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Revealing the Ties that Bind: Property and Propriety in the Information Age.

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INTRODUCTION

William Melody's fundamental contribution to the study of communication is based on his consistently argued claim, that we cannot understand the characteristics of communication, and the information commons it supports without examining the nature of the institutions that bring it into being and determine its shape. Among the most important institutional arrangements that Melody (1987b) has suggested we should consider are those that emerge from time to time to establish and enforce the system of property rights necessary to the efficient operation of a market. The ways in which systems of property rights develop are not well captured by the economic theories that Melody has criticised so often during his career. Indeed, as numerous critics remind us, the assignment of rights reflects the exercise of power as well as a desire to guarantee that its unequal distribution remains fundamentally unchanged. The establishment of property rights in information represents an increasingly troublesome concern for governing bodies because the commodification of information has become such a central feature of the global economy (Preston 2001).

It is the intangible nature of information itself that makes the establishment and management of property rights such a troublesome enterprise. Economists have attempted to draw distinctions between what they refer to as the public and private goods components of an information commodity. The tangible, or material character of information goods is readily understood in terms of the books, tapes and disks upon which the information can be stored, bound, boxed and distributed for sale in stores, or directly to the home through the mail. These are the private goods, and they can be understood as private property because of the relative ease with which an individual can exercise control over their use. The information that is recorded on these media, however, is far more difficult to control. Indeed, the fact that the information can be reproduced and shared, given away, or even sold to other individuals almost without limit, helps to define its character as a public good.

THE INFORMATION COMMODITY

Understanding the ways in which institutions have developed in order to bring the public goods aspects of information commodities under the control of technical

systems and the rule of law remains a critical concern of scholars who have followed Melody's lead. Understanding how those institutions help to reproduce structural inequalities within social systems is no less important a concern, but is much less well understood.

In writing about the nature of information markets, Melody (1987b) suggested that there were two paths that entrepreneurs within communication and information markets might pursue in the search for maximum profits. The first was associated with the maximisation of output, and the widespread distribution of the commodities to consumers at minimal cost was the means by which profits might be ensured. An alternative strategy was based on limiting output and restricting distribution to those consumers who were willing to pay high prices for privileged access. The development of legal, technical and, to an extent not well understood, culturally-based institutions that enabled the management of intellectual property would still be necessary if either strategy were to succeed.

A third strategy combines the first two in a way that information entrepreneurs hope will support the extraction of still more profit from the communication market. Segmentation and targeting of consumers depends upon the use of marketing techniques to create an illusory expansion of diversity and the individualisation of supply within the information market. The output of information goods would expand, but 'personalisation' would justify an elevation in the price of virtually indistinguishable goods.

BALANCING PRIVACY RIGHTS AND INTELLECTUAL PROPERTY RIGHTS

The realisation of these goals depends, however, on the collection and processing of more and more information about individual consumers. Concerns about the loss of control over the use of information about their tastes, preferences and resources has led to the development of a set of institutional responses that include efforts to establish property rights in personal information. The struggle to find a balance between privacy rights and intellectual property rights has emerged as a critically important site for understanding the contradictions in the development of capitalism in the Information Age (Cohen 1996). However, the resolution of those struggles is unlikely to do much to reduce the substantial inequalities in access to information that always seem to accompany adjustments in the market, or, in the expansion of marketplace rationales into spheres that had been governed by a different logic or goal, such as the maximisation of public welfare.

Segmentation and targeting can be understood as strategic resources that support discrimination within markets. Advertiser-supported media are especially sensitive to the differential values that are associated with the demographics of their audiences. Within markets, discrimination on the basis of race, gender or age is often justified on the basis of economic efficiency (Gandy 2000). Within the social, cultural and political realms, the basis for evaluation might include considerations of equity, fairness and social justice, although discrimination may be said to be 'rational' in these discussions as well. Indeed, the process through which neo-classical economists have established the consideration of efficiency as more important than a determination of fairness within the public sphere is itself a subject that demands scholarly reflection.

Melody often admonished his readers to pay attention to the ways in which the development of markets and regulatory institutions might affect the nature of inequality in access to information. In reflecting on the development of telecom policy in the United States (Melody 1989), he underscored the need for theory and research that would make sense of the changes that would accompany deregulation and increased competition in the delivery of telecom services. He felt that it was also important for researchers to understand the ways in which interested parties were able to influence the development of both the technical systems and the regulatory infrastructures that would come to redefine what we now understand universal service to mean in practical terms.

Recent debates about the nature and extent of the 'digital divide' risk confusing access to technology with access to the *capabilities* that information and knowledge might bring to different communities (Preston 2001). Recent surveys have identified a substantial segment of the public that does not have Internet access because they do not believe that there is much of value for them. Their needs and interests largely have been ignored because the estimates of their long-term value as consumers are below some minimal level.

Unfortunately, the segmentation of consumers into groups on the basis of their estimated value to advertisers or investors has a host of unanticipated, or ill-considered social consequences that are unlikely to be overcome by greater access to technology. Among these consequences is an enhanced sense of difference that supports even greater polarisation along race, class and ideological lines (Sunstein 2001). The segmentation and isolation of groups of people in physical space is reinforced by their isolation in the social space of information flows. While Sunstein (2001) sees this isolation as an unintended consequence of the exercise of consumer sovereignty, others recognise it as the result of strategic action. When

this isolation and resultant polarisation increases the efficiency with which the manipulation of public opinion and engagement with political debates can be achieved, the harmful consequences for the operation of democratic systems may be substantial.

CONCLUSION

Some of the consequences that are generated by a process of segmentation and targeting based on assessments of value may be understood to flow from the absence of certain kinds of communication, as well as from exposure to particular messages. Populations and subgroups that are valued less within social systems are either provided with low quality material, or they are ignored entirely. To the extent that our competence as citizens and as consumers is shaped by our engagement with arguments that we might disagree with or do not understand, our isolation denies us an opportunity for growth. People who are bypassed, or merely ignored, cannot develop through engagement with the unfamiliar. This is a system that amplifies deviation and validates predictions of failure.

Melody's invitation for us to examine the ways in which social institutions are formed, and then to assess the consequences that flow from the operation of those institutions, is an invitation that ought not be refused. There is much to be learned about the spread of neo-liberal ideas and policies. There is even more to be learned about ways in which the information market will shape, and be shaped by, the management of intellectual property rights and the rights to personal information. We are fortunate that William Melody provided the motivation, opportunity and guidance to so many of his students and colleagues to ensure that the path will be well-marked.