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**[PUBLIC SECTOR/PRIVATE SECTOR INTERACTION IN  
PROVIDING INFORMATION SERVICES]**

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**[REPORT TO THE NCLIS FROM THE  
PUBLIC SECTOR/PRIVATE SECTOR TASK FORCE]**

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BACKGROUND.

For the past decade or so, both the government and the private sectors have dramatically increased the number and variety of information resources, products, and services they each provide. The result has been an ever-rising level of conflict concerning the proper roles of the sectors of our society in the generation, collection, processing, and dissemination of information. Charges of "market failure" are met with accusations of "unfair government competition"; demands for "market determined allocation of resources" are a cause of concern for the "information disadvantaged"; the needs for "open availability of information" are countered with wishes for "diversity of choices". The

conflict, as it has developed, has been exacerbated by failure to define terms (such as those quoted in that sentence) and by the fact there have been no established rules and no explicitly defined array of choices.

In recognition of these problems, an ad hoc sub-committee of the NCLIS met during 1975 to consider how best to avoid the growing number of conflicts between information activities in the public and private sectors. Its report recommended that a fact-finding effort should be undertaken by the Commission, through a Public/Private Sector Task Group.

Because of other priorities, establishment of the Task Group was delayed until 1979. Although the intervening period had seen a number of studies and [Page 2] reports touching on the public/private sectors interface, none provided NCLIS the guidance it needed. The problems, issues, and conflicts that had led to the initial interest in 1975 still existed and some had even intensified. As a result, the present Task Force was appointed in June 1979.

### [1.] CHARGE TO THE TASK FORCE

The Task Force was asked to review interactions among the sectors with respect to the generation and dissemination of information of all types — scientific, technical, business, etc. Consideration was to be given especially to legislation, executive orders, and government policies and practices. To paraphrase the document establishing the Task Force, it asked for a report that would accomplish the following objectives:

- Identify and illustrate the types of library and information service functions that should be carried out by government or by the private sector.
- Define and illustrate the criteria used to determine what information services should be supported by tax funds or by the marketplace.
- Identify activities within government and the private sector which now contradict the Task Force views.
- Identify means and actions to be taken to correct the balance, and identify the parties, including NCLIS, that should take them.

### [2.] MEMBERSHIP OF THE TASK FORCE.

The membership of the Task Force was carefully chosen to be as representative as possible of the several constituencies involved, with the three major sectors — government, not-for-profit, and for-profit — being equally represented in the original membership. During the course of the work of the Task Force, there were a few original members who resigned and there were a few who were represented by surrogates during some meetings. As a result, additional members were co-opted<sup>[1]</sup> to replace those original members who, for one reason or another, were not able to participate fully in the discussions. The final membership of the Task Force is shown in Appendix 1.

### [3.] METHOD OF OPERATION.

The Task Force met as a group eight times over a two-year period:

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<sup>1</sup> As defined in the *Webster's Third New International Dictionary* (unabridged), co-opted means "to choose or elect into a body or group as a fellow member."

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13-14 June 1979  
20-21 September 1979  
8-9 January 1980  
10-11 April 1980

12-13 June 1980  
23-24 October 1980  
12-14 January 1981  
15-16 April 1981 [Page 3]

Each meeting involved open discussion of the issues. Sub-committees were used during three meetings, to focus discussion, and a modified Delphi questionnaire was used between meetings to elicit views and to determine areas of convergence or divergence in those views. The final two meetings were devoted to discussion of and formal votes on the several statements of principle and the recommendations.

The process, for whatever reason, was remarkably successful in creating a sense of common purpose — not necessarily consensus on views, but an agreement on principles and on the basis for disagreement. The Task Force strongly feels that the sense of common purpose was perhaps the most important achievement in its working together as a group.

### [4.] RESULTING OBJECTIVES.

As a result of the discussions in the Task Force, it became clear that the original charge was inconsistent with the actual problems of concern, specifically:

- The Task Force concluded that assignment of responsibilities for various functions was not the means to guide the interactions among the sectors. No function was the exclusive province of one sector or another.
- The Task Force concentrated its attention almost solely on the Federal government (including independent agencies as well as the executive, legislative, and judicial branches).
- The focus was on information contexts in which conflict results from government involvement, especially in distribution of information.
- The Task Force focused on government information resources, products, and services that are "in the realm of commerce" (i.e., that are disseminated by the government either directly or through the private sector), thus excluding those that are purely internal or administrative.
- Although there clearly are areas of conflict within the private sector which are affected by government action (in the form of legislation, regulation, or even perhaps direct action), the Task Force did not consider such issues, focusing its attention totally on the impact of governmental information activities. Thus, issues relating to private copyright conflicts, to conflicts between different private information activities, and to conflicts between the providers of information services and the purchasers of them were not considered, unless [Page 4] they involved the government itself as a party in those conflicts.
- Although the charge implied that the Task Force should consider how present situations might differ from the views it suggests, the Task Force concluded that it could only make progress if it limited its consideration to activities that might arise in the future. The extent to which existing situations may or may not fit within the framework will need to be considered on an ad hoc basis, case by case.
- Although the area of international data flow is one in which public sector/private sector interaction is clearly of immense importance, the Task Force did not feel

that it had sufficient expertise or time with which to cover the issues adequately. As a result, despite the importance with which the members of the Task Force individually and collectively regard the problems in international data flow, the Task Force did not cover them in its principles or in recommendations.

- Although issues related to technology pervaded the entire process of the Task Force, arising in virtually every item of discussion, in the final analysis the decision was made that the Task Force did not find it appropriate to present any recommendations or conclusions about technology.

## THE CONTEXTS OF CONFLICT.

From the outset, the Task Force was concerned with identifying the kinds of problems that were involved in the interactions among the sectors, either in theory or as exemplified in specific information activities of the Federal government (such as those listed in Appendix 3). These "contexts of conflict" have been summarized in Table 1. Simplified though it is, it does provide a convenient frame of reference for considering the several dimensions of the problem.

### [1.] THE PURPOSES.

Consider, for example, the means by which the Function of Government is determined. As shown in the first row of Table 1, there would be little, if any, conflict when a function is Constitutionally defined (support of national defense, for example). But even Congressionally mandated services are likely to result in at least moderate conflict. And when the Federal agency itself determines that an information service is needed, the likelihood of conflict is high. Closely related to this context are two others — the "Purpose of the Information" and the "Degree of Availability". If the information is needed for the internal functioning of government and is available only under the provisions of the Freedom of Information Act, there is small likelihood of conflict; but if it's extensively marketed information, intended to influence [Page 6 <sup>2</sup>] policy, there is almost certain conflict.

### [2.] THE AUDIENCES.

The Audience for a service and the ability of the audience to pay for it are two more of the contexts for conflict. Essentially, the more specific the audience and the more able the audience is to pay, the more likely there will be conflict if the Federal government provides an information service. Related are issues of Value — Social Value, Economic Utility, and Immediacy of Value. Information of high economic value, especially that for which literally seconds may change its value, is information that the private sector wants to repackage, to market, to distribute; conflict is almost certain if the Federal government were to engage in active commercial distribution of such information. On the other hand, information of high value to society as a whole — disaster information and medical data, for example — is unlikely to be controversial.

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<sup>2</sup> Table 1 appeared on page 5 of the original report. It is at the end of Section 3 in this edition to avoid a break in the flow of the text and keep the entire table on a single page.

Table 1. Schematic of Contexts for Conflict Concerning the Role of the Federal Government in Providing Information Resources, Products, & Services			
Range of Conflict			
Context	Limited	Moderate	High
Function of Government	Constitutionally defined	Congressionally mandated	Agency determined
Purpose of Information	Internal work of government	Educate or inform public	Influence policy
Degree of Availability	"Freedom of Information Act"	Superintendent of Documents	Heavily marketed
Audience	General public	Specific groups	Limited groups
Ability to Pay	Economically disadvantaged	General public	Business and industry
Social Value	High social value	Moderate social value	Low social value
Economic Utility	Low utility	Moderate utility	High utility
Immediacy of Value	Long-term value	Medium-term value	Immediate-term value
User Specificity	Resources	Products	Services
Amount of Value Added	Generation & processing	Compilation & collection	Packaging & direct access
Form of Availability <sup>3</sup>	Print, Microform	Computer readable tapes	Online access, broadcast
Pricing Policy	Congressional subsidy	Marginal cost of reproduction	Market based pricing
Existing Services	No overlap to minor overlap	Minor overlap to some overlap	Major overlap to competitive
Source of Information	Generated internally	Collected from public	Obtained from private sources

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<sup>3</sup> This is one area where changes in technology have significantly changed the "range of conflict" identified by the Public Sector/Private Sector Task Force. In 1982 online dissemination of government information was costly, and it was generally considered a "value-added" private sector service. In 2000 online dissemination of government information using the Internet and the World Wide Web is widely accepted, and it is generally considered the preferred means for government to make information available to the public.

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[3.] THE SERVICES.

Among the most sensitive contexts are those called "User Specificity", "Amount of Value Added", and "Form of Availability". Each of them relates to services that go beyond simply making information available. If those services include tailoring the data to the needs of specific users, doing additional processing, or providing sophisticated means for access, then the likelihood of conflict increases.

[4.] THE EFFECTS.

Among the most serious causes of conflict are those which involve direct effects upon private sector activities. In particular, if there are existing private sector services with which governmental services directly compete, the likelihood of conflict is high. And in many cases, the governmental service may even itself use information taken from private sector sources; the conflicts in that event are compounded.

THE PRINCIPLES & RECOMMENDATIONS.

The Task Force found it valuable to establish "principles" to serve as the basic ground rules that should govern Federal government information activities and provide the basis for resolution of conflicts; the Task Force concluded with agreement on recommendations for means of implementation of those principles. These principles and related recommendations will be summarized here, with emphasis on their relationship to the basic areas of conflict. In subsequent sections of the Report, they will be separately discussed, with emphasis on the debate concerning them, with the aim of highlighting the issues of controversy.

[1.] GOVERNMENTAL LEADERSHIP.

In his book, "The Public Use of Private Interest", Charles Schultze [Page 7] makes the case that many current social problems are so complex that no one, not even the Federal government, can "manage" them. He suggests instead that government should provide incentives so that market forces will solve them. For the most part, the Task Force subscribes to this view and does not feel that a "national information policy" is the answer, if that is interpreted as implying management by government. Instead, the Task Force sees the Federal government in a position of leadership, establishing policies that will manage its own activities in a coherent manner and that will encourage private enterprise in the development of information as a national resource.

This view is embodied in Principle 1:

***Principle 1. The Federal government should take a leadership role in creating a framework that would facilitate the development and foster the use of information products and services.***

The recommendations related to this principle specify several areas in which government can provide leadership: enhancing the competitive forces of the marketplace; affirming the application of

the First Amendment; providing legislative consistency; using efficient technologies; supporting education, research, and data collection in this field.

Recommendation #1. Provide an environment that will enhance the competitive forces of the private sector, so that the market mechanisms can be effective in allocating resources in the use of information and in directing innovation into market determined areas.

Recommendation #2. Affirm the applicability of the First Amendment to information products and services.

Recommendation #3. Encourage Congress to be consistent in the language used and in the application of principles relating to information products and services, such as those identified in this Report, when it formulates legislation and when it exercises its oversight role.

Recommendation #4. Encourage government agencies to utilize the most efficient (information) technologies.

Recommendation #5. Encourage the setting and use of voluntary standards that will not inhibit the further development of innovative information products and services.

Recommendation #6. Encourage and support educational programs that provide the professional skills needed to further the development and use of information as an economic and social resource. [Page 8]

Recommendation #7. Encourage and support both basic and applied research in library and information science.

Recommendation #8. Encourage and support statistical programs and related research to provide the data needed to deal with information policy issues.

## [2.] ENCOURAGING PRIVATE SECTOR INVESTMENT.

The private sector, including both private enterprise and not-for-profit organizations, provides the means for distribution of information in the open marketplace, in which the criteria of value are economic rather than political. The Task Force considers the encouragement of the private sector to invest in information resources, products, and service to be the best means for obtaining innovation and diversity in the wide dissemination of information of all kinds. That view is embodied in Principle 2:

***Principle 2. The Federal government should establish and enforce policies and procedures that encourage, and do not discourage, investment by the private sector in the development and use of information products and services.***

Six recommendations are presented as means for implementing this principle. They relate to encouragement of new developments, reducing uncertainties, and reducing risks.

Recommendation #13. Identify and eliminate legal and regulatory barriers to the introduction of new information products and services.

Recommendation #14. Encourage private enterprise to "add value" to government information (i.e., to re-package it, provide further processing services, and otherwise enhance the information so that it can be sold at a profit).

Recommendation #15. Provide incentives to existing organizations, such as libraries and bookstores, that will encourage them to expand their activities in dissemination of governmentally distributable information.

Recommendation #16. Establish procedures which will create a realistic opportunity for private sector involvement in the planning process for government information activities.

Recommendation #17. Involve the private sector in the process of formulating standards relating to Federal information activities.

Recommendation #18. Create or improve mechanisms for ensuring that the actions of government agencies, in developing information resources, products, and [Page 9] services, are consistent with the policies, goals, and long-range plans that are announced.

[3.] AVAILABILITY OF INFORMATION.

As part of its view that information in general is an important resource, the Task Force considers that information distributable by the government should be openly and readily available, as expressed in principle 5. The prices and means for gaining access to that information should be such that the private sector will be encouraged to create new products, services, and markets, as reflected in principles 6 and 7.

***Principle 5. The Federal government should make governmentally distributable information openly available in readily reproducible form, without any constraints on subsequent use.***

***Principle 6. The Federal government should set pricing policies for distributing information products or services that reflect the true cost of access and/or reproduction, any specific prices to be subject to review by an independent authority.***

***Principle 7. The Federal government should actively use existing mechanisms, such as the libraries of the country, as primary channels for making governmentally distributable information available to the public.***

The associated recommendations are steps that the government can take that will aid in identifying and gaining access to information of interest:

Recommendation #10. Encourage Federal agencies to regard the dissemination of information, especially through the mechanisms of the private sector (both for profit and not for profit), as a high priority responsibility.

Recommendation #11. Identify and evaluate alternatives to existing Federal information dissemination mechanisms.

Recommendation #12. Develop and support the use of libraries as active means for access to governmental information by the public.

Recommendation #24. Announce the availability of governmentally distributable information and maintain one or more registers to help the public determine what governmentally distributable information is available.

Recommendation #25. Deposit governmentally distributable information, in whatever form it may be available, at national and regional centers, including regional depository [Page 10] libraries, where it may be examined at no charge.

Recommendation #26. Do not assert any Federal government copyrights on information the Federal government makes domestically available.

Recommendation #27. Use the nation's libraries and non-governmental information centers as means for distribution of governmentally distributable information instead of creating new governmental units or expanding existing ones.

[4.] GOVERNMENT IN THE MARKETPLACE.

The means by which governmentally distributable information should be made available, beyond simply being announced and deposited at identified places where it can be examined, were matters of extensive debate. Should the government take active steps to actively encourage use of government information? Or should it depend upon the private sector to do so? The resolution of those questions led to Principle 3:

***Principle 3. The Federal government should not provide information products and services in commerce except when there are compelling reasons to do so, and then only when it protects the private sector's every opportunity to assume the function(s) commercially.***

The related recommendations are to be considered as integral parts of this principle, since they embody the procedures for determining that there indeed are "compelling reasons" for the government to provide services in commerce:

Recommendation #19. Announce intentions sufficiently ahead of time to provide an opportunity for private sector involvement when a government agency, for reasons it regards as compelling, should plan to develop and/or to market an information product or service.

Recommendation #20. Review and approve, before implementation, any plans for the government to develop and/or market an information product or service, the review to be carried out by an agency appropriate to the branch of government (such as OMB, GAO, CBO).

Recommendation #21. Include an "information impact and cost analysis" as part of the process of review, evaluation, and approval of any plans for the government to develop and/or to market an information product or service, the analysis to cover economic and social effects, effects on existing products and services, effects on potential private sector products and services, and benefits to the public. [Page 11]

Recommendation #22. Review periodically to evaluate the desirability of continuation of any information product or service as a governmental activity.

Recommendation #23. Do not arbitrarily restrict the Federal government from enhancement of information products and services, even if solely to meet the needs of constituencies outside the government itself.

Recommendation #9. Conduct a periodic economic assessment of the impact of Federal government information product and services.

[5.] GOVERNMENT USE OF PRIVATE SECTOR INFORMATION.

The Task Force considered a number of issues related to proprietary rights, especially in the context of increasing use of private sector information in government files and, conversely, of government information in private sector products and services. The problem created by making private sector information openly available as part of government information led the Task Force to endorse principle 4:

***Principle 4. The Federal government, when it uses, reproduces, or distributes information available from the private sector as part of an information resource, product, or service, must assure that the property rights of the private sector sources are adequately protected.***

IMPLEMENTATION.

The synoptic chart in Table 2 provides a classification of the several recommendations, in terms of four contexts: 1) general issues, 2) essentially governmental issues, 3) issues in the interaction between government and the private sector, and 4) essentially private sector issues. It provides a useful framework for identifying the agencies that should take responsibility for implementation of the recommendations. Specifically:

- 1) General issues clearly represent matters for which Congress should be primarily responsible. The NCLIS can play an important role in identifying the issues and in recommending to Congress what should be done about them.
- 2) Government issues clearly represent matters for which Congress must again take primary responsibility. Beyond that, however, the OMB and the various agencies of government should take the operational responsibility. And again, NCLIS can play an important role in identifying the issues and making recommendations.
- 3) Interactions require that both government agencies and private sector organizations — information industry companies, libraries, [Page 13 <sup>4</sup>] professional societies, etc. — assume active, responsible roles. The NCLIS can serve an important means for facilitating communication.
- 4) Private sector issues must be the responsibility of the private sector organizations themselves. However, Congress may need to consider legislation needed for encouragement and, where appropriate, support of private sector activities.

It is of more than passing interest to note that most of the recommendations related to Principle #2, concerned with encouraging (and not discouraging) private sector investment, in fact relate to the interaction between government and the private sector. The reasons become very clear when those recommendations are seen as a group. They all call for the active involvement of the private sector in governmental planning. They reflect a felt need that must be recognized if the interactions are to be productive rather than destructive. Clearly the private sector wants to be able to

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<sup>4</sup> Table 2 appeared on page 12 of the original report. It follows the Summary in this edition to avoid a break in the text and keep the entire table on a single page.

make its investment plans with the feeling that its needs will be recognized, its views heard and considered, its role supported and not undercut.

SUMMARY.

The following summarizes the remaining sections of the Report:

- **Definitions.** This section reviews key terms with definitions of the way in which they were used in Task Force discussions.
- **Context.** This section describes some of the historical background that led to the present concern and to the recognition of the issues as vitally important. It then identifies the players — the private sector, the nation's libraries, and the government — and describes their respective roles. It then reviews the specific areas of conflict among the players, and it outlines the philosophical issues that seemed to underlie most of the discussion and to be the basis for differences in views. It concludes with a summary of the most current policy documents that have tried to deal with these conflicts.
- **Principles.** This section presents principles identified by the Task Force as significant in achieving national goals with respect to interactions among the several sectors in development of information as an economic and social resource. Various aspects of each principle are discussed, and specifics are presented about possible means for implementing it.
- **Recommendations.** This section presents recommendations concerning specific means, among the possible ones, that [Page 14] the Task Force feels should be considered for implementing the principles and policies that the Task Force proposes to guide the government with respect to its information activities.
- **Appendices.** These present material providing supporting detail for the substantive sections of the Report.

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Table 2. Synoptic Chart, Recommendations by Category of Issues <sup>5</sup>				
Principle	Categories of Issues			
	General	Primarily Government	Interaction Between Gov't. and Private	Primarily Private
1	1, 2, 3 8, 9	4	5 10, 11, 12	6,7
2			15, 16, 17, 18	13, 14
3		19, 20 21, 22, 23		
5			24, 25, 26	
7			27	
<b>Total</b>	<b>5</b>	<b>6</b>	<b>12</b>	<b>4</b>

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<sup>5</sup> There are a total of 27 recommendations. For a variety of reasons, the Task Force did not develop recommendations for principles 4 and 6.