

Prepared Testimony
and
Statement for the Record

of

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Computer Professionals for
Social Responsibility (CPSR)

on

H.R. 3849
The Government Printing Office
Improvement Act of 1990

before

The Subcommittee on Procurement and Printing,
Committee on House Administration,
U.S. House of Representatives

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Mr. Chairman, members of the Committee, thank you for the opportunity to testify today on H.R. 3849, the Government Printing Office Improvement Act of 1990. My name is Marc Rotenberg and I am the Director of the Washington Office of Computer Professionals for Social Responsibility (CPSR). I was formerly counsel to the Subcommittee on Technology and the Law of the Senate Judiciary Committee. I am also a member of several professional organizations in both law and computer science.

I am pleased to testify today on behalf of Computer Professionals for Social Responsibility. CPSR is a public interest organization of computer scientists from across the country. Our membership includes a Nobel laureate and five winners of the Turing Award, the highest honor in computer science. We have participated in a number of congressional proceedings and welcome the opportunity to assist this committee in the development of public policy that will expand public access to government information.

We support your efforts to move the Government Printing Office into the electronic age. At a time when computer technology promotes the rapid and widespread dissemination of timely information about business, science, economics, and world affairs, the absence of basic government information, such as the Congressional Record and the Federal Register, has left a gaping hole in our country's information landscape. Providing the GPO with the direction and the resources to make this information widely available to the public will promote broader understanding about our national government and greater participation in political affairs.

We also express our support for your recommendation that the Supreme Court provide a link to the Government Printing Office. This connection should facilitate the dissemination of the Court's opinions to the public through the Federal Depository Library Program. This is a good test project that will allow the GPO to determine the most effective and useful way to disseminate electronic information. At a time when the private sector is experimenting with a wide range of dissemination opportunities, the government should also be encouraged to explore new ways to promote public access to electronic information.

CPSR members are particularly aware of the value of electronic information. Whether as a researcher at Digital Labs, a professor in computer science at Stanford University, or a policy analyst at the Kennedy School of Government, we assemble and share computer-based information far more rapidly and far more effectively than might be possible with paper. The result is that the information we receive is more timely, more useful, and our work is more productive.

Computer networks have created an enormous opportunity to move information to many people at little cost. On the Internet, a national network used by computer researchers in science, industry, and government, electronic conferences provide valuable information on many topics. The VIRUS-L conference, for example, offers subscribers current news about developments with computer viruses, trojan horses and other rogue programs that might endanger the security and reliability of computer systems. The conference is both a national and international resource for computer scientists who are working to improve the security and reliability of computer systems and networks.

Another conference, the RISKS Digest, helps its readers assess some of the problems associated with the development of computer systems and how these risks might be corrected, or at least tempered. When the AT&T phone network collapsed in mid-January, engineers, computer scientists, and others turned to the RISKS Digest to determine the exact cause of the problem, and to begin compiling suggestions for how such network failures might be avoided in the future.

Another conference that may be of particular interest to Committee Members is "GovDoc-L." This conference was established to focus specifically on government issues. The topics include the information dissemination activities of the Federal Depository Libraries and the GPO, the compilation of the 1990 census, the Freedom of Information Act and other similar topics. There has already been some discussion on GovDoc-L about H.R. 3849.

These are the newspapers, books, and journals of the future. The moderators of these conferences who compile the submissions and disseminate their computer newsletters are the publishers of our new electronic age. Their efforts will help to make our country, not just our computer scientists, better informed, better educated, and technologically more literate.*

Into this rapidly evolving world the question of the role of the Government Printing Office arises. How should the federal government carry forward a century-long commitment to ensure public access to government reports? How do we select the dissemination technologies that are cost-effective and will not be quickly outdated? How do we preserve the government's role of informing the nation without discouraging innovation and investment that could lead to new and useful information products and services? These are the central questions that this Committee and several other Committees across the Congress are now considering.

H.R. 3849 is a step in the right direction. It begins the process of developing legislation to strengthen the role of the GPO. It reaffirms the responsibility of the Government Printing Office to provide public access to government information. And it could strengthen the Depository Library Program by encouraging the development of on-line services.

The importance of supporting the Depository Library Program cannot be overstated. Libraries provide resources to information users that are often not otherwise available. Nancy Kranich, the Chairman of the Coalition on Government Information, outlined the critical role of libraries in the information chain in a paper prepared for the Benton Foundation last fall. She underscored the need to strengthen "the longstanding partnership between libraries and the federal government which has assured the nation's citizens ready and equal access to government information."

On the matter of privacy protection for confidential record systems, an area of particular interest to CPSR, librarians are also the champions of strong safeguards to protect personal information. This too should be considered as part of the value of disseminating government information through the library system.

H.R. 3849, to the extent that it promotes greater dissemination of electronic information and strengthens the Depository Library Program could greatly enhance the public's right to know. However, there are two concerns about the bill that should be addressed. The first is the proposed changes to the definitions of "printing" and "government publications" in title 44. The second is the proposed cost-sharing arrangement.

The definitional questions regarding new computer technologies has become a central concern for Members of Congress. In areas as diverse telephone privacy and computer security, Congress has tried to develop definitions that are broad enough to cover both current and anticipated technologies without becoming so broad that they collapse for lack of structure or coherence.

Computer people have a term that may cast some light on these definitional problems. We speak sometimes of "transparency" to describe an operation that allows the user to do exactly what she intends to do without being encumbered by unnecessary commands or oblique instructions. Ideal legislative definitions would be transparent in the sense that they would clearly reveal the underlying policy interest without introducing technical jargon that requires explanation and interpretation.

I would like to suggest to the Committee that it may not be necessary to amend the definitions in title 44 to ensure that the Government Printing Office is allowed to go forward with electronic publishing. I will focus my remarks on one particular provision: the definition of "government publication."

As defined in the Depository Library Act of 1962, a government publication is defined as "informational matter which is published as an individual document at Government expense, or as required by law." The language and the legislative history make clear that Congress intended the definition to be as all-encompassing as possible. Similarly, the references to "printed" products simply mirror the description of government information that was widely understood by the Congress and the Public Printer. Most significantly, there is no legislative history to indicate that the Congress excluded categories of government publications based on the format of the information.

This history stands in marked contrast to development of the Electronic Communications Privacy Act of 1986. In 1968 with the passage of the Safe Streets Act, Congress established comprehensive protections against wiretapping. However, the Congress chose to distinguish between communications that could be understood by a person - "aural" communication - and those which could not be. The 1968 law protected aural communications, but not digitized communication.

For this reason when computer companies and telecommunications firms in the early 1980's expressed concern about the confidentiality of computer communications it was necessary to change the wiretap laws. A coalition of business and civil liberties groups helped update a law that was, on its face, out-of-date with new technological developments. But it is a less clear that a similar problem exists with the definitions in title 44 where the underlying policy goals remain unchanged.

Finally, let me note that Senator Ford expressed a similar view in a letter to OMB Director Richard Darman last spring. He stated that:

The dissemination of information to the public by the Government Printing Office through the Depository Library Program or the Superintendent of Documents' Sales Program should not be impeded by the format in which copies of information products are produced. The fact that technology changes does not alter the purposes and policies that underlie the statutory scheme of Title 44, and should not be the means by which those purposes and policies are eviscerated.

I would suggest to the Committee that absent a clear showing that Congress intended to exclude a particular information format, it would be better to assume that the purposes in title 44 remain unchanged. The alternative is constant redrafting, revising, and reexamining of issues where the underlying policy consensus has not changed. This process may slow the development of the agency programs that the legislation was designed to promote.

Regarding the cost sharing arrangement, I understand that many in the library community have expressed concern that H.R. 3849 would require depository libraries to carry the additional cost of providing government information where previously this was provided without cost. I say "additional cost" because the libraries currently pay many costs to make government information available to the end-user. These costs include the library facility, the staff salaries, the computer equipment and peripheral devices, the cataloging and indexing of related materials, as well as the maintenance costs necessary to keep the computer system running. These are substantial costs and demonstrate the commitment of the library community to maintain its half of the library/government partnership arrangement.

As I described above with the discussion of definitions in title 44, sometimes the best solution to these new line-drawing problems is to take a step back from the technology, identify the underlying policy interests, and assess the proper responsibilities of the institutions involved. Here it seems clear that for the government to maintain the vitality of the Depository Library Program it must uphold its commitment to make government information available without additional costs to the library community. In this way, we move through this current period of information transformation without losing sight of the goals of the Depository Library Program.

Before concluding, I would like to add that a number of proposals have been put forward by several of the witnesses regarding the future of the GPO. The Association of Research Libraries, for example, recommends moving toward a tiered system of information disseminators. Such proposals may prove to be a more effective way of disseminating government information, and therefore should be fully explored. But the underlying commitment of the federal government to a well-informed, well-educated public remains the touchstone for evaluating these proposals. It is against that standard also that H.R. 3849 should be judged.

This concludes my testimony. I would be pleased to answer your questions.

* The Virus-L conference is moderated by Ken van Wyk at Lehigh University. The Internet address for the conference is VIRUS-L@IBM1.CC.LEHIGH.EDU. Administrative questions should be sent to KRVW@SEI.CMU.EDU. The RISKS Digest ("Forum on Risks to the Public in Computers and Related Systems") provides general information about computer risk and reliability. The moderator is Peter Neumann at SRI in Menlo Park, California. The Internet address is RISKS@CSL.SRI.COM. The GovDoc-L conference is moderated by Diane K. Kovacs at Bucknell University. Send inquiries to LISTSERV@PSUVM SUB GovDoc-L <your name> or to KOVACSD@BKNLVMS.BITNET.