Weighing High-Tech Bills in Analog

Political issues pile up in the fast-evolving sector, but Congress' expertise isn't up to date.

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WASHINGTON — Halfway through a recent House hearing on MySpace and other online social networks, lawmakers had to switch gears to deal with another technology issue: a vote on Internet gambling.

But Congress isn't exactly a haven for the tech-savvy. The alert to rush to the House floor was delivered in low-tech fashion — by dated pagers clipped to members' belts and clanging bells that made the halls of Capitol Hill echo like a 1950s high school.

Almost daily when Congress is in session, lawmakers are struggling to comprehend new technology and the government's role in shaping its future. In the biggest spurt of legislative activity since the dot-com boom, advocacy groups and businesses are seeking new laws to shape the fast-evolving digital landscape. The effort will resume in September, when Congress returns from its summer recess.

They say the nation's statutes once again must catch up to another generation of technology — high-definition TV, satellite radio, video downloads and Internet phone calls — just as they did a decade ago, when the World Wide Web, e-mail and digital music gained wide popularity.

Lawmakers this year could decide whether millions of Americans get TV piped through their phone lines and high-speed Internet access extended to their neighborhoods, how long Internet service providers retain Web-surfing records and how easy it will be to record programs broadcast over high-definition TV.

The task is all the more difficult because few in Congress understand what those engineers in Silicon Valley actually do.

One of the leading gatekeepers for technology legislation, Senate Commerce Committee Chairman Ted Stevens (R-Alaska), has been lampooned on TV and tech blogs after recently describing the Internet as "a series of tubes." The lack of high-tech understanding is so pervasive on Capitol Hill that Vint Cerf, a Google Inc. executive known as a father of the Internet, is considering creating a comic book to show engineers in Silicon Valley actually do.

The last flurry of high-tech legislation occurred in the mid- to late 1990s. Many industry observers believe Congress made mistakes, the biggest of which were in an overhaul of the copyright laws that was supposed to increase competition but instead led to more mergers.

Some say it's time to fix the errors. Others warn that new laws could cause another round of unanticipated problems as lawmakers attempt the always-tricky task of predicting where technology is headed.

"It's hard to forecast the future," said E. Floyd Kvamme, a longtime Silicon Valley venture capitalist and a technology advisor to President Bush. "It's dangerous, he said, to assume "certain things are going to happen or not happen."

A convergence of events has made 2006 a hectic year for policy technology.
The controversy over domestic spying and the disappearance of a laptop computer containing the personal information of 26.5 million military veterans has sharply increased interest in electronic privacy and data security legislation. Bush's initiative to increase U.S. competitiveness has led to bills to increase high-tech research funding and tax credits.

The dramatic growth and popularity of social networking sites has spurred a new round of proposals to deter online sexual predators, and Congress and the Federal Communications Commission are looking to reallocate large amounts of radio-wave spectrum, which companies covet for new wireless devices, because of the 2009 deadline set earlier this year for the conversion to digital TV.

Then there's the biggest factor: the first major telecommunications legislation in a decade, which would make it easier for phone companies to offer television over their networks.

But fear of unintended consequences and difficulties grasping the highly technical issues are making some in Congress hesitant to support technology legislation. For example, Google, Amazon.com Inc. and other major Internet companies have led a push for strong regulations to prevent phone and cable companies from charging fees for faster-speed delivery of video and other data-heavy online content. The issue, known as "network neutrality," has been one of the major technology battles in Congress this year.

But legislation to enact those regulations failed to pass the House and a key Senate committee in recent weeks after many lawmakers said the issue hadn't been adequately explained.

Supporters have resorted to analogies — trucks on highways are a favorite — to simplify the movement of information online and the risks posed by creating Internet "toll lanes." But sometimes those explanations have only caused more confusion. "I'm tired of talking about 18-wheelers," an exasperated Rep. Dan Lungren (R-Gold River) said at a House hearing this spring. "I'd like to know what we're talking about here."

Phone and cable companies, which oppose any new regulations governing whether they can charge for prioritizing content, have seized on that confusion. They've warned lawmakers not to act on a vaguely defined potential problem because it could have those dreaded "unintended consequences."

Those arguments carry weight among lawmakers trying to be careful about intervening in the technology marketplace, said Rep. Fred Upton (R-Mich.), who chairs a House subcommittee on telecommunications and the Internet.

But the debate has frustrated Internet executives. "We didn't want to lock in or lock out future players," he said. "Who knows what's going to come down the pike?"

But the debate has frustrated Internet executives. "To our industry and our customers, very important issues are being decided today in Congress," said Paul Misener, Amazon's vice president of global public policy. "Much of the concern is decisions might be made without a complete understanding of the facts."

The hearing last month on social networking sites demonstrates how difficult it can be for Congress to tackle technology questions. Alarmed by reports of pedophiles surfing for young victims on MySpace.com and similar sites, Rep. Mike Fitzpatrick (R-Pa.) proposed a law to prohibit anyone under 18 from accessing them at schools or libraries receiving federal Internet-access subsidies. Concern about online predators already has led to calls for legislation requiring Internet service providers to maintain online records longer to help law enforcement.

While lauding the goal of Fitzgerald's bill, several witnesses at the House telecommunications and Internet subcommittee hearing pointed out potential problems. In broadly defining social networking sites as any that allow interactive chat, the bill
could block access to everything from Google and Yahoo to many business sites that now have interactive features, said Parry Aftab, executive director of WiredSafety.org, a group that patrols the Internet for child molesters. Ted Davis, an information technology expert from the Fairfax, Va., school district, warned that the bill could block access to legitimate educational sites. And Texas Atty. Gen. Greg Abbott said that vague wording could lead to years of court battles.

The bill was revised slightly and overwhelmingly passed the House late last month, alarming many in the tech industry who fear it still could unintentionally block many websites.

Lobbyists who work on technology issues said many lawmakers just don't understand enough about how technology works.

In the last year, AeA, a high-tech trade association, has started distributing colorful, four-page handouts to lawmakers that distill complex issues such as the patent system and radio-frequency identification tags.


While struggling in June to follow testimony over a technological gap that allows people to copy protected DVDs, Sen. Arlen Specter (R-Pa.) quipped, "I think that we might promote the quality of this hearing by having the senators leave the room."

But his conclusion after the hearing was no joke to the Motion Picture Assn. of America, which has been pushing Congress to pass legislation to close what's known as "the analog hole" — the ability to bypass digital protections by converting DVD signals to analog and then back to digital.

As lawmakers often do when they don't fully understand an issue, Specter said he saw no need for an immediate legislative solution. He urged Hollywood to work something out with consumer electronics manufacturers, who oppose any legislative mandates.

"If you get in a technical debate on these issues, you're already losing because members of Congress don't have time to read the technical information," said John Feehery, MPAA executive vice president of external affairs and a former top congressional aide. "You need to put it in terms that politicians understand — this is going to hurt jobs, this is going to hurt economic activity."

Technology is now so pervasive that it has become a component of other major issues — including global competitiveness, national security and improving healthcare delivery — raising the profile and stakes for laws affecting it.

With the phone industry pushing hard for telecommunications legislation, lawmakers have jumped to include their own pet technology projects. The version that passed the Senate Commerce Committee in June includes a permanent moratorium on Internet access taxes, new anti-piracy measures on digital TV and radio signals known as "broadcast flags" and an expansion of low-power FM radio service.

All those complicated technology issues could make telecommunications legislation difficult to pass this year. But the issues won't go away, industry executives said. And neither will the nervousness when Congress considers new laws governing technology.

"The technology has gone into generation two and is creating these new requirements to rethink its impact," said Robert Atkinson, president of the Information Technology and Innovation Foundation, a Washington think tank. "They are important issues that Congress should be dealing with, and it's important they get them right."