

TECHNOLOGIES OF FREEDOM REVISITED

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Friends and Colleagues, good afternoon,

In 1968 Dr. Benjamin Mays delivered what must have been the most emotional speech anyone has ever been called upon to deliver: it was Dr. King's eulogy. Dr. Mays began by acknowledging that he had accepted this task "with a sad heart and with full knowledge of my inadequacy to do justice to this good man."

Unlike Dr. Mays and Dr. King, I am not an orator. I'm just a civil rights lawyer. And as such, no honor in this life is more humbling than this opportunity you've given me today to speak on the occasion of Dr. King's birthday, here in the city of his birth.

For those of us whose life's work is telecommunications, one question is on our minds every day – is technology the magic tool that ultimately will close our nation's social, racial and economic divides?

Dr. King undertook to answer that question in 1963, when he wrote that powerful forces like money or electricity are "amoral and can be used for either good or evil...we have learned to fly the air like birds and swim the sea like fish, but we have not learned the simple art of living together as brothers." Technology and resources, Dr. King concluded, have "brought us neither peace of mind nor serenity of spirit."

A generation later, perhaps telecommunications technology had magically taken on socially transformative powers. You might remember that in 1983, MIT communications theorist Ithiel Pool proclaimed telecommunications the "technologies of freedom" in his famous book of the same name.

Certainly, in the right hands, telecommunications could be the ultimate tool of bridge building and emancipation, widespread participation in democracy, greater freedom of expression and greater opportunities to exercise freedom of expression.

And more than that. In the right hands, telecommunications will be accessible to all -- not just to those who can afford the price. Otherwise telecommunications will only aggravate class distinctions, leading to a society of information haves and have-nots.

Think about what happens when technology falls into the wrong hands. Consider Dr. King and his extraordinary power to galvanize the nation, to capture the hearts of Americans.

Imagine how much more rapidly the civil rights movement would have advanced 50 years ago if Martin's message had not been censored out by southern television station news directors. That's what happens when technology falls into the wrong hands.

But in the right hands, consider the transformative potential vested in telecommunications technology.

Think about the Montgomery Bus Boycott, whose success depended on the widespread availability of dialtone in the home, so the churches could set up telephone trees, and the people could find a ride to work. Certainly if Dr. King and Rosa Parks didn't have telephones in 1955, the Montgomery Bus Boycott never could have happened.

Consider, on the other hand, that if the Internet and its community-building potential had been ubiquitous in 1955, perhaps Dr. King could have used his extraordinary organizing talents to even greater potential, meaning of course that he would have become our President.

A few weeks ago, one of our cabinet members made the unfortunate remark that "you go to war with the Army you have." Let's marvel for a moment at how far we've come in the war for civil rights with the technology we have.

In 1964, Southern Bell did not even employ one African American switchboard operator. Today, just look around this room, and see that the glass of equal opportunity is more than half full.

Now let me show you something. This is the NAACP's 2004 survey of the civil rights performance of the ten largest telecom companies. The NAACP does this survey every year. BellSouth was the Number One company in 2001, and in 2002, and in 2003, and in 2004.

And I want to call your attention especially to one of the NAACP's criteria – "Service Deployment," which means "no redlining." BellSouth actually earned a perfect score on Service Deployment – a 4.0.

I mentioned "redlining", which many people think is a relic of the past. Does redlining still happen?

The FCC has said so on numerous occasions. In 1999 then-Commissioner Gloria Tristani pointed out that "buildout redlining" and not just an inability to pay for the service, may be the cause of the digital divide. Commissioner Tristani concluded that "being rural and low-income, or inner city and minority may mean staying isolated and excluded from the economic advances occurring in areas of high buildout."

Please bear with me while I read from an article in last week's Telecom Reports – “Ministers accuse company of ‘digital redlining.’”

The company in question (it's not BellSouth) announced plans “to spend \$4 billion to \$6 billion to deploy fiber-optic cable deeper into its local networks, enabling them to provide advanced broadband data and video offerings to 18 million households.”

“Citing company briefings to financial analysts and investors that emphasize the importance of targeting 90% of high-spending customers, one minister declared ‘they’re telling the world they don’t value poor kids and their families, who are the ones who need access to technology to get access to a better education and better job opportunities.’”

“The company’s answer was that ‘good technology makes its way to the masses’ over time, and eventually at lower prices than the initial rollout....”

“‘Someone has to get [a new service] first. . . . While some areas may be waiting, they’re not wanting,’ the company’s spokesman said. He cited his company’s philanthropic efforts including wiring schools.”

First, let’s be fair. The company in question actually has an outstanding civil rights record – I know this and the NAACP agrees -- and the company has fought very courageously to preserve universal service. These aren’t bad people at all. But even companies with the highest integrity sometimes make mistakes. Listen to their own explanations:

“Someone has to get [a new service] first.” True enough. But who chose the poor to be the ones waiting in line?

“Some areas may be waiting but they’re not wanting.” What’s wrong with that is the word “wait.” Why should only those locked in the ghetto have to wait?

Recall the words of Dr. King, while he was locked up in jail in 1963 in Birmingham, declaring that “to those who have suffered unduly from the disease of segregation... the word ‘wait’ rings in the ear...with a piercing familiarity. This ‘wait’ has always meant ‘never.’”

Here is why digital redlining is indefensible: it builds out the network on a backbone of residential segregation, a platform made possible by a long history of state action, subsidized by your money.

And not only that: with digital redlining, not only are those living in the ghetto stuck with second class telecom service, they’re paying for the privilege of directly or indirectly subsidizing someone else’s first class service.

It should go without saying that communications companies ought to provide equal services to all of their customers. But let’s ask why they ought to do this.

The standard answer is that “equal service, equal opportunity and diversity are good for business.”

That certainly is well intended and sincere. Nonetheless, I don't care if nondiscrimination is good for business. What's "good for business" must never be the principal reason for providing fair treatment.

At least we're fortunate that it happens to be true that nondiscrimination is good for business. According to Target Market News' The Buying Power of Black America, in 2003 African American households earned \$656 billion in income.

In just the span of a year, from 2002 to 2003, African Americans' purchases of computer hardware jumped 23%, purchases of computer software jumped 75%, purchases of video games jumped 86%, and purchases of satellite dishes jumped 112%.

The gross numbers are huge -- in 2003 African Americans spent \$1.9 billion -- on computers and related equipment, \$3.5 billion on consumer electronics, and \$14.4 billion on telephone services. Who doesn't want to get their share of a \$14.4 billion telephone market?

So we're fortunate that, for African Americans, nondiscrimination is good for business. But what if a group of people doesn't buy a lot of stuff? Does that mean it's OK to discriminate against them?

Consider the Amish. They're a terrible telephone market! The Amish don't buy a lot of stuff. So -- would it be OK for Verizon-Pennsylvania to take its sweet time answering a service call in Lancaster County?

Suppose a company could make a nice profit practicing discrimination secretly -- no one would ever know, because they did it on the "down low?" It happens, you know -- in fact, that's the way it usually happens.

Here's a charming example: in 1998 I helped catch MCI and WorldCom building out fiber so as to almost completely avoid African American neighborhoods in five cities. That's horrible! But it was profitable. It was good for business!

How'd they get away with it? MCI hired Michael Jordan to put a diverse face on its television advertising, the press fell asleep and didn't say anything about the redlining -- so the FCC did nothing.

Discrimination was good for business, and they got away with it.

Here's another example of the hollowness of "it's good for business" as a reason not to discriminate:

As we all know, African Americans were virtually excluded from telephone company switchboard work until the 1950s. African Americans were deemed unqualified for this supposedly complicated work.

But in the late 1960s and early 1970s, African Americans in many cities suddenly became a majority of switchboard operators. Why did that happen?

Because it was very good for business. Dr. Venus Green wrote a fascinating book, Race on the Line. She quotes an AT&T Vice President who said in 1969 -- and this is deep, I'm going to read this slowly --

“Most of our new hires go into entry level jobs which means we must have access to an ample supply of people who will work at comparatively low rates of pay. That means city people more so than suburbanites. That means lots of black people.... We need them because we have so many jobs to fill and they will take them.”

What about the second most common justification for equal treatment -- that discrimination is against the law? Is that a good reason not to discriminate?

Dr. King certainly thought so. We all remember that Dr. King, when he was in jail in Birmingham in 1963, wrote that “one has a moral responsibility to disobey unjust laws.” He added, though, that one also “has not only a legal but a moral responsibility to obey just laws.”

Certainly, due process of law has been a powerful engine for justice in our country. Remember that at the start of World War II, the Bell System employed no African Americans except as janitors. The doors to the switch rooms opened in 1943, and for that we can thank Franklin Delano Roosevelt and his creative use of the law.

What President Roosevelt did stunning in its simplicity: he declared that communications was a “defense industry” and therefore was subject to his 1941 Executive Order that banned discrimination in defense industry employment.

Another watershed in the law came in 1971. Back in those days, AT&T actually had to apply to the FCC when it wanted to increase long distance rates. These filings were called “tariffs” and the FCC routinely put a rubber stamp on them.

In 1971 AT&T filed a tariff that became anything but routine when the NAACP did the unheard-of. It asked the FCC to reject the tariff because AT&T discriminated in employment and did so pervasively.

The FCC actually held a hearing and found that the NAACP was right. That led to the 1972 Consent Decree -- in which AT&T said that it didn't do anything wrong but wouldn't do it again, gave its employees \$38 million in wage compensation, and reorganized its personnel procedures to reduce racial and gender job segregation.

So over the span of history the law has been a powerful sword for justice in telecommunications. Why not continue to trust in the law to close the digital divide?

Because those charged with enforcing the law aren't always tuned in to the civil rights movement anymore. Let me give you a rather shocking example. Two years ago, MMTC presented the FCC with a massive Ford Foundation-sponsored study, The Reality of Employment Discrimination in America - 1999 -- which contained these very disturbing percentages of companies that systematically discriminated against African Americans:

- communications equipment companies: 20%
- communications services companies: 27%
- computer and data processing companies: 28%
- electronic components companies: 30%
- telephone companies: 32%

Under the Communications Act a discriminator is unqualified to hold any FCC authorization. Yet the FCC decided to ignore this almost unassailable evidence of thousands of unqualified companies the FCC is supposed to oversee.

We're not surprised, though, because Dr. King knew the score. In 1967 he observed that "[l]aws that affect the whole population - draft laws, income-tax laws, traffic laws - manage to work even though they may be unpopular, but laws passed for the Negro's benefit are so widely unenforced that it is a mockery to call them laws."

So: if "it's good for business" isn't a satisfactory reason not to discriminate, and if due process of law no longer reliably protects civil rights, what is the reason why companies should practice nondiscrimination?

Dr. King knew the reason all along. He offered it to us in his address at Washington's National Cathedral a month before his assassination, when he declared "cowardice asks the question, is it expedient? And then experience comes along and asks the question, is it politic? Vanity asks the question, is it popular? Conscience asks the question, is it right?"

And that is the point. Telecom companies should practice nondiscrimination not because it's good for business, not because it's expedient, not because it's politic, or it's popular, or even only because it's the law.

Instead, telecom companies should not discriminate because it is a pernicious affront to God and because it is uncivilized. It must not be condoned irrespective of whether at a given moment it happens to be profitable, even if it can be done in secret, and even if the prosecutor is asleep.

Now -- how do we translate the command of nondiscrimination into specific policies that will allow these technologies of freedom to fulfill their greatest potential for all of us?

I would like to offer up six points.

Number One: competition. With the African American population having only 1/8 the wealth per capita of the White population, it's vital that new technologies be available at reasonable prices.

That is why we must advocate for competing pipelines into the home -- multiple satellite providers, a cable system, a telephone provider, power lines, wireless. If there are five competing providers, and one of them foolishly decides that you don't matter, four other companies will be standing in line to win your business.

Number Two: equal employment opportunity. Here are the stark facts: in 2000, 36 years after the passage of the 1964 Civil Rights Act, African Americans were 12% of the nation's population but only 8% of technicians, 7% of computer professionals and 4% of engineers.

These days it's tough to build careers in telecom – and we all know why: between 2001 and 2004, telecom employment, even including wireless, dropped by 19% -- that's a quarter of a million jobs in three years – gone. All the more reason to be alert and vigilant about equal employment opportunity -- to avoid “last hired, first fired.”

Number Three: universal service. Nearly everyone in this room probably owns several phones – so imagine not owning even one.

Now imagine trying to apply for and keep a job, and you don't have a phone. Imagine trying to get an ambulance, the cops or the fire department to come to your house, and you don't have a phone. Imagine trying to keep track of where your kids are -- and you don't have a phone.

So you can see why the nation urgently needs 100% universal telephone service. Look what else we have that's universal – we have universal indoor plumbing; we have universal garbage collection; and in some states we even have universal voting rights.

So why is it that over 20% of households with incomes below \$5,000 don't have a telephone? How is it acceptable that in the wealthiest nation on this earth, 5% of all households, in this our sixth generation of telephony, still don't have a dialtone in their house?

Number Four: full broadband access, and what does that mean? It means high speed and interactive services, rolled out everywhere on the same schedule, with the same quality, and at the same price.

Why is this so vital? Because the racial and economic divide in Internet access remains very deep: according to the Commerce Department, only 14% of African Americans, compared to 26% of Whites, live in a broadband household. No information society calling itself inclusive can tolerate this mark of inferiority, this savage disparity.

Number Five: entrepreneurship. With telecom employment shrinking and being outsourced, some of you are going to need to become your own boss if you plan to finish your career in telecommunications.

Number Six and last: telecommunications literacy. In the information age, telecom literacy is not a luxury anymore – it's a matter of survival.

Do you know where most kids today pick up what they know about telecommunications? They get their information and, often, misinformation from each other, “peer to peer,” in middle school – the same way they get their misinformation about the “birds and the bees.”

So let's establish this simple objective: every high school graduate who can dissect a frog also needs to know how to dissect the phone system. Dozens of other countries offer this – and if America won't step up and do it, those other countries will be happy to import your jobs.

So, then, we have six ways to breathe socially transformative power into our technologies of freedom: competition; equal employment opportunity, universal service, full broadband access, entrepreneurship and telecom literacy.

History teaches us clearly what we must do to bring all this to life. As Venus Green lays out in her book, when Martin Luther King, Jr. was born in 1929, no African Americans worked for the Bell System, except in menial jobs.

In 1941, the Southern Association of Bell Telephone Employees, based here in Atlanta, approved a constitution that limited membership to “all white employees.”

Two years later, when Martin Luther King, Jr. was finishing high school, one of the Bell System’s vice presidents explained that his company had not employed African Americans as operators and “could not do so for three reasons:

- (1) the white operators refuse to work with Negroes,
- (2) there had been a great deal of community resentment against using Negroes as operators,
- (3) the persons who would have to train operators refuse to instruct Negroes.”

It seemed pretty hopeless, didn’t it. How did all this change?

Dr. Green reports that “from the 1910s through the 1970s, African Americans fought to change Bell System employment practices.”

“Invoking the ideal of justice, they participated in boycotts, all-night vigils, mass bill pay-ins (sometimes in pennies), mass phone-ins to tie up the equipment, protest stickers attached to phone bills, demonstrations, and legal complaints to various government agencies.”

“Their protests were national in scope and included men and women from all sectors of the community.”

“Protesters based their demands on the fundamental principle of equality, their rights as citizens who fought in American wars, and who paid thousands of dollars in public utility bills to companies licensed by their governments.”

That’s how it happened, and that’s the only way it ever happens.

Dr. King led the great movement of which the struggle to desegregate the Bell System was a part.

I came up through the SCLC where I headed one of its youth chapters nearly 40 years ago. So I can’t begin to tell you how much I miss our National President at the time, Dr. Martin Luther King, Jr.

I think about what he would say and do about the injustices swirling around us today, and about how much better our nation would have been except that James Earl Ray, a coward armed both with a rifle and with the implicit mandate of the greater society, decided that he had our permission to take Dr. King away from us.

In his eulogy, Dr. Benjamin Mays captured the essence of the man when he said that Dr. King, “though deeply committed to a program of freedom for Negroes...had a love and a deep concern for all kinds of people.”

“He drew no distinction between the high and the low, none between the rich and the poor.”

“He believed especially that he was sent to champion the cause of the man farthest down....He belonged to the world and to mankind. Now he belongs to posterity.”

The work we do is so small relative to Dr. King’s achievements for justice, so monumental that they rank among the greatest in recorded history.

I pray that Dr. King would have been proud of the work that we do.

Thank you so much.

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