the support of the high-tech industry. The second Bush administration has held several high-tech summits, meeting with IT business leaders to assure them of the president's commitment to the issues they care about.

On many individual tech issues, however, party affiliation is less important than the intellectual interests or industry ties of particular politicians. Other factors, including age (younger members of Congress tend to be more pro-Internet) and region (for example, elected officials from Silicon Valley are usually pro-technology, while members from Los Angeles are likely to push for greater government involvement in copyright protection) also shape positions on issues.

That said, there are some key differences between Republicans and Democrats on technology issues. Unlike the Clinton administration, the Bush administration has tended to avoid targeting policies specifically at the IT sector, rejecting a "strategic" approach to IT policy and instead pushing a supply-side approach of cutting regulations and taxes for the overall economy. To the extent that many in the industry oppose regulations and taxes, especially on the Internet economy, such positions are well received. But the Republican aversion to specifically targeting policies at the tech industry has meant that no real bond of loyalty has formed between Silicon Valley and the Bush administration. Indeed, some specific elements of the administration's economic policies have rubbed the IT sector the wrong way. For example, because few high-tech companies pay dividends—for them capital gains taxation is more important—many technology companies were not enthusiastic supporters of the president's dividend tax cut proposal. Moreover, in cases such as broadband policy, where many in the industry want the government to play a more active role, the administration's hands-off approach has been distinctly disadvantageous.

Democrats, too, have a mixed record when it comes to gaining the industry's support in the last several years. The Clinton administration made it clear that it thought the high-tech sector was central to the nation's prosperity, and high-tech industry lobbyists could always get a hearing at a high level, even if the policies did not end up going their way. Democrats have also been staunch supporters of government spending on technology training and on research and devel-

opment. But Democrats have still been more willing to regulate industry practices, and more likely to support taxing Internet sales—policies that many in the high-tech sector dislike.

The Major Players

The debate over high-tech issues does not take place in a vacuum, or even just in the corridors of Congress. From think tanks to trade associations to single-issue advocacy groups, there has been a proliferation of interests trying to shape the digital policy debates. The primary players fall into eight basic categories:

1. Cyberlibertarians: These are the "Netizens" who launched the Internet revolution. Typified by groups such as the Electronic Frontier Foundation and its leader, former Grateful Dead lyricist John Perry Barlow, these dedicated readers of *Wired* magazine believe that bits should be free and all software should be open-source. They think that technology itself can solve any problems that it might create, and that cyberspace should be governed by the informally enforced social mores (i.e., "netiquette") that evolved among early users. They deplore both government involvement in the Internet and the web's widespread commercialization. To them, anyone who suggests that society, through its legitimately elected government leaders, might have a role to play in shaping the Net "just doesn't get it." Cyberlibertarians believe the Internet should be governed by its users. Afraid that your privacy is being violated? Then set your Web browser to reject cookies. Is someone hurling slurs, making threats, or otherwise disrupting your favorite Internet forum? Then "flame" them and organize a web campaign to ostracize them. Worried about the recording industry losing money from Internet file-copying? Encourage artists to find a new business model, like selling T-shirts.

2. Pro-Technology Social Engineers: These are liberals who believe the Internet is empowering but who worry that its growth is having unintended and sometimes dire consequences for society—whether it's the so-called digital divide, the purported loss of privacy, fears that Internet users are walling themselves off from the rest of society, or concern that corporations are controlling the use of digital content. Groups such as the Benton Foundation, the Consumer Project on Technology, the Civil Rights Forum on Communication Policy, and the Electronic Privacy Information Center, and scholars such as Stanford law professor Lawrence Lessig and University of Texas professor Gary Chapman exemplify this view. Pro-technology social engineers tend to believe that the Internet should mainly be an educational and community organizing tool and fear that its empowering capabilities will be taken away by powerful multinational corporations and statist governments that will reshape the Internet to serve their own narrow purposes.

3. Old Economy Regulators: This group believes that there is nothing inherently unique about the Internet and that it should be regulated in the same way that government regulates everything else. There is a certain sense of urgency for these elected officials and government bureaucrats, who believe that cyberspace is in a state of near anarchy—a haven for criminals, con artists, and rapacious corporations. European old economy regulators additionally fear that absent more regulation, their nations will be bypassed by the American Internet leviathan.

4. Pro-Technology Moderates: This group is epitomized by the New Democrat wing of the Democratic Party and some centrist Republicans. It is staunchly pro-Internet and sees information technology as a force for both economic growth and social empowerment. While pro-technology moderates, including the Progressive Policy Institute, see the Internet as a unique development in which old rules and laws may not fit, they recognize that appropriate guidelines must apply if the Net is to reach its full potential. They argue that government should do more than simply "do no harm," and instead should adopt policies that actively promote digital transformation.

5. Pro-Technology Conservatives: Members of this group view the digital revolution as a truly momentous and liberating force. They believe it will lead to a dramatically reduced role for government as the Internet empowers people. Influenced by organizations such as the Progress and Freedom Foundation, the Cato Institute, and the Competitive Enterprise Institute, they see the emergence of the Internet as another great example of human progress. And they are skeptical of the need for government involvement, even if it is to promote more rapid digitization of the economy.

6. Moral Conservatives: This group sees the Internet as a dangerous place, a virtual den of pornographers, gamblers, child molesters, terrorists, and other degenerates, and it includes many conservative Republicans and some Democrats. Its proponents were the driving force behind the Communications Decency Act, Internet filtering in libraries, rules barring the export of strong encryption, and legislation to ban online gambling. This group believes that because the Internet is a public space, rules and laws are necessary to govern behavior. They do not believe that technology can solve all social problems—to the contrary, they often believe that the Internet is furthering the decline of culture. Yet, in some instances they embrace the Internet as a tool, as evidenced by former Secretary of Education William Bennett's K-12 Internet-based home schooling project. In general, moral conservatives don't want individuals empowered to engage in antisocial behavior, but they don't want corporations to facilitate such behavior either.

7. High-Tech Companies: This group encompasses the politically savvy hardware, software, and telecom companies. These businesses, from old stalwarts like IBM to new giants like Cisco Systems, recognize that trade, tax, regulatory, and other public policy issues affect their bottom line. They realize that getting your way in politics takes more than being right. It requires playing the game, making your case, and knowing the right people. From time to time, some high-tech businesses may take the cyberlibertarian position that the Internet should be free. But generally they do so only to avoid regulation that might put them at a competitive disadvantage. On the whole, high-tech companies tend to believe that regulation can be both advantageous and detrimental; they do not fight against all regulations but in favor of the right ones for them, and to a lesser extent for policies that are good for the technology industry or the economy as a whole. A few years ago, the dot-coms, led by companies such as Amazon.com, Yahoo, and eBay, tended to ignore government and policy. But as these and other start-up companies have matured and become aware, often through painful experience, of how issues in Washington can affect their bottom line, they have evolved into political sophisticates.

8. Bricks and Mortar Companies: These are the companies, professional groups, and unions that gain their livelihood from old-economy, face-to-face, business transactions. These include both producers (such as automobile manufacturers, record companies, and airlines) and distributors and middlemen (such as retail chains, car dealers, wine wholesalers, or unions representing workers in these industries). Many of them fear, often correctly, that the Internet is making them obsolete, while others have worked to transform their business models to take advantage of e-commerce. In recent years, there has been a widening rift between the bricks and mortar producers and the distributors and middlemen. The former have begun to realize that they can use the Internet to go directly to their consumers, bypassing (or at least minimizing) the role of bricks and mortar middlemen. The latter are working actively to keep this from happening or at least to forestall the day of reckoning. As a result, they are not shy about enlisting the aid of government to "level the playing field" or intervene in other protectionist ways. For example, when the airlines collaborated to establish the online travel site Orbitz, travel agents sought to enlist the aid of Congress and the Bush administration to shut down Orbitz on (mostly trumped up) anti-trust charges.

Of course, the above typology is imperfect—with many individuals and organizations falling into more than one group or no group at all. But as one looks at the central political fights about the future of information technology, the influence of these competing factions is clear. As case studies, we consider the recent debates over three key issues: privacy, taxation, and copyright protection.

Privacy

Until the issue of spam took center stage this year, the collection and use of personal information about Internet users by corporations and government was probably the most heated debate in the digital policy arena. When it comes to private sector data practices, old economy regulators (especially European bureaucrats) and pro-technology social engineers want to impose sweeping regulations—including regulating website security practices and restricting the sharing of information without the explicit permission of the consumer. The cyberlibertarians don't care—as far as they're concerned, anyone who doesn't know how to log onto the Internet anonymously isn't worth worrying about. Pro-technology conservatives reject the need for privacy legislation, claiming that the harms from regulation would far outweigh the benefits, and that government regulation is by nature an imposition on privacy. And while some high-tech companies (like Hewlett Packard) and high-tech executives (like Andy Grove of Intel) have supported moderate "notice and choice" legislation, most companies remain wary of any federal regulation of privacy, even as they recognize the need for federal laws to preempt increasingly antsy state legislators from passing a patchwork of different Internet privacy bills.

When it comes to the collection and use of data by government, the coalitions reconfigure. Here the cyberlibertarians, social engineers, and pro-technology conservatives make common cause in their crusade against "Big Brother." It largely does not matter whether the cause is to crack down on deadbeat dads, catch red light runners, or prevent terrorist attacks: if it involves the government collecting more information or using existing information more effectively, these groups will oppose it. In protesting against the growing practice of cities installing red light cameras, former Republican House majority leader Dick Armey railed: "This is a full-scale surveillance system. Do we really want a society where one cannot walk down the street without Big Brother tracking our every move?"

The issue of government use of information makes for strange bedfellows. For example, while leading the charge against legislation aimed at preventing terrorists from falsely obtaining driver's licenses, the American Civil Liberties Union organized a coalition of almost 40 groups, including both anti-government activists on the right (like the Eagle Forum and the Libertarian National Committee) and social engineers on the left (like Consumer Action and People for the American Way). Even though President Bush supports some forms of aggressive monitoring under the Patriot Act, the administration stayed deliberately silent on this issue, largely in an attempt to avoid alienating either its conservative base or some Hispanic voters (who are concerned about the impact of improved identification systems on undocumented workers).

High-tech companies have largely stayed out of the debate over government infringements on privacy. Even companies that sell technologies that could boost security (like smart cards, biometrics, or data mining) were initially absent as this debate heated up after September 11, 2001. There were a few notable exceptions, such as Oracle CEO Larry Ellison, who offered to donate Oracle software to help create a national ID card, but on the whole the established technology companies initially kept their distance. Over time, however, some companies in the industry have changed their views and begun lobbying in Washington to make the case for how IT can boost security without curtailing privacy.

Whether a middle position in the privacy debates can be found remains an ongoing question. Pro-technology moderates support increased collection and use of government information, if it can be clearly shown that it fulfills a critical public mission and if potential privacy problems are addressed. For example, in the last Congress, Representatives Jim Moran (D.-Va.) and Tom Davis (R.-Va.) introduced the Driver's License Modernization Act, which, among other things, would require DMVs to insert a biometric chip on driver's licenses while placing strict limits on how such information could be used. But so far—largely because of opposition from privacy advocates—the bill has stalled.

Taxation

The collection of state and local sales taxes for Internet transactions is so controversial that it stymied a commission appointed by Congress to study the problem and make recommendations. Old economy regulators want sales taxes to be collected to maintain their revenue. Bricks and mortar companies want sales taxes imposed to maintain their competitive position against pure Internet businesses. Some pro-technology social engineers favor not only sales tax collection, but also special taxes on broadband use to subsidize access for low-income and rural households. By contrast, most high-tech companies do not want the burden of collecting taxes for thousands of jurisdictions, and they do not want to lose their price advantage. Others—like pro-technology conservatives and cyberlibertarians—oppose Internet sales taxes on principle. They believe "the fewer taxes the better," especially when it comes to promoting the new digital economy.

When the Advisory Commission on Electronic Commerce debated these issues in 2001, Virginia's Republican governor James Gilmore and anti-tax activist Grover Norquist pushed for a five-year moratorium on Internet access taxes and limits on the ability of states to require Internet sellers to collect sales taxes. State and local governments initially went in the opposite direction, opposing the moratorium and pressing for full tax collection, even if it promised to be a logistical nightmare. Most high-tech companies on the commission stayed on the fence, while most high-tech companies in general opposed taxation of Internet sales.

With the Commission unable to come to any agreement on the issue, states initiated a "Streamlined Sales and Use Tax Agreement" to simplify and coordinate their sales taxes. The project has only recently attained its self-imposed goal of getting states that collectively comprise 20 percent of the population to adopt the compact, and proponents are expected to seek legislation giving them the legal right to require remote sellers to collect and remit sales taxes. Cyberlibertarians, dot-coms, and pro-technology conservatives, including the Bush administration, will likely continue to oppose giving the states the right to tax Internet sales. State governments will press hard for the right, citing their large budget shortfalls. And pro-technology moderates will likely favor giving the states the right to collect sales taxes, particularly if it is tied to a *quid pro quo* deal forcing states to rescind laws and regulations that discriminate against e-commerce sellers. For now, however, the debate continues, with states legally unable to collect sales taxes.

Copyright Protection

As virtually all media have become digital, protecting copyrights is becoming a nightmare. The controversy over the music copying system Napster was just the beginning. The ubiquity of file-sharing technologies, coupled with computers that can rip digital files from CDs or DVDs and burn them onto inexpensive blanks, has meant that "digital piracy" has grown like wildfire. The cyberlibertarians and some dot-coms, such as online music trading services, argue that the Internet Age marks the end of intellectual property rights. They claim that file copying is a form of fair use, which is legal under copyright law. The Electronic Freedom Forum's "Let the Music Play" campaign protests the record and film industries' prosecution of file copiers.

Many social engineers side with the cyberlibertarians, though for very different reasons. They fear that technology will let copyright holders exact such strict control on content that traditional notions of fair use will become obsolete. And they fear that digital rights management (DRM) technologies will become so stringent that activities consumers have long enjoyed (like the ability to play music files on more than one device) will be prohibited.

The bricks and mortar companies—including the Recording Industry Association of America—initially worked to block the development of new technologies that facilitate playing downloaded and possibly pirated music. But now the content industries are fighting less against the technologies and more against the individuals who use them illegally. The music industry is stepping up efforts to prosecute individual copyright infringers, who use file copying software to share copyrighted songs. And the movie industry is pushing for new technologies to curtail infringement.

Yet even as they have struggled to cope with music and movie piracy, content producers are finally coming to terms with the realities of the digital era: They

have begun providing legal, affordable, and consumer friendly means for consumers to buy digital content, with Apple's iTunes music store the most prominent example.

Although generally sympathetic to the content providers' copyright concerns, many high-tech companies fear that the federal government will mandate the installation of costly, performance-degrading, copyright management technologies on the electronic devices they sell. They have lobbied vigorously against any such technology mandates, seeing new legislation as a threat to the quality of their products and their financial bottom line. Once again, the question is whether a compromise can be found, ensuring that content holders have the legal protections and economic incentives they need to safeguard their copyrighted materials without imposing overly large burdens on consumers.

The Future of Digital Politics

Some might argue that these issues are transitory and will recede in importance as the digital economy matures. But there is good reason to believe otherwise: The issues that pit online consumers against resistant middlemen are likely to heat up over the next few years. The growing use of high-speed Internet access will transform the telecommucations landscape, as Americans use the Internet instead of the traditional circuit-switched network to place voice calls. New technologies such as wireless location systems and radio frequency identification devices—some used by government, others by the private sector—are likely to encounter vigorous opposition by a whole host of groups on privacy grounds. The issue of outsourcing (including outsourcing of IT jobs) to other nations is gaining ground, as more companies take advantage of global telecommunications links to move certain types of jobs offshore. In some ways, the digital revolution has been so successful that all issues are also digital issues; in other ways, the political issues of the future remain unformed, precisely because the technologies are changing so quickly.

Whether or not digital politics will be a central part of the 2004 presidential campaign remains unclear. So far, the issues of Iraq, the economy, and healthcare have dominated the Democratic debate, and few candidates have specifically discussed IT issues. But no candidate of either party believes the economy could flourish without promoting technology. And a presidential candidate would do well to talk about his plan to give e-mail users needed relief from the curse of spam, or what he would do to help protect children from Internet pornography, or how he will face the challenges of cybersecurity.

But it is not just discussion of particular issues that will likely win the favor of voters. It is the ability to present an overall vision of where the new digital economy is going, and how IT has the potential to reshape our society—including healthcare, transportation, education, and government. Such a candidate

would connect new technological possibilities with old political themes, and connect public policy with the real-life experience of using information technology.

Computers and the Internet have come out of the world of geeks and into the mainstream. The public policy issues surrounding the IT explosion are no longer sideshows or mere theoretical discussions for a handful of technologically savvy people, nor are they seen as the royal road to a utopia of untold wealth and perfect freedom. The battle lines are being drawn, and the issues are both serious and complex. Digital politics, if not the great issue of our age, will be central to the life of the nation in the years ahead.