

Does it mean that programs authorized by Congress will begin to move away from public needs, to focus instead on market needs never contemplated by our elected representatives?

Does it mean Government employees working at taxpayer expense to support the information requirements of private firms? And isn't that corporate welfare?

And what if the *Journal of the National Cancer Institute*, now owned by the Oxford University Press, does not meet the profit goals of the new owner? Does it mean that instead of a "Hammer" award, there will be the "axe" usually awarded sub-par performers in the market place?

Who represents the public in a Bottom-line Information Era?

What is to prevent our nation's bridge to the 21st Century from turning into a toll bridge for Government information?

In 1989, the late Office of Technology Assessment, may it rest in peace, declared that "congressional action is urgently needed to resolve Federal information issues and to set the direction of Federal activities for years to come."

Now, eight years later, there is some talk of legislation to update Federal Information Policy to the Electronic Era. The critical issues at stake today are preservation of official information, public access, Government accountability, and an informed electorate. Americans should not pass up this opportunity to define their own information future.

Those best positioned to know the value and power of information should take the lead. It is not an easy issue for the media because it lacks the essential elements of hot news. It is more significant than sensational.

It is not an easy issue for politicians because there is no visible crisis and framing sound policy seldom delivers votes.

So it may be up to those among us who by nature are reluctant to get out front. Remember those riveting lines of Yeats: "The best lack all conviction, While the worst are full of passionate intensity." Let's not let that happen.

Before it is too late, let the debate begin.

**Statement of Robert L. Oakley, Director of the Law Library and professor of Law, Georgetown University Law Center Edward B. Williams Law Library on behalf of the American Library Association, American Association of Law Libraries, Association of Research Libraries, Special Libraries Association before the Subcommittee on Legislative House Committee on Appropriations on the FY 1998 Appropriations for the Government Printing Office, February 12, 1997**

Good afternoon. I am Robert Oakley, Professor of Law at the Georgetown University Law Center and Director of the Edward B. Williams Law Library. I also serve as the Washington Affairs Representative for the American Association of Law Libraries. I am honored to appear before the Subcommittee today on behalf of the American Association of Law Libraries, the American Library Association, the Association of Research Libraries and the Special Libraries Association to support the FY 1998 budget request of the Public Printer of \$30,477,000 for the Superintendent of Documents Salaries and Expenses appropriations.

*Transition to a More Electronic Federal Depository Library Program*

Recognizing the need to centralize government printing and to establish a mechanism to provide our Nation's citizens with no-fee access to Federal government information, Congress passed the Printing Act of 1895 that established the Federal Depository Library Program (FDLP) within the Government Printing Office. The FDLP has evolved over more than one hundred years to become one of the most effective and successful partnerships between the Federal government and the American people today. The goals of the FDLP are based on principles that Congress and the library community have long affirmed as being essential to our democratic society. These principles

were most recently expressed in the Government Printing Office's *Study to Identify Measures Necessary for a Successful Transition to a More Electronic Federal Depository Library Program* (June 1996). This study was conducted at the request of the conference committee on the FY 1996 Legislative Branch Appropriations Act.

Principle 1: The Public Has the Right of Access to Government Information.

Principle 2: The Government Has an Obligation to Disseminate and Provide Broad Public Access to its Information.

Principle 3: The Government Has an Obligation to Guarantee the Authenticity and Integrity of its Information.

Principle 4: The Government Has an Obligation to Preserve Its Information.

Principle 5: Government Information Created or Compiled by Government Employees or at Government Expense Should Remain in the Public Domain.

We urge this Subcommittee to reaffirm these important principles and to support their implementation through adequate funding for the FDLP. The public's access to government information and the future success of the FDLP will only be achieved if the government, as creator and disseminator of information, staunchly upholds these principles.

Under the direction of the Public Printer, the GPO *Study* was successful in analyzing many of the complex issues regarding the government's use of electronic information dissemination technologies. Attached to this statement is a letter from our associations to the Public Printer reiterating the continuing concerns of the library community during the transition years to a more electronically-based FDLP. Our two most critical concerns are the public's ability to locate information in a distributed electronic environment and the fundamental need to guarantee that electronic government information will be permanently accessible.

We believe that, as the average user requires assistance in navigating through the complex layers of technology and the confusing maze of government to find the information they require, the role of depository libraries and librarians is more important than ever before. These libraries willingly invest substantial funds to provide highly trained staff, adequate space, costly equipment, and Internet connections so that the public has equitable, ready, efficient and no-fee access to government information in both print and electronic formats.

Your constituents, whose tax dollars fund the collection and dissemination of information from agencies in all three branches of government, use the resources of their local depository collection daily to access needed information. The results of GPO's most recent Biennial Survey are startling. In 1995, an estimated 189,000 to 237,000 users each week were provided expert service in locating and using depository materials at the 1,370 partner libraries. These numbers represent people from all walks of life and all levels of experience and technical sophistication. Without the local resources and services provided at depository libraries, these requests for government information would go unmet.

#### *FY 1996 Enhancements to GPO Access Commendable*

GPO is to be commended for the steady progress in moving towards a more electronic FDLP. The development of the GPO Access system, in terms of the growing number of electronic information products that are now available and the increased use by the public, is laudable. With the passage of the GPO Electronic Information Access Enhancement Act of 1993 (Public Law 103-40), Congress wisely sought to develop an access point to information from all three branches of government. In December 1995 we applauded the decision of the Public Printer to provide free public access to all GPO Access products and services. As a result of that decision and the addition of many new titles to the system, recent monthly usage statistics are dramatic. In October 1995, prior to the availability of free access to these products, 837,494 documents were retrieved from the system. That number ballooned significantly to 2,880,998 downloaded documents in October 1996.

GPO has added many new electronic products that provide timely and important information to your constituents. GPO Access continues to grow and currently includes 48 titles from all three branches of government in more than 70 databases. Some recent additions include the *Congressional Pictorial Directory*; the *Annotated Constitution*; the *Code of Federal Regulations*; historical Supreme Court opinions from the U.S. Air Force's *Federal Legal Information Through Electronic* (FLITE) file; and the *Commerce Business Daily*. These databases exemplify GPO's commitment to the continued development of GPO Access to meet the government information needs of the public.

Another example of this commitment is the development in FY 1996 of the Superintendent of Documents (SuDoc) web site. With the rapid and pervasive

growth of electronic government information, one of the greatest challenges for users is simply identifying and locating the database or source that they need. GPO's SuDoc web site provides centralized bibliographic access to government resources in all formats through the online Monthly Catalog. In addition, GPO's electronic Pathway Indexer links users to information resources at over 705 other federal agency web sites. And GPO maintains a centralized database that allows users to search through the Government Information Locator Service (GILS) records of twenty-six federal agencies. These finding tools are essential services in a distributed electronic environment.

#### *GPO FY 1998 Budget Request Essential*

To ensure the continued transition to a more electronic FDLP and continued improvement of GPO Access to meet the government information needs of the public, we urge the Subcommittee to fully support the Public Printer's FY 1998 appropriations request of \$30,477,000 for the Superintendent of Documents Salaries and Expenses, of which \$25,886,000 will maintain the FDLP. While some policy makers may view the move to electronic information as a means of cutting government costs, no data exists to support this assertion. In fact, we believe the opposite likely to be true particularly during the transition period.

Congress and agencies are channeling substantial funds into developing information resource systems that take advantage of new technologies. It is equally important, however, that the channels of public access to government information remain open, efficient, and technologically relevant. Libraries and your constituents are doing their part by investing in technologies to assist them in accessing electronic information. Congress and the Federal government must fulfill their end of the partnership by continuing to invest in systems and services like GPO Access that provide the public with government information. It is essential that GPO receive adequate funding for its many electronic initiatives so that the substantial progress of the past year continues.

#### *Erosion of Federal Government Information from the Public Domain*

One of the most serious concerns of the library community is that government entities, pressured by growing fiscal constraints or a failure to understand their full responsibilities under U.S.C. Title 44, circumvent the letter and spirit of the law. Unfortunately, librarians have long found it necessary to track down

missing or fugitive documents for your constituents. Now librarians and users are increasingly frustrated by the steady removal of important government resources from the public domain. The information needs of the American public are not served when agencies move to contract with private publishers and fail to supply these resources to the Superintendent of Documents for distribution to depository libraries. Furthermore, wide access and use of publicly-funded information is substantially impaired when licensing agreements prevent or curtail redissemination. To copyright or restrict distribution and use of government information is anathema to the principles of access that we uphold.

The historical record of key government titles is also jeopardized by the discontinuation of print formats in favor of electronic distribution only. We have long recommended that format decisions be based on the value and usability of the materials, and not solely on cost concerns. As directed by the FY 1997 Legislative Branch Appropriations Act, the distribution of two of the most important historically-significant Congressional titles, the *U.S. Congressional Serial Set* and the bound *Congressional Record*, has been severely cut. ALA and AALL have formally expressed concern with the impact of this decision on long-term public access.

The *Serial Set* will be limited to only one depository library in each state. The bound *Congressional Record*, previously limited to only one copy per state, has been eliminated altogether. In neither case has a proven, comprehensive, permanent electronic replacement been developed that ensures long-term public access with the ability to migrate one technological platform to another. We consider these titles among the core documents of our democracy and vital to the public's right to know. Electronic formats such as CD-ROM at this time fail to meet the necessary standards to ensure permanent long-term access and preservation, nor are they the official, authoritative versions (see attached AALL Resolution and *Scientific American* article) [Not included here — *PL* eds.]. We welcome the opportunity to work with the Subcommittee on a timetable to guarantee that these core Congressional materials are usable, effective, permanently accessible, archivable and authoritative.

#### *Revision to U.S.C. Title 44 Needed Now*

The GPO *Study* provides a necessary framework to assist Congress in analyzing some of the very complex technical and policy issues that must be addressed as

revisions to Title 44 are debated. Despite provisions of the Paperwork Reduction Act of 1995 and OMB Circular A-130, electronic information is not systematically made available to depository libraries. We strongly urge members of the 105th Congress to implement necessary changes to Title 44 so that there is no longer any doubt that the definition of government information extends to electronic resources. In addition, Congress must continue its oversight of the FDLP and develop incentives to assure that all entities of the Federal government comply with the law.

There are complex implementation challenges and significant costs ahead, particularly in terms of long-term access and preservation of electronic information. Valuable government information resources, made available through agency web sites, disappear daily. If these are not systematically captured for permanent, on-going public access, the information is forever lost to the American public. Any revisions to Title 44 must establish a systematic and comprehensive means for ensuring the preservation and permanent public access of government information. In the print world, this role has been uniquely filled by regional depository libraries. Their collections, located in every state, guarantee that the public will have ongoing and long-term access to publications from all agencies in the Federal government. In the electronic environment, however, no equivalent system exists. Publishing agencies are not equipped to permanently maintain online access to electronic data, and it is not within their mission to do so. Nor is it within the mission or scope of the National Archives to provide the general public with ready and reliable access to this information on an ongoing basis.

Libraries play an important part in providing the public with access to online services, and some libraries may have a role in electronically storing and maintaining databases in cooperation with publishing entities. But in the absence of a coordinated national program to systematically capture, preserve, and maintain ongoing access to electronic government data, important information is lost every day as files come and go from agency web sites and computer servers. GPO has taken a lead in investigating partnership opportunities with agencies and libraries to develop models for permanent public access. These efforts must be supported with appropriations and based in statute on the government's affirmative responsibility to preserve and provide long-term public access to its information.

Mr. Chairman, we are anxious to work with Congress in drafting revisions to Title 44 that will guarantee that new technologies realize the potential of the

information age by improving public access to government information. We expect that Congress will be presented with many different proposals to revise Title 44, and we ask that open and thorough public hearings are held as deliberations proceed. ALA President Mary Somerville has invited representatives from the national library associations to participate in an inter-association working group on government information policy. This group, charged with developing over the next few months a detailed outline of a legislative proposal for revising Title 44, will hold its first meeting next week. We will be pleased to share the progress of this task force with this Subcommittee. Thank you for the opportunity to appear before you today.

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