



THE POLICY RESPONSE TO THE USER-GENERATED CONTENT BOOM

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Time Magazine's selection late last month of "You" (a reference to the people behind user-generated content on the Internet) as the person of the year was mocked by critics as a poor choice that by-passed several notable political leaders. Yet the choice may ultimately be viewed as the tipping point when the remarkable outbreak of Internet participation that encompasses millions of bloggers, music remixers, amateur video creators, citizen journalists, wikipedians, and Flickr photographers broke into the mainstream.

The choice may also cause government leaders and policy makers to contemplate how they fit into the world of a participatory Internet and user-generated content. Their initial reaction might well be to remain firmly on the sidelines as the speed of development and enormous creative energy appear to be at odds with painfully slow government policy processes.

While a strong regulatory response is indeed unnecessary and likely harmful, it would be a mistake to completely ignore the issue. In the mid-1990s, the emergence of the Internet and e-commerce elicited an engaged approach from many governments, who sought to balance the need for a private sector-led, self-regulatory model with e-commerce and privacy legislation that built consumer and business confidence in the new medium.

Ten years later, the role of government will be to support the enormous economic and cultural potential of user-generated content, while avoiding steps that might impede its growth. It can do so by focusing on the three "C's" – connectivity, content, and copyright.

An obvious starting point for connectivity is the role that governments can play to ensure that all citizens have access to the high-speed networks that are the price of admission to the participatory Internet.

Broadband strategies are emerging as an important part of a national economic plan, with many governments at the national and local levels acknowledging that the private sector is unlikely to provide universal access on its own. In response, governments can play a role by establishing incentives for broadband connectivity in remote communities or by launching municipal wireless initiatives that provide widespread connectivity in urban areas.

Last week, Vermont Governor Jim Douglas introduced plans to make his state the first to provide state-wide broadband coverage within three years, commenting that "in my hand there is wireless mobility, complete access and clear connections. In my hand is fairness and equity for all of Vermont. In my hand is both freedom and unity." Government leaders in other jurisdictions would do well to emulate Douglas' vision.

A connectivity agenda must also include network neutrality legislation, which mandates that Internet service providers treat all content and applications in an equal manner. Without such

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legal protections, there is a real possibility that user-generated content will be consigned to the slow lane of a two-tier Internet envisioned by some ISPs.

Governments can also play an important role by improving access to the content they control or help fund. There are a surprising number of possibilities, each of which can be implemented at minimal cost and without new legislation:

- the elimination of crown copyright, the archaic rules that grants government control over taxpayer-funded work
- the introduction of open access requirements for publicly-funded research
- the establishment of new incentives in book publishing and television production funding programs to encourage open business models, and
- the repositioning of public broadcaster content by adopting open licenses that invite the public to remix the content to tell their own stories.

Copyright rules that balance appropriate protection with fair use are the third “C”. Canada’s Supreme Court identified this as an issue in 2002 warning in a prescient decision that “excessive control by holders of copyrights and other forms of intellectual property may unduly limit the ability of the public domain to incorporate and embellish creative innovation in the long-term interests of society as a whole, or create practical obstacles to proper utilization.”

Governments can heed the court’s words by adding a robust “fair use” exception to their copyright laws. Fair use has already generated support from artist, education, and consumer groups and is on the legislative agenda of a growing number of countries that recognize that it would reduce the legal uncertainty as well as encourage new creativity and innovation.

Fair use will mean little, however, if content is locked behind the digital walls that have generated a free speech chill in many countries. Countries can avoid a similar fate by rejecting legislation that promotes the use of digital rights management technologies.

Time Magazine’s decision to spotlight the participatory Internet leaves little doubt that the issue has moved from edges of cyberspace into the mainstream, forcing policy makers to confront their role in this exciting new world.

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