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Theorizing policy: A framework for the study of U.S. telecommunications regulation

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The Ohio State University, 1994
THEORIZING POLICY: A FRAMEWORK FOR THE STUDY
OF U.S. TELECOMMUNICATIONS REGULATION

DISSERTATION

Presented in Partial Fulfillment of the Requirements for
the Degree Doctor of Philosophy in the Graduate
School of The Ohio State University

by

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The Ohio State University
1994

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To the memory of Margaret,
my mother
ACKNOWLEDGMENTS

This dissertation would not have been completed without the encouragement and advice of Vickie, my partner. I am also greatly indebted to my mother and father, Margaret and Patrick, who provided constant material and emotional support from afar.
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CHAPTER I
INTRODUCTION

Introduction

During the last century, a key constitutive feature of US government has been the emergence and proliferation of federal regulatory agencies invested with the authority to establish administrative controls on and for industry.¹ In the past fifteen years or so, much of this regulatory edifice has come under siege.² Formerly "price-and-entry" regulated industries such as airlines, railroads, trucking, and telecommunications have been wholly or partially deregulated.³ Robert Britt Horwitz points out that these industries have something important in common: "They are "infrastructures," the basic services which underlie all economic activity. They are central to the circulation of capital and the flow of commerce."⁴

¹ According to Penoyer (1981, p. 3), there were 56 federal regulatory agencies by 1980.

² See Derthick & Quirk (1985), for example.

³ Price-and-entry regulatory practices permits the regulated industry to provide services without the destabilizing effects of competition.

⁴ Horwitz (1989, p. 6).
Regulatory reform of the telecommunications sector is of particular interest and significance because of the growing consensus among policy-makers that telecommunications is the key "infrastructure" at this juncture. If these perceptions are correct, it follows that systematic analysis of the telecommunications (de)regulatory policy-making process is of special importance. Policies emerging from this process are playing, and will continue to play, a crucial role in institutionalizing new telecommunications technology developments. The ways in which these technologies are institutionalized will greatly determine the impact of the technologies on different sectors of society.

Recent developments in the telecommunications sector

In recent years US telecommunications has undergone profound transformations. Some refer to the ongoing upheavals as a "telecommunications revolution". After years of being a stable highly regulated industry dominated by the vertically integrated AT&T, the industry today is dynamic and in some markets, highly competitive. What were once seen as fairly mundane networks for conveying voice messages from one point to another, are now perceived as the central conduits of the "information age" analogous to the canals and railways of industrial society. Telecommunications has surged on to the agendas of top policy-makers at the federal, state, and local levels. Many of these policy-makers have

5 At a general level, many academics from all points on the ideological spectrum agree with this perception. Telecommunications and associated information-communication technologies are viewed as playing a central role in the emergence of the "information society" (e.g., Bell, 1980), the end of organized capitalism (e.g., Lash & Urry, 1987), the rise of post-fordism (e.g., Harvey, 1989), and the onset of a fifth Kondratiev long wave (e.g., Freeman, 1988). For a critical review of this literature see Shields & Samarajiva (1993).

identified telecommunications as the US's most important industry. An important element of the Clinton Administration's program has been to call for a National Information Infrastructure which would link every business, home, school, and college in a telecommunications network.

Stimulated by the computer-telecommunications convergence and other technical changes, the rapid growth of the telecommunications sector is one reason for its political saliency. This growth has been contingent on the extensive demand created by corporate and government users of telecommunications services for lower costs and a greater choice of products. Changes in telecommunications technology and the role of telecommunications in the economy has been accompanied and abetted by regulatory policy. Indeed, some argue that deregulating US telecommunications, particularly the divestiture of AT&T in 1984, was based on the desire to strengthen the competitiveness of US business firms in global markets, as well as to permit AT&T to compete with IBM and others in global information technology markets.

The break-up of the AT&T monopoly bequeathed powerful competitive and regulatory effects. Originally restricted by the Modification of Final Judgment (MFJ) from long distance services, information services, and equipment manufacturing, the seven regional holding companies (RHCs) created by divestiture have rapidly diversified, many

8 NTIA (1993).
of their activities now being beyond direct regulatory surveillance. The line-of-business waiver mechanism permitted RHCs to gain access early on to an array of markets that they had not been specifically excluded from. In its first triennial review of the MFJ in 1987, the Department of Justice joined with the RHCs in calling for the dismantling of most of the MFJ restrictions. These restrictions, it argued, had been rendered obsolete by the growth of competition and the emergence of technological alternatives. Judge Harold Greene of the Antitrust Court rebuffed these arguments and refused to make any fundamental change in the MFJ because, he argued, there was no evidence that the RHCs' monopoly over the local network had been eroded since divestiture. Whereas the Department of Justice had expressed confidence in the Federal Communications Commission's regulatory capacity, Judge Greene questioned its ability to control anti-competitive abuse, citing as evidence inadequate FCC resources and the weakening of regulatory safeguards. The only concession to the RHCs was Judge Greene's decision to dilute the ban on information services by allowing RHCs to engage in the transmission, but not the generation, of information services. The ruling permitted the entry of RHCs into such areas as data transmission, electronic mail, and video gateways. Central offices with specialized equipment could offer premium services termed Custom Local Area Signaling System (CLASS) services such as "Caller ID," "Distinctive Ringing," and "Automatic Callback".

Under tremendous pressure from the RHCs and their allies, and against the wishes of the newspaper publishing industry and others, the Fifth Circuit of the US Court of Appeals mandated Judge Greene to remove the restriction on generation of information services by allowing RHCs to engage in the transmission, but not the generation, of information services. The ruling permitted the entry of RHCs into such areas as data transmission, electronic mail, and video gateways. Central offices with specialized equipment could offer premium services termed Custom Local Area Signaling System (CLASS) services such as "Caller ID," "Distinctive Ringing," and "Automatic Callback".

11 In the case of the latter, Greene had in mind the fate of the FCC's Computer II ruling which had distinguished between "basic" (regulated) and "enhanced" (unregulated) services. In an effort to ensure that carriers did not subsidize their unregulated ventures from regulated earnings, the FCC required structurally separate subsidiaries if carrier wished to offer enhanced services. However, in response to strong pressure from AT&T and the RHCs, who argued that separate subsidiaries entailed excessive costs, the FCC dropped this requirement in favor of the nonstructural safeguards of Computer III.
services in 1991, permitting the RHCs into computer databases and electronic yellow pages. The RHCs have in the past been barred from providing cable TV services within their local service areas. In July 1992, the FCC voted to end these cross-ownership restrictions and recommended that Congress terminate similar legislative restrictions. The FCC "video dialtone" rule making proposes that telephone carriers be permitted to offer video and other services to homes.

Rate-of-return regulation, the traditional method of regulating telephone companies, has been under siege since the mid-1980s. In 1987, the FCC announced a proposal to cease regulating AT&T's long-distance rates on a rate-of-return basis, substituting it with a price cap policy. The substitution was intended to replace profit and earnings controls with a cap on the prices charged, thereby ostensibly providing AT&T with incentives to offer basic services more efficiently as well to encourage their diversification into deregulated services. In July 1989, after two years of intense political struggle, a version of the FCC's original price cap rule making was implemented. At the time, it was perceived by some as a transitionary move toward full deregulation of AT&T. In 1990 the FCC adopted mandatory price caps for the interstate operations of the eight largest local exchange carriers--the seven RHCs and GTE--and a price cap option for smaller companies.

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12 Miller (1993, p. 28).
dating and then paralleling these federal level developments, the majority of state public utility commissions have also considered and/or adopted price caps, "social contract," "incentive regulation," "profit-sharing," or other alternative forms of regulation. These alternatives differ in a number of respects, but they each tend to relax controls on profits and earnings.

The foregoing remarks give some indication of recent "regulatory turbulence" in the telecommunications sector. The nature of the telecommunications regulatory process appears to have altered quite dramatically. The number of stakeholders in the regulatory process has multiplied as the regulated businesses, their actual and potential competitors, and their customers seek to influence regulatory policy outcomes. Furthermore, in the years before the late 1970s, it was clear that the FCC was the primary regulatory entity in the telecommunications sector. But in the late 1970s and throughout the 1980s "parallel regimes of regulation" at the federal level developed: "the traditional regime of the FCC and the new court regime of Judge Greene."\(^{19}\)

The rapidly changing complexion of telecommunications regulatory policy and telecommunications regulatory policy-making processes raises important questions for students of the US regulatory policy process: What conditions made these regulatory policy developments possible? What are the implications of these policy decisions for the future structure of telecommunications regulation? Are we witnessing a fundamental realignment of the economy/state relation in the telecommunications sector? How should


\(^{18}\) This term is elaborated at length by Pitt & Morgan (1992).

\(^{19}\) Pitt & Morgan (1992, p. 45).
we conceptualize and understand the changing nature of telecommunications regulatory policy-making? Why do various regulatory policy developments take the particular forms they do rather than other possible forms? How can we distinguish the significant from the not so significant regulatory policy decisions?

Adequate answers to these kinds of questions require sound theory. Theory provides frameworks for looking at and organizing the kinds of "facts" or empirical observations noted above. Put differently, the meaning of facts is a theoretical issue not a factual one. Charles Steinfield and Janet Fulk usefully summarize the importance of theoretically driven research:

[T]heory provides a framework for synthesis and integration of empirical findings. Theory can...provide road maps as to what patterns to look for in the data...[It] points us toward explanations for the patterns.... Theory also offers guidance as to where to direct future research attention and provides a structure for incorporating future research findings. Thus, it drives a more efficient and meaningful research effort. Theory also motivates integrated programs of research rather than fragmented individual studies. The overall consequence of theory-driven research efforts is a more coherent and defensible set of conclusions on which to base knowledge claims.

Theory helps us see the forest as well as the trees. Theory provides perspective on the larger issues and directs us toward more broadly-based knowledge claims.20

Theory-building is crucial if we are to make sense of the jumble of empirical observations on the various changes underway in the telecommunications sector. Theorizing can also open up fruitful lines of inquiry, suggesting useful new ways of looking at the telecommunications regulatory policy-making process.

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20 Steinfield & Fulk (1990, p. 13-14), authors' emphasis.
The problem

The problem is that the relevant theories are ill-equipped to offer adequate explanations and understandings of the rapidly changing nature of telecommunications regulation and telecommunications regulatory policy-making. These theories are found in two distinct literatures—the literature on the regulatory policy process, and the literature that focuses specifically on policy developments in the telecommunications sector. With respect to the first literature set, the focus is on those factors that affect policy formulation, as well as the subsequent effects of regulatory policy. Contributors to this literature are primarily concerned with developing general insights about the regulatory policy process that can be applied in various specific policy areas (transport, banking, telecommunications, and so on).

Most models and theories found in this literature set explain policy outcomes in terms of the behavior of one or two agent categories. Paul Sabatier and Neil Pelkey identify six kinds of models which are representative of this literature:21 (i) the industry dominance model, which views the regulatory agency as being heavily influenced by the industry whose behavior it is supposedly regulating;22 (ii) the competing interest groups model, which views the relative balance of interest groups in the regulatory agency's external environment as the critical factor;23 (iii) the surrogate representation model, which focuses on the role of professional reformers who champion under-represented interests.

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21 Sabatier & Pelkey (1987, pp. 236-237). The first four models in their list were borrowed from Gormley (1982).

22 Bernstein (1955), Gray (1940), Stigler (1971), for example.

23 Sabatier and Klosterman (1981), for example.
(consumer advocates, for example); (iv) the organizational process model, which emphasizes the internal control problems familiar to organization theory, as well as the discretionary role played by the regulatory agency staff; (v) the legislative overseer model which views the relevant legislative committees, which exercise substantial control over an agency's budget and legal authority, as the dominant actors, and (vi) an executive overseer model which stresses the importance of the president in controlling the regulatory agency through budgetary and appointments powers. All but the organizational process model views the regulatory agency as being heavily influenced by some kind of external actor.

While these models have contributed in various ways to our understanding of the regulatory policy-making process, they have been criticized convincingly on a number of grounds. First, they have tended to emphasize the importance of a single type of actor as opposed to developing a framework for examining the simultaneous interaction of several


27 Moe (1982), for example.

28 Noll's (1984) "external signals" model does not fit within any of these six categories. Noll's model seeks to integrate the multiple cues coming into agency officials from legislative and executive agencies, interest groups, court decisions, and other agencies, as officials seek either to maximize net positive feedback to avoid negative feedback. This synthetic approach is not subject to the first two criticisms in the following paragraph. But it is subject to the following three criticisms.

29 For detailed critiques of one or more of these models see Noll (1984), Horwitz (1989), Sabatier & Pelkey (1987), and Shields (1991a), for example.
categories of actors. Second, all but the organizational process model views the regulatory agency as essentially a passive reflector of particular external interests. Third, these models have neglected "to address the efficacy of various legal and political mechanisms by which external actors try to influence regulatory agency decisions....[They tend] to focus on a single one to the exclusion of others." Fourth, the models eschew examination of how the dense web of rules and institutions which constitute the regulatory policy process enable and constrain the action of the various policy actors. The organizational process model is partially exempt from this criticism, but even here the focus tends only to be on those rules and institutional arrangements internal to the regulatory agency. Fifth, these models do not seriously address the "macro" structural environment which conditions regulatory policy processes.

The second relevant literature set alluded to above focuses specifically on policy developments in the telecommunications sector. Much of this work is theory poor; consisting of descriptive, largely atheoretical case studies, with some noticeable exceptions. A number of prominent telecommunications policy researchers have expressed similar critiques, accompanied by calls for new theoretical approaches to telecommunications regulatory policy processes and/or by attempts at filling the theoretical lacunae. I review the critiques and critically assess recent theory-building attempts in the


32 I do not understand organizations and institutions to be synonymous. The former refers to a type of actor while the former is understood to be enduring sets of social practices. This issue is discussed at length in later chapters.

33 An "atheoretical" approach refers to an approach which is largely based on unproblematized common-sense.
remainder of this section. The latter have received little critical scrutiny to date, unlike the regulatory policy-making models discussed above.

Vincent Mosco, President of the Political Economy Section of the International Association for Mass Communication Research, argues that

[p]olicy research in telecommunications, especially research on deregulation, is more descriptive than analytical, identifying the major participants in the policy arena...and describing the major issues over which they contend--industry structure, pricing, the extent of regulation. This research is useful in keeping us abreast of developments in technology, services, and changes in the players and their relationships. However, the lack of analytical focus leads to simplistic conclusions. Will the arena be technology-, market-, or regulation-driven? How can we adjust to inevitable deregulation or privatization?"

Where telecommunications policy research is analytical rather than descriptive, it has tended to rely excessively on technological and economic--typically neoclassical economic--reasons for what propels policy making...Analysis that departs from strict technological or economic explanation has done so either through attempts to apply neoclassical economic models to the political domain, in the so-called public choice theory, or through detailed investigation of micropolitics, with studies of how administrative staffs "capture" regulatory and public policy bodies..."34

Among other things, Mosco is critical of the "micro" behavioral focus of the regulatory policy-making models and theories discussed above. He argues, "only by a greater appreciation of the [macro] political dimension can the discussion of policy issues expand 'beyond dichotomous thinking--to regulate or not to regulate."35 Drawing on state theory--pluralism, managerialism and marxism---Mosco illustrates how each variant offers different ways of "explaining the functional and political importance of recent developments in telecommunications policy, particularly the turn to deregulation and privatization."36


36 Mosco (1988, p. 108), author's emphasis.
Mosco endorses the marxist variant because it is suggestive of how telecommunications regulatory policy developments are integral to the ongoing reproduction of the capitalist system.

Another negative assessment of the state of telecommunications regulation and policy research is provided by William Dutton, Director of the Programme on Information and Communication Technologies in the United Kingdom:

Conventional analytical frameworks on communication law and public policy [do] not provide ready explanations for the profound public policy changes that have taken place in broadcasting, cable, and telecommunications in the United States and other advanced economies. How can we account for such...dramatic [regulatory] shifts as the French PTT's development of cable television systems, the moves to privatize British Telecom and Nippon Telegraph and Telephone, and the divestiture of AT&T?

Prevailing explanations of policy change in communications seldom incorporate the role of interactions across different domains of business and public affairs. When these interactions are included, they are treated as aberrations or as unique historical circumstances.37

For Dutton, an adequate model of the telecommunications regulatory policy process "should span more than the communication sector and should incorporate the broader system of action governing the development of communications."38 He suggests an "ecology of games" framework to help make sense of the dynamics of telecommunications policy processes. He claims that it "overcomes some limitations of the sector-specific policy studies and some weaknesses of other frameworks for the study of public policy, including group, pluralist, and elite theories of decision making."39

37 Dutton (pp. 303-304).


For Eli Noam, Director of Columbia University's Center for Tele-Information Studies, and former member of the New York Public Service Commission,

[t]elecommunications policy today is an environment in which there are many battle-hardened troops, but too few strategists. There is an abundance of activities, plans, facts and fights, but only a limited analytical apparatus.... [w]e need...to get...beyond the traditional concepts that have organized thinking in this field.

What are these concepts? I find four main ones... For technologists, the primary organizing concept in telecommunications policy are economies of scale and ...standardization. Economists worship at the alter of competition--in this case genuflecting to the triad of structure, conduct, and performance. What is an increasing disenchantment with this view is represented more in academia than in the regulatory environment. Lawyers, third in this field, judge policy issues in terms of conflict of interest, which translates here into a potential for cross-subsidies. Structure that make such cross-subsidies theoretically possible must be avoided, hence the AT&T divestiture. Finally many social scientists, as well as most politicians and journalists, organize reality in telecommunications policy around the concept of income distribution, that is, around the question of who pays more, who pays less...

All of these concepts have...been carried by their proponents to the edge of explanatory power and then some... Perhaps the greatest common failing is that they engage in what I would call supply-side telecommunications. That is, they look at the subject from the angle of production and producers: AT&T versus MCI, interexchange carriers versus local exchange companies, enhanced versus basic service providers....and so on.40

Noam suggests that an adequate understanding of recent transformations in telecommunications policy requires "demand-side" telecommunications analysis. This involves "not think[ing] of telecommunications as a service produced by carriers but as an interaction of groups and subgroups in society, facilitated by service vendors we call carriers."41 In this scheme, telecommunications deregulation and the ongoing reconfiguration of the telecommunications network are being driven not by new technology

40 Noam (1992a, p. 6).

or "supply-side" forces, but rather by the formation of "demand-side" group coalitions that seek to escape from previously existing network arrangements.

Nicholas Garnham, editor of *Media, Culture and Society*, a premiere journal in the communication field, argues that a good deal of telecommunications policy analyses, because of their implicit or explicit technological determinism,

divert attention from the real economic context that largely determines the outcomes of technological development and with which policy has to deal...

[This is particularly problematic because] one of the key characteristics of the current policy phase is the extent to which communication policies are determined by the priorities of economic and industrial policy.42

As part of a wide-ranging research agenda, Garnham calls for "detailed analysis of the communication policy formation process."43 Such analysis, he suggests, should take into account the importance of the economic forces and economic actors which impinge on the process.

Robert Britt Horwitz, author of *The Irony of Regulatory Reform*, provides a brief critical assessment of US telecommunications regulatory policy research:

Most studies of American communications focus on either broadcasting or telephone, rarely on both. Conventional studies tend to be either economic or anecdotal histories of the respective industries.... Or they are policy analyses, steeped in the byzantine complexities of agency decisions, but bereft of a larger theoretical context. Yet the interrelationship between the telephone and the broadcast industries is not only important for an understanding of the process of regulation, but central to how deregulation came about in telecommunications. At another level, studies that look only at the deregulation of telecommunications miss the links to other deregulated industries--and hence miss the broad reasons for the deregulation phenomenon.44

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42 Garnham (1985, p. 67).

43 Garnham (1985, p. 73).

44 Horwitz (1989, p. 8).
Horwitz develops an analysis which "situates...regulation and deregulation within the theoretical context of the structural relation between state and economy..."\textsuperscript{45}

Taken together, these critics can be understood as making several points. First, much of the work on the telecommunications regulatory policy process is atheoretical and is therefore unable to provide systematic understandings, explanations, and evaluations of policy developments.\textsuperscript{46} Second, the theoretical approaches that do exist (including the models and theories found in the literature on regulatory policy processes generally) are very limited in their explanatory power. Third, for these reasons, explanation and understanding of the policy developments currently sweeping through the telecommunications sector requires new theories and more theoretically informed work hence the theory-building attempts by some of the critics. But these attempts at theory-building are not without problems of their own.

\textit{Mosco's Approach:} Mosco's approach is particularly problematic. After dispensing with pluralist and managerialist approaches to the state, he endorses a class theory perspective on the state and telecommunications regulatory policy. In his scheme, "deregulation is a response to the recognition that telecommunications...have come to occupy a central place in the capital accumulation process...[d]eregulation, and...divestiture are instruments for the global expansion of telecommunications and information, both as industries and as sources of transnational capital expansion generally...."\textsuperscript{47} Furthermore,

\textsuperscript{45} Horwitz (1989, p. 8).

\textsuperscript{46} Interestingly, Sabatier (1991, p. 144) argues that atheoretical work characterizes all substantive area research. Commenting on policy research in the areas of transportation, natural resources, education, health, transportation and foreign policy, he writes "most of the work in this tradition has consisted of detailed, largely atheoretical, case studies...."

\textsuperscript{47} Mosco (1988, pp. 119-120).
"[a]ccording to class analysis, deregulation is a means of eliminating social claims...[it] is one way the state re-forms itself to eliminate an arena of potential class conflict."\footnote{Mosco (1988, p. 121).}

For Mosco, the state is a vehicle for maintaining class power. At one level, he understands the state as a tool for securing the conditions for capital accumulation. At another level, following Nicos Poulantzas, he conceives the state as an arena in which class contradictions and antagonisms are reproduced in a condensed manner. In both cases the definition of the state is based on categories derived from the economic sphere (capital accumulation, classes). In other words, the institutions of the state are not conceptualized in their own right; they are invariably seen as the "conditions of existence" of the economic base. In the words of Nicos Mouzelis, "[class analysis], having failed to elaborate specific conceptual tools for the study of politics, \textit{builds the alleged primacy of the economic into the definition of the political}. In that sense it is unable to study the complex and \textit{varying} relationships between economy and polity, in a theoretically coherent and at the same time \textit{empirically open-ended} manner."\footnote{Mouzelis (1990, p. 33).}

By definition, then, Mosco's preferred approach to the telecommunications policy process precludes the possibility that state institutions have a logic of their own or that state actors may act in ways that are not somehow reducible to the interests of capital in the long-run; political structures and institutions, and the activity of political actors, are condemned to be treated as \textit{explanandum} rather than as \textit{explanans}. Given Mosco's a priori privileging of economic forces he cannot address fairly the question of whether state institutions and state actors have independent effects on the regulatory policy formation process.
Mosco's approach ascribes too much unity to the state. His analysis gives the impression that deregulation and divestiture were the product of strategic decisions on the part of the US state bent on unleashing US firms into global markets, but as Douglas Pitt and Kevin Morgan point out, "such a contention exaggerates the degree to which concerted action is possible within government itself or between government and industry." They add, "[w]e are not suggesting that the United States government is not trying to play a more forceful role in support of multinationals abroad, only that it faces great problems doing so given the extraordinarily diffuse United States political system."\(^{50}\) Mosco's portrayal of the state as a cohesive unit serves to mask the tensions, conflicts, and contradictions that are often evident in the political sphere. Again, the effect is to inhibit both empirical and conceptual analysis of institutions and actors at work within the "black box" of the state. The irony of Mosco's "distinctly political perspective on telecommunications policy and regulation"\(^{51}\) is that political processes are explained away.

In what has been said above I do not mean to belittle the role played by economic structures and economic actors in the policy formation process. The very existence of political institutions and organizations depend on economic factors. As Charles Lindblom argues:

> Because public functions in the market system rest in the hands of businessmen, it follows that jobs, prices, production, growth, the standard of living, and the economic security of everyone all rests in their hands. Consequently, government officials cannot be indifferent to how well business performs its functions. Depression, inflation, or other economic distress can bring down a government. A major function of government,

\(^{50}\) Pitt & Morgan (1992, p. 51). Similarly, Horwitz (1989, p. 44) writes, "[a]s one moves into the empirical history of telecommunications regulation and deregulation, it becomes difficult to impute motives and/or interests to abstractions like "the state," which is made up of different apparatuses sometimes with conflicting agendas."

\(^{51}\) Mosco (1988, p. 108), author's emphasis.
therefore, is to see the businessmen perform their tasks.... They [government officials] must therefore offer benefits to businessmen in order to stimulate the required performance.\textsuperscript{52}

Lindblom usefully identifies the structural relations that account for the privileged position of business in the policy formation process. This helps account for the fact that the policies of various state agencies very often favor particular groups of capital. But Lindblom, a non-marxist political scientist, makes the same error as many marxist theorists\textsuperscript{53} when attempting to derive explanations of state actors' activities from functional system requirements. The reproductive requirements of the political system (or the economic system) can have no "effects" without the intervention of actors. Any attempt to brush aside actors, or to present them as mere effects of systemic constraints, inevitably leads to teleological explanations.

For example, the argument that deregulation is the "effect" of the reproductive requirements of the economy, automatically produced by political institutions and actors that are critically dependent on capital accumulation, suggests that whatever happens in the policy process happens because of the "needs" of the economic system and the related requirements of the subordinate political system. Analysis of the conditions of existence of the political system must be supplemented by examination of the strategic activities of factions of capital, of other interested parties, and of state actors--all are "agencies which...perceive or fail to perceive... [system] requirements, and which define them in ways leading to a variety of contradictory strategies that in the long run might or might not

\textsuperscript{52} Lindblom (1977, p. pp. 172-173). Giddens (1981, p. 212) and Horwitz (1989, p. 42) also use this quotation to make the point that the structural relations identified by Lindblom account for the privileged position of business in the policy formation process.

\textsuperscript{53} Clegg & Dunkerley (1980, p. 550) and Offe (1976), for example.
fulfill the reproductive requirements of [the system]."\textsuperscript{54} It is necessary to recognize that actors, in mediating structural influences, behave in ways that are meaningful to themselves. This approach, which acknowledges the importance of Weber's emphasis on the need to understand human action in terms of the perspective of the actor, is very different from arguing that individuals are mere bearers of social relations.

\textit{Dutton's Approach:} Dutton's "ecology of games" approach to policy formation is in some ways diametrically opposed to Mosco's predominantly structural perspective. Dutton characterizes the "ecology of games" as "a move away from a focus on the macrolevel, particularly the structure of power, as a means to explain policy outcomes, to a focus on the microlevel, particularly the goals, rules, and strategies guiding the behavior of individual actors, in order to explain outcomes at the macro- or aggregate-level."\textsuperscript{55} He adds, "[a]n ecology of games would lead social scientists to study policy outcomes not as a result of a system of demands and supports, as a compromise among competing interest groups, or as the outcome of a pluralist or elitist process of decision making, but as the outcome of an unfolding history of separate but interdependent games."\textsuperscript{56}

Dutton advocates an "upward" looking approach that construes collective outcomes and "macro" structural forms as the (unintended) product of the interaction of game players involved in multiple games. His analysis leaves unexplored the possibility that these forms

\textsuperscript{54} Mouzelis (1991, p. 130), author's emphasis. I understand Melody & Mansell (1983) to be making a similar point.

\textsuperscript{55} Dutton (1992, p. 306). Dutton's position has much in common with methodological individualism. Popper (1966, p. 98) provides the classic statement of this position: "all social phenomena, and especially the functioning of all social institutions, should always be understood as resulting from the decisions, actions, attitudes, etc. of human individuals...we should never be satisfied by an explanation in terms of so-called 'collectives'."

\textsuperscript{56} Dutton (1992, p. 306).
are necessary preconditions for individual action and game playing. Put differently, Dutton understands "macro" structural forms to be constituted by, but not constitutive of, their elements. Structures are constituted by actors in the sense that they are perceived as the aggregation of pre-existing individual actions and interactions.\textsuperscript{57} For this reason, political, economic, and ideological structures cannot be constitutive of those actors and their activity, because something cannot be constitutive of something else if it is ontologically reducible to the latter. Thus Dutton's analysis is not open to the possibility that such structural forms shape or constitute what they are at base as social actors. In short, individuals' identities, powers and interests are taken to be exogenously given. The individual is treated as the basic unit in Dutton's analysis of the policy process.

Dutton defines a game "as an [arena] of competition and cooperation structured by a set of rules and assumptions about how to act in order to achieve a particular set of objectives."\textsuperscript{58} He refers to the regulatory policy-making process as one such game. But by taking individual preferences and powers as given, the ecology of games perspective fails to provide a theoretically grounded understanding of when or why actors will face competitive as opposed to cooperative games. In other words, it provides little insight into the determinants of those situations, and therefore into the question of how or under what circumstances cooperation or competition will obtain. In order to address this problem, Dutton would have to develop a framework for examining the powers and interests of actors in terms of institutions that constitute them as empowered and interested subjects in the first place: "Logically, the game starts only after the actors have been constituted, and their order of preferences has been formed as a result of processes that cannot themselves

\textsuperscript{57} See Wendt & Duvall (1989, p. 55).

\textsuperscript{58} Dutton (1992, p. 306).
be considered as part of the game." But an examination of these processes is precisely what is denied by Dutton's approach.

Dutton does concede that "macro-structures" may be relevant in understanding the behavior of game players. Thus he suggests that "many [macro] structural factors can be linked to the idea of an ecology of games... National and international economic systems and politico-administrative traditions establish many of the rules governing games, the relative status of games, as well as the very nature of the games themselves." At another point he notes that "one of the most fundamental symbolic shifts that affected the ecology of games surrounding telecommunications was the idea that communications and information technologies were ushering in new business and industries--the so-called information economy." But these gestures toward the importance of macro-social factors seem hollow when juxtaposed with the theoretical assumptions underlying the ecology of games. As I explain more fully below, these assumptions suggest that the policy process can be more or less explained by the preferences, motivations, and intentions of individual game players. Put differently, Dutton's approach exhibits the "individualist dilemma."

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59 Berger & Offe (1982, p. 525). Interestingly, Dutton (1992, p. 323) argues that his approach "is an attempt to develop a more realistic perspective on the actual behavior of elites pursuing multiple objectives" in various games. But how does Dutton know the relevant players are "elites"? By definition an "elite" refers to groups of actors who have privileged access to political and economic resources (structural factors). Their position in structure partially constitutes them as elites. This social fact is established prior to particular games (and reproduced or transformed during the course of various games). Because Dutton's framework does not seriously incorporate structural features, "elites" appear to fall fully formed from the sky in his analysis.

60 Dutton (1992, p. 315).


This dilemma produces tension between a commitment to individualistic assumptions and a residual acknowledgment of macrosocial forces. This dilemma arises because a theorist "will not give up on his or her formal claims to a thorough-going individualism; for this reason, the 'collectivist moment' [structural moment] he or she has introduced must be camouflaged by residual categories..., [thus] the collectivist reference will be indeterminate and vague."63

Once individuals are involved in various games, Dutton ostensibly considers the "micro" structures of the policy process. He argues that "games have rules that govern the strategies or moves open to players,"64 and "individual strategies stem from the logic prescribed by the games they play rather than any overriding goal of the collective as-a-whole."65 From these accounts it appears as if objective rules of the game organize and constrain the practices of pre-existing individuals. But closer inspection of Dutton's notion of institutional constraint reveals some serious problems.

Dutton suggests that game players have perfect information concerning the rules of the game: "The assumption that games provide a clear set of goals and objectives to players distinguishes this theoretical perspective from similar theories...[T]he garbage can model is based on an assumption that the preferences of participants are problematic, which is quite at odds with a model based on an ecology of games in which games provide participants with specific goals and purposes."66 This implies that institutional influence occurs

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63 Alexander (1985, p. 27).

64 Dutton (1992, p. 307), my emphasis.

65 Dutton (1992, p. 308), my emphasis.

through the filter of perfect information or expectations about institutional forms. In this scheme, institutional processes never occur "behind the backs" of game players—a truly remarkable feat given individuals may be involved simultaneously in a plethora of separate but interdependent games. Furthermore, the perfect information assumption assumes away the real world problem that some game players, by virtue of their privileged access to resources (legal specialists and lobbyists, for example), may have greater knowledge of the rules of the game than others. Another implication of the assumption is that the entire "contents" of "micro" structures can be gleaned from interrogating the players about their reasons for making particular choices and having particular objectives.

If the above logic is accepted, it can be argued that Dutton actually defines away the problem of institutional constraint. In Robert Grafstein's words,

This [perfect information] requirement insures that all relevant [rules] must, by definition, be the intended expression of correct participant expectations. The latter are the real source of [rules], which merely verify rather than constrain individual expectations and choices. If institutions must be the intended expression of participant expectations and choices, the 'institution,' by definition, can only act in the intended way, as a reflection of those intentions. Accordingly, it disappears the moment those intentions and complete, accurate expectations about [rules] disappear.

In Dutton's scheme, "the specific force of institutional constraint can be ignored since the corresponding expectations and preferences take up all the explanatory slack." Policy processes and outcomes can be more or less explained by agent-centered notions of

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67 Here I am drawing on and modifying Robert Grafstein's (1986) critique of a particular variant of rational choice theory.


preferences, motives, and anticipated reactions endogenously generated by and internally constraining the actor. Structural and institutional forms, "macro" and "micro", are denied independent ontological and explanatory status in Dutton's account of the telecommunications policy process.

Noam's Approach: Drawing on James Buchanan's "economic theory of clubs" in particular (a variant of public choice theory), Noam develops a theory of the evolution of telecommunications networks. Because network policy and regulation are integral to the development of networks, Noam's theory can also be understood as offering a perspective on the telecommunications regulatory policy process.

According to Noam, a network is a "cost-sharing arrangement" between several users":

Fixed costs are high, marginal costs are low, and a new participant, C, helps incumbent A and B to lower their costs. In this respect a network is similar to a "public good," such as a swimming pool or national defense. But although there is basically only one national defense system, there are many types of arrangement for swimming pools. A user may want to share the pool with a few dozen families, but not with thousands. A pure public good admits everyone, a pure private good admits only one. But there is a wide spectrum between the pure private good and the pure public good... A telecommunications networks is one intermediate example. It is not a private good yet it does not meet the two main conditions for a public good: nonrival consumption and nonexcludability... What has been happening in recent years to telecommunications, and what goes by the more dramatic labels of divestiture and deregulation, is largely a shift in the degree of its intermediate position, a shift toward the direction of a private good.

Noam locates the primary cause of telecommunications deregulation (i.e., policy decisions that increase the "privateness" of telecommunications networks) in the dynamics of group formation:

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70 Noam (1992b, p. 31), author's emphasis.

71 Noam (1992b, p. 31).
The breakdown of monopoly is due to the very success of the traditional system in advancing telephone service and in making it universal and essential. As the system expands, political dynamics take place that lead to redistribution and overexpansion. This provides increasing incentives to exit from a sharing coalition, and to an eventual "tipping" of the network from a stable single network coalition (the public network) to a system of subcoalitions.72

For Noam, the public network coalition includes "government bureaucracy, private equipment suppliers, labor unions, intellectuals, good-government advocates, the political left, the press, the poor, and the rural areas..." Those seeking to exit the existing "sharing coalition" include "service industry users who are denied certain communication services."73 Exit occurs and alternative coalitions are formed because these users perceive the costs of staying with the single network as exceeding the benefits. The cohesion of the former centralized network breaks up and a multi-network system emerges as a result.

Noam's analysis provides some insight into the changing nature of telecommunications networks--the shift from a centralized configuration to a decentralized pluralistic network--but adds little to the study of telecommunications regulatory policy processes. Following traditional political science approaches, he identifies policy-inputs (the new coalition that advocates policy changes, along with other contributory factors such as technical change and a changing socio-economic environment) and policy outputs (the deregulatory policies that push networks further toward the private good end of the public good/private good spectrum) but neglects the "withinputs"74 of the policy process. That is, like Mosco, Noam shows little appreciation for the fact that the institutions and actors

72 Noam (1992b, p. 30), author's emphasis.


74 This is Philip Cerny's (1990) term.
associated with the policy process may have an independent effect on the policy formation process. Indeed, Noam's public choice/welfare economic theory account of "network tipping" implies that the policy process is nothing more than a mechanism which responds to majority rule.\(^{75}\) By neglecting serious consideration of policy institutions and actors as well as other factors such as the actual dynamics of coalition building, Noam's analysis is unable to account for why the specific form of deregulation (or regulatory reform) varies from country to country.

At this point, it may be countered that Noam's primary concern is with developing a theory of network evolution that holds for all networks, irrespective of particular policy cultures, therefore the latter are held constant in his analysis. Such a project, the argument may run, unavoidably sacrifices the specifics of various national telecommunications policy processes at the alter of generalizability. Rounded explanations of particular national policies, the argument may continue, can be produced by extending Noam's theoretical analysis in order to examine relevant policy cultures.

The following albeit sketchy attempt at extending Noam's analysis in this way suggests that this argument is flawed. A central notion in Noam's scheme is that network users make utility maximizing decisions on the basis of clear preferences, and after assessing the costs and benefits of the various alternatives for achieving these preferred outcomes. The demand for policies come from utility maximizing network users whose "voices" are expressed through collective organization and action. If we extend this thinking to the supply-side of the equation, the main actors are politicians and bureaucrats. As utility maximizers, politicians are motivated by the need to win sufficient electoral support, and to remain in office. In order to do this they will rationally seek to deliver a set

\(^{75}\) Noam (1992b, p. 34).
of policies which reflect the scale and intensity of some, though not necessarily, all organized demands. In meeting such demands, politicians are likely to deliberately shift resources and other advantages away from some groups toward others. In this view, "civil society" is determinative of the behavior of democratically elected political leaders. Bureaucrats may be assumed to have an interest in job security and improving their working conditions and job prospects, and, as a result, in enlarging the size and scale of their jurisdiction. An instance of this, referred to in some of the public choice literature, is the goal of budget maximization by bureaucrats.76

This kind of analysis suggests that an "equilibrium" set of policies, in the political market-place, will change according to the shifts in industrial structure, the organization and strength of various group interests, and the characteristics and values of the electorate. The demand for some policies will also be affected by changes in socio-economic conditions.77 More accurately, shifts in policy occur because of changes in utility maximizing individuals' readings (i.e., their cost-benefit analyses) of the changing environment. At bottom, then, the policy process (as well as the evolution of networks) is perceived as being driven by self-interested individuals constrained by their perceptions of various changing incentive structures.

This analysis has several problems. First, following neoclassical economic theory the analysis takes preferences to be exogenous, ordered, and stable. As with Dutton's approach, the formation of preferences is outside its analytic purview because individuals are assumed to make independent, rational choices to maximize their utility. But as Roger

76 Tullock (1976).

77 For a summary of the exogenous factors in Noam's analysis see Noam (1987;1989;1992b, pp. 43-60). He refers to these factors as the "forces of centrifugalism."
Friedland and Robert Alford argue, "once one moves away from material goods, calibrated through relative prices, the neoclassical apparatus is in dangerous waters precisely because it does not have a theory of utility formation. Without priced commodities, the postulate of rational utility maximization quickly becomes tautological, a liberal trope, not subject to falsification." The English essayist and historian Thomas Macauley was one of the first to draw attention to the tautology:

When we see the actions of a man, we know with certainty what he thinks his interests to be. But it is impossible to reason with certainty from what we take to be his interest to his actions. One man goes without a dinner, that he may add a shilling to a hundred thousand pounds: another runs in debt to give balls and masquerades. One man cuts his father's throat to get possession of his old clothes: another hazards his own life to save that of an enemy. One man volunteers on a forlorn hope: another is drummed out of a regiment for cowardice. Each of these men has, no doubt, acted from self-interest. But we gain nothing by knowing this, except the pleasure, if it be one, of multiplying useless words. In fact the principle is just as recondite, and just as important, as the great truth whatever is, is... And it is...idle to attribute any importance to a proposition which, when interpreted, means only that a man had rather do what he had rather do.

In short, the tautology leads public choice theorists and those inspired by them (e.g., Noam) to beg what are often the most interesting questions concerning policy actors: Why and how do preferences change or resist pressure to change?

Interests and preferences are institutionally shaped, as I noted earlier. Different policy cultures and institutional arrangements are likely to produce different notions of interest and preference. Albert Hirschman persuasively argues that the concept of interest as rational self-centeredness on the part of prince and entrepreneur emerged in the seventeenth and eighteenth centuries with the institutional transformation of state and economy. Interest was construed as an alternative to the destructiveness of "passions" to

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79 Macauley (1900, pp. 416-417).
which rulers and masses were subject. He argues that the interest concept itself played a "role...in shaping behavior codes for individual men and women in society." Along similar lines, Friedland and Alford argue, "material advantage is sought in terms of cultural categories which are institutionally located, frequently contested, and sometimes reordered. These categories become normative and thereby shape not only the calculus of utility maximization but probably the formation of preferences as well. There is an instrumental politics to the ways in which categories change, certainly, but once they have become institutionalized they shape the rules by which rationality is perceived and exercised."  

In common with Dutton's approach, Noam's analysis (and its extension) leaves unexplored the role that various institutional and structural forms play in constituting policy actors (both demand-side and supply-side actors). For example, Noam's theory when extended in order to analyze the policy process provides no way of examining how political institutions (which vary from country to country) constitute policy actors as subjects of the policy process. This omission is serious because these institutions consist of the decision-making rules and procedures, roles, authority structures, norms, and routines that enable and constrain policy actors. The dynamics of these institutions may explain why in many cases public officials do not adopt the goals or form the preferences with reference to what voters, or groups of them, prefer—the outcome predicted by public choice theory. Furthermore, political institutions are largely resilient to the turnover of individuals and

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80 Hirschman (1986, p. 38).

81 Friedland & Alford (1991, p. 245). Mary Douglas (1986) also provides a powerful critique of rational choice theory for neglecting the institutional constraints on individual's conceptions of their needs, preferences and choices.

82 See Evans, Rueschemeyer & Skocpol (1985) and Mucciaroni (1991), for example.
may have effects independent of the personal attributes of those who occupy particular positions. In addition, "[t]he way in which institutions distribute authority and shape conflict help determine whether solutions reach the agenda, if they are blocked from doing so, and how they might be modified. They provide the organizational capacity that allows government to undertake some activities but not others."  

Noam's analysis, if extended to the study of the policy process, is likely to neglect such factors, thereby severely restricting its explanatory power. It will shed little or no light on why particular deregulatory policies within a policy culture take the form they do or why deregulatory policies vary from country to country. Indeed it is likely to obscure greatly the complexity of policy processes.

Horwitz's Approach: Horwitz provides a sophisticated historical analysis of telecommunications regulation and deregulation. He seeks to answer the question: "how and why were American telecommunications deregulated?" Existing theories of deregulation, according to Horwitz, are deficient because they fail to understand that telecommunications was just one of several American industries to be deregulated since the mid-1970s. Deregulation, he argues, "cannot be explained with reference to internal telecommunications issues or technological factors alone. Deregulation went beyond telecommunications, but was confined to a specific type of industry under a specific type of regulatory control. This points to the need to look toward regulatory structures."

Horwitz's "historical theory" of regulatory structures attempts to

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83 Mucciaroni (1992, p. 466).

84 Horwitz (1989, p. 4).

85 Horwitz (1989, p. 6).
account separately for both the genesis and the operationality of regulatory agencies.... [It attempts to] account not only for the real differences between agencies, but also for the differences in temporal political coalitions whose demands underlie the establishment of particular agencies.... At the same time, all agencies are situated similarly within the general institutional structure of political power, are constrained by both the accumulation needs of the capitalist mode of production and the legitimation demands inherent in a democratic polity. Regulatory agencies are also limited by the difficulty of their tasks.... Finally because temporality and changes in political dynamics are factors in regulatory behavior, there is no single pattern to the behavior of agencies.86

There is much to admire in Horwitz's analysis. His finely spun account of telecommunications deregulation is founded on a non-reductive analysis of the interaction of economic, political, legal, and ideological structural factors. Furthermore, his coverage of institutional features ranges from macro-structural economic and political-legal forms (the requirements of capital accumulation and the constitutional framework, for example) to the micro-structural arrangements of particular regulatory agencies (their procedures and routinized practices, for example). The interplay between the various structural forms are not depicted as mechanically producing particular policy outcomes, rather Horwitz shows how structural dynamics give rise to and then are mediated by political struggles between different "civil society/state" coalitions. Horwitz's sensitivity to agency factors is commendable given that his primary concern is with the longue durée of telecommunications regulation as opposed to particular policy episodes.

However, Horwitz's approach is of limited utility for the study of the US telecommunications regulatory policy processes in general. His theory was developed to explain the deregulation of telecommunications in the mid-1970s and early 1980s, specifically the break-up of AT&T. Horwitz's theoretical specifications are so intertwined in the historical antecedents of this case that it is difficult to see how the theory can be

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86 Horwitz (1989, p. 45), author's emphasis.
extricated in order to guide empirical research on other, less grand telecommunications policy episodes. That is, Horwitz convincingly argues that a theory of the origins and operation of regulatory bodies is required to explain deregulation, but is such a theory required to explain adequately such events as the introduction of price cap regulation for AT&T, or the reintroduction of federal regulations for the cable industry?

In short, Horwitz offers an informative theoretically-driven historical account of what is widely considered to be the major event in the history of US telecommunications, but it provides no substitute for an explicit general theoretical framework of the US telecommunications policy process. His contribution does, however, suggest the kinds of factors that this framework should take into account—explanations should be historically grounded, the interplay between institutional or structural forms should be examined in a non-reductive manner; the interaction between structure and agency factors should be treated likewise.

**Streeter's Approach:** The theoretical forays of Mosco, Dutton, Noam, and Horwitz do not exhaust recent attempts at theory-building in the telecommunications policy process research domain. There have also been attempts to develop theoretical frameworks for examining the discursive or symbolic dimension of telecommunications policy processes. The contributions of Thomas Streeter are representative. Streeter advances a framework for guiding research on the ways in which policy and legal discourses, conceived as autonomous structural features of political life, constitute policy actors. Streeter begins

87 See also Parson (1989), for example.

88 In an early article Streeter refers to discourses as "systems of representation that order social life and provide a framework for comprehending social acts and events" (1987, p. 174), and describes them as structural features (1987, p. 188). In a later paper he asserts the autonomous nature of discourse: "Legal discourse has real implications in its own right (1990, p. 55)."
by distinguishing his "Critical Legal Studies" (CLS) perspective from traditional approaches:

Communications policy, like many other fields, often focuses on contemporary regulatory details at the expense of the broad structure of regulation. Much of the work that does focus on broad structures, furthermore, emphasizes non-intellectual forces like economics, technology, or the self-interest of policy-making groups.

In contrast, CLS has focused analysis on the concepts of law, particularly those that characterize Western Enlightenment thought. It is thus distinguished from "liberal pluralist" and some Marxist-influenced analysis [Mosco's work is cited as an example] because it does not reduce the intellectual content of law to an epiphenomenal reflection of group or class interests.89

The value of CLS, Streeter argues, is that it forcefully brings attention to the role of concepts and belief structures in legal and policy decision-making. More specifically, it mandates that researchers examine taken-for-granted assumptions that underlie telecommunications policy debates, as well as the assumption that "the world of laws, rules, and regulations comprising communications policy is a place where practical problems of a democratic society can be solved."90

CLS advances the concept of legal indeterminacy, a legal parallel to the linguistic precept "that the meaning of words is not fixed by the referent, that signs are...'arbitrary' and conventional, not mechanically determined by a universal logic or by relations to material objects."91 Applying this insight, Streeter comes to the following conclusions:

[Communication] policy generally embodies a response to the dilemmas of a social and political system that frames problems in Liberal terms, i.e., in terms of reconciling free autonomous individuals with the social good and thus rescuing individuals from solipsism and society from chaos. The

89 Streeter (1990, p. 44).


91 Streeter (1990, p. 47).
means of accomplishing this reconciliation involves formal, abstract systems of procedure such as the rule of law, independent regulatory agencies, a reified public interest and "policy research."

...[T]his conceptual structure swivels around a hollow core that renders its basic terms indeterminate.... Within those formal abstract systems, ...within law and within policy, one is limited to indeterminate, empty restatements of dilemmas. Legal reasoning cannot solve the dilemmas of law; policy expertise cannot resolve the problems of policy...[T]he implication is that...today's policy debates may be better understood as recapitulations of a set of indissoluble dilemmas inherent in our notion of rights, individuals, and government, notions rooted in the structure of Liberalism.

...[My argument is... even if one assumed that all parties to the policy process were supremely intelligent, benevolent, honest, effective, and deadly serious about following the terms and procedures of the U.S. System of policy to the letter, the policy-making process would still crumple of its own accord, would still fail to live up to its purported goal of impartially serving the public interest.... The hope for ...a clever regulatory stratagem or legal maneuver that would resolve...tensions, is itself a problematic expression of the same Liberal conceptual system that created the tensions in the first place.92

In short, for Streeter it seems that all policy actors' thoughts and actions are determined by the taken-for-granted Liberal intellectual framework that constitutes the policy process.

Streeter's analysis provides a much needed critique of existing approaches to the telecommunications policy process. He rightly chides telecommunications policy researchers for viewing the discursive or ideological dimensions of the policy process as simply superstructural and/or for reducing discourse's effects "to the needs or intentions of those who gave birth to them."93 It is high time that policy researchers realize that policy and legal discourses, embedded as they are in the institutions associated with the policy process, embody the tacit norms and implicit assumptions that are constitutive of practices. As Friedland and Alford argue, institutions are both enduring "patterns of activity through

92 Streeter (1990, pp. 60-61).

93 Streeter (1987, pp. 175). Some scholars, Dutton and Noam, for example, do occasionally recognize that the symbolic can be an important factor in shaping policy outcomes. But this recognition is at the empirical level only, it is not accorded theoretical status.
which humans conduct their material life in time and space, and symbolic systems through which they categorize that activity and infuse it with meaning."94

While Streeter draws attention to important but undertheorized aspects of the policy process, there are reasons why telecommunications policy researchers should have little truck with his Critical Legal Studies approach. Relying on variants of (post)structuralist linguistic theory, Streeter portrays the policy process and its participants as being constituted and indeed determined by Liberalism, a monolithic symbolic order. That is, Liberalism appears to provide the only fund of available linguistic meanings for those involved in the policy process. This view denies the possibility of genuine tensions and contradictions among different social meaning systems (he does note the existence of "dilemmas" but these are managed by the Liberal framework not by socially situated agents). Put differently, given the all-pervasiveness of Liberalism, one cannot conceive of such things as alternative perspectives, struggles by agents over social meanings, or contests between hegemonic and counter-hegemonic definitions of social situations.95 In short, Streeter is unable to provide an account of the dynamics of change. Diverse signifying practices are a priori homogenized and reified into a unitary all-pervasive symbolic order. Law and policy processes are reduced to a series of attempts by Liberalism to "rescue itself from its own limitations."96 Reading Streeter, one cannot help but conjure up the image of an omnipotent Liberalism, grinning sarcastically, as its subjects squabble in its shadow about things of little or no consequence. The reader is also left


95 For an alternative view see Fraser (1989). She discusses how elements of the feminist movement created new discourses as part of strategy to effect change in criminal law and housing policy.

96 Streeter (1990, p. 43).
wondering about the beneficiaries of Liberalism's domination; his framework appears to bracket the issue of power relations and inequality.

Streeter discounts as hopelessly naive any interpretation of the principles of "civil society"—legality, rights, public interest, etc.—as a basis for the emergence of spaces within society for new forms of autonomous association, or as an intellectual plank of an alternative strategy designed to bring about "meaningful" change. But what other principles should those who seek change invoke? These principles have been drawn on and contested by the trade union movement, the civil rights movement, and the women's movement in their struggle to achieve change. Furthermore, many of the gains of these movements were effected in and through the institutions associated with the policy process. Adopting Streeter's scheme one is forced to conclude "that [individual and] collective actors who do appeal to rights, and who reinterpret the key norms of modern civil society with their demands for more autonomy...for public recognition as individuals and as group members different from one another yet meriting equal concern and respect, are somehow all mistaken, somehow articulating irrelevant...principles and ridiculous projects."

An adequate approach to the policy process must allow us to see speaking subjects not simply as effects of the reigning discursive convention(s), but rather as socially situated agents capable of innovative action (reinterpreting shared symbols and practices under certain circumstances, for example). Without actors, without subjectivity, there is no way to account for change. And without multiple institutional logics available to provide alternative meanings, subjects are unlikely to find a basis for struggle or resistance. Put differently, an adequate approach must also allow for conflicts among social schema of

97 Cohen & Arato (1992, p. 295). See also Fraser (1989, chapters 7,8). Following Giddens (1985, chapter 8) I believe the most fruitful way of understanding "rights" (and related principles) are as sites or arenas of conflict and contestation.
interpretation and among the agents who deploy them. To get at the discursive dimension of the policy process requires a meaning-oriented sort of inquiry, one that considers telecommunications policy processes as, among other things, institutionalized patterns of interpretation. Such inquiry would make explicit the social meanings embedded within these processes, meanings that tend otherwise simply to go without saying.

In theorizing the telecommunications policy and regulatory process, Streeter and the other scholars alluded to above draw extensively from variants of social and political theory (pluralism, marxism, game theory, public choice theory, discourse theory, for example). These theories suggest different, often competing ways of accounting for policy processes. As suggested above, some focus on individual actors, whether these individuals are conceived as persons or entities (e.g., bureaucratic agencies, associations, etc.). The calculations and motivations that ostensibly determine what these individuals do and the consequences (often unintended) of their actions are of primary interest. Others focus almost exclusively on the structures and institutional forms that constitute the framework or parameters for action and that produce the characters of the individual actors.

In recent years, a body of social theory literature has emerged which seeks to close the gap between such individual/"voluntarist" approaches and structural/"determinist" approaches. The writings of Anthony Giddens are considered by many to constitute the cutting edge of this project.98 In a series of highly original contributions in the last fifteen years or so, Giddens has proposed a synthesis, namely "structuration theory", which purports to deal with and effectively resolve the perennial agency/structure problematic. His "solution" is a meta-theoretical framework which integrates in a dynamic fashion a wide range of factors and levels, ranging from individual and group action, through

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98 See Held & Thompson (1989), and Clark, Modgil, & Modgil (1990), for example.
institutional practices, to structural influences. A key feature of this framework is that agents and structures are understood to be mutually constitutive or co-determined entities, neither being subordinate to the other. The thriving cottage industry that has developed around his theory—the myriad articles, special issue journals, and book-length critical appraisals—provides some indication of the importance attributed his work. Scholars across the social sciences have been busily importing or at least confronting the implications of structuration theory. But to date no one has sought to inform the study of regulatory policy-making in general or telecommunications policy-making in particular with structuration theory, with the exception of Patrick Parsons.

**Parsons' Approach:** Parsons seeks to "demonstrate the usefulness of structuration to policy analysis."\(^9^9\) Specifically, he suggests that structuration theory provides a conceptual framework for studying the ways in which policy actors struggle to "reify and associate with [an evolving communication technology] a given set of functional characteristics."\(^1^0^0\) Parsons attempts to support this claim by applying structuration theory in a case study of early cable television regulatory policy developments.

Unfortunately, Parsons' analysis falls short of providing an adequate basis for evaluating the theory's potential for our improving our understandings and explanations of regulatory policy-making processes. After explicating the core elements of Giddens' approach, he goes on to misapply structuration theory in two ways. First, he provides an agent-centered account of the policy process, neglecting almost entirely the structural preconditions of action. In Giddens' argot, Parsons spends most of his time discussing the "dialectic of control" and its effects while overlooking the enabling and constraining roles

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100 Parsons (1989, p. 10).
of various structural features. Put differently, Parsons utilizes some of Giddens' insights to describe and analyze the communicative activities of various policy actors struggling to define an emerging technology. But this struggle is portrayed as taking place in an institutional and structural vacuum for the most part.

Second, in Parsons' analysis structuration theory is treated as a substantive theory, not a meta-theory. But as Alexander Wendt points out,

\[ \text{[s]tructuration theory says something about what kinds of entities there are in the social world and how their relationship should be conceptualized, and as such it provides a conceptual framework or meta-theory for thinking about real world social systems, but it does not tell us what particular kinds of agents or what particular kinds of structures to expect in any given concrete social system.} \]

As a social ontology, however, structuration theory does have implications for potential content of substantive theories about real world social systems, and for the methodology that social scientists should use to study those systems.\(^{101}\)

While structuration theory provides abstract ingredients for social explanations, it cannot by itself explain specific social processes. But in Parsons' analysis, structuration theory is ostensibly applied in an unmediated way to explain cable TV regulatory policy developments. This is a logical impossibility; structuration theory's confrontation with the empirical realm is implicitly mediated in Parsons' analysis by existing theoretical and empirical knowledge of the agents and institutions associated with the telecommunications policy process.\(^{102}\) It is this knowledge which suggests which actors, which institutions, which structures, and which relations to focus on.

By eliding the distinction between structuration theory on the one hand, and substantive theoretical and empirical knowledge of the policy process on the other, there is no possibility of developing a conceptual space for examining the articulation between

\(^{101}\) Wendt (1987, pp. 355-356).

\(^{102}\) This includes Parsons' (1987) earlier study of the development of cable.
them. Thus Parsons' analysis is unable to accurately weight or assess the contributions of structuration theory to his case study analysis. When the elision is recognized as such, it becomes clear that while structuration theory may potentially provide the basis of an adequate conceptual framework for guiding research of telecommunications regulatory policy processes, it cannot by itself constitute the framework.

In this section I have argued that the relevant theory options are ill-equipped to offer adequate explanations and understandings of telecommunications (de)regulatory policy-making. I briefly outlined the major criticisms various scholars have directed at dominant models and theories of regulatory policy-making. This was followed by a lengthy critical evaluation of recent theory-building attempts by various telecommunications policy and regulation research specialists. This body of theoretical work has received little or no critical examination to date.

During the course of the critique, I hinted at some of the elements that might constitute an alternative theoretical framework for guiding research on telecommunications regulatory policy-making processes. More specifically, I suggested that such a framework should be able to facilitate the researcher in producing a non-reductive examination of the interplay between various institutional logics or structural forms associated with the regulatory policy process. It is important that this alternative framework be informed by the notion that institutions are simultaneously material and symbolic, institutions are "patterns of activity through which humans conduct their material life in time and space, and symbolic systems through which they categorize that activity and infuse it with meaning."103 Such an understanding would necessarily foreground the hitherto neglected communicative or symbolic dimension of the regulatory policy process.

I also suggested that any future alternative framework pay proper attention to the interplay between structure and agency factors associated with regulatory policy processes. To focus exclusively on one while ignoring or acknowledging in a residual or superficial fashion the other, will simply not do. Yet this is precisely what the relevant theories reviewed earlier are guilty of. I suggested that the beginnings of a corrective for this agency/structure problem can be found in the contributions of Giddens.

To date only Parsons has sought to illuminate the study of the telecommunications regulatory policy process with structuration theory, but his attempt falls short of providing an adequate basis for evaluating the theory's potential in this regard. Specifically, Parsons fails to understand that structuration theory, because it is a meta-theory, cannot by itself constitute an adequate theoretical framework for guiding research on telecommunications regulatory policy processes. I pointed out that structuration theory cannot constitute this framework by itself because it does not tell us what particular kinds of agents or what particular kinds of structures to expect in any given concrete social system (regulatory policy processes, for example). However, I did argue that structuration theory may have the potential to provide the basis of such a conceptual framework.

This potential exists in part because structuration theory can accommodate my criticisms of extant theory. That is, Giddens' framework allows (in fact it mandates) the integration of a wide range of factors and levels, ranging from individual and group action, through institutional practices, to structural influences. Put differently, I believe Giddens provides a convincing solution to the agency/structure problematic. Furthermore, I think it can be demonstrated that structuration theory furnishes the beginnings of a framework for examining the interplay between various institutional logics or structural forms associated with the regulatory policy process in a non-reductive manner. Finally, Giddens understands institutions as simultaneously material and symbolic entities.
Purpose

The objective of this study is to explore the potential of structuration theory for the study of telecommunications regulatory policy-making processes in particular, and regulatory policy-making in general. Specifically, the purpose of the study is to answer the following question: What would a structuration-based conceptual framework designed for studying telecommunications regulatory policy processes look like?

To answer this question, I identify and model the main elements of a structuration-based theoretical framework capable of guiding investigation of telecommunications regulatory policy processes. That is, I integrate core elements of structuration theory and methodology with various theoretical and empirical insights provided by the relevant policy literature—the latter include insights provided by the theories and models reviewed in the previous section. As I mentioned earlier, this synthesis is required because structuration theory does not tell which agents, which institutions, and which structures are relevant to the telecommunications regulatory policy process. This kind of knowledge is provided by students of telecommunications regulatory policy processes in particular and regulatory policy-making in general.

Rationale

At the beginning of this chapter, I argued that theory-building is sorely needed if we are to make systematic sense of the changing nature of telecommunications regulation and telecommunications regulatory policy-making. In other words, theory development is imperative if we are to produce adequate explanations and understandings of the changing phenomena we observe. The recent contributions of Dutton, Horwitz, Mosco, Noam, Streeter, and Parsons indicate that this argument is not without support. The argument has two underlying premises: the purpose of theory is to produce conceptual tools useful in
empirical investigation; the way to truly test the mettle of a theory is in the fire of empirical investigation.

It may be argued that projects such as this one which make the above argument but then embark on a theoretical endeavor only, wittingly or unwittingly promote the disconnection of theory and empirical research and therefore are self-contradictory. Indeed, the argument may be pushed further. It may be suggested that projects such as the one proposed here are doubly self-contradictory because the theory-building attempt is not based primarily on reflective thinking about the empirical domain but instead looks for its inspiration, as well as constitutive material, in the writings of others scholars—in this case, Giddens' meta-theoretical writings on structuration as well the insights of various policy researchers. Again a wedge is forced between theory and empirical research, it may be argued.

There are two distinct criticisms here and I have more than a little sympathy for both when they are targeted at entire research programs that have postponed indefinitely their engagement with the empirical. But these criticisms lose their force when directed at particular theory-building episodes in research programs that overall are characterized by an abiding concern with the relation between theory and empirical research. In the remainder of this section, I briefly discuss each criticism in relation to (i) the research programs of some prominent classical and contemporary social theorists, and (ii) the project proposed here.

The first criticism concerns the legitimacy of doing "theory only" projects. I believe this kind of criticism may seriously misrepresent research programs if carelessly applied. Thus it would be quite erroneous to infer from reading *The Economic and Philosophical Manuscripts of 1844*, that Marx was unconcerned with the relation between theory and empirical research. In the context of Marx's overall research project, this work can be understood as a critical theory-building episode which furnished Marx with concepts that
were later used to guide empirical research. His empirical investigations, in turn, led to revisions in his theoretical framework. In different ways, the same kind of practice can be found in Durkheim's research program as well as those of contemporary social theorists such as Bourdieu and Alexander. In short, theory-building interludes in research projects are a legitimate social science practice. Indeed, the contributions of the social theorists mentioned above suggest that this kind of practice may prove very productive in terms of the quality of theory and the richness of empirical investigation.

Similarly, I understand the project proposed here to be an important theory-building episode in my research program. The long-term objective of the program is to develop various conceptual tools that can be used to facilitate systematic investigation of various policy processes and, during the course of these investigations, yield better explanations and understandings of these processes than has hitherto been the case. As I suggested at the beginning of this chapter, the desire to make systematic sense of fast changing events in regulatory policy and regulatory policy-making, particularly those changes in the telecommunications sector, is the key motivating factor driving the current theoretical exercise.

My interest in "doing theory" was bolstered by the fact that my initial empirical research on regulatory changes taking place in the telecommunications sector raised many more questions than it answered. More specifically, my largely atheoretical examination of the formation of the FCC's price cap policy for AT&T suggested the following questions:\footnote{Shields (1991a)} Did I identify and examine all relevant policy actors? Did I identify all ways in which the relevant actors sought to influence the price cap policy process? How should I understand and examine the interplay between "macro" events such as the increasing
centrality of telecommunications in the global economy and the actions of particular policy-makers? By focusing predominantly on the various policy actors, is it possible that I missed the real significance of this policy change? Furthermore, my analysis completely ignored what I now consider to be crucial explanatory factors such as the ways in which various institutional forms associated with the policy process enable and constrain policy actors. These questions and this kind of omission suggested that some sort of theoretical framework was necessary in order to systematize my empirical research and my meaning-making.

The next stage in my research program will be to examine the utility of the proposed framework for guiding empirical research in the telecommunications sector. The framework will then be refined and retested in empirical investigations of regulatory policy developments in a number of substantive policy areas (telecommunications, transport, energy, for example). As I suggested above, the stages I am outlining here are in keeping with a well-established tradition of exploring the relation between theory and empirical research.

The second criticism which may be made of the current project is that it is inappropriate to develop an alternative theoretical framework by simply reflecting on and borrowing from extant theories. This practice is often referred to as "meta-theorizing", or the "systematic study of...theory". Theda Skocpol, a prominent political sociologist, is a staunch critic of meta-theorizing. In a scathing critique of Alford and Friedland's, *Powers of Theory*, she remarks that the book amounts to "five hundred pages of nothing but metatheory." Skocpol attacks the authors for "pigeonholing" the work of political


106 Skocpol (1986, p. 10).
sociologists; for arguing for the need for an integrated theory that draws from every pigeonhole but never specifies what it is about; and for arguing that different types of approaches fits best at different levels of analysis. She concludes, "may the good lord protect other political sociologists from wandering into the dead end of metatheory." Skocpol appears to believe that a profound understanding of the social world can only be achieved in the course of substantive investigation. The "dead end" she refers to is the self-referential game played by arm-chair theorists. These theorists, she seems to be arguing, believe that they can grasp the essence of the social by attaining a deeper understanding of theory.

Along similar lines, Randall Collins argues:

It is not surprising to me that metatheory does not go anywhere; it is basically a reflexive specialty, capable [of] making comments on other fields but dependent on intellectual life elsewhere that it can formalize and ideologize...or critique. That is why so much of the intellectual work today consists of commentaries on works of the past rather than constructions that are creative in their own right.

The suggestion is that theory-builders who get caught up in theories of others will somehow get bogged down in various controversies and thereby fail to produce novel theoretical constructs of their own. Collins implies that theory should be derived from, and remain close to, the social world. I believe Collins is also passing judgment on those who seek to make their academic reputations by becoming authoritative interpreters of some

107 Skocpol (1986, pp. 11-12).


109 Collins. I think, would advocate the method of theorizing followed by Goffman. In Goffman's work one finds very few reference to the ideas of other theorists. In the midst of the empirical, he seems to launch directly into theorizing.
widely respected "grand theorist" (Marx, Weber, Foucault, Giddens, or Habermas, for example).

At stake here is the methodological issue of how best to develop theory. I concur with Skocpol that a better understanding of the social cannot be found by meta-theorizing only. I agree with Collins that meta-theorizing can often stymie as much as stimulate theoretical activity because it can embroil theorists in inherently unresolvable controversies (the nature of the world and the modes of knowing it, for example). However, I believe Skocpol and Collins are wrong to imply that these problems follow inevitably from meta-theorizing. The history of social theory suggests that meta-theorizing is integral to the production of novel theoretical constructions, as I argue below. Furthermore, I strongly disagree with their dualistic either/or approach to theory-building. Theory can and should be developed by reflecting on the empirical and by engaging with other theoretical works. Again, with respect to the latter, the history of social theory is replete with examples of the considerable contributions meta-theorizing has made to sound theoretical and empirical work.

A return to Marx's research program is instructive in this regard. As George Ritzer points out, meta-theorizing played a very significant role in the development of historical materialism as well as Marx's empirical investigations.\textsuperscript{110} For example, in \textit{The Economic and Philosophical Manuscripts of 1844}, Marx begins to develop a perspective on the basis of a detailed and careful critique of the works of Feurbach, Hegel, Proudhon, Ricardo, Smith, and others. In the \textit{Grundrisse}, Marx chooses Proudhon and Ricardo as his meta-theoretical antagonists. Marx's empirical works such as \textit{Capital} are very much informed by these meta-theoretical works. Ritzer convincingly argues that many of the theoretical

\textsuperscript{110}Ritzer (1991).
innovations produced by Durkheim, Weber, Schutz and T. Parsons had meta-theoretical origins. Giddens' structuration theory is in large part the product of meta-theorizing. During the course of his research Giddens has dealt with almost every major theorist and theory, creating his own highly original synthesis in the process.

It should be noted that the products of meta-theorizing are not all of a piece. Marx's meta-theoretical endeavors, together with his empirical observations, produced a substantive theory which specifies which institutions (the mode of production, for example) and which agents (the ruling class and the working class, for example) should be of primary interest to the researcher. By contrast Giddens' meta-theorizing has produced a meta-theoretical framework. As I discussed in an earlier section, structuration theory says something about what kinds of entities there are in the social world (structure and agency, for example) and how their relationship should be conceptualized (the "duality of structure," for example) but it does not tell us what particular kinds of agents or what particular kinds of structures to expect in any given concrete social system.

Meta-theorizing is central to realizing the objective of this project. That is, the proposed structuration-based theoretical framework is developed primarily by critically reflecting on and borrowing from structuration theory (providing meta-theory components) and various theories and models of the policy process (providing substantive theoretical components). Having said this, my empirical knowledge of the regulatory policy process (exemplified by the opening comments in this chapter and the atheoretical empirical analysis discussed above) inevitably conditions my meta-theorizing.

Structuration theory, a meta-theory, provides the overarching perspective of the proposed framework. I believe an explicit dialogue with meta-theories is a vital part of the quest for improving explanatory accounts of any subject matter. As Mark Neufeld points out,
if it is true that facts are dependent upon theory for their meaning, and that theory, in turn, is dependent on meta-theoretical reflection to ensure its adequacy, then the general assessment of the place of meta-theory may be in need of significant revision. Meta-theory is not an unproductive distraction from the 'real substance' of the discipline—i.e., theoretically informed analysis of empirical evidence. Rather, meta-theory is the indispensable foundation of competent scholarly activity, and vital for ensuring the adequacy of the explanatory accounts which are developed.\textsuperscript{111}

As I suggested in the problem statement, an argument underlying this project is that the neglect of meta-theoretical questions (the nature of institutions, the nature of relations between structure and agency, and between institutions, for example) may go some way to accounting for the serious limitations of the study of regulatory policy-making in general and telecommunications regulatory policy-making in particular.

As I argued earlier, structuration theory may be well-suited to provide the basis of an alternative theoretical framework for studying telecommunications regulatory policy-making because it provides conceptual tools that appear to overcome the meta-theoretical limitations of extant theory. But Giddens' meta-theoretical framework, by itself, cannot provide an adequate basis for studying telecommunications regulatory policy processes. It bears repeating that structuration theory does not tell us what particular kinds of agents or what particular kinds of structures to expect in any given concrete situation. In other words, structuration theory does not directly compete with substantive regulatory policy-making theories or the recent theory-building attempts of telecommunications policy research specialists. Therefore, my meta-theorizing also includes critically reflecting on and, when appropriate, borrowing from these substantive theories. It must be noted that I am not arguing that entire theories can somehow be unproblematically subsumed or absorbed under the umbrella of structuration theory. Methodological principles must be

\footnotesize{\textsuperscript{111} Neufeld (1993, p. 54). Neufeld makes these comments in the context of international relations theory.}
developed which guide the articulation of core structuration theory elements with the
insights of the various substantive theories.

Outline of chapters

I develop the proposed structuration-based conceptual framework in three stages:
First, I explicate structuration theory's core concepts in Chapter II. I also examine and
evaluate two of the more trenchant and recurring criticisms of structuration theory: (i)
structuration theory does not in fact resolve the conceptual problems inherent in
perspectives that posit a dualism between action and structure; (ii) the theory de-emphasizes
structural constraint to an unacceptable extent. I focus on these particular criticisms of
Giddens' work because they confront head on what is perhaps the most fundamental claim
Giddens makes about structuration theory--that the theory overcomes agency/structure
dualisms extant in existing social theory. Furthermore, my argument concerning
structuration theory's potential for providing the basis of an alternative conceptual
framework for studying regulatory policy processes is substantially based on the theory's
successful negotiation of the agency/structure problematic.

In Chapter III I detail the methods I intend to use to develop the structuration-based
theoretical framework. This constitutes the second stage of the theory-building endeavor.
Meta-theorizing is the broad methodological principle which informs the framework's
conceptualization. That is, the development of the framework will proceed by critically
reflecting on and where appropriate borrowing from the core elements of structuration
theory as well as the relevant policy literature.

At a less general level, I employ "institutional analysis" and "analysis of strategic
conduct" to guide the development of the proposed framework. Giddens developed these
methodological principles to guide the empirical investigation of social system properties. I
suggest that these principles can be adapted to order the contents of the proposed
framework as well as to guide the articulation of core structuration theory concepts with "ideal-type" agent and institution categories derived from the existing regulatory policy literature. This procedure, among others, ensures that the proposed structuration-based framework is truly synthetic as opposed to eclectic. Finally, I discuss how I intend to use the "ideal-type" method to extract insights from the relevant policy literature.

The third stage of the theory-building exercise involves performing these methodological procedures and presenting the results. These tasks are carried out in Chapter IV. That is, in this chapter I provide the answer to the study's research question: What would a structuration-based conceptual framework designed for studying telecommunications regulatory policy processes look like? Of course, producing this framework is not an end in itself. The motive force driving its development is the belief that a structuration-based theoretical framework may have the potential to improve our understandings and explanations of telecommunications regulatory policy processes in particular and regulatory policy-making in general. I discuss the framework's conceptual contributions to the regulatory policy literature in Chapter V. I also examine the framework's implications for empirical research.
CHAPTER II
STRUCTURATION THEORY AND ITS CRITIQUE

Introduction

The perennial agency/structure problem has had many names in the annals of social theory. It has also been the root cause of a number of deeply entrenched disputes, stretching from the late medieval differentiation between the individual and the state to contemporary meta-theoretical controversies within social theory and the philosophy of social science.\(^1\) Indeed, this historical development of seemingly intractable dichotomies between the "individual and society," "action and structure," "actor and system," "part and whole," "individualism and holism," "micro and macro," "voluntarism and determinism," "subjectivism and objectivism," and so forth has, in the last two decades or so, evolved into what is often claimed as the central problem in social theory.\(^2\)

At the heart of the current conversation in social theory is an emerging consensus that instead of being antagonistic partners in a zero-sum relationship, actors or agents (individual or collective) and social structures (the distribution of property, for example) are in a fundamental sense interrelated entities, and hence we cannot fully account for one

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\(^1\) Smart (1982).

without invoking the other.\textsuperscript{3} There is also widespread agreement that for a theoretical explanation of social phenomena to be worth its salt it should work toward providing a dynamic synthesis of structure and agency factors in the explanation of stability and change. Much of the ongoing conversation in social theory and social philosophy has revolved around developing conceptual tools that can facilitate this task.\textsuperscript{4}

The writings of Anthony Giddens are considered by many to constitute the cutting edge of this project. In a series of highly original contributions in the last fifteen years or so, Giddens has proposed a synthesis, namely "structuration theory" which purports to deal with and effectively resolve the agency-structure problem.\textsuperscript{5} The thriving cottage industry that has developed around Giddens' theory—the myriad articles and reviews, special issue journals, and book-length critical appraisals—provides some indication of the importance attributed his work. Scholars across the social sciences have been busily importing or at least confronting the implications of the theory.\textsuperscript{6}

\textsuperscript{3} I understand agents as purposive, and reflexive individual or organizational actors the practices of which intentionally and unintentionally produce and reproduce social structure. I understand social structure as sets of rules and resources that enable and constrain human action. These definitions are elaborated later in the chapter. Both concepts are hotly contested. For an alternative view of agency see Hindess (1989). For an overview of conflicting approaches to social structure see Porpora (1989).


\textsuperscript{5} The term "structuration" has also been used by others (e.g., Thrift, 1983) to refer to a general theoretical orientation, Giddens' work being one exemplar. Thrift identifies the contributions of Pierre Bourdieu, Roy Bhaskar, and Philip Abrams as other examples of the "structurationist" school.

\textsuperscript{6} Geography, architecture, archaeology, and international relations theory have found structuration highly relevant as well as controversial—Carlsnaes (1992), Dessler (1989), Graves (1989), Kellerman (1987), Lundberg (1988), Pred (1990), Soja (1989), Thrift (1983), Wendt (1987), for example. As might be expected, sociologists and social theorists have directed much critical attention toward Giddens' work—Archer (1988), Bryant & Jary (1991), Callinicos (1985), Clark, Modgil, & Modgil (1990), Cohen (1989), Craib (1992), Haines (1988), Held & Thompson (1989), Lee (1992), Layder (1987), McLennan (1984, 1990) Mouzelis (1991), for example. Structuration theory has also attracted the interest of numerous communication scholars. This is not surprising given communication figures prominently in the repertoire of ideas and vocabulary of structuration theory. Within communication, the "Giddens effect" appears to be
My primary objective in this chapter is to explore the main elements of structuration theory. I am primarily interested in the extent to which the theory of structuration can be used as a framework for resolving certain problems in sociopolitical theory relating to agency, structure, and power. Consequently, I bracket consideration of the intellectual process whereby Giddens developed the theory of structuration nor do I give an exposition of the body of secondary literature surrounding Giddens' work. Drawing on Giddens' writings between 1976 and 1991, I focus on what I consider to be core concepts for the purposes of understanding the relationships between agency, structure, and power. I make use of secondary literature to the extent that it highlights strengths and weaknesses of the core concepts.

My second objective is to examine and evaluate two of the more trenchant and recurring criticisms of structuration theory: (i) structuration theory does not in fact resolve the conceptual problems inherent in perspectives that posit a dualism between action and structure; (ii) the theory de-emphasizes structural constraint to an unacceptable extent. I focus on these particular criticisms because they confront head on what is perhaps the most fundamental claim Giddens makes about structuration theory—that the theory overcomes agency/structure dualisms extant in existing social theory. As Charles Conrad argues, these criticisms are important "since they strike at the heart of Giddens's argument that..."

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7 See Bryant & Jary (1991), Clark, Modgil & Modgil (1990), Craib (1992) and Held & Thompson (1989), for example.

8 The argument that structuration theory is too often imported uncritically into social science work is well taken (Conrad, 1993).
structuration theory avoids the conceptual difficulties that he has argued plague Marxism, structural-functionalism, and other important social theories."^9

Core elements of structuration theory

Giddens' synthesis attempts to build upon the strengths, while avoiding the weaknesses, of established theoretical orientations in the social sciences.\(^{10}\) He points out that functionalism has rightly emphasized the institutional features of the social world and has focused attention on the ways in which the unintended consequences of action serve to reproduce social relations. He lauds structuralist and post-structuralist approaches for developing novel conceptions of structure, of structuring processes, and of the subject. But what structuralism and functionalism lack, Giddens argues, is an account of the individual as an active, knowledgeable, reflexive agent. The latter has been the principal concern of interpretivist approaches such as phenomenology and symbolic interactionism. But, as Giddens argues, interpretivists lack institutional and structural analysis.

Giddens seeks to move beyond these various orientations by rethinking the notion of, and relations between, action and structure. Rather than seeing action and structure as the counter-acting elements of a dualism, Giddens suggests they should be regarded as the complementary terms of a duality, "the duality of structure":

By the duality of structure, I mean the essential recursiveness of social life, as constituted in social practices: structure is both medium and outcome of the reproduction of practices. Structure enters simultaneously into the

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\(^{10}\) Giddens has elaborated structuration theory in a string of publications (e.g., 1976, 1977, 1979, 1981, 1982). However, 1984 saw the publication of *The Constitution of Society*, the most systematic exposition of the theory.
constitution of the agent and social practices, and exists in the generating moments of this constitution.11

Agents and structures are understood to be mutually constitutive or codetermined entities, neither being subordinate to the other.

In this section, I unpack Giddens' duality of structure scheme. Among other things, this involves detailing his concepts of system, structure, agency and power. I also examine how the scheme is related to other key elements of structuration theory such as "institution", the "dialectic of control", "ideology" and "time-space".

**System and structure**

At the center of structuration theory lie the concepts of social system and structure.12 For Giddens, social systems are composed of "social relations and social interactions coordinated across time and space."13 A social relation "is any tie that establishes some kind of bond between individuals or groups (such as a kinship relation), while social interaction refers to direct interchange between them, whether face-to-face or mediated by other forms of communication."14 Structures consist of rules and resources

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11 Giddens (1979, p. 5). The notion of the "duality of structure" is not unique to Giddens. See Piaget (1971, pp. 10-11).

12 By distinguishing between the concepts of system and structure, Giddens differs from other theorists such as Bhaskar and Bourdieu who also attempt to resolve the agency/structure problematic (See Thrift, 1983).

13 Giddens (1990, p. 302). Giddens' use of the term "system" should be distinguished from its use by systems theorists. He argues "[s]ocial systems should be regarded as widely variable in terms of the degree of 'systemness' they display and rarely have the sort of internal unity which may be found in physical or biological systems" (1984, p. 377).

14 Giddens (1990, p. 302). Giddens offers a classification of social systems partly based on the distinction between these concepts. Thus, "networks can be defined as systems in which social relations are of predominant importance, rather than interconnections involving regularized interaction [e.g., local kinship network, trading networks]...Collectivities are distinguished from associations in terms of their level of coordination--associations are systems where there is considerable fluidity. Unlike...most networks, the
which exist outside time and space. Thus structures are conceptualized as having a "virtual existence", recursively instantiated as agents draw from them in their day-to-day social existence. He argues that "we can analyze how 'deeply-layered' structures are in terms of the historical duration of the practices they recursively organize, and the spatial 'breadth' of those interactions." Giddens' concept of institution refers to the most persistent or "sedimented" of the relations and interactions which are constitutive of social systems.

Social systems, therefore, are not structures: "Structures are, in a logical sense, properties of the social systems or collectivities, not of the situated activities of subjects. Social systems only exist in and through structuration, as the outcome of the contingent acts of a multiplicity of human beings." In short, structure consists of abstract sets of rules and resources associated with social relations and patterns of social interactions.

Members of collectivities or associations normally have a definite sense of identity [e.g., corporate entity].... An organization is a collectivity of some size, which has a high degree of reflexive coordination of the conditions of system reproduction [i.e., surveillance].... A 'society' is a social system that includes all other forms of social system.... Yet 'include' is to a large degree a misnomer...since many social systems cut across the boundaries of societies" (1990, pp. 302-303).

Giddens' approach to structure differs significantly from more conventional treatments. The latter often conceive of structure in a "quasi-mechanical, quasi-visual way, like the girders of a building, the skeleton of a body or the 'patterning of social relationships. Giddens does not dismiss this connotation altogether...he [does] preserve elements of it in his notion of 'social system'" (Thompson, 1989, p. 60). By contrast, Giddens' idea of structure is nearer to linguistics--rules and resources, like Saussure's *langue*, exist outside time and space.


Giddens (1979, p. 65).


Indeed, these sets of rules and resources are crucial in ordering these relationships into social systems. The term "structuration" grasps the simultaneous reproduction of structure and systemic relations as patterns of interaction are reproduced in and through the duality of structure.

Analysis of the following "thought experiment" can help clarify the system/structure relation:

I imagine that I am an...alien viewing a certain minute section of the globe over time.... I might observe a girl, Jane, getting up in the morning at a given time, eating breakfast in the kitchen and going to school. In school Jane will have very different behavioral patterns depending on whether she is in the class-room interacting with her teacher or in the school yard playing with her friends. After a period Jane will go home. There she will eat dinner in the dining room. Then she will go into the sitting-room, phone a friend, watch T.V., and read a book. This scenario will be repeated the next day unless that happens to be Saturday. On that day, Jane's time-space 'paths' will merge into a continuous 'weaving dance' through time and space, punctuated by a change in pattern into units of five and two days.

After a period there will be a total change in pattern. Jane will move into a different house. Instead of going to school, she will go to work. Then new time-space 'paths' will be set up around the place of work, the new home and a favorite cafe/pub. This will continue until retirement, when new patterns will emerge.

Continuing the experiment over generations, there will be a continual repetition of individual time-space 'paths.' However, the overall pattern will also be observed to change overall, very slowly, until it has a very different form.

In the "experiment" there is an obvious patterning or ordering of social practice across time-space. Jane's continuous reproduction of situated action contributes to the reproduction of the various social systems to which she belongs. Thus her routine of getting up in the morning, eating breakfast, playing games with her mates in the yard, attending school, watching TV in the sitting-room, phoning friends, going to work, and frequenting a pub,

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20 Haugaard's (1992) example is based on Giddens' use of Hagerstrand's time geography (see Giddens, 1984, chapter 3, for example).

means a contribution to the overlapping social systems of which she is a part (e.g., the family, peer networks, the school, the company she works for, the nation-state she lives in). Because many of these activities are chronically repeated across time-space, they can be characterized as contributing to various sedimented institutional forms; the labor contract, teacher-student relation, the "five day" week, the regionalization of household activities, and the regionalization of the life cycle (school, work, retirement), for example. Jane's activities and the institutional practices in which they are embedded are organized by structural principles or sets of rules and resources which make it possible for discernibly similar social practices to exist across time and space. Thus the regionalization of household activities does not just happen. That Jane sleeps in the bedroom rather than the kitchen can be explained by deep-seated rules and norms concerning this practice. Other sets of rules, norms, and sanctions explain why Jane and her friends behave differently in the classroom than they do in the school yard. In the “experiment” one significant change in Jane's time-space 'path' was precipitated, in part, by a set of rules concerning the appropriate time to leave school and to enter the job market. In following these rules, Jane, along with others, reproduce them. More formally, Jane and others reproduce structures and in this manner contribute to the continual reproduction of social systems.

As the example suggests, Giddens' structure/system distinction allows for a particular understanding of the relations between individuals and social systems. Structures are the medium whereby the social system affects individual action and the medium whereby individual action affects the social system. The outcome of these

22 The fact that Jane went directly into the job market may have to do with other structural concerns (e.g., a lack of education and money which may be rooted in her family's low-income status, and rules which suggest she should "settle down" and be a good "home-maker").
individual-system interactions always (in varying degrees) affects the structural rules affecting the next interaction.

Rules, resources and institutions

Giddens, as mentioned, understands structures to consist of those sets of rules and resources that are instantiated in actions and interactions. By "rules" Giddens means "generalizable procedures" inherent in the "qualities of settings of action agents routinely draw upon in the course of orienting what they do and what they say to one another."23 In other words, rules are the knowledge of how to engage in practice, of how "to go on" or act socially. As forms of knowledge, rules are "stored" and retrieved from memory. Giddens notes, "[r]ules have two aspects to them, and it is essential to distinguish these conceptually...Rules relate on the one hand to the constitution of meaning, and on the other to the sanctioning of modes of social conduct."24 To illustrate, Giddens draws on Goffman's notion of "framing." For Goffman, frames are a cluster or framework of rules that are implicated in everyday encounters. They "...help to constitute and regulate activities, defining them as activities of a certain sort and as subject to a given range of sanctions.... [They]...'make sense' of the activities in which participants engage, both for themselves and for others. This includes the 'literal' understanding of events but also the criteria by which it is made plain that what is going on is humour, play, theatre and so on."25


24 Giddens (1984, p. 18), author's emphasis.

In Giddens' schema, there are two kinds of resources:

Allocative resources refer to capabilities— or, more accurately, to forms of transformative capacity— generating command over objects, goods or material phenomena. Authoritative resources refer to types of transformative capacity generating command over persons or actors....

Elsewhere he notes, ...

...resources (for example, wealth, property) might seem to exist in a temporal-spatial sense, in a way which rules do not. But I want to say that the material existents involved in resources (a) are the content, or the 'vehicles', of resources in a parallel manner to the 'substance' of codes and norms, and (b) as instantiated in power relations in social systems, only operate in conjunction with codes and norms [i.e., allocation is only 'property' as instantiated in conjunction with these codes and norms]. The transformational character of resources is just as basic as that of rules.... Resources, however, provide the material levers of all transformations of empirical content, including those involved in the operation of codes and norms.

As the last point implies, allocative and authoritative resources are crucially implicated in Giddens' conception of power, they "are the media whereby transformative capacity is employed as power in the routine course of social interaction." This point will be explored below.

26 Giddens (1984, p. 33).

27 Giddens (1979, p. 104), author's emphasis. Haugaard helps clarify the main point made here: "The ownership of an acre of land [allocative resource] is dependent both upon the structures of signification— whereby we understand the meaning of private property— and the structures of legitimation— by which we accept the inherent 'validity' of the institutions of private property" (1992, p. 95). Thus what constitutes property as a resource is identified by pre-existing rules that flag it as socially available and acceptable (see Barbalet, 1987, p. 10).

28 (Giddens, 1979, p. 92).

29 The distinction between allocative and authoritative resources is critical to Giddens' (1981) critique of historical materialism. Forms of the latter assume that domination is primarily associated with differential access to allocative resources (property). Giddens, along with Foucault (1977) wishes to draw attention to importance of authoritative resources— e.g., exercise of administrative power through surveillance.
Giddens analyzes the reproduction of rules and resources which comprise structure in terms of three dimensions—signification, domination and legitimation. These dimensions are modeled in Figure 1 (see Appendix). Three general points concerning the model are worth making. First, all systems of social interaction entail the communication of meaning, the operation of power and modes of normative sanction or regulation and hence depend upon structures of signification, domination and legitimation. Second, the symmetry between the production of social practices and the reproduction of social structures ensures that the personal, transient encounters of daily life are bound into the long-term sedimentation of institutions. Third, the production and reproduction of social life is contingent: the seeds of change are present in every moment of the constitution of social systems. Of particular importance are conflicts between individuals or groups and contradictions between structural principles.

Several, more specific, features of the model require emphasis. Structure and action are mediated by "modalities." These modalities are drawn upon by actors in the production of interaction, but at the same time are the media of the reproduction of the structural components of systems of interaction. "Interaction" indicates the nature of social action between actors. When actors interact they draw upon structures which they experience/use in a given modal form. In the communication of meaning in interaction, agents draw upon interpretative schemes which, at the level of structure, can be analyzed as "semantic rules." When agents apply sanctions in interaction they draw upon norms which, at the level of structure, can be analyzed in part as "moral rules." The use of power in interaction involves the application of facilities which enable agents to secure specific outcomes; at the structural level, these facilities can be analyzed as the allocative and

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30 Giddens defines "interpretative schemes" as "the modes of typification incorporated within actors' stocks of knowledge, applied reflexively in the sustaining of communication" (1984, p. 29).
authoritative resources which comprise structures of domination. Agents intentionally shape the nature of given interactions and in turn unintentionally reconstitute given social structures.

The three structural dimensions of social systems are separable only analytically: "In any concrete situation of interaction, members of society draw upon these [rules and resources] as modalities of production and reproduction, although as an integrated set rather than three discrete components."31 Thus the communication of meaning cannot be sharply separated from the use of power or the application of sanctions. More specifically, the communication of meaning in interaction involves the use of interpretative schemes by which "sense is made by participants of what each says and does."32 These same interpretative schemes or stocks of knowledge are used by agents to "make accounts, offer reasons, etc."33 Giddens notes, "[t]o be 'accountable' for one's activities is to both explicate the reasons for them and to supply the normative grounds whereby they may be justified."34 In that act they reconstitute the structures of legitimation from which these norms derive. The imposition of social norms calls for some process of sanctioning whereby certain normative claims can be "made to count through the effective mobilization of sanctions in the contexts of actual encounters."35 Therefore, the continued existence of

33 Giddens (1984, p. 29).
structures of legitimation (and structures of signification) is inherently dependent upon structural asymmetries of domination.

According to Giddens, "[a] classification of institutions applicable to all types of societies" can be derived from the three structural characteristics or properties of social systems (see Figure 2). The lines connecting signification (S), domination (D), and legitimation (L) indicate that these structural properties are interdependent and implicated in the organization of each institutional order. The first letter on each line suggests which structural characteristic is primary in the structuration of each of the four institutional forms—the symbolic, political, economic and legal. Thus when focusing upon those institutional forms through which signification is organized, the concern is primarily with analysis of symbolic orders and modes of discourse. However, the analysis must be accompanied by the ways in which symbol systems and modes of discourse are intertwined with forms of domination and legitimation. The same argument applies to the other types of institutions (political, economic and legal).

I believe Giddens' analysis of various institutional forms has important implications for policy researchers. I discuss these implications in the conclusion section of this chapter. Having said this, it should be pointed out that Giddens' treatment of institutions is extremely vague. In his voluminous works, he has devoted only a handful of pages to specifying the content and form of institutional


37 In other words, Giddens conceptualizes institutions as simultaneously "material" and "ideal" (see also Douglas, 1986; Friedland & Alford, 1991; as well as the discussion in Chapter I). Meaning systems are embedded in and constitutive of institutions, they are not epiphenomenal forms of "material" relations.

38 Giddens' differentiation between political institutions and economic institutions is based on the two types of resources already alluded to—authoritative and allocative resources respectively. While Giddens argues that these four institutional forms are to be found in all societies, he argues that his schema "leaves open...room for wide variations in the articulation of collectivities [social systems] in different forms of society in respect of institutionalisation" (1981, p. 47).
forms and this is done in a very abstract and unhelpful way. Furthermore, with respect to Figure 2, he provides no rationale for the ordering of signification (S), domination (D), and legitimation (L). For example, while it clear that the study of political institutions should commence with an examination of asymmetrical distributions of authoritative resources (D), it is not clear why the analyst should first turn to examine how signification structures (S) (as opposed to legitimation structures (L)) are implicated in these institutions. That is, Giddens provides no justification for privileging signification over legitimation.

If I understand Giddens correctly, institutions are not synonymous with organizations (e.g., business enterprise, government department, trade union) in his schema. The former refers to the most persistent or "sedimented" social relations and interactions in a social system, whereas the latter refers to a reflexive decision-making forms. In Giddens' terms, an organization or other collective can be analyzed as a form of social system which is constituted by various structures, institutions, and actors. An economic organization such as a business enterprise is composed of a web of institutions. These institutions can be understood as modalities of structure—that is their form is shaped by particular combinations of structural elements (signification, domination, legitimation).

An example may help to clarify this point. The management accounting practices of an enterprise can be considered one of its many institutional forms. Because they deal primarily with (i) the budgetary concerns of the enterprise as well as the inflow and outflow of material and products (allocative resources), and (ii) the accumulation of information about personnel activities (authoritative resources) management accounting practices may be understood as political-economic institutions primarily. Control of these allocative resources (via the modality of accounting practices) can be used by superordinates to exercise power in the organization (e.g., threaten to cut a department budget to reach a desired outcome). Yet structures of signification and legitimation are clearly inscribed in this institutional form:
Management accounting practices can be understood as an interpretive scheme which mediates between the signification structure and social interaction in the form of communication between managers. The signification structure...comprises the shared rules, concepts, and theories which are drawn upon to make sense of organizational activities. They include the various notions of finance, economics, management science, etc., as well as accounting concepts, such as income, assets, costs, revenues, and profits. These accounting concepts have signification prior to the interpretative scheme, in the sense that social actors will have shared understandings of their meanings which, although mediated by the management accounting system, are presupposed by that interpretative scheme...39

The legitimation structure is mediated through norms and moral codes which sanction particular behaviors:

Management accounting systems embody norms of organizational activity and provide the moral underpinnings for the signification structure and financial discourse. They legitimate the rights of some participants to hold others accountable in financial terms for their actions. They communicate a set of values and ideals about what is approved and what is disapproved, and what rewards and penalties can be utilized. As such, management accounting systems...are deeply implicated in the reproduction of values, and are a medium through which the legitimation structure can be drawn upon in social interaction...40

Via management accounting practices the legitimation structure suggests "what is to be regarded a virtue and what is to be regarded a vice."41

Agency

Structuration theory is not concerned with the nature of social structures primarily; but rather with the way in which actors' activities or practices reproduce and occasionally


41 Macintosh & Scapen (1990, p. 460).
transform structures. Giddens' conception of agency is crucial to an understanding of how structures (which are said to exist only in the moment of action), and thereby social systems, are reproduced.

From the interpretative sociologies, Giddens' appropriates the notion of humans as knowledgeable, capable actors. He argues,

...action or agency (is defined) as the stream of actual or contemplated causal interventions of corporeal beings in the on-going process of events in the world. The notion of agency connects directly with the concept of Praxis, when speaking of regularised types of action I shall talk of human practices as an ongoing series of 'practical activities.' It is analytical to the concept of agency (a) that a person 'could have acted otherwise' and (b) that a world as constituted by a stream of events-in-process independent of the agent does hold out a predetermined future.42

Important here is the emphasis on the actor's ability to do otherwise. Giddens is arguing that humans can and do make choices in social settings.

Of course, this should not be read as suggesting that agents pause, reflect, and make conscious choices about their behavior and its consequences for every event flowing by in the stream of social acts and interactions. This can be clarified by examining Giddens' "stratification model of the agent" (see Figure 3). The model suggests agents routinely and chronically "reflexively monitor" what they are doing, how others react to what they are doing, and the contexts or settings in which they are doing it. This monitoring is purposive in the sense that actors know a good deal about why they act and about what they are doing. They behave in a certain way recognizing they could have taken different action. Importantly, the accounts which actors are able to give of their actions are

42 Giddens (1976, p. 75). Elsewhere Giddens remarks, "[h]uman agents or actors...have, as an inherent aspect of what they do, the capacity to understand what they do while they do it" (1984, p. xxii). Of course, Giddens' assertion that society is not the creation of individual subjects distances him from hermeneutic approaches. He writes, "[h]uman social activities are recursive.... That is to say, they are not brought into being by social actors but continually recreated by them via the very means whereby they express themselves as actors. In and through their activities agents reproduce the conditions that make these activities possible" (1984, p. 2, author's emphasis).
limited or "bounded" by the unintended consequences of action (e.g., maintaining or transforming institutional forms and structural features) and by the unacknowledged conditions of action.43

An important aspect of the reflexive monitoring of action is that agents "routinely and for the most part without fuss...maintain a continuing 'theoretical understanding' of the grounds of their activity."44 In other words, agents are usually capable of elaborating discursively why they act as they do by giving reasons for their action (i.e., the "rationalization of action"), even if they are unaware of some of the consequences. The "motivation of action" refers to the motives or wants which prompt action.

The reflexive monitoring of action is carried out at two levels of consciousness--discursive and practical. Discursive consciousness means "being able to put things into words."45 In the giving of reasons or intentions the actors may supply accounts of what they do in social settings, yet these accounts cannot be understood as complete explanations because of the efficacy of areas of practical knowledge. "Practical consciousness consists of all the things which actors know tacitly about how to 'go on' in the contexts of social life without being able to give them discursive expression."46 Here agents rely on implicit stocks of knowledge about social rules and resources--about how to act and how to

43 Giddens emphasizes that unintended consequences may systematically feed back to be the unacknowledged conditions of further acts: "Thus one of the regular consequences of my speaking or writing English in a correct way is to contribute to the reproduction of the English language as a whole. My speaking English is intentional; the contribution I make to the reproduction of language is not" (1984, p. 8).

44 Giddens (1984, p. 5).


interpret events and the actions of others: "There is a vital sense in which all of us do chronically apply phonological and grammatical laws in speech—as well as all sorts of practical principles of conduct—even though we could not formulate those laws discursively (let alone hold them in mind during discourse)." Embedded in practical consciousness, such systemic structural properties are involved in the constitution and regulation of action.

Discursive and practical consciousness recall knowledge which is "stored" in the actor's memory. It is this notion which enables Giddens to place the practice of the intentional actor at center stage: "The division or dualist vision of the relationship between actor and structure is overcome by postulating that structures are 'carried' outside the moment of action in the knowledge which actors possess." Outside the moment of action "[structure has no existence independent of the knowledge that agents have about what they do in their day-to-day lives." In this sense, "[structure is not 'external' to individuals: as memory traces, and as instantiated in social practices, it is in a certain sense more 'internal' than exterior to their activities in a Durkheimian sense." While social structures have no existence in time-space except in the instance of social action, prior to their reproduction in time-space these structures are "carried"—exist in potential form—as

47 Giddens (1979, p. 25), author's emphasis.

48 It needs to be stressed that practical consciousness takes into consideration knowledge of material conditions as well as socially constructed rules.

49 Haugaard (1992, p. 78).


rules in practical consciousness and discursive consciousness. "Hence, it is at the level of [practical consciousness and discursive consciousness] that structures are inherently both enabling...and, prior to action, exist as a form of constraint limiting the possibilities of future action."52

Discursive consciousness and practical consciousness, the boundary between them being porous,53 are seen to be the subject of drives and motivations located in the agent's unconscious. For his conceptions of the unconscious, Giddens draws on Erik Erikson's developmental model of the infant's psyche. According to Erikson, the infant's entrance into the social world involves the anxiety provoking stimulus of the parent's periodic separation and return. He elaborates, "[t]he infant's first social achievement, then, is his willingness to let the mother out of sight without undue anxiety or rage, because she has become an inner certainty as well as an outer predictability."54 At this stage, the infant develops trust or "ontological security" based on the routine that the mother always returns. The infant's anxiety is defused by the mother's routine in this regard.

For Giddens, the primary need for a sense of trust in the continuity of the object-world and in the fabric of social activity (ontological security) remains the foundation of the unconscious and is a key building block in his construction of the agent. Situations that are predictable, stable over time, and ordered in space are an important means of coping with or repressing unconscious anxiety:

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52 Haugaard (1992, p. 87).

53 Giddens notes, "...the division between the two can be altered by many aspects of the agent's socialization and learning experiences" (1984, p. 7).

Routinization is vital to the psychological mechanisms whereby a sense of trust is sustained in the daily activities of social life. Carried primarily in practical consciousness, routine drives a wedge between the potentially explosive content of the unconscious and the reflexive monitoring of action which agents display. Why did Garfinkel's 'experiments with trust' simulate such a very strong reaction on the part of those involved? Because, I think, the apparent minor conventions of social life are of essential significance in curbing the sources of unconscious tension that would otherwise preoccupy us most of our waking lives..."55

Thus routinization, grounded in practical consciousness, is key to the creation of ontological security. That is, ontological security can be "taken to depend upon the implicit faith actors have in the [rules] (codes of signification and forms of normative regulation) via which, the reproduction of social life is effected."56

Duality of structure and power

A main claim of structuration theory is that power is chronically involved in the instantiation of social practices: "I advance this view in opposition to a prevalent tendency in sociology...to reduce power to a secondary characteristic of social life. Such is the case with various forms of 'interpretative sociology' and with 'normative functionalism', which treat communication of meaning and normative sanctions respectively as the most fundamental components of social activity."57

Giddens discusses two concepts of power. The first is broad and is woven into his definition of agency: "...action logically involves power in the sense of transformational capacity."58 Inherent in Giddens' concept of agency is the capability of "doing otherwise",

56 Giddens (1979, p. 219).
of "making a difference" to a pre-existing state of affairs (whether in nature or in relation to other humans): "An agent ceases to be such if he or she loses the capability to 'make a difference', that is, to exercise some sort of power."\textsuperscript{59}

In a second, narrower sense, Giddens understands power to be a relational concept: "Power...concerns the capability of actors to secure outcomes where the realization of these outcomes depends upon the agency of others."\textsuperscript{60} It is this power form that is linked, through the duality of structure, to structures of domination, that is to the "structured asymmetries of resources drawn upon or reconstituted in...power relations"\textsuperscript{61} (see Figure 1). This point can be clarified by discussing Giddens' notion of the "dialectic of control."

Given Giddens' definition of agency, it is a logical impossibility to construe power relations in a zero-sum manner. Power is inherent in agency. If all agents have some power, this implies they all have some resources. Agent A has neither all power nor all resources with respect to agent B. The distribution of allocative and authoritative resources, asymmetrical in all social systems, provide a range of unequally distributed facilities agents mobilize in order to realize power with respect to each other. These resources enable action, but at the same time help to define the extent of the scope of and direction of action.\textsuperscript{62} Thus, in interaction "...even the most autonomous agent is in some

\textsuperscript{59} Giddens (1984, p. 14).

\textsuperscript{60} Giddens (1979, p. 93).

\textsuperscript{61} Giddens (1981, p. 51).

\textsuperscript{62} These resources may be "more or less 'manipulated' on the level of discursive consciousness by those involved.... But resources are also chronically applied through the medium of actors' practical consciousness..." (Giddens (1981, p. 62).
degree dependent, and the most dependent actor or party in a relationship retains some autonomy."\[63\] The relative degree of autonomy and dependence among agents may vary greatly. Giddens argues,

[i]t is very important to emphasize that there are no continuing relationships in any sphere of social life where the scope and effectiveness of the control which some actors have over other actors is complete. This is the basis of what I call the dialectic of control in social systems. However wide-ranging the control which actors may have over others, the weak nevertheless always have some capabilities of turning resources back against the strong. The dialectic of control is implied...in the logical connection between agency and power. An agent who has no options whatsoever is no longer an agent. An individual who is placed in solitary confinement...might appear to be utterly powerless.... But such is not the case, as hunger strikes or...suicide indicate. Most circumstances of control, of course, are not nearly so all embracing.... In the vast majority of circumstances of social life control is more fluid, and those in positions of subordination may, in fact, be able to achieve considerable effective control over the contexts of their activity within social systems.\[64\]

Entering as it does into every area of social interaction, the dialectic of control is centrally implicated in the reproduction of structures of domination. That is, structure (via the distribution of particular facilities) provides the resources for action and therefore power, but in being drawn on and used via the dialectic of control those resources are refurbished and structure is reproduced.

In so far as a stable dialectic of control persists in the reproduction of power relations over a lengthy period of time, it perpetuates an asymmetrical distribution of resources. However, any alteration in the structure of political and economic inequality may realign the relations of autonomy and dependence (i.e., the dialectic of control) in complex ways. For Giddens, as the scope of bureaucratic control facilitated by the development of new resources (e.g., technologies) increases, thereby permitting them to

\[63\] Giddens (1979, p. 93).

intervene more extensively in the day-to-day activities of workers, consumers or citizens,
so too opportunities may increase for the latter to stave-off, or more positively, to influence
the activities of superordinates who depend upon their compliance.\textsuperscript{65} Giddens points to the
struggle for citizenship and workers rights as examples of this dialectic of control.\textsuperscript{66}

Giddens' contrasts his understanding of power with agent-oriented and structure-oriented approaches:

[T]here are effectively two versions of how power structures are
constituted, and two versions of 'domination'.... The first [agent-oriented],
tends to treat domination as a \textit{network of decision-making}, operating against
an unexamined institutional backdrop; the second [structure-oriented]
regards domination as itself an institutional phenomenon, either
disregarding power as relating to the active accomplishments of actors, or
treating it as in some way determined by institutions.\textsuperscript{67}

Unlike agent-oriented approaches, which typically stress opportunities for individuals to
choose from a wide range of possible courses of action, structures of domination prevent
individuals from making, or even considering, certain decisions in this regard (i.e., non-decisions).\textsuperscript{68} More specifically, domination expressed in and through the institutions that
represent the most deeply embedded continuities of social life make certain choices possible
while closing down the possibility of others. Unlike structure-oriented accounts, Giddens'
notions of domination is not conceived as simply imposed upon agents who lack the
resources to resist its imposition. Rather, structures of domination are routinely

\textsuperscript{65} Giddens (1985a, pp. 9-11).

\textsuperscript{66} Giddens (1985a, pp. 201-202).

\textsuperscript{67} Giddens (1979, p. 89), author's emphasis.

\textsuperscript{68} Cohen (1989, p. 153).
regenerated via the dialectic of control, whereby purposive agents seek to achieve and maintain the compliance of others.

**Power and ideology**

Giddens links ideology to the two levels at which power operates, the institutional mediation of power and the dialectic of control: "These do not imply different types of ideological elements, but two levels of ideological analysis, connected via the duality of structure."69 On both levels, the analysis and critique of ideology involves showing how structures of signification are mobilized to legitimate the sectional interests of dominant groups, i.e., to legitimate exploitative domination. All forms of domination can be adjudged in terms of how far they are harnessed to the sectional interests of particular social categories, collectivities—or classes—and how far they serve the universal (generalisable) interests of broader communities or societies of which they are apart.... [I]t can be taken as axiomatic that sectional and universal interests are never wholly exclusive.70

For Giddens, exploitation exists only to the extent that interests of dominant groups diverge from generalizable interests which superordinates share in common with subordinate agents. Thus for Giddens, non-exploitative relations based on shared interests (but on an asymmetrical distribution of resources), and exploitative relations based on divergent interests, can be combined in various ways within a given social system. Giddens makes clear that agents' discursive knowledge of their interests, particularly those of subordinates, is limited by structural features such as inferior education opportunities, and/or the inaccessibility of relevant information.71

69 Giddens (1979, p. 193).

70 Giddens (1981, p. 61), author's emphasis.

At the level of strategic conduct (i.e., at the level of the dialectic of control), ideology is to be found "[i]n its most 'conscious' and 'superficial' form..." Giddens goes on, "[a]s discourse, ideology here involves the use of artifice or direct manipulation of communication by those in dominant classes or groups in furthering their sectional interests... This is often ideology of the most easily penetrated sort, however, by those who are the object of political manipulation..."72 At the institutional level, ideology refers to "the most basic structural elements which connect signification and legitimation in such a way as to favour dominant interests.... Ideological elements here are likely to be deeply sedimented in both a psychological [i.e., at the level of practical consciousness] and an historical sense...."73 In other words ideology is inscribed in a deeply embedded "meaning context that favors certain groups over others, while simultaneously disguising the hegemonic nature of this meaning system."74 This "disguising" occurs because particular meanings are largely taken for granted. This involves a tacit acceptance as "natural" of historically contingent procedures and relations. This reification process is ideological because it benefits dominant interests by obscuring other feasible options that, although not institutionalized, nevertheless might be feasible if perceived.

72 Giddens (1979, pp. 190-191).

73 Giddens (1979, pp. 191-192), author's emphasis.

Giddens rejects the Kantian notion that time and space are containers or frameworks within which social practices take place. He argues that time and space are in fact constitutive features of such practices. Giddens identifies three "layers" of temporality that enter into all moments of social life:

Temporalities enter into: (a) the immediate nexus of interaction as contingently "brought off" by social actors, the most elemental form of social reproduction, (b) the existence of Dasein, as the living human organism, the contingency of life in the face of death, and of biological reproduction, and (c) the long-term reproduction of institutions across the generation. Institutions are practices which 'stretch' over long time-space distances in the reproduction of social systems. The structural practices of social systems 'bind' the temporality of the durée of the day-to-day life world to the longue durée of institutions, interpolated in the finite span of existence of the individual being.75

The durée of day-to-day life at every moment intersects with the durée of the life span of the individual, and therefore with "irreversible" death-approaching time. These two forms of durée in turn interweave with the longue durée of institutions, with patterns of institutional continuity and change, which carry on long after the life span of any particular generation of individuals. Although the longue durée of institutions is only possible insofar as their forms are chronically produced and reproduced in day-to-day life, both of these aspects of temporality are conditioned on the durée of living human bodies. Yet the life span of individuals acquires its content through day-to-day activity the preconditions of which are the existence of relatively enduring institutions and structural features.76

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Giddens regards space as being of equal importance in the constitution of social practices. His concept of locale challenges the understanding of space as simply a backdrop to social action:

'Locale' is in some respects a preferable term to that of 'place'... for it carries something of the connotation of space used as a setting for interaction. A setting [which] is not just a spatial parameter, and physical environment, in which interaction occurs: it is these elements mobilised as part of the interaction. Features of the setting of interaction, including its spatial and physical aspects...are routinely drawn upon by social actors in the sustaining of communication.\textsuperscript{77}

In this way locales enter into social reproduction by creating and sustaining the taken-for-granted meanings of everyday routines. According to Giddens, locales range "from a room in a house, a street corner, the shop floor, of a factory, towns and cities, to the territorially demarcated areas occupied by nation states."\textsuperscript{78}

Some criticisms of structuration theory

In this section of the chapter, I examine two recurring criticisms of structuration theory: (i) the theory does not in fact resolve the conceptual problems inherent in perspectives that posit a dualism between action and structure; (ii) the theory de-emphasizes structural constraint to an unacceptable extent. These criticisms are treated together because their concerns overlap significantly. As I pointed out at the beginning of this chapter, I focus on these particular criticisms because they confront head on what is perhaps the most fundamental claim Giddens makes about structuration theory—that the theory overcomes agency/structure dualisms extant in existing social theory.

\textsuperscript{77} Giddens (1979, p. 206), author's emphasis.

\textsuperscript{78} Giddens (1984, p. 118). Giddens has developed several other concepts for theorizing space—"regionalization" and "distanciation, for example (1984, Chapter 3). For a critical discussion of the concept of locale see Samarajiva & Shields (1993).
It has been argued that Giddens' attempt to transcend the agency/structure dualism fails because he exaggerates the ability of agents to shape social structure, and thereby derogates structural constraint.\(^{79}\) There is a consensus among the critics that Giddens' conception of structure is at the root of "the problem". Thus Derek Layder argues:

[Giddens argues that] structures...do not exist in 'time-space', they only exist in so far as they are 'created and recreated in every encounter'.... If structures...only 'exist' at the points where they are actuated in specific concrete encounters, it is difficult to understand how Giddens can incorporate into his analysis any conception of the historical emergence and/or disintegration of the structural contexts of action.... Without some explicit reference to the fact that structural contexts of action...are durable in time and space...then the instantiation thesis could be taken to imply (as indeed it does seems to) that the 'structures' and 'systems' concerned are inchoate and evanescent, appearing and disappearing at the behest of specific individuals in specific encounters.\(^{80}\)

Michael Huspek comments,

[although Giddens points out that structure 'enables as well as constrains',] he clearly de-emphasizes structure as a constraining device. Structure exists as a medium in and through which agents draw upon their competency as knowledgeable users of rules and resources. This, in turn, ensures that structure is reconstituted (and transformed). But there is little if any provision on this account for structure to operate as a determining force...\(^{81}\)

Layder and Huspek neglect the fact that Giddens understands structures to be 'carried' or embodied in agents' practical consciousness and discursive consciousness. Even though structures exist in time-space only at the moment of action, they also order action by existing in potential form as practical and discursive knowledge of rules and resources.\(^{82}\)

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\(^{80}\) Layder (1985, pp. 142-143), author's emphasis.

\(^{81}\) Huspek (1993, p. 10).

\(^{82}\) As noted above, this point is based on a clarification of Giddens' work by Haugaard (1992).
It is at the level of practical consciousness and discursive consciousness that structures are inherently both enabling and constraining and, prior, to action, exist as a form of constraint limiting the possibilities of future action. It bares emphasizing that Giddens' notion of the "knowledgeable" agent does not imply that social actors have a profound discursive knowledge of the inner workings of the society in which they live (its structural properties, for example). Knowledgeability, for Giddens, is "founded less upon discursive consciousness than practical consciousness." As discussed earlier, the "institutionalized mediation of power" and ideology operate most intensely at the level of practical knowledge.

It may be countered that my remarks simply reinforce the argument that Giddens' analysis obliterates structural constraint and exaggerates the power and capacities of agents. More specifically, it may be argued that Giddens perceives structural constraint as being "internal" to agents, as having an ideational existence only. This seems to be Layder's point when he argues:

[In Giddens analysis], there is no separately constituted realm beyond the motives and reason of agents... What Giddens does...is to collapse social constraint into psychological constraint. Here, the dualism between external and internal sources of constraint...is abandoned in favor of what Giddens seems to think is a synthetic duality but which, in effect, is clearly identified with the internal (motives and reasons) side of the dualism rather than the external realm of constraint.

Layder is correct in arguing that Giddens abandons the "dualism between external and internal constraint", but is wide of the mark in suggesting that Giddens views structures and structural constrains as purely subjective creations. Giddens argues:


What then of structural constraint? To say that society pre-exists the lives of each of its individual members at any given moment is only to identify a source of constraint in so far as its pre-existence in some way limits possibilities open to them. To emphasize that individuals are contextually situated within social relations of greater or lesser span is similarly only to identify a source of constraint if it is shown how this limits their capabilities. In each case constraint stems from 'objective' existence of structural properties that the individual agent is unable to change. [This constraint] is best described as placing limits upon the range of options open to an actor, or plurality of actors, in a given circumstance. 85

Clearly on this account, Giddens understands structures as real properties of social systems which exist in some sense "beyond the motives and reasons of individuals." Their reality is a precondition of social activity. However, he does not endow "objective" social constraints with powers analogous to natural forces that somehow determine the course of social life as experienced by individuals. Rather, structural constraint shapes social conduct by establishing the potential kinds of actions or relations in which they may engage.

But it is also important to emphasize that Giddens, unlike Layder, refuses to conceptualize structural constraint as external to and dissociated from actors' motives or reasons:

Identifying structural constraint in a specific context...of action demands consideration of actors' reasons in relation to the motivations that is at the origins of their preferences. When constraints so narrow the range of (feasible) alternatives that only one option...is open to an actor, the presumption is that the actor will not find it worthwhile to do anything other than comply. The preference is a negative one of wishing to avoid the consequences of non-compliance. If the agent 'could not have acted otherwise'...it is because only one option existed, given that agent's wants. This must not be confused...with the 'could have done otherwise' that marks the conceptual boundary of [agency]; it is exactly this confusion that structural sociologists tend to make. Where only one (feasible) option

85 Giddens (1984, p. 176), author's emphasis. Elsewhere Giddens argues, “...any particular situated agent confronts a diversity of social norms that exist quite independently of whatever that agent may do, since they stretch away across time-space according to their institutional 'embeddedness' (1985b, p. 168).
exists, awareness of such limitations in conjunction with wants, supplies the reason for the agent's conduct.\textsuperscript{86}

While existing "beyond the motives and reasons of individuals," structures are crucially connected to them. That is, actors must be able to know these structures in some tacit or discursive sense in order to function as agents.

Conclusions

It will be clear from the above remarks that I am generally sympathetic to Giddens' overall project. Contra Layder, Huspek and others, I believe he provides a convincing solution to the agency/structure problem by demonstrating that agents and structures are mutually constitutive yet ontologically distinct entities. Social structures are the result of the intended and unintended consequences of human action, just as those actions presuppose or are mediated by an irreducible structural context. This understanding of the agent/structure relationship is made possible by conceptualizing each from the start as ontologically dependent upon the other, by conceptualizing agents in terms of the internal properties and relations that define them as such, and by conceptualizing social structures as existing only through the medium of the agents and practices that they constitute. Structuration theory, then, is more than an attempt to introduce a greater balance of structure and agency in social theory. Its social ontology radically reconceptualizes the fundamental properties of agents and social structures in such a way that makes them interdependent. It forces us to see agents and structures as simultaneously involved in the production of social phenomena.

Giddens' social ontology has implications for the study of telecommunications regulatory policy processes in particular and regulatory policy-making in general.

\textsuperscript{86} Giddens (1984, p. 309), author's emphasis.
Structuration theory suggests that in order to be adequate, explanations of policy activity must provide accounts of the dynamic interplay between structure and agency factors. Such accounts are more than simply convenient or desirable: they are necessary in order to explain the policy formation process. \(^{87}\) Structuration theory provides a conceptual and methodological framework that can help produce these kinds of accounts. The methodological aspects of the framework are discussed in Chapters III and IV.

Beyond this general concern with the form of explanation, structuration theory also has implications for the nature and scope of a research agenda purporting to theorize about policy actors and their institutional and structural context. Theorizing the regulatory policy process, from a structurationist perspective, implies a research program which seeks to develop a theoretically and empirically grounded understanding of the causally significant properties (resources, preferences and interests, for example) of individual and collective actors engaged in the regulatory policy process. This would involve "defining the possible ways of acting of...agents, rather than generat[ing] determinate predictions about particular [agent] behaviors."\(^{88}\) Furthermore,

\[\text{[t]he possible ways of acting of an agent are constituted and therefore explained by the social structural context in which it is embedded and by its internal organization structure [when a collective entity is the object of study].... Thus, structural analysis can be used to explicate the social structural organizing principles which generate [particular kinds of policy actors], that is, in virtue of which [these policy actors] are [policy] actors in the first place. This would recognize [policy actors] as...inherently social entit[i]es, rather than as...Hobbesian primitive individual[s].}\(^{89}\)

\(^{87}\) See Wendt (1987, p. 365).

\(^{88}\) Wendt (1987, p. 365).

\(^{89}\) Wendt (1987, pp. 365-366).
Structuration theory suggests that three inextricably interlinked structural dimensions—signification, domination and legitimation—are relevant to the constitution and regulation of policy actors (see Figure 1). Constitution and regulation processes are mediated by various institutional forms—symbolic, economic, political, and legal (see Figure 2)—within which policy actors are embedded. The "structuralist/determinist" approaches to telecommunications regulatory policy processes (the contributions of Mosco and Streeter, for example) focus on the dynamics of a single institutional form (the economic and symbolic, respectively), as I suggested in Chapter 1. In these analyses, other institutional orders are ignored or reduced to epiphenomenal forms of the institutional order that is of primary concern. By contrast, Giddens provides telecommunications regulatory policy researchers with the beginnings of a framework for thinking about the various institutional forms associated with the policy process in a non-reductive way. The implication is that theory-building attempts in the telecommunications regulatory policy research domain (or any other policy research domain for that matter) must develop conceptual and methodological tools capable of guiding researchers to seriously examine the internal logic of various institutional orders, including their reproduction requirements, and thus prescriptions for competent practices, as well the articulation between these forms. In short, I am arguing that structuration theory, while concerned with the structure-agency problem primarily, has important implications for the resolution of "structure-structure" or "institution-institution" problems.90 This point is discussed more fully in the following chapter.

While structuration theory, I believe, offers telecommunications policy researchers a fresh way of thinking about the dynamics of the regulatory policy process, it is important

to reiterate that by itself the theory cannot provide an adequate framework for guiding research on telecommunications regulatory policy processes. More specifically, structuration theory has important implications for the content of substantive theories of the telecommunications regulatory policy process, but it does not tell us what particular kinds of agents or what particular kinds of structures and institutions to expect in any given regulatory policy process.

It is necessary therefore to supplement structuration theory with existing theoretical and empirical knowledge of the agents, institutions, and structures associated with the telecommunications regulatory policy process. It is this knowledge which suggests which actors, which institutions, which structures, and which relations to focus on. A primary objective of this study is to produce a conceptual framework which fuses the insights provided by this body of knowledge with the core elements of structuration theory. The method by which this integration will be accomplished is detailed in the following chapter.
CHAPTER III
METHODOLOGY

Introduction

As stated in Chapter I, the objective of this study is to explore the potential of structuration theory for the study of telecommunications regulatory policy-making processes in particular, and regulatory policy-making in general. Specifically, the purpose of the study is to answer the following question: What would a structuration-based conceptual framework designed for studying telecommunications regulatory policy processes look like? To answer this question, I identify and model the main elements of a structuration-based theoretical framework capable of guiding investigation of telecommunications regulatory policy processes. That is, I integrate core elements of structuration theory and methodology with various theoretical and empirical insights provided by the relevant policy literature. The integration is required because structuration theory does not tell which agents, which institutions, and which structures are relevant to the telecommunications regulatory policy process. This kind of knowledge is provided by students of telecommunications regulatory policy processes in particular and regulatory policy-making in general. The synthesis is carried out in Chapter IV.

My objective in this chapter is to detail the methods used to conceptualize the proposed structuration-based framework. Following Andrew Sayer, I understand
"method" to involve "the clarification of modes of explanation and understanding, the nature of abstraction, as well as the familiar subject of research design and methods of analysis..."1 Sayer argues that the former have been woefully neglected by social scientists:

Sadly, many social scientists can still only think of 'method' in terms of quantitative techniques and even though these are now commonly supplemented by qualitative techniques...the basic activity of conceptualization—which no one can escape—remains unexamined.2

This study is more or less exclusively concerned with conceptualization—that is, with the development of a theoretical framework. As I pointed out in Chapter I, meta-theorizing is the broad methodological principle which informs the framework's conceptualization. That is, following the well-trodden path of many classical and modern social theorists I attempt to develop novel theoretical constructions by way of reflecting on the theoretical contributions of others. More specifically, the current theory-building endeavor finds its primary constitutive material in Giddens' meta-theoretical writings on structuration and in the insights of various theoretically-inclined policy researchers. Of course this meta-theorizing is not carried out in a self-referential vacuum, rather it is inevitably conditioned by my empirical knowledge of the regulatory policy process (exemplified by my atheoretical empirical analysis of the price cap policy process, discussed in Chapter I).

At a general level, then, meta-theorizing is central to the conceptualization of the proposed framework. But of course this broad methodological principle does not specify how the framework should be developed. My argument in this chapter is that the rudiments of more specific methodological guidelines can be found in Giddens'

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1 Sayer (1992, p. 3).

2 Sayer (1992, p. ix), author's emphasis.
contributions. That is, Giddens proposes two principles—"institutional analysis" and "strategic conduct analysis"—which he believes should guide the empirical study of social system properties in a non-reductive, empirically open-ended manner. These guidelines follow from his base-line assumption that both agents and structures are inextricably bound together. The guidelines constitute the proposed structuration-based framework's main methodological principles for guiding empirical research, as I discuss in Chapter IV.

In this chapter, I argue that "institutional analysis" and "strategic conduct analysis", originally developed to guide empirical research, can be recast in order to guide the development of the proposed theoretical framework. More specifically, I suggest that these principles can be used to order the contents of the proposed framework as well as to guide the articulation of core structuration theory concepts with "ideal-type" agent and institution categories derived from the existing regulatory policy literature. This procedure, among others, ensures that the proposed structuration-based framework is synthetic as opposed to eclectic.

I begin by explicating institutional analysis and analysis of strategic conduct. Then I detail how institutional analysis and analysis of strategic conduct are used to guide the design of the proposed structuration-based theoretical framework. Finally, I discuss how I use the "ideal-type" method to extract insights from the relevant policy literature. I defend my use of the method as it is not without its critics.

**Institutional analysis and analysis of strategic conduct**

In moving from theory to practice, Giddens' concern is to avoid creating in empirical analysis the dualism that he, in my opinion, transcends in developing theory. That is, he wishes to avoid according a priori ontological primacy either to structures or to agents when conducting empirical work. Put differently, given Giddens' core meta-theoretical assumption that both agents and structures are inextricably bound together, he is
obliged to adopt a methodological stance which is capable of linking structure and agency without falling prey to various forms of "reductionism."³

To this end, Giddens suggests that investigation into the structuration of social systems requires analysis that encompasses the "institutional" and "strategic conduct" levels. He sets out the two levels of analysis as follows:

[There is] institutional analysis and the analysis of strategic conduct . . . . [These] indicate two principal ways in which the study of system properties may be approached in the social sciences: each of which is separated out, however, by a methodological "epoché." To examine the constitution of social systems as strategic conduct is to study the modes in which actors draw upon structural elements--rules and resources--in their social relations. 'Structure' here appears as actors' mobilisation of discursive and practical consciousness in social encounters. Institutional analysis, on the other hand, places an epoché upon strategic conduct, treating rules and resources as chronically reproduced features of social systems. It is quite essential to see that this is only a methodological bracketing.⁴

It should be emphasized that a structurationist account of social phenomenon does not entail the blending together of two separate analyses. Institutional and strategic conduct analyses must be integrated to capture the essence of the duality of structure. "Bracketing" facilitates this kind of analysis. The application of brackets allows the researcher to temporarily suspend consideration of one level of analysis in order to deal in a non-cumbersome manner with the other level. It cannot be too strongly emphasized that these brackets are

³ By reductionism I mean "the methodologically illegitimate practice of dealing with a certain order of phenomenon in such a way that their possible distinctiveness and internal dynamic is ignored or underemphasized in a prioristic fashion." (Mouzelis, 1990, p.6). Explaining policy outcomes only in terms of the requirements of bureaucratic institutional forms or the mode of production, is one example. Accounting for policy output solely in terms of capricious negotiation among unconstrained agents is another. Policy-makers are reduced to bearers of structural properties in the first example. The structural domain is rendered inert in the second.

⁴ Giddens (1979, p. 80). The institutional/strategic conduct analysis distinction has some affinity with Cardoso and Faletto's (1978) structural/historical distinction and with Sayer's (1992) distinction between abstract/concrete research.
entirely provisional. From an ontological standpoint, the structural properties of social systems are always reproduced through the duality of structure.

Giddens fleshes out each level of analysis. When institutional analysis is bracketed, the analyst is primarily concerned with how actors in interaction draw upon structure via the modalities of structuration, depicted in Figure 1 (i.e., interpretative schemes, facilities, and norms). In investigating these processes, Giddens argues that the analyst should (i) avoid impoverished descriptions of agents' knowledgeability, (ii) provide a sophisticated accounts of agents' motivations, and (iii) provide an interpretation of the dialectic of control, including a description of resources available to various players, and how such resources are used.

When strategic conduct is placed under an *epoché*, the analyst is concerned with structural properties as they are represented in the institutional modalities of the social system (i.e., the symbolic, economic, political and legal/repressive institutional forms depicted in Figure 2). Giddens suggests that institutional analysis involves investigation at three distinct levels of abstraction: structural principles, structural sets, and elements/axes of structuration.

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6 Giddens (1979, p. 81).

7 Giddens (1984, p. 289).

8 Giddens (1979, p. 81).

Structural principles refer to "the principles of organization of societal totalities." According to Giddens, the identification of these principles represent the most comprehensive level of institutional analysis. That is, "the analysis of structural principles refers to modes of differentiation and articulation of institutions across the 'deepest' reaches of time-space." For Giddens, the central structural principle of capitalist society is the separation and interconnection of state and economic institutions:

The distinctive structural principle...is to be found in the disembedding, yet interconnecting, of state and economic institutions. The tremendous economic power generated by the harnessing of allocative resources to a generic tendency toward technical improvement is matched by an enormous expansion in the administrative 'reach' of the state. Surveillance...becomes a key [principle].... The old city-countryside relation is replaced by a sprawling expansion of a manufactured or 'created' environment.

Less abstractly, the structural features of a social system can be analyzed as structural sets. The identification of these sets "involves the isolating of distinct 'clusterings' of transformation/mediation relations." Giddens' example of a central structural set of modern capitalism is the following: private property: money: capital: labor contract: profit. The universalization of the commodity form characterizes the

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12 Giddens (1984, p. 184). State and economic institutions are inextricably interconnected in the sense that the existence of state institutions in their present form (e.g., bureaucratic surveillance, the provision of welfare) is predicated upon the transfer of certain amounts of allocative resources from the economy to the state. Current economic institutions are in turn dependent on these and other state institutions (e.g., the legal forms that underpin the circulation of money and commodity exchange). It should be noted that in identifying conditions of existence of particular institutional forms, I am not suggesting that these conditions explain in toto the content and workings of these forms (the functionalist fallacy).


14 It bears repeating that each entity involves combination of rules and resources. For example, private property, money, and capital involves a form of allocative resource, but each of these
development of capitalism. The condition of such universalization is the development of a money economy in which money, as the medium of exchange, enables private property to be converted into capital and allows labor power to be constituted as a commodity. Capital and wage labor can then enter a relation, governed by the labor contract, in which labor power is exchanged for wages and in which profit is produced.

At the most concrete level of institutional analysis, the structural properties of institutionalized practices can be examined as "elements" or "axes" of structuration. Of the three levels of abstraction, this level bears most directly upon the relations established between agents in social interaction. Giddens' example of a structural element is the division of labor within the capitalist enterprise:

Manufacture...is associated with two modes of the emergence of workshops. One is the assembling...of workers with different craft skills in a specific locale. These are coordinated in the making of a single product. A second way...is the assembling within one locale of a number of workers who all do the same task, each worker making the entire commodity.... [In both cases]...[because of] 'external circumstances'...operations become broken down into detailed tasks, organized in a cooperative fashion. The final form is...the same in both cases: 'a productive mechanism whose parts are human beings'. The detailed division of labor is of major importance to the organization of the capitalist enterprise.... It enhances the opportunity for direct surveillance of the workforce and the consolidation of labour discipline...[It] also both expresses and makes possible the connection of labour...with the technology of machine production. For the 'detail labourer' carries out a circumscribed number of repetitive operations that can be co-ordinated with the movements of mechanized production processes. Division of labor within the enterprise is not simply an aspect of the division of labour outside...but these none the less react upon one another. 15

The division of labour, a structural element, links the broader structural principles of capitalism with the more proximate organization of the enterprise. But like the first two

resources "is subject to semantic definitions and normative regulations which are implicated in the practices through which the manipulation of resources occurs." (Cohen, 1989, p. 239).

levels of abstraction, analysis of structural elements continues to bracket analysis of strategic conduct, "treat[ing] structuration as the expression of 'impersonal' connections between structural properties."16

Principles guiding the design of the theoretical framework

The core elements of structuration theory provide the skeleton of the proposed framework. These elements (summarized in Figures 1 and 2) and the methodological principles outlined above enable integration of a wide range of factors and levels, ranging from individual action, through institutional practices, to structural influences. Providing theoretical and empirical knowledge of the relevant actors, institutional practices, and structural influences, has been the concern of the students of telecommunications regulatory policy process, and regulatory policy-making more generally. My intention is to integrate elements of the theoretical and empirical knowledge provided by these students with structuration theory and methodology. In this section I briefly detail how I intend to use institutional analysis, strategic conduct analysis, and other principles, to accomplishing this task.

The way in which I draw insights from the relevant policy literature and articulate them with structuration theory is guided by Giddens' distinction between institutional and strategic conduct analysis. More specifically, Giddens' distinction suggests that I identify from the relevant policy literature: (i) The various categories of individual and collective agents that are perceived as important potential participants in the telecommunications regulatory policy process, giving particular attention to the ways in which agents are perceived to employ structural elements--rules and resources--in their relations with each

other; (ii) The relevant structural properties as they are represented in the institutional modalities associated with the telecommunications regulatory policy process (i.e., the symbolic, economic, political and legal/repressive institutional forms). Institutional analysis also mandates that I distinguish between the more concrete institutional orders which are relatively proximate to social interaction from the more deeply embedded structural principles, where possible.

The policy literature also provides insights into the nature of the relationships between policy actors (i.e., the dialectic of control) and between the institutions and structures associated with the policy process. These insights are often conflicting. For example, some suggest that the FCC is more or less completely dependent on Congress, while others emphasize the former's substantial autonomy. Another debate concerns the extent to which the FCC and other independent regulatory bodies have been "captured" by the industries they are supposed to regulate. With respect to the nature of the relationships between institutional forms and between structural features, some approaches to explaining the policy process understand the content and workings of political, symbolic, and legal institutional forms as determined by domestic and international economic institutions and structures. Other approaches wish to attribute considerably more autonomy to symbolic and legal forms, for example.

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18 For a review of this debate see Horwitz (1989, chapter 2), Noll (1984), and Phillips (1988).

19 Mosco (1988), for example.

20 Horwitz (1989), Parsons (1989), and Streeter (1987, 1990), for example.
The prospect of integrating these and other conflicting insights into the proposed framework foregrounds an important methodological point. More specifically, the "vertical" relations between agency and structure is the prime domain of structuration theory. To ensure the production of non-reductive explanations of social phenomena, Giddens develops a methodological stance which avoids according a priori ontological primacy either to structures or to agents. As a theoretical and methodological issue, the nature of "horizontal" relations between agents and between institutions/structures is commonly thought to lie beyond the purview of structuration theory.

However, I wish to argue that structuration theory's "non-reductive" principle with regard to vertical relations, does have implications for the treatment of horizontal relations. Indeed, it would be logically consistent to extend the principle to the study of horizontal relations. Put differently, Giddens' non-reductive approach is intended to ensure that the distinctiveness and dynamics of agency and structure factors are not ignored or underemphasized when examining the agency-structure relation. Surely, this reasoning must also hold for the relations between particular kinds of agents and between particular kinds of structures? Giddens, I think, would answer in the affirmative. I suggested in Chapter II that Giddens' various contributions imply that institutional forms (symbolic, political, economic and legal/repressive) should be examined in a non-reductive way—the internal logic of various institutional orders, including their reproduction requirements, and thus prescriptions for competent practices, as well the articulation between these "horizontally-related" forms, must be attended to in an empirically open-ended manner.

Extension of the non-reductive principle to horizontal relations simply ensures that various determinate relations are not built into the very fabric of the framework. In other words, adoption of the principle mandates against building into the framework the primacy of Congress over the FCC, or the primacy of economic institutions over political institutions, for example. This implies a particular kind of approach to the policy literature.
That is, I understand the numerous debates and conflicting insights into horizontal relationships as (i) sensitizing the proposed framework to what are perceived to be key historical relationships in the telecommunications regulatory policy process, and (ii) providing the framework with a series of general hypotheses that can be evaluated empirically.

It bares emphasizing that the non-reductive principle (applied to vertical relations and horizontal relations) does not legislate that social explanations must provide equal weight to various agency and structure factors. In explaining particular historical conjunctures, structural features may be accorded more weight than agency factors (though the interplay between both should be present in the account), economic institutions may be accorded primacy in their relationship with political institutions, or the decisions of political actors may be more or less explained by the influence of dominant economic interests, for example. The non-reductive principle simply ensures that the complex and varied agency/structure, agency/agency, and structure/structure relationships are studied in an empirically open-ended manner. In short, then, the non-reductive principle does not rule out a ranking of causes. What it does rule out is the idea that particular agency and/or structure categories are accorded primacy in an a priori, universal, transhistoric manner.  

"Ideal types" and the policy literature

It should be made explicit that the agent and institution categories that provide the descriptive dimension of the framework are ideal types, "involv[ing] the logical extension of certain aspects of reality into a pure, artificial yet logically possible type against which existing phenomena can be measured and compared."  

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21 Mouzelis (1990, p. 17).

from the relevant literatures which, in turn, have abstracted from particular concrete policy processes. The resultant collection of abstractions, when organized by and articulated with core elements of structuration theory and methodology, will facilitate fruitful analysis of concrete policy processes.

These abstractions or ideal types are essential if the proposed framework is to be capable of imposing an order of sorts on concrete social processes. They will allow the researcher to distinguish those agents and institutions which are and are not relevant. Furthermore, the ideal types will provide the researcher with a full understanding of the rules and resources that the relevant agents may draw on in the dialectic of control and of the institutions and structural principles that are likely to constitute and regulate these agents. In other words, the ideal types are important means by which empirical reality will be rendered systematically accessible to analysis. In the absence of these ideal types, I would be left with structuration theory, a meta-theory only, which provides no criteria for determining which agents and which institutions should be accorded theoretical and empirical attention. Of course it should be emphasized that while these ideal types are rooted in empirical reality, they do not express that reality but rather exaggerate certain aspects of it while setting aside others. In this sense ideal types are always partial: "There is no absolutely 'objective scientific analysis of culture or...of 'social phenomena' independent of special and 'one-sided' viewpoints according to which----expressly or tacitly, consciously or unconsciously--they are selected, analyzed and organized for expository purposes."24

23 As I argued in Chapter I, this is one of the fundamental problems with Parsons' application of structuration theory.

24 Weber (1949, p. 72). Of course, it does not follow that all ideal-types are equally valid or adequate (see Shields & Samarajiva (1993) for a discussion of this epistemological issue).
The ideal type method is not without its critics however, for example Sayer argues:

Given the complexity of the world, it is argued that any research must be selective and that consequently researchers specify objects in terms of ideal types which isolate phenomena according to their interest and values. For example, a student of the early industrial city might take a particular example, such as Manchester or set up a hypothetical 'Coketown' as the ideal type of this phenomenon. [My objection to this] is not directed against the fact of selectivity and the influence of values, for these are unavoidable; rather the problem is that the methodology pays no attention to the structure of the world and hence is unable to recognize that some selections are better than others according to their relationship with structure... When ideal types are defined independently of such matters, it unlikely that much can be learned from comparing them with actual cases, except, of course, that there will be differences.25

While Sayer's comments contain a grain of truth, he presents, I think, a weak critique overall. He assumes that the ideal-type method is condemned to be applied as the sole method and in some theoretical scheme that has no conception of structure. He does not consider the fact that particular social ontologies (structuration theory, for example) may provide theoretically grounded justifications for producing particular ideal types. In other words, just because the ideal type method has "an arbitrary attitude to ontology" it does not follow that the method cannot be used in conjunction with theories and other methods which are not as agnostic with respect to the structure of the world. Sayer seems to forget that what is at stake here is the utility of a tool or technique (method or a means to an end), not the viability of a world view.

I also think Sayer's remarks greatly underestimate the role that ideal-types play in the social sciences. Ideal types are indispensable to sociological explanation and are employed universally by social scientists and social theories whether they realize it or not, as Weber has pointed out. Whenever, we refer to 'the state', for example, we are

employing an ideal type construct, for there are many variations between say the British state, and the US state which we may choose to ignore for the purposes of classification while emphasizing those aspects that they have in common and that appear more relevant for our theoretical purposes.26

Conclusion

My objective in this chapter was to detail the methods I propose to use to conceptualize the structuration-based theoretical framework. I pointed out that metatheorizing is the broad methodological principle which informs the conceptualization of the framework. That is, the development of the framework proceeds by critically reflecting on and where appropriate borrowing from structuration theory and the relevant policy literature.

At a less general level, I suggested that the methodological principles Giddens has developed for investigating social systems in an empirically open-ended fashion can be adapted to guide the development of the proposed structuration-based theoretical framework. That is, I argued that institutional analysis and strategic conduct analysis can be used to order the content of the proposed framework as well as to guide the articulation of core structuration theory concepts with ideal type agent and institution categories derived from the existing regulatory policy literature. Strategic conduct analysis suggests that I identify the various categories of individual and collective agents that usually participate in the telecommunications regulatory policy process, giving particular attention to the ways in which agents are perceived to employ structural elements—rules and resources—in their relations with each other. And institutional analysis suggests that I identify the relevant

26 Indeed Sayer's (1992) contribution is littered with ideal types. For example, he frequently refers to "quantitative methods" and "qualitative methods," without providing an in-depth analysis of the different orientations that are to be found under each classification. Rather, he proceeds on the basis of several generalities or ideal types to compare these methods with the "realist" method. While I find this practice perfectly acceptable, it does not sit well with his negative evaluation of ideal types.
structural properties as they are represented in the institutional modalities associated with the telecommunications regulatory policy process (i.e., the symbolic, economic, political and legal/repressive institutional forms). Institutional analysis also mandates that I distinguish between the more concrete institutional orders which are relatively proximate to social interaction from the more deeply embedded structural principles, where possible.

Institutional analysis and strategic conduct analysis were developed by Giddens to ensure the production of explanations of the social based on non-reductive accounts of the vertical relations between structure and agency factors. Put differently, Giddens develops a methodological stance which avoids according a priori ontological primacy either to structures or agents. This non-reductive principle, by definition, is built into the proposed structuration-based theoretical framework. I extended this principle to the domain of horizontal relations—that is, to the study of the relations between agents and between institutions/structures. In doing so, I attempt to ensure that various determinate horizontal relations are not built in to the fabric of the proposed framework. This, in turn, is intended to ensure that the proposed framework will guide the empirical investigation of telecommunications regulatory policy processes in an empirically open-ended manner.

I also discussed how I intended to use the ideal type method to glean insights from the relevant policy literature. I argued that the development of these ideal types are essential to the success of the proposed framework. That is, they will allow the researcher to distinguish those agents and institutions which are relevant from those that are not. Without the ideal types, the proposed framework would not be able to provide criteria for determining which agents and which institutions should be accorded theoretical and empirical attention. Furthermore, the ideal types will provide the researcher with a full understanding of the rules and resources that the relevant agents may draw on in the dialectic of control and of the institutions and structural principles that are likely to constitute and regulate these agents.
The result of these methodological operations—a structuration-based theoretical framework designed for studying the telecommunications regulatory policy process—is presented in Chapter IV.
CHAPTER IV
THE FRAMEWORK

Introduction

The purpose of this study is to answer the following question: What would a structuration-based conceptual framework designed for studying US telecommunications regulatory policy processes look like? My objective in this chapter is to present this framework. The core elements of structuration theory provide its skeleton. These elements (see Chapters II and III) enable integration of a wide range of factors and levels, ranging from individual action, through institutional practices, to structural influences. Providing theoretical and empirical knowledge of the relevant actors, institutional practices, and structural influences, has been the concern of students of telecommunications regulatory policy processes in particular, and of regulatory policy-making in general. My intention here is to integrate elements of the theoretical and empirical knowledge provided by these students with structuration theory and its associated methodology. The result of the synthesis is represented pictorially in Figure 4.

In Chapter III, I detailed the methods which will guide the conceptualization of the structuration-based framework. Institutional analysis and analysis of strategic conduct—methodological principles developed by Giddens in order to conduct empirical investigation of social systems—are adapted in order to guide the development of the proposed theoretical framework. That is, these methodological principles are used to organize the contents of
the framework as well as to guide the articulation of core structuration theory concepts with ideal type agent and institution categories derived from the existing regulatory policy literature.

I begin by providing a brief discussion of Figure 4. The figure can be understood as an attempt to capture, in skeletal form, the structuration of US federal telecommunications regulatory policy-making. I explain how this representation embodies core elements of structuration theory as well as some of the insights of the relevant policy literature.

In the following sections I set out to put some flesh on the skeleton. I proceed by applying strategic conduct analysis and then institutional analysis to the policy literature. The former suggests that I identify the various categories of individual and collective agents that usually participate in the telecommunications regulatory policy process, giving particular attention to the ways in which agents are perceived to employ structural elements—rules and resources—in their relations with each other. Institutional analysis suggests I identify the relevant structural properties as they are represented in the institutional modalities associated with the telecommunications regulatory policy process (i.e., the symbolic, economic, political and legal/repressive institutional forms). Institutional analysis also mandates that I distinguish between the more concrete institutional orders which are relatively proximate to social interaction from the more deeply embedded structural principles, where possible.

Taking as axiomatic the fact that time and space are constitutive features of the regulatory policy process, I go on to specify how considerations of time and space are factored into the fabric of the structuration-based theoretical framework. Finally, I discuss the framework's guidelines for conducting empirical investigation. With important changes, "institutional analysis" and "strategic conduct analysis" are presented as constituting the framework's main methodological principles. I argue that the utility of the
principles is weakened somewhat by Giddens’ ambiguous treatment of "collective" actors. More specifically, Giddens is unclear as to whether collective entities are to be understood as being located within the domain of institutional analysis or of strategic conduct analysis. I detail how the structuration-based theoretical framework circumvents this problem.

The framework in skeletal form

The basic tenets of structuration theory outlined in Chapter II suggest that adequate explanation of the dynamics of the telecommunications regulatory policy process must include an account of the reciprocal relationship between relatively long-term structural forces and the short-term routine practices of individual and collective agents. Thus it will not do to simply characterize the regulatory policy process as epiphenomenal of large-scale structures. Nor is it sufficient to understand the process as a subjective decision-making system only. Figure 4 attempts to capture, in skeletal form, the structuration of the policy process. The figure is based on, but in several ways radically departs from, Alan Moos' and Michael Dear’s model of the structuration of urban space.1

In general terms, I construe the (de)regulatory policy process to refer to the ways in which state actors (regulatory personnel and agencies, legislature, executive, and judiciary, for example) intersect with social groups representative of various constituencies to determine and implement collectively binding outcomes with respect to a wholly or partially regulated industry. Outcomes may take the form of rules and policies which are intended to

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1 Moos & Dear (1986, pp. 244-246), also Dear & Moos (1986). My strongest disagreement with Moos and Dear concerns their practice of treating institutions as collective actors, thereby conflating institutions and organizations. As I discussed in chapter II, these two concepts refer to two quite different things. The practical consequences of this conflation is that the dialectic of control (which is supposed to be examined by strategic conduct analysis) is incorporated at the level of institutional analysis where it does not belong—struggles between individual and collective actors should be more or less bracketed at this level of analysis. Consequently, examination of enduring structural principles and institutional practices (along with their possible contradictions) are more or less displaced at the institutional analysis level.
restrict the relevant industry agent's choice of activity in some way. But outcomes may also reconfigure or repeal existing restrictions.

The very possibility of the regulatory process as it currently exists is dependent on the existence (and reproduction) of a fairly stable web of state institutional forms (the relations between different branches of government, judicial review, the public hearing process, for example) "held in place" by a particular distribution of rules and resources (the constitution and various statutes, for example) which policy actors differentially draw upon, reproduce, and occasionally transform. These institutions (some more than others) represent the shared intersubjective understanding about the preconditions for meaningful action in the policy process. In short, these structures and institutions constitute actors as subjects of the policy process in the sense that they contribute in distinct ways to the production of state and non-state actor's practices. These structures and institutions (again, some more than others) also organize the practice of policy actors—in terms of the ways in which they constrain choices.

Figure 4 captures the fact that conditions preceding particular policy actions may be either acknowledged or unacknowledged by the actors involved. These conditions include relatively stable features such as the distribution of resources, socio-cultural values, and the basic constitutional framework, as well as more dynamics factors such as changes in socio-economic conditions, changes in governing coalitions and the effects of policy decisions and impacts from other policy processes. The conditions preceding action, whether

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2 This is consistent with Mitnick's (1980, p. 9) definition of regulation.

3 "Intersubjectivity" does not mean approval or consensus, just common recognition and understanding (Cox 1989, p. 38).

4 See Derthick & Quirk (1985) and Sabatier (1988), for example.
acknowledged or unacknowledged, both enable and constrain agency. The actual pattern of constraint and enablement is dynamic, filtering and transforming the choices and actions of agents in ways which can either reinforce or modify existing structures (or both at the same time) and thereby institutional practices. The relation between the various agents are characterized by the dialectic of control in interaction. This interaction always takes place in and is partially constituted by specific spatial settings or locales. Agents relate to the relevant structural forms (signification, domination, legitimation) and their institutional modalities (symbolic, political, economic, legal) via the duality of structure. The continuous interaction between agents and structure yields outcomes which may be either intended, unintended, or some combination. These outcomes set the entire process within the *longue durée* of social reproduction—the outcomes from interaction form the preconditions for action in the next *durée*.

The model is specifically intended for the analysis of the structuration of the US federal telecommunications regulatory policy process. The agents and institution categories represented in the model reflect theoretical and empirical consideration of actual agents and institutional forms as well as the various abstract institutional forms identified by Giddens (see Figure 2). In the following two sections, I provide these categories and their interrelations with some content. More specifically, abstracting from the relevant literature, I detail the ideal type conceptions of agents and institutions associated with the telecommunications regulatory policy process. As I argued in Chapter III, these ideal types "involve the logical extension of certain aspects of reality into a pure, artificial yet logically possible type against which existing phenomena can be measured and compared."^5

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Agents

According to Giddens, strategic conduct analysis requires that the analyst provides insight into the dialectic of control between and among knowledgeable motivated actors, including a description of resources available to the various actors, and how such resources are used. Drawing on the relevant policy literature, I identify the relevant individual and collective actors and give particular attention to the range of structural elements--resources and rules--which actors may draw upon in their relations with each other.\(^6\) Eight individual and collective agents are identified and discussed--politicians/congress, bureaucrats/independent regulatory commission, the president/executive agencies, judges/judiciary, interest groups, media agencies, "external" experts, and individual citizens. The dialectic of control is assumed to mediate relations within agents (when collective) as well as between and among agents. It should be noted that I am not claiming that the eight actor categories are involved in all telecommunications regulatory policy processes or that they are the only possible participants in these processes. Rather my claim is that the relevant literature, taken as whole, identifies these actors as the relevant participants in regulatory policy processes.

Politicians/Congress and Bureaucrats/Federal Communications Commission: The study of regulatory policy-making is dominated by a number of debates. One of these debates concerns the nature of the dialectic of control between bureaucratic agencies and politicians. Two conflicting perspectives can be identified--the "political control" and "bureaucratic politics" perspectives. My intention here is not to argue that one perspective is in some way "better" than the other. Rather, my objective is to provide a brief

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\(^6\) It should be remembered that these structural elements may be drawn on at the discursive and/or practical levels of consciousness.
examination of the debate, thereby foregrounding the kinds of rules and resources that politicians and bureaucrats draw upon in the course of the regulatory policy process.

Proponents of the "political control" perspective argue that Congress in general, and congressional oversight committees in particular, dominate the regulatory policy process.\(^7\) The core argument is that bureaucratic discretion is exercised within the parameters established by elected officials who possess a host of resources to direct regulatory agency action and force accountability, thereby guaranteeing that the relevant legislative constituents are served. Shooshan and Krasnow appear to endorse the "political control" model with reference to the telecommunications regulatory policy process: "[T]he FCC's independent status has been subtly transformed to a level of abject dependency on its relationship with Congress."\(^8\)

The most common resources used by members of Congress to influence regulatory agencies are: appropriations, legislation, hearings, legislative vetoes, and informal contact.\(^9\) Congress, because of its control of the purse strings, can reduce the budgets of regulatory agencies.\(^10\) In addition, during the process of passing legislation that authorizes funds for an agency, amendments or riders can be added that restrict agency actions. Through the legislative process, Congress can alter agency procedures or even redefine an agency's

\(^7\) Calvert, Moran & Weingast (1988), Fiorina (1977), Mayhew, 1974), and Wood & Waterman (1991), for example.

\(^8\) Shooshan & Krasnow (1987, p. 619). Unlike most "political control" scholars, Shooshan and Krasnow do not see this state of affairs as particularly desirable.

\(^9\) Meier (1985, p. 23).

\(^10\) Since 1981, the FCC has lacked a permanent annual grant of funds each year Congress is free to decide how much money it will provide to the FCC--and on what conditions.
mandate. Part of the congressional oversight process includes hearings designed ostensibly to determine what an agency has been doing or how new policy problems should be solved. Members of congress often draw on this mechanism to embroil agency bureaucrats in long oversight hearings. Hearings also enable Congress to influence the regulatory process by participating in the appointments process of high-level agency personnel. In past years, the legislative veto has been used effectively by Congress to alter regulatory agency decisions. This requires a critical mass of members of Congress to vote to reject proposed regulatory rules. Informal channels of contact (e.g., phone calls, letters) can be drawn upon by members of Congress to affect in some way the decisions of the regulatory agency. Since such activity is often hidden from public view, it is difficult to assess its importance. The effective exercise of some of these tools and resources requires collective mobilization of members of Congress (e.g., legislation, budgets); majorities may have to be built and rebuilt at several junctures. Because Congress itself is often fragmented, it offers multiple points of access for determined minorities to block or weaken proposals. Other tools and resources can be employed by the individual member of congress (e.g., informal contact).

The above list of resources is not exhaustive. In interactions with members of regulatory agencies as well as with other participants in the regulatory policy process, members of Congress may draw more or less effectively on their status as the elected representatives of the people to legitimate their action.\(^\text{11}\) The information gathering mechanisms at the disposal of many members of Congress (particularly as members of subcommittees)\(^\text{12}\) cannot be underestimated. This authoritative resource may afford elected

\(^{11}\) Moos & Dear (1986, p. 247).

\(^{12}\) The primary responsibility for dealing with communications legislation rests with two subcommittees. In the House, it rests with the Committee on Energy and Commerce's subcommittee on
officials comparable or greater discursive knowledge of the issues involved in particular telecommunications policy issues vis-a-vis other agents. As I discuss later, the importance of this resource may partly account for the receptiveness of many politicians to concepts and theories developed by "external" experts.

Proponents of the "bureaucratic politics" perspective do not dispute that the resources described above exist. Rather their problem is with the assertion that they are sufficient to force an immediate and fairly passive response on the part of bureaucratic agencies. Indeed some proponents of this perspective go so far as to suggest that the reservoir of rules and resources at the disposal of regulatory agencies make them more or less impervious to external control by congressional oversight committees. They conclude that in order to understand policy-making one must understand bureaucratic discretion in action.

The source of regulatory agency autonomy is said to be located in the availability of five resources: expertise, cohesion, legislative authority, policy salience, and leadership. Rourke argues that bureaucrats in the course of the regulatory policy process are able to draw on an organizational form that is designed to develop and store knowledge. Thus specialization and professionalization (structural elements) permit an agency to develop independent stocks of knowledge so that agency members need not rely on the regulated

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Telecommunications and Finance. In the Senate, it rests with the Committee on Commerce, Science, and Transportation's Subcommittee on Communications.


industry (or others) for information.\textsuperscript{15} Of course, expert or professional knowledge is not all of one piece; each provides distinct though often overlapping interpretative schemes. As Gormley explains: "Each profession [e.g., attorneys, economists] brings with it a peculiar world view, a set of predispositions, and certain blind spots.... Thus, if the level of resources determines a bureaucracy's ability to cope with different kinds of problems, the mix of professionals determines how it copes with such problems."\textsuperscript{16} Agency personnel can draw on the widespread "respectability" and "authority" of "scientific" discourses to legitimate their decisions.\textsuperscript{17}

A second, structural feature of the regulatory agency that can be drawn on by agency members in interaction is the agency's cohesiveness. Thus high-level agency executives may prove to be more effective in forging ahead with a particular policy when he/she (as well as other agents in the policy process) know that elements within his/her agency are not in collusion with interests external to the agency. Put another way, the agency's cohesion may reduce the resources at the disposal of external interests: "[i]f agency personnel are united in pursuit of their goals, coalitions opposed to agency actions will need to develop their own sources of information to challenge agency decisions."\textsuperscript{18}

All regulatory agencies operate by virtue of legislative mandate. These mandates may be specific or vague. The latter best describes the Federal Communications

\textsuperscript{15} See Eisner (1993) for an extended discussion. As I discuss later, this assertion is vigorously contested by some proponents of "capture theory" who suggest that the regulated industry's near monopoly of relevant information is a crucial factor in giving them a privileged position within the dialectic of control.

\textsuperscript{16} Gormley (1983, p. 29).

\textsuperscript{17} Eisner (1993, p. 132).

\textsuperscript{18} Meier (1985, p. 16).
Commission's mandate which is enshrined in the Communications Act of 1934. The FCC was authorized by the Act to ensure telecommunications service providers operate in the "public interest, convenience and necessity." Other than inveighing the FCC to secure a rapid, nationwide wire and radio communications service at reasonable rates, Congress did not provide the FCC with substantive guidelines as to what actually constitutes the "public interest." For some, the vagueness or flexibility of the public interest standard is a source of agency power: "The more vague the legislative expression of goals, the greater the agency's ability to set regulatory policy. Specific policy goals should be correlated with regulation in the interests of whichever group has the best access to Congress. Consequently, specific goals are associated both with...regulation in the interests of the regulated...and with regulation for the benefit of the non-regulated."19 Others argue that the FCC's vague statutory mandate serves to restrict its autonomy: "Rather than encouraging greater freedom of action, vagueness in delegated power may serve to limit an agency's independence and freedom to act as it sees fit.... 'Administrators cannot be given the responsibilities of statesmen without incurring likewise the tribulations of the politicians'."20

A regulatory issue's political salience may be used as a resource by the regulatory agency (and others). Gormley argues that the salience of an issue may partly determine the willingness of political elites to intervene in the regulatory process.21 When issues become salient (e.g., the increasingly widespread perception that telecommunications and

19 Meier (1985, p. 16).


associated information-communication technologies are central to the wealth of "state" and "nation"), the rewards for successful intervention are greater for elected officials. In salient issue areas, therefore, members of regulatory agencies are more likely to have their actions closely watched by political elites. Gormley argues that a lack of salience is of advantage to the regulated industry because it will have relatively little opposition to its demands.

The quality of agency leaders and the nature of their goals are important factors in the regulatory policy process. Leaders' personal characteristics and motivations are of particular interest because they occupy "nodal institutional positions" at the top of organizational hierarchies and are therefore able to mobilize considerable resources. That is, because of their decisional capacity, their actions and interactions can dramatically affect a large number of people. How far this capacity can be used to secure specific outcomes depends upon securing whatever compliance is necessary from others. It should be made clear here that I am not suggesting a "Great Men" approach to the study of the regulatory policy process. Paraphrasing Mouzelis, my remarks simply recognize the common sense fact that some individual actors, by virtue of their position vis-a-vis structural elements, contribute more to the regulatory policy process than others. For example, like many prolific politicians, the heads of independent regulatory commissions, have greater access to such resources as the media because of their social position. Of

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22 For example, partly through the leadership of Michael Pertschuk in the late 1970s and early 1980s, the Federal Trade Commission (FTC) became less tied to the interest of the regulated industry and more interested in consumer issues (Pertschuck, 1982).

23 This term is borrowed from Philip Cerny (1990, p. 5).


course, these remarks apply to individual occupants of positions at the top of many large-scale organizational hierarchies.

The President/Executive Agencies: In recent years, the president and his staff have played a significant role in the regulatory policy process. The Carter Administration was perhaps the most active, recruiting consumer advocates to government posts, and sponsoring a number of "deregulatory" initiatives. The power to appoint the chairperson of regulatory agencies, even though subject to congressional confirmation, provides the president with a vehicle for influencing the general direction of agency policy. Reagan's appointment of James Miller III to replace Michael Pertschuk as head of the Federal Trade Commission, was designed to limit the consumer activism of the Federal Trade Commission, for example. Reagan's appointment of Mark Fowler and then Dennis Patrick as successive FCC chairmen provided a general pro-business policy direction at the agency.

In recent years, the National Telecommunications and Information Administration (NTIA), housed in the Executive Branch's Department of Commerce, has emerged as an important player in the telecommunications regulatory policy arena. Its mandate and authority is derived from Executive Order 12046 which directs the agency to make recommendations regarding long-run trends affecting the US telecommunications sector and to coordinate telecommunications policy in the Executive. It is also charged with fostering the development and growth of communications industries, as well as the industries' customers and clients. According to Pitt and Morgan, partly because of its

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27 For a more detailed discussion of how the presidency can influence the regulatory policy process see Moe (1982).

responsibility for coordinating telecommunications policy, the NTIA has "assumed the role of chief political choreographer of the [anti-MFJ] coalition.... Indeed, the NTIA was the first federal agency to question the wisdom of the divestiture agreement because it sees the MFJ as warehousing half the nation's telecommunications industry at a time when the United States position in high technology is under threat."29 During the 1980s and early 1990s, the NTIA has been an outspoken advocate for fashioning telecommunications policy that recognize the interconnectedness of domestic and international telecommunications policy issues (trade and international competitiveness issues, for example).

Judges/Judiciary: Since the break-up of AT&T, the divestiture court headed by Judge Greene, has emerged as a major player in shaping telecommunications regulatory policy.30 As noted in chapter I, the court was often embroiled in acrimonious disputes with the Regional Holding Companies (RHCS) and their allies (the FCC and the Department of Justice) throughout the 1980s. Judge Greene has drawn on a number of rules and resources in this dialectic of control.31 The divestiture of AT&T and accompanying "Modified Final Judgment", of which Greene was a principal architect, contained many new rules ("line of business restrictions" and "the equal access plan", for

29 Pitt & Morgan (1992, pp. 49-50). According to the authors, this coalition includes the Department of Justice, the FCC and the Regional Bell Holding Companies.

30 Pitt and Morgan (1992, p. 45) suggest that the US telecommunications policy-making structure has been radically transformed as a result. They speak of "parallel regimes of regulation"--the traditional FCC regime and the new court regime of Judge Greene. They argue that these two power centers send radically different regulatory signals to the domestic telecommunications community.

31 It should be emphasized that access to these resources does not in anyway explain Judge Greene's behavior.
example) by which the newly formed local exchange companies and the divested AT&T had to abide. A number of MFJ provisions require Judge Greene's court to remain involved in overseeing the various changes taking place in the industry. Furthermore, the court has retained general enforcement authority, and oversight obligations, under the Tunney Act. In carrying out this oversight role (the mandated triennial reviews of the telecommunications industry, for example), Judge Greene has drawn on the norms, sanctions, and stocks of knowledge embodied in the language and logic of antitrust law (the Sherman Act and its interpretation over the years, for example), and on the interpretative schemes provided by the particular tradition of economic theory which has historically been interwoven with this body of law.

A different court, the US Court of Appeals for the District of Columbia, may be best viewed as a possible resource that can be used by policy process participants. More specifically, regulatory procedures (specifically, those required by the Administrative Procedure Act of 1946) furnish policy process participants with the option of appealing FCC decisions and actions to this court. This option is often used by those participants who benefit from delaying changes. Even if the court does not reverse the decision in question, a delay can be used to marshal other resources to combat or stave off the worst effects of the decision. The possibility of appeal and reversal is often factored into FCC decision-making processes, thus constituting a constraint or limitation on FCC action.

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32 Bruce, Cunard & Director (1986, p. 182).

33 Meier (1985, p. 30).

34 Brotman (1982).


Interest Groups: Another issue which dominates the study of regulatory policy-making concerns the nature of the dialectic of control between regulated industries and regulatory agencies. The majority of contemporary theories that focus on this relationship are often referred to as "political economy" theories. Rejecting the concept of some transcendental "public interest," they see regulation as the use of "the coercive power of government...to give valuable benefits to particular individuals or groups." Proponents of various versions of this "school" see regulatory decisions as the result of competition among various parties, each of which has differing goals. Regulatory decisions reflect the relative power and influence of these parties. The school also generally sees the regulated industry as the most interested party and one with the greatest number of resources available to influence regulatory decisions.

A problem with this school of thought is that the regulatory agency tends to be treated as a "black box". Put differently, the agency is not conceptualized as an active purposive participant in the dialectic of control; changes in regulatory policy and strategy are seen as outcomes of bargaining among interests whose relative power is shifting, not as

35 Posner (1974, p. 344), also Stigler (1971). These so-called "political economy" theories are the latest in a line of theories which suggest that regulatory agencies operate more or less systematically in the interests of the regulated industry. Marver Bernstein (1955), studying the "life cycles" of regulatory agencies, argues that whereas concern for the public interest may have been the initial reason for creation of regulatory agencies, the regulator's commitment to that public interest fades over time due to diminished public support and continued proximity to and interaction with the industry. Eventually, regulatory agencies become "captured" by the industries they regulate. Other commentators, Gray (1940) and Kolko (1963) for example, agree with Bernstein that regulated industries dominate the regulatory agencies. But this has always been the case, they argue. Regulatory agencies, they argue, were created at the behest of industries aspiring to be regulated monopolies.

36 This school has much in common with pluralist theories of the policy process (e.g., Krasnow, Longley & Terry, 1982). A major difference between the two, is that while the former suggests that the regulated industry benefits from the regulatory process on a fairly systematic, long-term basis, a major tenet of the latter is that no one actor dominates the policy process because power is sufficiently dispersed throughout the economy and polity.
"choices" made by regulators. Nevertheless this literature does highlight a crucial relationship in the policy process, and, when taken together with other literature on interest groups, it provides insights into the kinds of rules and resources that can be drawn on by industry and non-industry interest groups when seeking to influence regulatory policy formation.

Most would agree that regulated industries possess greater resources than regulatory agencies or other interest groups involved in the regulatory policy process. The industry's access to substantial capital sources (an allocative resource) is translated into a plentiful supply of authoritative resources--expertise in the form of top-of-the-line legal consultants and lobbyists, technical and policy reports produced by in-house and external research agencies, as well as large public relations campaigns. In particular circumstances, the large amount of resources available to the regulated industry allows it to benefit from a structural feature of the US policy process--its litigious nature. As Horwitz remarks, "[a]rguing one's case in administrative or judicial arenas is so expensive that those parties with the most resources can be expected to prevail in most instances and over the-long run." Furthermore, "[u]sually poorly funded, agencies must depend on industry for technical information and expertise..." Noll and Owen characterize this informational asymmetry (unequal distribution of an authoritative resource) in the following way:

The FCC could not determine AT&T's costs, nor could it settle on a sensible cost-based for pricing. One set of AT&T prices, the Telpak tariff,

37 See Mitnick (1980, pp. 115-116). At the empirical level, these theories cannot explain those situations where regulatory agencies have pursued policies contrary to the interests of regulated industries. See Mitnick (1980) and Quirk (1981), for example.

38 See Reich (1987) for an analysis of this structural feature.

39 Horwitz (1989, p. 28).
went through nearly two decades of hearings without a final determination of its lawfulness. It was apparent that even with a fully informed regulatory policy and the best will possible, the FCC could not cope successfully within available administrative procedures with AT&T's control of the information necessary to regulate prices effectively.

These comments refer to an episode in the pre-divestiture era. In the post-divestiture era, the nature of this informational asymmetry is likely to have changed somewhat because of alternative information flows to the FCC from the regulated industries' actual and potential competitors.

Other interest groups engaging in the telecommunications regulatory policy process (citizen groups, large and small industry user groups, for example) draw on different, often highly unequal amounts of the kinds of allocative and authoritative resources described above. In the dialectic of control, these interest groups may also draw in a differential way on a number of other resources. If the interest group can claim a large membership or credibly claim to speak for significant sections of the electorate, decision-makers are more likely to confer legitimacy on their claims. Such factors are also likely to determine the interest group's inclusion and role in advocacy coalitions. Some groups are able to draw on the perception, widespread in government and elsewhere, that their well-being is of central importance to the health of the economy (some of the largest and wealthiest companies in the US are affiliated with interest groups representing corporate telecommunications users). The cohesion of the interest group is another structural element that may be drawn on by group spokespersons in interaction: "Analysts of interest

40 Stigler (1971).

41 Sabatier (1988).

42 Meier (1985, p. 19).
groups have long argued that the most effective lobby tactic is to provide technical and political information to allies.... The value of information increases dramatically if it is the only information available. Cohesion among an interest's members is, therefore, a vital resource."43

Various citizen groups are able to draw on particular principles and criteria embedded in contemporary administrative law in their efforts to influence regulatory policy decision-making processes. Under traditional administrative law the judicial oversight of agency discretion was to protect the private autonomy of those subject to regulation. As Horwitz explains, this "[e]ssentially...meant that [legal] standing was accorded to those parties possessing a property interest potentially affected by agency action. Those parties without property rights were thought to be protected by the regulatory agency itself and had no legal standing." Horwitz goes on, "[d]uring the Great Society the traditional model...changed. The courts essentially accepted the argument that regulatory agencies had been captured by regulated industries. The expansion of standing would permit other than industry groups to articulate interests and policies before regulatory agencies." Horwitz concludes, "[t]he effect of this transformation was to ensure that fair representation of a wide range of affected interests in the process of administrative decisions."44 It should be remembered that the ability to participate in this process is still dependent on access to various allocative and authoritative resources.

**Media agencies:** The role of the media in the policy formation process has not received much attention in the relevant policy literature.45 On those occasions when policy

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43 Meier (1985, p. 20).

44 Horwitz (1989, p. 80).

45 Spitzer (1993a).
specialists have focused on the media it has been determined that it plays a marginal role in setting agendas and in other aspects of the policy process.\textsuperscript{46} Borquez, a media specialist, questions this conclusion by correctly pointing out that existing theories and models of the policy process have not yet captured the complexity and intricacy of the media-policy link.\textsuperscript{47} His discussion, along with the comments of other media specialists, draws attention to the ways in which media agents are involved in the dialectic of control which is constitutive of the regulatory policy process.

The media may be used as a resource by the various policy actors. For example, government agency personnel may leak information to the press with the purpose of altering policy, suggesting policy, and/or slowing down the policy process.\textsuperscript{48} If the media (the trade press are particularly important in the telecommunications sector) are understood as conduits regulating the flow of information between policy-makers, policy actors and an interested audience, then the various connected actors can be viewed as using the conduit to broaden the scope of a particular policy conflict, or to provide signals to allies in other agencies, or to mobilize public opinion.\textsuperscript{49} To mix metaphors, the media can also be

\textsuperscript{46} Kingdon (1984, p. 62), for example. He points out that media messages have little impact on top policy makers due to a "tendency to cover a story prominently for a short period of time and then turn to the next story, diluting its impact." He also argues that the media's limited influence stems from the tendency for stories to appear toward the end of the policymaking process instead of at the beginning.

\textsuperscript{47} More specifically, Borquez (1993, p. 35) points out that Kingdon "fails to consider the possible impact of interactions between media personnel and other policy actors. The amount and nature of contact between reporters and officials can have significant impact on the policy process..."


\textsuperscript{49} Spitzer (1993b, p. 9).
understood as a site or series of sites for actors (at least those who have the resources to access these sites) to compete over the construction of "issue cultures".\textsuperscript{50} It should also be noted that for many groups, particularly resource-poor groups, media attention may be the vehicle for gaining recognition as a legitimate policy actor.\textsuperscript{51} Having said that, "[b]ecause of the value placed on familiar, noteworthy people and groups, established actors, especially those holding formal positions of authority, have much easier access to news coverage than do new or anti-establishment actors."\textsuperscript{52}

The above remarks tend to portray media personnel as tools of particular policy actors. This is not in fact the case. As Borquez explains, it may be in the interests of media personnel to forge close links with particular policy actors:

Like individuals in many other settings, journalists are constrained by finite resources, yet they are expected to generate newsworthy material on a continuing basis. These demands, taken together with [journalistic] norms and standards...contribute to routines of newsgathering. These routines are designed to reduce workload, and from the standpoint of media personnel, they appear quite rational....

The beat is a system of regularized contact with sources on a particular topic... The set of sources comprising a beat emerge not by accident but is related to the criterion of newsworthiness... These sources tend to be 'legitimate' newsmakers, most often government officials.... This affords such actors advantages in shaping the content of the public agenda and the course of public discussion on issues...

The beat system offers several advantages to media personnel. First, by limiting the number of contacts it significantly reduces their workload.

\textsuperscript{50} Borquez (1993, p. 34), following Gamson & Modigliani (1987, 1989), defines "issue cultures" as "packages of interpretations and arguments about the causes of and acceptable solutions to social problems." This notion has certain obvious affinities with Giddens' "interpretative scheme" concept (see Chapter II). Once produced, "issue cultures" can be understood as structural features of the policy process. Borquez continues, "[t]o a large extent the prevailing issue culture of a policy domain sets the boundaries for 'legitimate' public debate" (p. 34).

\textsuperscript{51} Goldenberg (1975). Of course there is no guarantee that coverage of these groups will be favorable. Indeed resource-poor groups often have to resort to demonstrations or other kinds of eye-catching behavior to get the media's attention. This behavior may very well be portrayed in a negative light (Gitlin, 1980).

\textsuperscript{52} Borquez (1993, p. 36).
Second, regular interaction with sources on the beat enables journalists to establish rapport, enhancing their ability to obtain information. At the same time, an ongoing relationship with—indeed, reliance on—official sources for information may make journalists vulnerable to manipulation or management by newsmakers. The nature of the relationship between journalists and their sources can be difficult to discern, though it is of unquestionable importance to the policy process.53

The structural framework—journalistic norms and standards, and the economic and organizational imperatives of news organizations—encourage the development of particular institutional forms (the beat system, for example). Media personnel (their preferences and interests) are constituted and regulated by this structural framework. While these remarks properly belong in the following section (analysis of the institutional domain as opposed to analysis of the agency domain), I want to emphasize here the fact that media personnel should not be construed as the supplicants of particular policy actors. Rather, given the structural framework within which journalists operate there is a fairly significant probability that their practices will benefit some policy participants more than others. Put differently, the way journalists frame ideas and issues are likely to favor some policy actors in a fairly systematic way.

"External" Experts: "External" experts are agents such as academics and consultants who are based in non-government organizations, and who play an important role in the generation, dissemination, and evaluation of policy-relevant knowledge. The relationship between external experts and the policy processes they may impact has two aspects or moments. There is the influence experts and their ideas have on the policy process and there is the influence policy processes have on the nature of the expert's knowledge production. The former has been the focus of the bulk of the relevant

More specifically, a substantial literature focuses on how academics, in particular, influence decision-makers.

The consensus in this literature is that only rarely does a specific piece of social science research strongly influence a major policy decision. Instead, the more usual pattern, it is argued, is a process of "enlightenment" whereby the research findings accumulated over time gradually alter decision-makers' perceptions of the seriousness of "the problems", the relative importance of different causes, and/or the effects of major policy programs. As Carol Weiss puts it: "Not single findings, one by one, but ideas from social science research appear to affect the development of the policy agenda. Social science research is one of the sources from which participants in the policy process derive their sense of how their world works. They draw on it to understand current conditions, the options available for coping with problems, and the limits of the attainable. When they act, they draw upon their whole stock of knowledge which includes, in some unmeasurable quantity, the research to which they have been exposed." Policy-makers are likely to have been exposed more to some kinds of social research than to others. With respect to the telecommunications regulatory policy process, Brennan notes the negligible impact communication theory and research have had on the policy process as compared to economic theories and concepts.

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54 For a broad survey see Brooks & Gagnon (1990).

55 Caplan, Morrison & Stambaugh (1975), Derthick & Quirk (1985), and Weiss (1977), for example.

56 Weiss (1983, pp. 219-220), author's emphasis. See also Weiss (1980).

57 Brennan (1992). He writes, "[m]edia policy in the USA has become a colony of the economic imperialists. Major economic concepts--price, cost, consumer welfare, efficiency, market power, monopoly and transaction costs--have dominated the generation and evaluation of broadcasting and telecommunications policy initiatives since the middle of the Carter Administration" (1992, p. 460).
External experts draw on numerous resources when attempting to influence policymaking processes. The expert's discursive knowledge of particular issue areas as well as their command of widely-accepted theories and concepts is a primary authoritative resource drawn on when the expert seeks to influence the policy process. Of course, access to allocative resources in the form of grants or fees is a crucial prerequisite for the production of much of this knowledge. The expert's personal reputation, the reputation of the organization he or she is affiliated with, and the informal lines of contact he or she may have with funding agencies and key policy participants are other important authoritative resources. Weiss' analysis does imply that the probability of external experts impacting policy-making is increased if the experts in question have access to yet another authoritative resource--discursive knowledge of how information is used in policy-making. For example, she argues that research results that are completely out of line with accepted or dominant knowledge forms are likely to be regarded with some skepticism by policymakers. In such circumstances the methodology of the expert is criticized. But, Weiss argues, "[r]esearch that merely repeats the obvious and accepted is also likely to make little dent. It has a "ho-hum" quality about it and seems to deserve little attention. It is in the middle-ground between "what everyone knows" and what "can't be right" that research has the greatest possibility for expanding and extending policy actors' understandings of the

58 The terms by which research is funded is likely to significantly affect the nature of the knowledge produced. A funding agency may set the research agenda, for example. In order to make sure that he/she is funded on a regular basis by particular funding agencies, the researcher may produce "inoffensive" research. See Rowland (1986) and Shields (1989), for example.

59 This argument has some similarities with that of Melody & Mansell (1983). The latter suggest that discursive knowledge of the dynamics of the policy process "is essential to minimize the degree to which research and researchers are merely pawns in the policy process" (1983, p. 113).
issues." Weiss also suggests that researchers may take advantage of the fact that policy-makers generally have multiple and conflicting goals. These policy-makers may seek information in order to reconcile these goals or justify a trade-off. Finally, Weiss points out that expert research may be directed at key actors (politicians, public interest advocates, for example) who are casting around for information on a key issue.

Individual Citizens: Most citizens lack the allocative and authoritative resources required to participate in the federal regulatory policy process, even when they have discursive knowledge of the various issues at stake. Rather citizens exert influence on regulatory policy only to the extent that they collectivize through participation in interest-group formations. Nevertheless, on any particular issue the occasional interloper—Ralph Nader or Ross Perot, for example—may intervene and activate or sway the policy-making process. However, there is a qualitative difference between these "influential" citizens and most other citizens which is based on the former’s privileged access to allocative resources (control over important economic production and distribution processes, for example) and authoritative resources (informal channels of contact, reputation and status, access to media, for example). This privileged position vis-a-vis structural elements, if mobilized,

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61 Weiss (1983, p. 233) offers the following example: "The nation's President can be in favor of a balanced budget and low unemployment. But we live in a complicated, multivariate world full of dynamic interchanges. When economic research indicates that reduction of federal outlays will increase unemployment, the President can (1) accept one or the other objective as paramount, at least for a time, and ignore the other, (2) try to strike a balance between government spending and unemployment somewhere along the spectrum short of a balanced budget, or (3) seek out different, more congenial research or different interpretations of existing research."

62 According to Derthick and Quirk (1985), Senator Kennedy, seeking an issue with which to bolster his presidential bid, played a key role in the deregulatory movement of the 1970s. They argue that Stephen Breyer, a professor at Harvard University, had convinced Kennedy that airline regulation was that issue.
may give the relevant individuals significant power and legitimacy in the dialectic of control.

In this section, I identified the individual and collective actors that are most likely to be involved in the telecommunications regulatory policy process. Applying an adapted version of Giddens' notion of strategic conduct analysis to the relevant literature, I detailed the range of structural elements—resources and rules—which policy actors may draw upon as sources or media of power in the dialectic of control. This kind of analysis has some superficial similarities with pluralist analyses of the regulatory policy process.63 Both are concerned with identifying various resources that actors may draw on in interaction.64 But only the pluralist analysis explains policy more or less exclusively in terms of the conflict between unequally endowed actors. As I began to hint at in this section, the influence of particular policy actors has as much to do with the rules and organization of government as it has to do with access to particular allocative and authoritative resources. Furthermore, I understand rules and other structural features as having significant explanatory power because they constitute as well as regulate policy participants. By contrast, the pluralist analysis takes the identities, powers, and interests of policy actors as exogenously given.65 To the extent that structural factors are recognized, they are viewed as constraining the choice of pre-existing actors. But actor's preferences are formed in relation to various often conflicting institutional or structural logics.66

63 See Krasnow, Longley & Terry (1982), for example.

64 Though I cover a larger range of actors than the typical pluralist analysis—see Krasnow, Longley & Terry (1982), for example.

65 Noll (1986, pp. 53-55) concurs with this assessment.

66 These include societal-wide structural features such as class, gender, race, religion and locality as well as those structural features internal to the regulatory policy process.
Structures and institutions

In this section, the focus is squarely on the structural forms and institutional arrangements associated with the telecommunications regulatory policy process (these include those structural forms and institutional arrangements internal to the process and those which are external to but impinge on the process). In Giddens' terms, I bracket for the most part consideration of strategic conduct and "treat structuration as the expression of 'impersonal' connections between structural properties."67 A theoretical framework capable of guiding research on how power operates in and through the regulatory policy process must provide the necessary tools for identifying and examining the relevant institutional forms (as well as the structural elements which organize these institutions). As Giddens puts it:

Power as the capability to effectively decide about courses of events, even whether others might contest such decisions, is undeniably important. But 'decisions', and 'contested policies', represent only one aspect of domination. The term 'non-decision-making' is an unhappy one to refer to the other aspect of power.... What matters is not just that certain decisions are not made, but that they are not even considered. Non-decision-making, in other words, is not accurately seen as just the obverse of decision-making, but as influencing the circumstances in which certain courses of action are open to 'choice' in any way at all. Power may be at its most alarming...when applied as a sanction of force. But it is typically at its most intense and durable when running silently through the repetition of institutionalized practices.68

A theoretical framework developed to enable the study of the "taken-for-granted" institutional and structural features associated with the regulatory policy process can reveal the principles and criteria that: organize conditions of access to the regulatory policy


68 Giddens (1985a, p. 9).
process, distribute authority among participants and govern their relations (their allowable actions and strategies, and the conditions for and forms of communication between actors, for example); and organize the ways decisions are made and presented. This kind of analysis may suggest why certain issues are more likely to get on to the policy agenda while others receive little or no attention. It may also help explain why particular solutions are more likely to be considered appropriate for consideration.

Giddens provides two suggestions concerning how to think about institutional arrangements and their analysis, as I discussed in Chapters II and III. Both points are built into the framework developed here. The graphical representation of the first point is not included in Figure 4 because it would render the figure too unwieldy. Giddens' first suggestion is that a distinction should be made between different levels of institutional or structural analysis. The most abstract level of analysis deals with "structural principles." To study such principles is to examine the major alignments of the institutions which constitute society (for example, the relations between economic institutions and state institutions—the extent of their differentiation and the nature of their articulation is of primary concern). At more concrete levels of analyses, the concern is with the structural properties of those institutionalized practices which bare most directly upon the relations established between individual and collective agents in social interaction. Where possible, I

69 Giddens' analysis suggests that what is "taken-for-granted" varies among agents and is therefore, to a large extent, an empirical question. In applying Giddens, Patrick Parsons (1989) suggests that all agents in the policy process take the institutional framework of the policy process for granted. I interpret this to mean that all policy participants have mostly practical (as opposed to discursive) knowledge of this framework. This kind of a priori assertion is problematic for two reasons: (i) Clearly there are those who have much more discursive knowledge of elements of this framework than others. Legal specialists, for example, may very well be aware of the biases associated with these elements and actively seek to exploit them. Furthermore, as Giddens suggests the boundary between practical and discursive knowledge is porous. Thus not only will the relationship of the two knowledge domains tend to vary among agents, it is likely to vary over time with each agent.
distinguish between these levels of analysis. I also suggest how the linkages between these levels should be conceptualized.

Giddens' second suggestion concerning the analysis of institutional arrangements is incorporated explicitly in Figure 4. He provides a set of categories—symbolic, economic, political, and legal—for elucidating institutions as modalities of particular structural sequences (see Figure 2). Put differently, various institutional forms or sedimented practices are organized by and reflect combinations of signification, domination and legitimation structural features (these interdependent features are drawn on and reconstituted in interaction). The particular combination of structural elements determines whether an institutional form can be considered primarily a symbolic, economic, political, or legal form. For example, symbolic institutions refers to those institutional forms through which signification is organized. But symbolic orders are necessarily interwoven with forms of domination and legitimation (see Chapter II).

Giddens' understanding and classification of institutions provides regulatory policy researchers with the beginnings of a framework for thinking in a non-reductive way about the interplay between various structural elements (rules and distributions of resources) and institutional logics associated with the regulatory policy process. In the remainder of this section, I disentangle or abstract the major symbolic, political, economic, and legal institutional forms from the dense web of institutional practices associated with the telecommunications regulatory policy process. More specifically, Giddens' abstract institutional categories are used as a means of identifying and organizing existing theoretical and empirical knowledge of the various institutional arrangements associated with the policy process. This operation takes considerable effort because Giddens' treatment of the various institutional categories (symbolic, political, economic, and legal) is extremely vague, as I mentioned in Chapter II. In his many writings, he has devoted little time to specifying the content and form of and relations between these institutional forms.
It should be emphasized that this "disentangling" process is an analytical maneuver only; institutional arrangements are inextricably intertwined, in practice. The resultant mapping of institutional forms is an important element of the proposed framework. The mapping is intended to direct researchers towards identifying and examining the internal logic of various institutional orders, including their reproduction requirements, and thus prescriptions for competent practices, as well the articulation between these forms. The hope is that the researcher may be guided by the framework to trace the ways in which policy actors are positioned vis-a-vis various institutional features of the regulatory policy process, some of which may be incompatible. Identification of such incompatibilities, or lack thereof, may contribute substantially to explanations of policy stability and change.

**Economic Institutions:** Economic institutions refer to those routinized practices through which the asymmetric distributions of allocative resources are organized. Allocative resources refer to (i) the material features of the environment (raw materials, for example), (ii) the means of material production (instruments of production, technology, for example), and (iii) produced goods (artifacts created using the first two resources). A long-standing debate among social and political theorists concerns the extent to which the reproductive requirements of economic institutions determine the nature of other institutional forms. This controversy is concerned with the nature of "structural principles," in Giddens' argot. At stake is the nature of the relations between and among society's major institutional spheres. With respect to the policy process, some theorists imply that the ensemble of political, legal, and symbolic institutions that constitute this

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70 It should be noted that the distribution of allocative resources is not wholly the preserve of the economy. State organizations (e.g., nationalized companies) may be involved in controlling material and production processes. Neither is the distribution of authoritative resources to be equated with "the state". Authoritative resources (the control of information and knowledge, for example) are important media of power in all organizations. That is, the very existence and form of economic institutional forms is connected to the distribution and control of authoritative resources; resources which provide the capacity to control workers, to routinely monitor market conditions, etc.
process simply reflect the character of the mode of production and the underlying asymmetrical distribution of allocative resources in society (see Chapter I). For others, the former institutional arrangements may have considerable autonomy with respect to the latter and therefore have an independent effect on the policy process. In this view, the institutions of the policy process are understood as organizing and filtering various demands made upon the process into strategies and values which politicians and officers of state agencies then pursue.\footnote{1}

The position taken on this debate has crucial and obvious implications for the way we address the regulatory policy-making process. The framework developed here should be understood as being closer in spirit to the second position described. Having said this, from the first position I do wish to retain the insight that the structural principle which organizes the relation between economic institutions and state institutions and state actors puts the latter in a dependent position vis-a-vis the former.\footnote{2} Lindblom argues,

Because public functions in the market system rest in the hands of businessmen, it follows that jobs, prices, production, growth, the standard of living, and the economic security of everyone all rests in their hands. Consequently, government officials cannot be indifferent to how well business performs its functions. Depression, inflation, or other economic distress can bring down a government. A major function of government, therefore, is to see the businessmen perform their tasks.... They [government officials] must therefore offer benefits to businessmen in order to stimulate the required performance.\footnote{3}

\footnote{1} For a review of the debate see Jessop (1982, 1990), for example.

\footnote{2} But as Giddens' discussion of the interdependency of signification, domination, and legitimation suggests, the conditions of existence of asymmetric distributions of allocative resources are tightly bound to legitimation and signification structures. Thus, the current economic institutional arrangements are dependent on a legal system of property rights which permits the exchange of labor power and commodities. Furthermore, economic institutions presuppose an intersubjective understanding of various concepts--property, for example. Put differently, a full understanding of the dynamics of economic institutions may start with an analysis of the asymmetrical distribution of allocative resources but it must include an examination of how authoritative resources as well as structures of signification and legitimation are implicated in the reproduction of economic institutions.

\footnote{3} Lindblom (1977, pp. 172-173).
The very existence of political institutions and organizations (in terms of revenue and political legitimacy) depends in part on the productivity of economic institutions. This structural principle helps account for the fact that the policies of various state agencies tend to favor the long-run interests of capital. As Giddens notes, "there [is nothing] particularly enigmatic about why state officials should be concerned with the long-term protection and consolidation of capitalism than specific sectors of business may be.... The state depends, as the state officialdom is as aware as anybody, upon the general continuity of capitalist production." That telecommunications has surged on to the agendas of top policy-makers in the US and other nation-states can at least partly be explained by the growing perception among policy-makers that global and domestic economic institutions are restructuring; information and telecommunication are viewed as becoming increasingly central to capital accumulation processes and therefore to the wealth of state and nation.

However, the framework proposed here understands the economy-state relationship to be significantly more complex than the economic determinist position alluded to above portrays it to be. The framework developed here recognizes that because the dynamics of economic institutions such as the mode of production are based on a struggle between capital and labor (and between capital and between labor), outcomes cannot be pre-determined as functionalist analysis suggests. Further, there are other actors whose

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74 Giddens (1981, p. 218). Giddens suggests that because of their privileged access to the means of surveillance, state officials are in a better position than particular factions of capital when it comes to understanding the long-term health of capitalism.

75 As Giddens (1979, p. 113) argues, "not even the most deeply sedimented institutional features of societies come about because societies need them to do so. They come about historically, as a result of concrete conditions that in every case have to be directly analysed; the same holds for their persistence."
interests do not derive primarily from the mode of production.76 These add further divisions to claims being made on the policy process. In one sense then the proposed framework understands the state in general, and the regulatory policy process in particular to be the products of, and arenas for, the playing out of these opposing interests. But in another sense, the state (and the regulatory policy process) is perceived to be more than simply a locus within which competing claims are played out. As Healey and his colleagues point out,

[the state] is also, in the rules of its organizational structures, procedures and practices, an historic store of the outcome of previous conflicts. This gives it at times the appearance of autonomy from the pressure of contemporary claims. Finally, the politicians, officials and experts of the state are not mere automatons, their actions shaped by the pressures upon them and the rules which are intended to organize their actions. As with all of us, "they exercise choice in interpreting the pressures and rules and, in doing so, they may confirm or confront the power relations embodied in the pressure of current claims or locked within the rules of organization, procedure and practice. Thus, as knowledgeable agents, they constitute structure through their actions.77

In short, the position taken here is that the structural principles that organize the economy-state relation condition the policy process at some level. As suggested above, the dependency of state institutions and state actors on the economy may structure the preferences of the latter. Furthermore, some actors are able to systematically mobilize more allocative resources than others when attempting to influence regulatory policy processes because of their privileged position vis-a-vis economic structure. In addition, the range of decisions open to state actors may be circumscribed in the sense that they may be reacting to a set of circumstances that are largely constructed by dominant economic players. For

76 That is, in some cases interests and preferences may be shaped more by such factors as gender, race and location, for example.

77 Healey, McNamara, Elson and Doak (1988, p. 176).
example, with respect to the telecommunications sector, state actors may have to act within
the bounds of the technical capabilities and features that have been put in place by the
telecommunications industry.78

But unlike the economic determinist position described above, the effect of
economic institutions and actors on the policy formation process is understood to be
mediated through various intertwined structure and agency processes, leaving the outcome
of economic conditioning far from being pre-determined. In terms of the institutional level
of analysis, the proposed framework provides a conceptual space for examining the
possibility that non-economic institutional forms have a dynamic and effectiveness of their
own.

It may be argued that my remarks so far are ahistorical in the sense that they fail to
take seriously the origins of the various institutions associated with contemporary
regulatory policy processes. It may be pointed out that the asymmetrical distribution and
control of allocative resources in previous eras permitted particular fractions of capital to
dominate the design of the aforementioned institutions, the implication being that these
institutions are systematically biased in favor of capital.79 While previous modes of
production may have been central to the generation of particular institutions, the former
does not wholly determine or contain the latter. As Larrain argues ideas and institutions
evolve and survive their generative mechanisms.80 In so doing, they are capable of
influencing the form and operation of subsequent economic institutions. The point is that

78 Perez (1986) and Samarajiva & Shields (1993), for example.

79 Beard (1913/1986), for example.

80 Larrain (1983).
ideas, institutions and rules are constantly generated, regenerated, altered and, sometimes, abandoned. An understanding of the origins of institutional forms does not by itself hold the key to understanding the nature and operation of the latter. Indeed, the dynamics of the mode of production is one factor which ensures the inadequacy of such an approach. This dynamic is characterized by the drive for profit and new markets, and the creation of new "needs" (often in the form of new commodities or services). This dynamic (along with others such as the politics of race, gender, and place) restructures "preferences" and "interests" leading to new conflicts, coalitions, and alignments. Through the way reconstituted actors interpret, accept and confront the institutions associated with the regulatory policy process, they both reproduce and change them.

Political-Legal Institutions: According to Giddens, political institutions refer to those enduring or deeply-layered practices through which political domination is primarily organized. Domination is used in the sense of "permitting dominion over", "dominion" concerning the sway actors have over others...81 Political domination refers to the structured asymmetries of authoritative resources that agents recursively draw on (tacitly or explicitly) in attempting to influence others. Authoritative resources refer to "the capabilities generating command over persons [i.e., the organization of social time-space, the organization and relation of human beings in mutual association, the constitution of chances of self-development and self-expression]."82 By contrast, allocative resources refer to those capabilities which generate command over objects and material features of the environment. Giddens points to the means of information collection and storage as an example of a key authoritative resource. He argues that the massive increase in the


information collection and storage capacity of public and private bureaucracies is a key constitutive feature of the modern era. Institutions associated with the delivery of welfare, the maintenance of order, and the levying of taxes are substantially based on the state's surveillance capacity, for example.

With respect to the regulatory policy process, the relevant political institutions are those enduring interactions and relations between the regulatory agency and many of the actors identified in an earlier section—congress, the executive, the judiciary, the regulated industry and other external interests. Political institutions are also constitutive features of the everyday workings of the regulatory agency and other collective actors such as congress—the formal and informal procedures that organize relations between agency personnel, for example.

These institutions are political in the sense that they are primarily defined by fairly stable forms of control and compliance-gaining practices. But only some of these practices involve the relevant actors recursively drawing on asymmetrical distributions of authoritative resources. In the above section, I hinted at some of the authoritative resources policy actors draw on in interaction. For example, I noted that in past years the regulatory agency's poor access to technical information concerning the day-to-day operations of the regulated industry systematically benefited the latter. I also pointed out that well-endowed interest groups may able to gain a systematic edge over resource-poor groups because of their access to lobbyists, research facilities, legal specialists, and other knowledge-intensive resources. These examples, fall squarely within Giddens' understanding of authoritative resources.

However, many of the political institutions alluded to above are primarily characterized by the relevant actors recursively drawing on and reproducing aspects of various rule forms. Thus in an earlier section, I detailed how members of congress, the executive, the judiciary, and others draw on various principles that are embedded in rules.
These rules can be understood as distributing authority among various policy actors, they organize conditions of access to the regulatory policy process, and they organize relations between the various policy actors. These rules, which also consist of decision-making rules and procedures, are largely resilient to the turnover of individuals and thus have impacts independent of the personal attributes of those occupying particular positions. Importantly, these rules are simultaneously the primary means through which legitimation is organized in and through the regulatory policy process. Put differently, through their institutional arrangements these rules legitimate the rights of some to hold others accountable, they obligate particular procedures and activities, and they communicate a set of values about what is approved and disapproved (falling within Giddens' understanding of legal institutions). Because these institutional arrangements are more or less co-terminous with the political institutions discussed above, I recast the latter as politico-legal institutions.

With respect to the telecommunications regulatory policy process, the major politico-legal institutional forms can be viewed as being arranged hierarchically. Highest in the hierarchy are the various deeply-entrenched relations between and among the executive, legislative, and judicial branches of the federal government, and between federal and state governments. These institutions or routinized relations are structured by sets of rules and principles (such as the principle of the "separation-of-powers") which are embodied in the constitutional framework. This framework can be viewed as embodying a set of

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83 It is important to note that "legitimation" does not mean that all policy actors and others accept these rules "mindlessly". Many of the rule forms in the regulatory policy arena are actively contested.

84 These rules also play an important role in constituting policy actors as subjects of the regulatory policy process. That is, they help policy participants "make sense" of the activities in which the participants engage.
constitutive principles which generate empowered and interested state agents as a function of their respective occupancy of the positions defined by these principles. In other words, the interests of those in the legislature, executive and judiciary are partially constituted by these principles; their interests are not exogenous to these sets of principles. But the constitutional framework also shapes or regulates the practices of these actors in the sense of defining their powers, jurisdiction, obligations, and authority vis-a-vis one another and in relation to state government actors and "civil society". The principles embedded in the constitution do not exist apart from the practices of state (and non-state actors). These principles only continue to exist and have relevance by virtue of their reproduction through routinized practices of the relevant actors.

Lower in the hierarchy are the various formal rules embedded in statutes such as the Communications Act which created the FCC, and the Administrative Procedure and Judicial Review statutes which are applicable to the FCC and other regulatory agencies. The principles embedded therein constitute and regulate institutional practices (such as rulemaking, judicial review, ratemaking, for example) associated with government regulatory agencies and their relations and interactions with other state and non-state entities. The Communications Act outlines the FCC's formal relations with other state actors such as the executive (e.g., the right to appoint commissioners subject to congressional approval) and the legislature (e.g., its powers of oversight vis-a-vis the commission). In vague terms, the Act obligates the FCC to regulate according to "public interest, convenience and necessity." According to Arnall and Mead, the vagueness of the FCC's legislative mandate (a structural element) gives the FCC substantial autonomy to set or change policy on the basis of its own reasoning. But it also weakens the

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85 Because the relevant congressional committees have the resources and authority to significantly influence FCC decision-making, it is very often the focus of interest representation.
commission against the pressure of the regulated interests. Commissioners can rarely say their hands are tied by higher legal authority. They have to respond to demand for change, in part, because they have the authority to do so. 86 The Communication Act also enumerates a few specific activities that the FCC should or should not undertake. Ordering a hearing when it confronts "a substantial and material issue of fact," such as in renewal of a broadcasting license or in a rate-making case, is an example of the former. Censoring media content, is an example of the latter. 87 These initial understandings about how the FCC was to perform, which represent compromises among conflicting points of view, shape subsequent decision-making. 88

The Administrative Procedure and Judicial Review statutes mandates standard procedural requirements on all federal agencies which have, in consequence, adopted quasi-judicial procedures in their formal rule-making proceedings. 89 A central function of these requirements is to make the regulatory agency's role in policy-making accountable. 90 The procedural requirements require that regulatory decisions should be based on

86 Arnall & Mead (1984, p. 44).

87 Amendments to the original Communications Act also specify activities the FCC may or may not engage in (the Cable Communications Policy Act of 1984 forbade the FCC from taking certain actions against cable operators—regulating the latter's rates, for example).

88 Horwitz (1989).

89 The Administrative Procedures Act of 1946 made many of these court-like procedures mandatory. According to Horwitz (1989, pp. 84-85), this Act "represented a compromise between an alliance of corporations and ideological critics of the New Deal and the supporters of regulatory action." Importantly, the Act required that most regulatory agency rules be published in the Federal Register, that most agency documents be available to public scrutiny, and that most agency meetings be open to the public.

90 Horwitz (1989, p. 84).
substantial evidence, affected parties must be given the right to participate in the process by submitting evidence and argument in support, decisions of the regulatory agency should be logically derived from its legislative mandate (the Communications Act in the case of the FCC), and decisions are subject to judicial review should any affected party believe that these requirements have not been satisfied. These procedural requirements provide various prescriptions for the regulatory agency staff. As Arnall and Mead put it, "[t]hey tell the large number of people involved how to go about making policy. The Notice of Proposed Rulemaking [for example] serves to focus the rulemaking process for the FCC as well as the outside parties." Noll notes some other implications of this court-like style of decision-making:

The dependence of regulatory agencies on evidence gives rise to rules regarding the weight accorded to evidence, the evidentiary requirements to sustain a court challenge to a decision, and the rights of outsiders to participate in the process (e.g., rules of standing). The significance of procedural requirements is that they affect the cost of effective participation: one must prove that the standing qualifications are satisfied, and must submit information that satisfies evidentiary standards. Second, they affect the potential benefits from participation: because decisions depend on evidence, a failure to participate runs the risk that no evidence will be submitted in support of a favorable decision, even if the agency is disposed to make it. Third, they affect the character of participation: in contrast to procedures with less strict evidentiary rules...technical information has a relatively higher value.... Thus economists, engineers, lawyers and

91 With respect to the FCC, the Commission issues a Notice of Inquiry (NOI) to seek expert testimony from affected interests on a policy issue. It issues a Notice of Proposed Rule-making (NPRM) when it seeks comments on a proposed new regulation. After reviewing the responses, the Commission, may, in the case of NOI, issue an NPRM, setting forth its responses to comments, its own views of the policy issues, and its proposed rules. In the case of an NPRM, the Commission will issue a Report and Order which sets out the final rules to be instituted. Decisions may be appealed to the U.S. Court of Appeals usually in the District of Columbia and to the Supreme Court. Because of the court's power to overturn commission decisions, from time to time it becomes a key access point for affecting the decision-making process, as noted in the section above. In this sense, the discretionary power of the court may affect the structure of pressure group politics. Under threat of judicial review and reversal, regulatory agencies such as the FCC have tended to reason by precedent when producing decisions.

92 Arnall & Mead (1984, pp. 56).
scientists are more influential in regulatory decisions than in legislative activities or most other forms of executive decision making.93

At a later point in the same article, Noll argues

[r]egulatory processes, because they stand at the extreme in the number of steps in decision making and in formal evidentiary requirements, present the most formidable...barriers to effective participation.... Procedural complexity increases the cost of participation.... Procedural complexity, then, filters out some potential participants...94

While the regulatory process has numerous access points through which various agents may promote their interests, the overall configuration of the policy process is skewed in favor of those whose structural position provides privileged access to authoritative and allocative resources. Those who have access to particular kinds of expertise, knowledge, and connections, and have the monetary resources to sustain participation in the process are likely to benefit in a systematic way from the process. Those interests lacking such resources may be “filtered” out of the process, or their representation in the process may be considerably weaker than that of more powerful interests.95

Noll's remarks usefully identify biases that are structured into the regulatory policy process. However, his analysis must be extended because by itself it tends to imply that if the cost of participation was less the biases inherent in the process may be eradicated. On the other hand, his insight that some forms of knowledge are privileged in the regulatory policy process can be built on. More specifically, attention must be paid to the meanings


95 As noted in the above section, the extension of "legal standing" to citizen groups clearly represented an important challenge to the bias in pre-existing regulatory processes. But as I point out here, effective participation is based on more than the right to access the process.
and prescriptions embedded in rules for they privilege some values and interests and not others. This point is discussed more fully below.

The politico-legal institutional forms that are lowest in the hierarchy are those which organize political domination and legitimation within the regulatory agency (or for that matter other relevant collective agencies such as congress). These institutional arrangements are held in place by various rules and principles that govern consultation among personal and bureaus. These principles govern who can communicate and in what way. Other principles help to define the obligations of various agency personnel in the course of rulemaking. Arnall and Mead point out,

In the CB [Citizens Band] case, the former Safety and Special Radio Services Bureau initiated and guided the rulemaking, but the Office of the Chief Engineer was consulted on technical standards, the Field Operations Bureau on enforcement, the Broadcast Bureau about possible television interference, the Office of Plans and Policy because of the long-range planning implications, and the Office of Executive Director because of the added personnel and funds necessary to implement the decision.... Rules dealing with substance and procedure work to coordinate officials by limiting the options they may consider in decisions. The rules exclude some options as improper or impolitic, and steer action towards others. In the CB case, standard routines for rulemaking caused policy to be made in one way and not another, and the new regulations in turn set norms of subsequent regulation of CB radio. Rules define the common patterns of behavior in terms of which officials are organized.96

The point is that the institutional arrangements at this level, and the structural elements that organize them, are important influences on regulatory policy-making. They routinely constrain the options that policy-makers have available for making decisions. They make some outcomes more possible than others. It should be noted that the regulatory agency is constituted not only by standard operating rules and procedures but also by distinctive "sub-cultures". Agency personnel and bureaus--lawyers, economists and engineers, for example--may not always construe (de)regulatory issues in the same way. These groups

of professionals draw on overlapping but distinct and often conflicting interpretative frameworks or stocks of knowledge. Engineers and economists may view regulation primarily in terms of various concepts related to technical and economic efficiency. Lawyers and administrative judges may draw on and be constrained by notions of precedent, due process, and the norms of jurisprudence. While these stocks of knowledge provide a set of terms and concepts that agents draw on in policy-making, they also embody a set of normative claims about what constitutes "good" and "bad" policy and policy-making. Incompatibilities between these interpretative schemes may be the source of intra-agency conflict.97 This point, which more properly belongs with my discussion of the major symbolic orders or modes of discourse associated with the regulatory policy process, will be returned to below.

The use of "hierarchy" in the above discussion implies that some structural principles and institutional practices are more "fundamental" than others. My argument is simply that those institutions at the top of the hierarchy are more encompassing than those at the lower end, in the sense that the former are stretched across greater expanses of time-space.98 Furthermore, the "higher" level (or more fundamental) institutions condition the establishment of "lower" (less fundamental) ones as they enable, make possible, or create the conditions of existence of the latter: "Higher institutional principles create certain arrangements by constituting the powers and interests of agents occupying certain structural positions. These arrangements, in turn, enable and foreclose possibilities for institutions at lower levels, albeit in a possibilistic rather than a deterministic fashion."99


98 In Giddens' terms these principles and institutions are more "deeply embedded."

99 Wendt & Duvall (1989, p. 64). These comments were made in the context of a study of international institutions. See also Olsen (1986).
Thus the constitutional framework means that lower-level statutes such as those pertaining to administrative procedures and judicial review must be compatible in certain important ways. For example, as noted above, the Constitution in principle guarantees citizens equal protection under the law, and due process in matters that affect them "significantly." Thus lower level rules governing regulatory agency activities mandate that decisions must be based upon substantial evidence, affected parties must be given the right to participate in the process by submitting evidence and argument in support of their interests. Agency decisions are then subject to judicial review should any affected party believe that these requirements have not been satisfied. However, the constitutional framework does not prescribe the particular form of lower-level statutes or the institutional practices they organize. Nor does it rule out the possibility of tensions, contradictions and incompatibilities between different levels of structure. Indeed, the existence of such tensions or contradictions facilitate conflicts between policy actors.100

As these remarks suggest, the institutions in the hierarchy are not discrete entities. Rather the hierarchy conceptualization guides the policy researcher to analyze empirically "the constitutive relations among institutions through which some created the conditions of existence of others (in a possibilistic sense), rather than simply treating the constitutive foundations of all institutions associated with [the regulatory policy process] as equivalent

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100 For example at the level of the constitutional framework, the first amendment rules against censoring the press. At the level of legislative statute, this constitutional principle is embedded in section 326 of the Communication Act which rules that the FCC cannot engage in the censorship of broadcast programming. However, in other sections of the Act, the FCC is charged with obligating that broadcast programming serve the "public interest". The tension between these two principles has been centrally implicated in various policy struggles through the years (the fairness doctrine, regulating violence on television, for example).
by virtue of their being the conscious constructions of interest-driven [policy actors],"101 as they are treated in the approaches of Dutton and Noam, for example (see Chapter I).

Furthermore, the recognition of the constitutive relations among institutions implies a causal relationship for institutional change. This is relatively obvious with respect to the impact of changes in the fundamental institutions on less fundamental institutions. Thus a significant change in the constitutive principle of the separation-of-powers would clearly alter the nature of the relations between the regulatory agency, congress, executive and judiciary. As Wendt and Duvall points out, this causal relationship

is less obvious...but nevertheless crucially important, with respect to the reverse process—the impact of changes in lower-level...institutions on more fundamental ones. Because social structures are not simply given, but rather exist, and hence are reproduced and/or transformed, only by virtue of the practices of the agents whose powers and interests they constitute, there is, even for the most fundamental...institution, and ever-present "reproduction problem." The structural requisites or conditions of existence, of any institution must be affected through the practices of agents if it is to be reproduced—that is to say, if it is to continue as an institution. The structural requisites...of "more fundamental institutions" are affected, however, not only by the practices of the agents constituted by those institutions per se, but also by the practices of agents the powers and interests of which are constituted by less fundamental, or lower-level, institutions. Some of these effects may be functional for the reproduction of the more fundamental institution, in the sense that they contribute to the meeting of its structural requisites, whereas others may be disfunctional, in the opposite sense... If the [dys]functional effects of practices shaped by lower-level institutions predominate, the more fundamental institutions may undergo structural transformation—becoming, in effect different institutions.102

In short, the proposed framework suggests that policy researchers view the regulatory policy process not as a collection of discrete institutions constructed intentionally by various policy actors, but rather as an integrated hierarchy of institutions in which some

101 Wendt & Duvall (1989, p. 64).

102 Wendt & Duvall (1989, p. 65).
make possible others, while practices shaped by the latter in turn contribute to the reproduction and/or transformation of the former.

**Symbolic Orders/Modes of Discourse:** Giddens' approach to signification is developed in opposition to Saussurean structural linguistics. The latter splits signification into "langue," the sign system or code, and "parole," speakers' uses of language in communicative practice or speech. Language, then, is separated from the multifarious uses to which particular speech acts may be put. The sign system is treated as a closed and autonomous system of internal dependencies; the signs of the system have 'value' or meaning, not by virtue of any intrinsic content they may possess or to any object to which they refer, but solely by virtue of their relations to one another. In short, language can be analyzed independently of the institutions of social life.

While accepting the structuralist insight that language has a relational character, Giddens points out that meanings engendered in language would not exist were it not for the situated, yet, reproduced nature of social practices. According to Giddens,

this does not involve reducing meaning to the subjective level of communication...rather, meaning must be treated as grounded in the 'contexts of use' of language. The valid core of the thesis of the arbitrary nature of the sign is to be located in the conventional character of signs: the differences which constitute signification are grounded in the 'spacing' of social practices.103

In this scenario, signification is produced and sustained via agents drawing on various rules concerning language use: "A competent language user has not merely mastered sets of syntactical and semantic rules, but the gamut of conventions involved in 'going on' in day-to-day contexts of social activity."104 These rules and conventions constrain the agent in

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103 Giddens (1979, p. 98).

104 Giddens (1987, p. 100).
the sense that they oblige a speaker, who wishes to be understood by another, to adopt certain linguistic and grammatical forms.

According to Giddens, "symbolic orders" or "modes of discourse" are those institutional forms through which signification or meaning is primarily organized. Unfortunately, these concepts are poorly elaborated in Giddens' work; his writings are bereft of serious discussion of their constitutive elements. However, I believe it can be inferred from various fragments that these "symbolic orders" and "modes of discourse" refer to institutionalized patterns or frameworks of interpretation. These frameworks can be thought of as providing stocks of knowledge and clusters of concepts which are drawn upon by agents in order to provide accounts and to offer reasons. They also allow the posing of "problems" in certain kinds of ways as well as offering criteria for arbitrating the validity of answers. What the mode of discourse concepts attempts to capture, I think, is that discourses make possible particular intersubjective understandings but at the same time constrain actors' behaviors by defining some responses as nonsensical and others as sensible and appropriate to the situation. Of course, most people are not fully aware of their modes of discourse nor of the processes through which they choose among alternative actions. However, if they are called upon to do so, they can give a fragmentary account of how and why people do and should act (see Chapter II).

A mode of discourse is typically correlated with social groupings or "communities". The discourse and its community of users can be understood as the holistic context within which the specific discrete body of concepts gain meaning. In this way certain strategies and solutions are socially approved while the recognition of others is inhibited. Discourses, and the various rules which organize them, are generative of specific perceptual universes; they offer different orderings of social reality. Of course, agents

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105 Edelman (1964, p. 190).
are not "locked into" one mode of discourse. Indeed, agents may be positioned at the intersection of various discourses. Furthermore modes of discourse are modified over time because people do not always choose to act in ways that fit dominant recurring patterns—changes in social situations as well as unprecedented actions affect agent’s interpretative frameworks.

It can be inferred from Giddens' writings that the mode of discourse notion is not meant to imply consensus within its parameters—a range of positions is possible allowing for a degree of controversy, and "sub-cultures" may cluster around particular positions. Rather, the notion is meant to convey the boundary defining functions of the linguistic conceptual structure of a discourse vis-a-vis other discourses with which it may or may not be interwoven. Furthermore, the way in which the mode of discourse has been specified presupposes that societies contain a plurality of discourses, a plurality of positions and perspectives from which to speak. In this sense, then, the mode of discourse conceptualization allows for conflicts among schemas of interpretation and among the agents who deploy and thereby reproduce or occasionally change them. Of course not all discourses have equal authority. An understanding of why some discourses are more authoritative than others would require the researcher to examine how various discourses are intertwined with structures of domination (i.e., asymmetrical distribution and control of authoritative and allocative resources). According to Giddens, modes of discourse are ideological to the extent that they systematically benefit dominant social groups (see Chapter II).

It bares emphasizing that modes of discourse are also crucially implicated in the production and reproduction of legitimation structures. As Giddens notes, "[t]o be 'accountable' for one's activities is to both explicate the reasons for them and to supply the
normative grounds whereby they may be justified. In other words, in drawing on and reproducing signification structures, the agent necessarily reconstitutes the structure of legitimation from which these norms derive.

As I mentioned in Chapter I, the discursive dimensions of the regulatory policy process are under-theorized. My remarks here are necessarily tentative because of Giddens' provocative but unhelpful discussion of symbolic orders and modes of discourse and because there is little theoretical and empirical work which can be integrated with the mode of discourse concept. Nevertheless, it is possible to provide, in broad brushstrokes, some indication of how the proposed framework can guide the researcher in asking fruitful questions about the ways in which signification is organized in and through institutional forms associated with the regulatory policy process. This kind of inquiry may tell us something important about the structure of the regulatory process in particular and the US state in general since it might identify some underlying concepts, norms and assumptions that lend a measure of coherence to what appear to be on the surface a fairly diverse array of policies and practices.

In the discussion that follows, I use Streeter's contribution as a foil. As I pointed out in my critical review of his work (see Chapter I), Streeter is one of the few scholars who have undertaken a systematic conceptualization of the discursive dimensions of the


107 As I pointed out in Chapter II, the imposition of social norms calls for some process of sanctioning whereby certain normative claims can be made to count through the effective mobilization of sanctions in the contexts of actual encounters. Therefore, the continued existence of structures of legitimation (and structures of signification) is inherently dependent upon structural asymmetries of authoritative and allocative resources (i.e., structures of domination).

108 Exceptions include Streeter (1987, 1990). For a critique of Streeter's approach see Chapter I.
telecommunications regulatory policy process. Streeter portrays the regulatory policy process and its participants as being constituted, indeed determined by a seamless all-encompassing Liberal conceptual system, a monolithic symbolic order. He argues, [communication] policy generally embodies a response to the dilemmas of a social and political system that frames problems in Liberal terms, i.e., in terms of reconciling free autonomous individuals with the social good and thus rescuing individuals from solipsism and society from chaos. The means of accomplishing this reconciliation involves formal, abstract systems of procedure such as the rule of law, independent regulatory agencies, a reified public interest and "policy research".

...[T]his conceptual structure swivels around a hollow core that renders its basic terms indeterminate.... Within those formal abstract systems, within law and within policy, one is limited to indeterminate, empty restatements of dilemmas. Legal reasoning cannot solve the dilemmas of law; policy expertise cannot resolve the problems of policy...[T]he implication is that...today's policy debates may be better understood as recapitulations of a set of indissoluble dilemmas inherent in our notion of rights, individuals, and government, notions rooted in the structure of Liberalism.

...[M]y argument is... even if one assumed that all parties to the policy process were supremely intelligent, benevolent, honest, effective, and deadly serious about following the terms and procedures of the U.S. System of policy to the letter, the policy-making process would still crumble of its own accord, would still fail to live up to its purported goal of impartially serving the public interest.... The hope for...a clever regulatory stratagem or legal maneuver that would resolve...tensions, is itself a problematic expression of the same Liberal conceptual system that created the tensions in the first place.109

A re-reading of Streeter's work, informed by the mode of discourse concept, sharpens my original critique and at the same time illustrates the potential of the concept for overcoming some of the conceptual difficulties evident in Streeter's analysis. With respect to the latter point, it is my contention that the mode of discourse encourages the researcher to ask the following kinds of questions concerning the regulatory policy process: What are the various modes of discourses or institutionalized interpretative frameworks that comprise the "dominant policy culture"?110 How do these discourses relate to each other? What

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109 Streeter (1990, pp. 60-61).

110 I borrow this term from Garnham (1985).
tensions exist and what contestations are possible within and between these discourses? How do "oppositional" modes of discourse articulate with the discursive dimensions that comprise the dominant policy culture? In the remainder of the section, I provide a discussion of some of these issues. My point is to suggest that these questions open up potentially fruitful lines of inquiry; lines of inquiry which are foreclosed in Streeter's analysis. I begin by arguing that the mode of discourse concept suggests that the way in which Streeter problematizes the regulatory policy process is fundamentally problematic.

Streeter's main concern is to lay-bare some of the underlying or "unquestioned" assumptions of the Liberal conceptual system that constitutes the regulatory policy process. His main finding is that Liberalism, because of its internal dilemmas will always "fail to live up to its purported goal of impartially serving the public interest." According to Streeter, it is hopelessly naive to think that legal reasoning or policy research can resolve these dilemmas: "The hope for ...a clever regulatory stratagem or legal maneuver that would resolve...tensions, is itself a problematic expression of the same Liberal conceptual system that created the tensions in the first place."

The way in which Streeter specifies the "problem" of the regulatory policy process is flawed. He wishes to relay the futility of policy actors' attempts at resolving Liberalism's unresolvables. The problem here is that the various strategies and maneuvers of policy actors are not about saving Liberalism. Instead, these strategies are often rooted in a desire to challenge or change the status quo, and to achieve some sort of distributional effect--reap the benefits of a policy or alternatively stave off its worst effects, for example. In attempting to achieve particular outcomes, actors draw on and are constrained by ideas, theories, and doctrines concerning such "Liberal" concepts as the "public interest," or individual "rights," "efficiency," "competition," and "monopoly," for example. From this
perspective, the interesting questions to ask include: What kinds of changes are possible by contesting or struggling over particular concepts? What are the kinds of issues, theories, and concepts that are "screened out" of the policy process and what are the possibilities of circumventing these "screening procedures" or biases. Do the discourses which comprise the dominant policy culture inevitably co-opt those (e.g., a "radical" community-based group, or a "critical" policy researcher, for example) who struggle in the policy process in order to effect "meaningful" change? Until the Liberal conceptual framework is cast aside or "crumble[s] of its own accord," Streeter appears content to put such issues on hold--indeed, because Streeter's conceptualization of discourse leaves little room for agency these issues may have to be bracketed indefinitely in his analysis.

Streeter's approach, then, minimizes or deems inconsequential the activities of various policy actors--all that need be known, it seems, is that the Liberal conceptual framework is still in place. But the mode of discourse concept, particularly as embodied in the larger context of structuration theory concepts and ideas, draws our attention to how unequal actors, enabled and constrained by various structural features, struggle to achieve certain ends.

The struggle to expand legal standing is best understood in this light, for example. This struggle, which permitted non-industry groups to articulate interests and policies before regulatory agencies, was in large measure a struggle over the meaning of the "public interest", "rights" and the role of government vis-a-vis citizens. It is unproductive and in fact quite misleading to reduce this struggle to the status of "recapitulations of a set of indissoluble dilemmas inherent in our notion of rights, individuals, and government, notions rooted in the structure of Liberalism." It obscures the fact that with legal standing...
armed with the language of the Communication Act and demanded that the FCC hold broadcast licensees to their public interest obligations. As in the case of public interest interventions in regulatory proceedings before other agencies, these license challenges did not often succeed directly. However, the expansion of democratic participation in FCC regulatory proceedings doomed the traditionally pro forma character of broadcast licensing determinations and greatly increased the time and money broadcasters were forced to spend in order to secure renewal or justify license transfers. Renewal challenges also raised the remote but harrowing specter that a challenged licensee could ultimately be stripped of its license. The industry moved in two directions simultaneously. On the one hand, broadcasters under citizen challenge entered into negotiations with the public interest groups and agreed to meet some of the demands in return for the dropping of the petition challenge. On the other hand, the broadcast industry concentrated its considerable lobbying powers toward Congress in an effort to secure license renewal.

In short, the struggle to expand legal standing produced important spaces for citizen groups to alter the behavior of the broadcast industry. It also produced a significant change in the nature of the regulatory policy process. My point here is not to make some sort of normative statement about the "value" of this episode or about the value of participating in the regulatory policy process. Rather, I am arguing that these facts are inaccessible to a view which understands the regulatory policy process as a monolithic symbolic order.

It is simply a mistake to treat Liberalism as the undisputed master of the terrain, to paraphrase Fraser.

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112 Similarly, I have a problem with understanding the break-up of AT&T in terms of the "recapitulations of a set of indissoluble dilemmas inherent in our notion of rights, individuals, and government, notions rooted in the structure of Liberalism." The struggle to divest AT&T, at the time the world's largest company, was set against a particular structural backdrop and involved long and acrimonious contestations concerning the "public interest", as well as over anti-trust and "policy science" doctrines concerning such concepts as "competition", "industry structure", and "cross-subsidies."

113 Fraser (1989, p. 157).
There is no doubt that the discourse of "rights" and the "public interest" can function to legitimate the asymmetrical distribution and control of allocative and authoritative resources. But this is not the whole story. Streeter (in common with such writers as Foucault and Marx) misses the normative and empowering dimensions of law and rights. In particular circumstances the discourses of "rights" and the "public interest" may empower. For example "rights" do not only individualize, they are also a medium of communication, association and solidarity. In this sense they do not necessarily depoliticize. The notion of rights and the public interest under certain conditions, may empower and provide a standpoint and a space for criticizing and challenging specific institutional arrangements and creating new collective and individual entities.

Streeter portrays the dominant regulatory policy culture as being constituted by a monolithic Liberal conceptual framework. Drawing on the mode of discourse concept, it can be argued that this conceptual system is actually comprised of fairly distinct discursive dimensions. More specifically, Streeter views Liberalism as rooted in "a relatively limited set of assumptions that reflect the Western heritage of Enlightenment thought--beliefs, for example, in the fundamental autonomy of the individual from society, in universal, natural rights, and in the existence and value of neutral, objective forms of language and procedure..." These beliefs and assumptions, according to Streeter, operate in and through "the abstract systems of procedure such as the rule of law, independent regulatory agencies, a reified public interest and 'policy research'." The modes of discourse associated with the regulatory process and "policy research" are reduced by Streeter to being simple instrumentalities with no possible dynamic of their own. While it can be convincingly demonstrated that these various discourses are closely intertwined and very often mutually reinforcing, they are nevertheless distinct, having their own history and
particular conditions of existence. They provide various distinct though interconnected
discursive sites within the regulatory policy process--some struggles may involve primarily
a contest over "rights" and/or the "public interest" (as in the "legal standing" example),
while others may involve contests over ideas, principles, and doctrines concerning the
"public interest", "competition", and "monopoly", and "pricing".

By blurring distinctions between the various modes of discourse that comprise the
dominant policy culture, Streeter's framework does not allow certain questions to be posed
let alone answered. For example, what kinds of struggle are possible within and through

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114 On the development of "rights" discourse in the US, see Glendon (1991). As regards the history of the
"public interest", see Horwitz (1989) and Rowland (1989). A preliminary examination of the
telecommunications regulatory policy process suggests the following related but distinct modes of
discourse. The first is defined by the ideas, principles and doctrines relating to the "rights" and "freedoms" of
the individual, "due process", "equal under the law", "judicial review" the role of the government (a creation
of "We the people") in promoting the "general welfare", and the existence and value of neutral objective
forms of language and procedure. This mode of discourse is embodied in the dominant interpretations of
principles embedded in the constitutional framework. This discourse encompasses all policy processes
e.g., government policy on abortion), not simply the regulatory policy process. This discourse conditions
the other discourses that constitute the dominant regulatory policy culture. A second discourse is comprised
of the ideas, concepts and doctrines concerning the "public interest" concept. This concept has its origins in
the English common law. The concept is closely bound up with the common carrier principle that
formally guarantees access to telecommunications at reasonable rates. According to Horwitz (1989, pp. 13-
14), "[t]he common carrier principle is really little more than a commerce-based notion of the public
interest. As it was applied to telegraphy and telephony, common carrier law meant simply the guaranteed
access to the means of transmission.... [B]ut even as it facilitates commerce, common carrier law embraces
the principles broader than commerce. The obligation to serve and not to discriminate among customers--
rooted in the old common law--clearly embody principles of social equity" (1989, pp. 13-14). These public
interest principles, which are embodied in the Communications Act, have been "a sort of black box whose
meaning or representation is the terrain of struggle" (1989, p. 9). Very much connected to the ideas and
norms associated with the "public interest" are the cluster of concepts relating to the form and content of the
regulatory policy-making process. These include "substantial evidence", "impartiality", "adequate
consideration", "precedent", "accuracy", and "objectivity", and are embedded in dominant interpretations of
administrative law (the Administrative Procedures Act, for example). As I suggested above, these concepts
are very much conditioned by ideas and concepts embodied in the constitutional framework (due process, for
example). To these modes of discourse must be added those associated with various sub-cultures which
constitute the regulatory agency, for example. Agency personnel and bureaus--lawyers, economists and
engineers, for example--may not always construe (de)regulatory issues in the same way. These groups of
professionals draw on overlapping but distinct and often conflicting interpretative frameworks or stocks of
knowledge. As I noted earlier, engineers and economists may view regulation primarily in terms of various
related concepts to do with technical and economic efficiency. Lawyers and administrative judges may draw
on and be constrained by notions of precedent, due process, and the norms of jurisprudence.
Incompatibilities between these interpretative frameworks may be the source of intra-agency conflict.
Interestingly, the mode of discourse outlined here roughly corresponds to the hierarchy of politico-legal
institutional forms discussed earlier.
each discourse? How do these discourses articulate with each other? Are they mutually reinforcing in all circumstances? Under what conditions may they come into conflict or appear incompatible? How do each of these authoritative discourses articulate with oppositional discourses? My point here is that the dominant regulatory policy culture, should not be assumed to be all of a piece; rather, this assertion must be demonstrated. When allied with the view that the US state is not simply a unified self-possessed agent but rather "a complex and polyvalent nexus of compromise formations in which are sedimented the outcomes of past and present struggles as well as the conditions for present and future ones", the mode of discourse concept suggests that a plurality of interrelated discourses constitute the "dominant policy culture".

In this section, I applied an adapted version of Giddens' notion of institutional analysis to the relevant literature. I disentangled or abstracted the major economic, political, legal and symbolic institutional forms from the dense web of institutional practices associated with the telecommunications regulatory policy process. I also distinguished between different levels of institutions. At the most abstract level of analysis I detailed the nature of the relationship between economic institutions and state institutions. In detailing the politico-legal institutional arrangements that constitute the state, I suggested that these institutions are arranged in an integrated hierarchy in which some make possible others in a possibilistic sense, while practices shaped by the latter contribute to the reproduction and/or transformation of the former.

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115 Fraser (1989, p. 157).
Time-space and regulatory policy processes

Following Giddens, time and space cannot be viewed as containers or frameworks within which regulatory policy processes take place. Rather, time and space must be understood as constitutive of these processes. As I pointed out in Chapter II, Giddens identifies three "layers" of temporality that enter into all moments of social life:

Temporality enters into: (a) the immediate nexus of interaction as contingently 'brought off' by social actors, the most elemental form of social reproduction, (b) the existence of Dasein, as the living human organism, the contingency of life in the face of death, and of biological reproduction, and (c) the long-term reproduction of institutions across the generation.... Institutions are practices which 'stretch' over long time-space distances in the reproduction of social systems. The structural practices of social systems 'bind' the temporality of the durée of the day-to-day life world to the longue durée of institutions, interpolated in the finite span of existence of the individual being.116

Two layers of temporality are built into Figure 4. The durée of the "immediate nexus of interaction" between and among policy actors sets the preconditions for the next durée of interaction--this process is depicted by the feedback loop in Figure 4. This form of durée in turn is set within the longue durée of the various institutions associated with the regulatory policy process. Through the durée of interaction these institutions and associated structural principles are reproduced and occasionally transformed.

According to Giddens, the durée of the interaction at every moment intersects with the durée of the life span of the human being (Daesin), and therefore with "irreversible" death-approaching time. Both, he argues, interweave with the longue durée of institutions. It seems clear that in many cases an actor's heightened perception of the durée of the life span may influence the nature of the durée of interaction quite significantly. For example, an agent's sense of "time running out" may affect his/her everyday routines (depression, a

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sense of urgency, for example) whether the agent in question is a gardener or a member of congress.

The notion of the *durée* of the life span, based as it is on some finite biological limit, may be extended to the *durée* of tenure which is embodied in the design of contingent institutional forms. Thus, in particular circumstances, the *durée* of interaction in the regulatory policy process may be much influenced by the fact that particular participants in the dialectic of control may have a limited time left in office. These participants (an FCC chairperson or a member of congress, for example) may devote considerable energy pushing through a particular policy before leaving office or attempt to produce particular outcomes that will renew their tenure.¹¹⁷

Space, or "locale" in Giddens' argot (see Chapter II) is also an important constitutive feature of the regulatory policy process. The relation between the various actors in the regulatory policy process are characterized by the dialectic of control in interaction. This interaction always takes place in and is partially constituted by specific settings or locales (see Figure 4). That is, agents draw on or mobilize aspects of settings in sustaining communication.¹¹⁸ In this way, settings enter into social reproduction.

Settings that constitute the regulatory policy process include but are not limited to: court rooms, public hearing facilities, the floor of the house or senate. According to Murray Edelman, the common element in most of the political settings mentioned "is their contrived character. They are unabashedly built up to emphasize a departure from...daily routine, a special heroic quality in the proceedings they are to frame. Massiveness,

¹¹⁷ This latter point relates to the notion of a political business cycle--the claim that the behavior of politicians varies directly with time left in office.

¹¹⁸ In addition to Giddens (1984), see Edelman (1964, Chapter 5).
ornateness, and formality are the most common notes struck in the design of these scenes, and they are presented upon a scale which focuses constant attention upon the differences between everyday life and the special occasion when one appears in court, in Congress...."119 The design of these kinds of settings or environments "sets the stage for a concentration of suggestions: of connotations, of emotions and of authority."120 For example, "the judicial bench and chambers, formal, ornate, permanent and solid..."prove" the deliberateness, scholarliness, and judiciousness of the acts that take place in them, even though careful study of some of these acts in a...newspaper office (different [setting]) may indicate they were highly arbitrary, prejudiced, or casual."121 In other words, the setting may help legitimate acts that takes place therein.

It may be in the interest of particular policy actors to ensure that interactions take place in such settings. This may be because the spectacle of such interactions may confer legitimacy on particular decisions as noted above. Indeed, the relatively open nature of these spaces is crucial to legitimation processes. But it may also be because certain actors can be held accountable in such "public" spaces. For example, members of congress may demand that the FCC Chairperson appear at a public hearing in order to provide rationales and justifications for his/her decisions. The prospect of a public hearing may condition the decisions taken by bureaucrats. At a minimum it may slow down the pace of the regulatory policy process.

119 Edelman (1964, p. 96).

120 Edelman (1964, p. 96).

Of course, the regulatory policy process is constituted not only by interactions in relatively open settings. The range of possible spaces extend from the strongly private (e.g., a meeting between a representative of the regulated industry and an FCC Commissioner behind closed doors) to the strongly public (the public hearing that may be covered by various media).

**Methodological principles**

Giddens proposes two principles—institutional analysis and strategic conduct analysis—which he believes should guide the empirical study of social system properties in a non-reductive, empirically open-ended manner. These guidelines follow from his baseline assumption that both agents and structures are inextricably bound together. I discussed these guidelines at length in Chapter III. With important changes, institutional analysis and strategic conduct analysis constitute the structuration-based framework’s main methodological principles. Changes are necessary because the principles are weakened somewhat by Giddens' ambiguous treatment of "collective" actors. More specifically, Giddens is unclear as to whether collective entities are to be understood as being within the domain of institutional analysis or of strategic conduct analysis. Mouzelis writes, "Giddens' duality of structure scheme...under-emphasizes collective action and its key relevance for social reproduction and transformation. (Hence the partly justified criticism that structuration theory basically equates agency with the empirical human subject...)."122 In this section, I suggest how this problem can be circumvented.

I understand individual human agents to be sentient, purposive beings whose practices for the most part unintentionally produce, reproduce and occasionally transform

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social structures. Collective actors (business enterprises, government departments, particular interest groups, for example) are more akin to social systems constituted by various structures, institutions, and actors. However, most organizational forms possess decision-making processes and coordinating practices which produce goals, strategies and the appearance of a collective voice. They are socially recognized by individual actors as subjects capable of engaging in a whole range of practices. To most individual actors, it appears that organizations act. Thus analysis may discuss the actions of "the state", but in reality what is being referred to is the effect of actions both by state and non-state actors who, enabled and constrained by various structural features, intentionally or unintentionally work to produce this effect. This is fundamentally communicative work, as Philip Abrams has argued.

For some, however, ascribing goals or strategies to collectivities is simply to create a mystical anthropomorphic entity supposedly existing above and beyond the goals and aspirations of the collectivities' situated human participants. But as Mouzelis suggests this excessive fear of reification is unjustified:

'[T]he ascription of anthropomorphic characteristics to formal organizations and other collectivities is quite often merely a convenient shorthand for complex processes of representation or of group decision-making too awkward always to spell out in full. Since these shorthand expressions can, however, readily be translated into action terms, no reification is


124 See Touraine (1977). Perhaps one of the main differences between individual and collective agents is that in the case of the latter, strategic/monitoring practices of internal and external environments are more to the fore (Mouzelis, 1991, p. 30).


involved. To say that the trade union movement adopted a policy on some specific issue entails no reification, because one can, when required, spell out the actual decision-making processes the trade union leaders, cadres, and so on, had been involved in.\textsuperscript{127}

Implicit in these comments, I think, are two related methodological points that must be adhered to. First, the analyst must avoid indefinitely bracketing consideration of the internal dynamics of collectivities. If this point is not heeded, the analyst, wittingly or unwittingly, becomes an accomplice in the production of the collectivity's apparent unity.\textsuperscript{128} This production is ideological to the extent that the appearance of unity may systematically benefit those in dominant positions.\textsuperscript{129}

Second, this danger can be avoided by moving fluidly between different levels of analysis. What levels of analysis require examination will vary with the problem to be studied and the nature of the social systems under consideration. In accounting for the dynamics of the telecommunications (de)regulatory policy process for example, the analyst might move between three different levels of analysis: the global/international level, where it is useful to depict corporations and states as actors; the nation-state level, where it may be appropriate to problematize the state as a social system comprised of various institutional ensembles, individual and collective actors; and the organizational level where the FCC and Congress for example, are understood to be social systems in the sense already described. In practice these different levels interpenetrate each other, the same is true of the social

\textsuperscript{127} Mouzelis (1991, p. 77).

\textsuperscript{128} In Chapter I, I argued that this is one of the problems with Mosco's (1988) analysis of the telecommunications regulatory policy process.

\textsuperscript{129} Referring to "the state", Joseph Schumpeter (1954, p. 19) argued: "It is always important to recognize who or whose interest it is that sets the machine of the state in motion and speaks through it. Such a view must be repulsive to anyone for whom the state is the highest good of the people, the acme of its achievement, the sum of its ideals and forces. However, only this view of the state is realistic.... The state does necessitate the emergence of an idea of the state to which the people give more or less content depending on circumstances..." See also Abrams (1977/1988).
systems at each level of analysis. The analyst must be sensitive to this fact, as he or she examines a particular level.

The two methodological points I have derived have implications for the application of institutional analysis and strategic conduct analysis. Both forms of analysis should be employed at the relevant level of analysis. If for some reason the focus of attention is on the FCC for example (the organizational level), the FCC is understood as a social system and not an agent. Strategic conduct analysis would focus on the dialectic of control between those individual and collective actors internal to or associated with the FCC. Institutional analysis would examine the various structural features internal to or impinging on the FCC. If the concern is with events at the international/global level of analysis, the relevant social system is the global political economy. The FCC, or perhaps more inclusively the US state, may be understood as an agent embroiled in a dialectic of control with other national and international governing bodies, as well as large corporate concerns. The nature of this dialectic of control would be the primary object of study of strategic conduct analysis. Institutional analysis would examine the web of institutions and structural features which enable and constrain these actors—the balance of power, diplomacy, monetized exchange, trade regimes, and so forth. Ideally, institutional and strategic conduct analysis at different levels of analysis should be integrated to provide comprehensive accounts of events that appear to occur on any one level of analysis. Such accounts would also reveal the ways in which human agents intentionally and unintentionally work to produce the effect of collective actors as unitary speaking subjects.

Summary

In this chapter my objective was to develop a structuration-based conceptual framework designed for studying US telecommunications regulatory policy processes. To accomplish this, I integrated core elements of structuration theory and methodology with
various theoretical and empirical insights provided by the relevant policy literature. The resulting synthesis is represented pictorially in Figure 4.

The structuration-based framework was developed in several stages. First, I applied strategic conduct analysis to the relevant policy literature. Eight individual and collective agent ideal types were identified—politicians/congress, bureaucrats/independent regulatory commission, the president/executive agencies, judges/judiciary, interest groups, media agencies, "external" experts, and individual citizens. For each ideal type, I detailed the range of structural elements—resources and rules—which policy actors may possibly draw upon as sources or media of power in the dialectic of control.

Second, institutional analysis was applied to the relevant policy literature. I abstracted the major economic, political, legal and symbolic institutional forms from the web of institutional practices associated with the telecommunications regulatory policy process. I also distinguished between different levels of institutions. At the most abstract level of analysis I detailed the nature of the relationship between economic institutions and state institutions. In analyzing the politico-legal institutional arrangements that constitute the state, I suggested that these institutions are arranged in an integrated hierarchy in which some make possible others in a possibilistic sense, while practices shaped by the latter contribute to the reproduction and/or transformation of the former.

Third, I briefly specified how time and space are accounted for in the structuration-based framework. The fourth step in developing the theoretical framework was to detail the framework's guidelines for conducting empirical investigation. With important changes, I presented institutional analysis and strategic conduct analysis as constituting the framework's main methodological principles.

Producing the structuration-based framework is not an end in itself. The motive force driving its development was the belief that a structuration-based theoretical framework may have the potential to resolve many of the conceptual difficulties that plague
existing theories and models of the telecommunications regulatory policy process in particular and of regulatory policy-making in general (see Chapter I). In doing so, I hoped that the framework would suggest and facilitate new lines of empirical inquiry. This in turn would improve our understandings and explanations of regulatory policy processes. I evaluate the structuration-based framework with respect to these expectations in Chapter V.
CHAPTER V
CONCLUSIONS

Summary

In Chapter I it was argued that sound theory is required to make systematic sense of the rapidly changing complexion of telecommunications regulatory policy and telecommunications regulatory policy-making. I demonstrated that the relevant extant theories are conceptually ill-equipped to offer adequate explanations and understandings of these changes. I suggested that Anthony Giddens' structuration theory has the potential to provide the basis of an adequate alternative theoretical framework. However, I emphasized that structuration theory by itself cannot constitute this framework. While structuration theory, a meta-theory, says something about what kinds of entities there are in the social world and how their relationship should be conceptualized, it does not tell us what particular kinds of agents or what particular kinds of structures to expect in any given concrete social system such as the telecommunications regulatory policy process. The latter kind of knowledge is provided by students of telecommunications regulatory policy processes in particular and regulatory policy-making in general.

The objective of this study was to answer the following research question: What would a structuration-based conceptual framework designed for studying
telecommunications regulatory policy processes look like? To answer the question, I proposed to integrate core elements of structuration theory and methodology with various theoretical and empirical insights provided by the relevant policy literature. I developed the framework in three stages. First, structuration theory's core concepts were explicated in Chapter II. Second, the methodologies used to develop the framework were detailed in Chapter III. At this stage, I pointed out that meta-theorizing would be the broad methodological principle informing the framework's conceptualization. At a less general level, I made the case that institutional analysis and strategic conduct analysis—methodological principles originally developed by Giddens to conduct empirical investigation of social systems—could be used to guide the development of the proposed framework. Put differently, I recast these principles as theory-building tools capable of organizing the contents of the proposed framework as well as guiding the articulation of core structuration theory concepts with ideal type agent and institution categories derived from the relevant regulatory policy literature.

The third stage of the theory-building exercise involved performing these methodological procedures and presenting the results. These tasks were carried out in Chapter IV. The resulting structuration-based framework is summarized pictorially in Figure 4. The figure captures, in skeletal form, the structuration of US federal telecommunications regulatory policy-making processes. The framework can be best thought of as a descriptive-analytical framework designed to guide research on telecommunications regulatory policy processes. It is descriptive in the sense that it provides a multi-layered mapping of ideal-type agent, institution, and structure categories associated with the telecommunications regulatory policy process. Structuration theory and its associated methodology—institutional analysis and strategic conduct analysis—provide the framework's analytical capacity.
Discussion

The structuration-based framework developed in this study makes a number of novel conceptual contributions to the study of regulatory policy-making. More specifically, it can be argued that the proposed conceptual framework satisfactorily resolves important theoretical and methodological problems extant in the regulatory policy-making literature. Relatedly, the framework has considerable potential for assisting the kind of empirical investigation that will improve our understandings and explanations of telecommunications regulatory policy processes in particular and regulatory policy-making in general. In the following sub-sections, I detail the framework's conceptual contributions to the regulatory policy literature. I conclude by examining the framework's implications for empirical research.

Before doing so, however, it is important to clarify why I believe the proposed framework, which was designed to study telecommunications regulatory policy-making, has important implications for all US federal regulatory policy processes. The abstract research carried out in Chapter IV identified the ideal type structures, institutions, and agents associated with the telecommunications regulatory policy process (see Figure 4). These ideal types or abstractions capture the essential properties and relations of these entities. With the exception of the "bureaucrat/FCC" category, these agent, structure and institution ideal-types are more or less directly applicable to most if not all regulatory policy processes. Put differently, actual agents, institutions, and structures associated with these various policy processes could be unproblematically measured and compared against the ideal types developed in Chapter IV. And while there will be important differences between concrete objects such as the Federal Communications Commission and the Federal Trade Commission for example, I think it can still be argued that the ideal type
"bureaucrats/FCC" (developed in Chapter IV) captures essential internal and external relations and properties associated with both entities.¹

Epistemological contributions

The structuration-based framework makes three distinctive epistemological contributions to policy research. These contributions flow primarily from structuration theory or from my extension of particular principles associated with the theory. The first two contributions provide the policy researcher with broad guidelines as to what constitutes a "good" or "adequate" explanation of regulatory policy processes. First of all, Giddens' social ontology suggests that adequate explanations of regulatory policy activity must provide accounts of the dynamic interplay between structure and agency factors. Such accounts are more than simply convenient or desirable: they are necessary in order to explain the policy formation process.²

This contrasts markedly with existing theoretical approaches to regulatory policy-making. As I demonstrated in Chapter I, a reading of the relevant policy literature suggests that a choice must be made between analyses which focus primarily on structure and those which focus almost exclusively on agency and interpersonal negotiations. Structuration theory suggests that this is in fact a false choice. As Giddens points out, structure is constituted, reproduced and changed by the way "knowledgeable actors" implicitly and

¹ In Sayer's terms (1992, p. 239) I am arguing that the essential relations and properties that constitute the agent and institution ideal types elaborated in Chapter IV are "general" in the sense that they are "widely distributed [through all regulatory policy processes], although exactly how widely is only determinable through empirical study." It is important to realize that this notion of "generality" is quite different from "generalization". The latter is concerned with "discovering similarities and regularities among the features of concrete objects and events..." (p. 239). By contrast, "generality" is not concerned with the abstract level of analysis.

explicitly acknowledge the possibilities and constraints of their situation. Structure is thus not some external impersonal, mechanical force driving human agency, but is constituted through social relations. Structure, in terms of the driving forces and divisions which reflect and constitute economic and political organization in any particular period, has meaning only through the way it is recognized by the participants in such situations, in the daily dramas of their lives. These recognitions are embodied in the principles and criteria that are in turn embedded in institutional arrangements drawn upon by agents to address specific issues. In short, from a structurationist perspective, adequate explanations of regulatory policy formation and change must provide a balanced account of the dynamic interplay between structure and agency factors.

The second guideline suggested by structuration theory is that the policy researcher should conduct non-reductive empirically open-ended investigations of regulatory policymaking processes. That is Giddens, social ontology suggests that the researcher must avoid according a priori ontological primacy either to structures or to agents when conducting empirical work. Put differently, given Giddens' core meta-theoretical assumption that both agents and structures are inextricably bound together, the researcher should attempt to provide accounts and explanations that link structure and agency factors without falling prey to various forms of reductionism.

Structuration theory's non-reductive principle is intended to ensure that the distinctiveness and dynamics of agency and structure factors are not ignored or under-emphasized when examining the agency-structure relation (i.e., "vertical" relation). In Chapter III, I made the case that this non-reductive principle also has implications for the treatment of agent-agent relations and institution/structure-institution/structure relations (i.e., "horizontal" relations). That is, I argued that it is equally important that the relations between agents and between institutions should be studied in such a way that the possible uniqueness of the relevant agent or institution is permitted to emerge.
The implication for the regulatory policy researcher is that the institutional forms associated with regulatory policy processes (symbolic, political, economic and legal/repressive) should be examined in a non-reductive way—the internal logic of various institutional orders, including their reproduction requirements, and thus prescriptions for competent practices, as well the articulation between these "horizontally-related" forms, must be attended to in an empirically open-ended manner. Furthermore, the analyst should not assume a priori that some policy actors (bureaucrats or politicians) are simply the passive instruments of others (business groups, for example).

The non-reductive principle (applied to vertical relations and horizontal relations) which is embedded in the structuration-based framework does not legislate that social explanations must provide equal weight to various agency and structure factors. In explaining particular historical conjunctures, structural features may be accorded more weight than agency factors (though the interplay between both should be present in the account), economic institutions may be accorded primacy in their relationship with political institutions, or the decisions of political actors may be more or less explained by the influence of dominant economic interests, for example. The non-reductive principle simply ensures that the complex and varied agency/structure, agency-agency, and structure/structure relationships are studied in an empirically open-ended manner. In short, then, this principle does not rule out a ranking of causes. What it does rule out is the idea that particular agency and/or structure categories are accorded primacy in an a priori, universal, transhistoric manner.

The two contributions discussed above concern guidelines as to what constitutes a "good" or "adequate" account of social phenomena. But of course, accounts and explanations are answers to certain kinds of questions. The framework's third epistemological contribution is that it provides the policy researcher with guidelines as to what kinds of research questions to ask. Wendt argues:
What counts as an adequate explanation...depends on the object of the question, on what is taken to be problematic. From a structurationist perspective, two kinds of questions are particularly relevant to the explanation of social action: 'How is action X possible?' and 'Why did X happen rather than Y?' The domain of these two questions, and therefore the kinds of answers we would expect, are different. 'How-questions' are concerned with the domain of the possible, whereas 'why-questions' are concerned with the domain of the actual.... [W]hy-questions require answers to how questions; that is, to explain why a state [for example] did X rather than Y, we need to know how that state and its choices were possible in the first place. It is therefore necessary to make the-actual behavior and properties of states...'problematic' rather simply accepting them as given.3

Addressing the "how-question" reveals the conditions of existence of social action. That is, "it forces us to look beyond given appearances to the underlying [structures] that generate (in a possibilistic sense) phenomenal forms."4 While this analysis is "part of a complete explanation of actual events...[it] does not explain those events directly...[rather it] only answers the question of how they are possible.... [A]ny attempt to use [this kind of analysis] to account directly for the production of particular events would risk overextending [it] beyond [its] proper explanatory domain."5 Answers to the "why-question", according to Wendt, "take the interests and causal powers of agents as given...and then attempt to explain particular events by focusing on how those powers and interests are affected by the interests facing actors." However, this kind of analysis is "[also] necessary to explain the emergence and persistence of the structural conditions which constitute the medium and conditions of possibility for...action."6 Wendt

3 Wendt (1987, p. 362), author's emphasis.


concludes, "a complete explanation of...action--that is, one that explains both how that action was possible and why that possibility was actualized in a particular form at a given moment will have to combine [answers the how-question and the why-question]." As I discuss below, the privileging of "how-questions" and "why-questions" has important implications for the kinds of method that is appropriate to use in empirical investigation.

The important point here is that the policy researcher should be primarily concerned with providing insight into the complex of factors which explain how and why regulatory policies emerge at particular points in time and space and come to take the form they do. Attention to the "how-question" will lead researchers to examine the "taken-for-granted" economic, political, legal and symbolic institutions associated with regulatory policy processes. These institutions help to determine the kinds of "problems" that are found in society, which problems are considered legitimate for government to address, and the kinds of solutions appropriate for consideration. Political-legal institutions, for example (see Chapter IV), consist of decision-making rules and procedures, roles and authority structures, norms and routines, which are largely resilient to the turnover of individuals. The ways in which institutions distribute authority and shape conflict help determine whether solutions reach the agenda, if they are blocked from doing so, and how they might be modified. Phenomenal forms such as particular policy activities and processes are made possible and constrained by these institutions. In short, analysis of the various institutional forms associated with the regulatory policy process will call attention to the role of such institutions in creating possibilities, including unrealized possibilities, for policy action. The "why-question" will lead the researcher to examine more "fluid" factors such as

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changes in the economic environment (a recession or boom, for example), changes in the preferences or interests of particular actors, the nature of the dialectic of control between actors, a change in the administration, the emergence of new interest groups or coalitions, for example.

**Theoretical contributions**

An important feature of the structuration-based framework is that it does not provide substantive hypotheses or statements that can be empirically tested, rather it provides "conceptual tools for looking at the [regulatory policy process] in a manner that fruitfully raises questions of interest and establishes methodologically proper linkages between different levels of analysis". In this sense, the framework "[does] not...produce empirically testable hypotheses, but merely... prepare[s] the ground for an empirical investigation of social structures and actors."\(^8\) In this regard, the framework is closer in spirit to Dutton's ecology of games approach than it is to Mosco's class perspective approach, for example (both are discussed in Chapter I). Dutton is concerned primarily with providing concepts and ideas that together provide the researcher with "a grammar for describing the system of action shaping public policy,"\(^9\) as opposed to positing causal mechanisms as is the case with Mosco's approach.

In this sub-section, I suggest a number of ways in which the proposed framework conceptually differs from and in important ways moves beyond existing approaches to the study of regulatory policy processes. For example, many of the dominant theories and models of regulatory policy-making emphasize the importance of a single type of actor

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\(^8\) Mouzelis (1990, p. 2).

when accounting for regulatory policy outcomes (interest groups, the regulated industry, congressional subcommittees, for example), as I pointed out in Chapter I. Furthermore, these perspectives tend to portray the regulatory agency as a passive reflector of particular external interests. In addition, these models and theories neglect the dense web of rules and institutions which constitute the regulatory policy process and enable and constrain the action of the various policy actors.

By contrast, the structuration-based framework suggests the importance of examining the dialectic of control between and among numerous categories of actors (see Figure 4). Furthermore, the regulated agency is understood to be an active participant in the dialectic of control able to draw on a number of rules and resources in interaction. The proposed framework also implies that the policy researcher examine in a non-reductive fashion the ways in which economic, political, legal, and symbolic institutional forms associated with the regulatory policy process affect the emergence, form, and content of regulatory policies.

The latter implication is particularly important for two reasons. First of all, it serves to clearly distinguish the structuration-based framework from pluralist approaches to the regulatory policy process.\(^\text{10}\) While both are concerned with identifying various resources that policy actors may draw on in interaction, only pluralist approaches explain policy outcomes more or less exclusively in terms of the conflict between unequally endowed actors. The structuration-based framework, by contrast, suggests that the influence of particular policy actors has as much to do with the structural principles and institutions that constitute the regulatory policy process as it has to do with access to particular allocative and authoritative resources. Furthermore, the framework suggests that rule forms and

\(^{10}\) Krasnow, Longley & Terry (1982), for example.
other structural features have significant explanatory power because they constitute as well as regulate policy participants. By contrast pluralist approaches take the identities, powers, and interests of policy actors as exogenously given.\textsuperscript{11} To the extent that structural factors are recognized, they are viewed as constraining the choice of pre-existing actors. But the structuration-based framework suggests that actor's preferences are formed in relation to various often conflicting institutional or structural logics.

Second, by asserting the potential independence and uniqueness of the various institutional forms (economic, political, legal, symbolic) associated with the regulatory policy process (and the state in general) the structuration-based framework moves significantly beyond the class theory approach to policy-making. Put differently, the framework suggests that the institutions associated with the regulatory policy process cannot be viewed as simply epiphenomenal forms of economic institutions, as class analysts claim.\textsuperscript{12} The structuration-based framework provides a mapping of the various institutional forms associated with regulatory policy processes. This mapping is intended to direct researchers towards examining in a non-reductive fashion the internal logic of these institutions, including their reproduction requirements, and thus prescriptions for competent practices, as well as the articulation between these forms. The hope is that the researcher may be guided by the framework to trace the ways in which policy actors are positioned vis-a-vis various institutional features of the regulatory policy process, some of

\textsuperscript{11} Here the pluralist approach has much in common with Dutton's ecology of games approach 1) and Noam's public choice/welfare economics approach (see Chapter I) as well as Noll's "institutional" approach (Noll 1983, 1984, 1986).

\textsuperscript{12} As I pointed out in Chapter I, the class theory approach to the regulatory policy process, exemplified by the contributions of Mosco, can only go so far in taking state processes on board whilst remaining within a framework which basically overgeneralizes and reads politics off from the economic, so short-circuiting the need for empirically open-ended analysis of regulatory policy processes.
which may be incompatible. Identification of such incompatibilities, or lack thereof, may contribute substantially to explanations of policy stability and change.

By asserting the potential independence and uniqueness of the various institutions comprising the regulatory policy process, the proposed framework does have certain affinities with the analyses of those who call for "bringing the state back in" to the study of policy-making. The latter argue that state organizations as well as state actors must be studied and not bypassed, reduced to other things, or explained away by theorists who see state-related activities as more or less determined by extra-state forces.

But the structuration-based framework suggests that the state be brought "back in" in particular ways—ways that are overlooked or under-emphasized by "state-centered" theorists. First of all, the proposed framework does not suggest that "state-centered" accounts of the regulatory policy process should replace "society-centered" accounts (pluralist or class theory accounts, for example). Rather, the implication is that taking state processes seriously entails bringing together analysis of state institutions and actors with analysis of non-state institutions and actors in a meaningful way (see Figure 4). As I pointed out in Chapter IV, embedded in the proposed framework is the notion that state institutions and state actors are dependent on the economy. Thus economic processes may structure the preferences of state actors. Furthermore, some actors are able to systematically mobilize more allocative resources than others when attempting to influence regulatory policy processes because of their privileged position vis-a-vis economic structure. In addition, the range of decisions open to state actors may be circumscribed in the sense that they may be reacting to a set of circumstances that are largely constructed by dominant economic players.

13 Evans, Rueschemeyer & Skocpol (1985), Krasner (1978), and Nordlinger (1986), for example.
But according to the structuration-based framework, the affect of economic institutions and actors on the policy formation process is understood to be mediated through various intertwined structure and agency processes, leaving the outcome of economic conditioning far from being pre-determined. In short, the framework importantly provides a conceptual space for examining the possibility that non-economic institutional forms have a dynamic and effectivity of their own and therefore provides a basis for conducting an empirically open-ended examination of the articulation between economic and non-economic institutions.

The second sense in which the framework "brings the state back in" is by strongly suggesting that the constitution be "brought in" to the study of regulatory policy-making. More specifically, the framework emphasizes the importance of examining the hierarchy of politico-legal institutions that constitute the US federal regulatory policy process. These institutions are structured by principles embodied in the constitutional framework as well as other related but distinct rule forms. These principles organize conditions of access to the regulatory policy process, distribute authority among participants and govern their relations (their allowable actions and strategies, and the conditions for and forms of communication between actors, for example); and organize the ways decisions are made and presented. The way in which politico-legal institutions distribute authority and shape conflict help determine whether solutions reach the agenda, if they are blocked from doing so, and how they might be modified.

An important contribution of the structuration-based framework is that it provides a firm foundation from which to inquire into the ways in which the constitutional system of rule provides rules and resources that both constitute and regulate the activity of individual

14 The 1934 Communications Act and Administrative Procedures and Judicial Review statutes, for example.
and collective policy actors. Dutton's ecology of games approach does take this system of rule into account under the rubric of the "rules of the game". But the proposed structuration-based framework goes significantly beyond this perspective in two ways. First, unlike Dutton's approach which understands these rules as the intentional constructions of actors, the framework developed here also emphasizes the constitutive aspects of these rules. This emphasis calls attention to the role of such institutions in creating possibilities for action. Second, and again in contrast to Dutton's approach, the proposed framework understands these rules, as well as the institutions which they organize, to be arranged in an integrated hierarchy. This conceptualization suggests that regulatory policy researchers should theorize explicitly about and analyze empirically the constitutive relations among institutions through which some create the conditions of existence of others in a possibilistic sense, rather than simply treating all structural principles and institutions as discrete and equivalent as is the case in Dutton's account. This latter point is an example of how the structuration-based framework provides conceptual tools for looking at the regulatory policy process in a fresh and potentially fruitful new way.

A third sense in which the structuration-based framework "brings the state back in" is by suggesting that discourse be "brought in" to the study of regulatory policy-making. As I pointed out in Chapter I, the discursive dimension of the regulatory policy-making is woefully under-theorized. Typically the discursive dimension is viewed as superstructural and/or is reduced to the needs or intentions of those who gave birth to the discourse. By contrast, the structuration-based framework understands policy and legal discourses, embedded as they are in institutions (the politico-institutions discussed above, for example), as embodying the tacit norms and implicit assumptions that constitute and regulate practices. Put differently, the framework suggests that policy researchers must give an active role to discourse when producing accounts and explanations of regulatory
policy-making because the various policy actors are enabled and constrained by the meanings and prescriptions embodied in the principles and criteria that are in turn embedded in institutional arrangements that actors reproduce and occasionally transform through practice.

Streeter is one of the few scholars who has undertaken a systematic conceptualization of the discursive dimension of the telecommunications regulatory policy process. He portrays the regulatory policy process and its participants as being constituted, indeed determined by a seamless all-encompassing Liberal conceptual system, a monolithic symbolic order. I critically evaluated Streeter's approach in Chapter I. The structuration-based framework, I believe, overcomes a number of conceptual difficulties inherent in Streeter's (post)structuralist perspective. In doing so, it suggests new lines of inquiry that are foreclosed by Streeter's account.

More specifically, the mode of discourse concept elaborated in Chapter IV suggests that it is unproductive and misleading to portray the dominant regulatory policy culture as a monolithic discursive bloc. Rather, the structuration-based framework suggests that the dominant policy culture is comprised of a plurality of overlapping but distinct modes of discourse. When the dominant policy culture is conceptualized in this way, a number of research questions are suggested: How do these discourse articulate with each other? Are they mutually reinforcing in all circumstances? Under what conditions may they come into conflict or appear incompatible? How do these authoritative discourses articulate with "oppositional" discourses? These questions are not raised let alone answered in Streeter's account.

In Streeter's discourse approach there is no place for agency. In his account the activities of policy actors are minimized or deemed inconsequential. By contrast the mode of discourse concept in particular and the structuration-based framework in general, draws attention to how unequal actors, enabled and constrained by structural features, struggle to
achieve certain ends (attain some kind of distributional effect, legitimate or challenge as illegitimate particular activities, for example). In attempting to achieve particular outcomes, actors draw on and are constrained by ideas, theories and doctrines concerning such concepts as the "public interest," individual "rights," "efficiency," "competition," and "monopoly," for example. From the perspective of the framework developed in this study the interesting questions to explore include: What kinds of change are possible by contesting or struggling over particular concepts? What are the kinds of issues, theories and concepts that are screened out of the policy process? What possibilities, if any, are there to circumvent or successfully negotiate screening procedures? Again, Streeter's understanding of discourse appears to preclude the possibility of asking these questions.

The research questions identified in the previous paragraphs flow from the mode of discourse concept. To my knowledge these questions are rarely if ever are asked by regulatory policy researchers. Yet raising and addressing such questions is important if we are to understand more fully how power operates in and through the regulatory policy process (and the state generally). If we are to properly evaluate the kind of change that is possible in and through the institutions associated with the policy process, we must give these kinds of questions serious consideration.

Implications for empirical research

Earlier I argued that from the perspective of the structuration-based framework two kinds of questions are particularly relevant to the explanation of social action: 'How is action X possible?' and 'Why did X happen rather than Y?' The implication is that the policy researcher should be concerned primarily with providing insight into the complex of factors which explain how and why regulatory policies emerge at particular points in time and space and come to take the form they do. This concern with "how" and "why"
questions strongly suggests that the proposed framework be applied by way of the case study method.

Yin argues, "'how' and 'why' questions are more explanatory [compared to 'what', 'who', and 'where' questions] and likely to lead to the use of case studies, histories, and experiments as the preferred research strategies. This is because such questions deal with operational links needing to be traced over time, rather than merely frequencies or incidences."\(^{15}\) The case study is the preferred method when "[a] 'how' or 'why' question is being asked about a contemporary set of events over which the investigator has little or no control."\(^{16}\)

According to Yin, then, the case study appears to be the best method for investigating 'how' and 'why' questions when the object of study is or is in an open system (such as a particular regulatory policy episode, for example). To describe and analyze the causal mechanisms that explain the emergence, form and content of a particular policy requires an "intensive" research technique such as the case study which permits an in-depth study of how a variety of factors, including agency, institution and structure factors, combine to produce social outcomes.\(^{17}\) With regard to applying the structuration-based framework, the case study method permits a narrative form that can capture broad historical and structural tendencies as well as the fine-grain details—the actual relations

\(^{15}\) Yin (1984, p. 18).

\(^{16}\) Yin (1984, p. 20).

\(^{17}\) See Sayer (1992, pp. 241-244, pp. 248-251).
agents enter into, and the interconnections between activities, processes and events. As John Greenway and his colleagues point out:

Case-studies make politics come to life. They show the complexity of the process of government. They reveal the uniqueness of the situation. The contingencies of chance, uncertainty and personality can be set against the power of structures and the constraints of systemic forces. They may be used to illuminate and evaluate a whole variety of theoretical approaches.

Yet the case study method has been the subject of some strong criticism. Geoffrey Vickers offers the following:

Case-histories are a laborious approach to understanding. For situations are so varied that even a large number of cases may be a misleading sample, whilst each is so complex that even a detailed description may be too summary; and none is comprehensible outside the historical sequence in which it grew.

Vickers appears to be particularly concerned with the relationship of the specific to the general. That is, he suggests that an inordinate amount of detailed research is required in order to account for particular cases, and even when this level of detail is achieved the findings which result cannot be generalized to other situations because of the specificity of the case(s).

There is certainly a danger that a case study may turn out to be too descriptive an exercise; the significance of what is happening may be lost amidst a plethora of detail. This problem, I think, can be avoided if the case study method is forced into the service of an explicit theoretical framework such as the one developed in this study. The structuration-

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18 The Lynds' (1929) classic study of Muncie, Indiana—called Middletown—provides a good example of the rich descriptive material that can be produced by the case study method. Hunter's (1953) study of Atlanta is an excellent example of an analytical case study. He employed the method to uncover the structure and networks of urban power, detailing how government policies were implemented through this structure.


based framework (its ideal types in particular) and associated methodological principles (institutional analysis and strategic conduct analysis) provides clear guidelines as to where to look and what is to be expected during the course of empirical investigation (see Chapter IV).

Vickers' conclusions concerning the possibility of generalizing findings from case study research to other parts of the social system are overly pessimistic. Generalizing from particular social science research projects must always be viewed with some caution simply because social systems are open and historical in character. However, it is probable that a case study of the telecommunications regulatory policy guided by the structuration-based framework will provide insights into structural features and institutional forms that are "present" in some way in many or all regulatory policy processes.

Final thoughts

Little else can be said of the implications of the structuration-based framework for empirical research. Only by applying the framework to substantive regulatory policy processes can I evaluate its empirical implications further. This will constitute the next stage in my research program (as I discussed in Chapter I). However, I believe that the application of the framework will facilitate the production of a certain kind of knowledge; a knowledge that un masks the "taken-for-granted" institutional framework of the regulatory policy process and in so doing provide a fuller picture of how power operates in and through the institutions associated with the process. All organization is bias, E.E.


22 This is the issue of "generality" discussed earlier in the chapter.
Schattschneider argues.\textsuperscript{23} The principles and criteria embodied in the rules and procedures which are embedded in the institutional arrangements of the policy process are biased. The result of past power relations, these criteria govern who gets access to the policy process and on what terms, and who controls the process. Other criteria govern the relations between those involved in the policy process (the style and terms of discourse, for example). Still other criteria suggest which values should govern decisions and in what ways the decisions should be presented to the relevant constituency.

The task facing policy researchers is to penetrate the dense web of institutional arrangements through which some of the most powerful interests maintain their privileged position. Knowledge of these arrangements is crucial for those who wish to assess both the viability of effecting "meaningful" change through the policy process and the possibility of redesigning or restructuring the institutions of the policy process itself. If opportunities are available for the assertion of less powerfully-entrenched values and interests, the extent to which these opportunities are grasped will depend, in part, on the awareness of actual and potential participants as to context and the possibilities for action. This analytical task and normative challenge are of particular importance at the present time, for established US telecommunications regulatory policy processes and criteria (as well as those in many other countries) are under pressure to change in response to new economic and social configurations, new interest claims and their political articulation.

\textsuperscript{23} Schattschneider (1960).
Source: Giddens (1984, p. 29).

Figure 1: Dimensions of the Duality of Structure.
S --- D --- L  Symbolic orders/modes of discourse
D (auth) --- S --- L  Political institutions
D (alloc) --- S --- L  Economic institutions
L --- D --- S  Law/modes of sanction


Figure 2: Giddens' Categorization of Institutions.
unacknowledged conditions of action

reflexive monitoring of action

rationalization of action

motivation of action

unintended consequences of action


Figure 3: The Stratification Model of the Agent.
Figure 4: Structuration of the US Federal Telecommunications Regulatory Policy Process
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