Fall 1993

Death and Rebirth of a National Information Policy: What We Had and What We Need

C.D. McLean

Available at: https://works.bepress.com/aallcallforpapers/46/
1993 Call for Papers

Death and Rebirth of a National Information Policy: What We Had and What We Need*

C. D. McLean**

Ms. McLean traces the history of WINDO/Gateway legislation and discusses its effects on libraries, government agencies, businesses, and associations.

Introduction

Recently, librarians and the public were given a chance to help define national policy regarding access to electronic government information. Debate raged on the Internet, in the professional journals, and in congressional hearings during the 102d Congress over what the WINDO/Gateway bills should provide and who should benefit from their passage into law. A compromise bill, H.R. 5983, died in the 102d Congress and was resurrected in the 103d. However, an even more watered-down bill, S. 564, was passed into law. The library community should feel a sense of accomplishment that some legislation was passed, but S. 564 does not address all the needs of the public or librarians. Understanding the process these bills went through and the politics that affected them should help the library community build a foundation to affect the content of new legislation on the Government Printing Office and the Depository Library Program proposed in the National Performance Review and President Clinton's National Information Infrastructure plan. The fight for a national information policy has just begun.

I. The WINDO/Gateway Legislation: H.R. 2772, S. 2813, and H.R. 5983

H.R. 2772, the GPO Wide Information Network for Data Online Act of 1991,1 was the first bill presented to Congress that dealt with electronic

---

* © C.D. McLean, 1993. This is a revised version of a winning entry in the 1993 AALL Call for Papers competition.
access to federal databases. Representative Charlie Rose (D-NC), Chair of the Committee on House Administration and the Joint Committee on Printing, presented this bill as a way to get talks started,\(^2\) consequently, the bill is not very detailed. Two hearings dealing with the subject of government information followed the introduction of H.R. 2772.\(^3\) The next year, Senator Al Gore introduced S. 2813, the GPO Gateway to Government Act of 1992,\(^4\) which contains the details discussed in subsequent hearings. Both bills intended to provide the public with electronic access through the GPO to federal databases containing public information. Since H.R. 2772 called the system the GPO WINDO, and S. 2813 called it the GPO Gateway, I refer to them here as the WINDO/Gateway legislation.

**A. H.R. 2772 and S. 2813**

H.R. 2772 proposed to amend title 44 of the *United States Code* by adding a new chapter 40, under which the Superintendent of Documents would

> establish a program for providing to the public access to public electronic information. Such program . . . shall provide . . . single-point access to a wide range of government electronic databases . . . and shall be established and maintained after consultation with and consideration of comments from potential users and others likely to be affected by the program.\(^5\)

S. 2813 did the same, but added federal agencies to the list of those consulted.\(^6\)

H.R. 2772 called for the Superintendent of Documents to

1. include such databases as are reasonably appropriate, based upon input from database users, libraries, and federal agencies;
2. rely upon agency data storage and retrieval software for accessing agency databases to the maximum extent feasible;
3. provide for access to GPO WINDO databases through a wide range of electronic networks . . . ; and

---

2. Phone interview with Bernadine A. Hoduski, professional staff member, Joint Committee on Printing (Dec. 7, 1992) [hereinafter Hoduski phone interview].
5. H.R. 2772 § 4001.
6. S. 2813 § 4002(2).
(d) permit depository libraries to connect to, access, and query GPO Windo databases without charge.\textsuperscript{7}

S. 2813, while including these requirements, also required the Superintendent of Documents to provide electronic access to the Congressional Record and the Federal Register within one year after enactment;\textsuperscript{8} it also enabled agencies either to use GPO computer systems, retrieval software, and data storage, or to contract for such facilities and services through the GPO.\textsuperscript{9} Additionally, S. 2813 identified the Internet and the National Research and Education Network (NREN) as networks to carry the WINDO/Gateway, and called for the adoption of compatible standards for electronic publishing and dissemination throughout the federal government.\textsuperscript{10}

Both bills allowed the GPO to set "reasonable" fees for providing access to databases maintained by the GPO and other government agencies.\textsuperscript{11} S. 2813 went one step further by having the Superintendent of Documents reimburse a participating agency from the sales revenue received;\textsuperscript{12} this addition would have provided incentive for agencies to participate in the program.

Another standard in each bill was an annual requirement to use the Federal Register to request comments on the system and to publish an annual report that would describe the program, summarize the comments, and state the steps taken to address the comments.\textsuperscript{13} S. 2813 required that the report also state the number of users, total revenues collected, and expenses reimbursed to federal agencies.\textsuperscript{14} Further, the Senate bill authorized the appropriation of $3 million for fiscal year 1993 and $10 million for fiscal year 1994,\textsuperscript{15} while H.R. 2772 made no mention of appropriations.

\textbf{B. The Compromise Bill, H.R. 5983}

A joint hearing on the bills took place on July 23, 1992.\textsuperscript{16} In Septem-

\textsuperscript{7} H.R. 2772 § 4002.
\textsuperscript{8} S. 2813 § 4002(1).
\textsuperscript{9} Id. § 4002(4).
\textsuperscript{10} Id. § 4002(5) & (7).
\textsuperscript{11} H.R. 2772 § 4003; S. 2813 § 4003.
\textsuperscript{12} S. 2813 § 4003(a)(2).
\textsuperscript{13} H.R. 2772 § 4004; S. 2813 § 4004.
\textsuperscript{14} S. 2813 § 4004.
\textsuperscript{15} Id. § 4005.
\textsuperscript{16} Joint Hearing on H.R. 2772, the GPO Wide Information Network for Data Online Act of 1991, and S. 2813, the GPO Gateway to Government Act of 1992, Before the Comm. on House Administration and Senate Comm. on Rules and Administration, 102d Cong., 2d Sess. (1992) [hereinafter Joint Hearing on H.R. 2772 and
ber, the Senate Rules Committee cancelled a scheduled meeting on S. 2813, citing the death of Senator Burdick. 17 With S. 2813 effectively out of the running, all attention turned to H.R. 2772.

The author of H.R. 2772, Charlie Rose, faced opposition from Republican members of the House Administration Committee because of H.R. 2772's broad scope (which was actually smaller in scope than the Senate version). With time in the session running out, Rose joined William Thomas (R-Cal.) and Pat Roberts (R-Kan.) in drafting a compromise bill, H.R. 5983, the Government Printing Office Electronic Information Access Enhancement Act of 1992. 18 Gone was the WINDO/Gateway nomenclature, and with it some of the strong language. 19 The bill did earn the support of the Office of Management and Budget (OMB), however.

Whereas the previous two bills provided public access to a variety of government electronic databases, H.R. 5983 required only that the Superintendent of Documents "maintain an electronic directory of federal public information." 20 Provision was made for "online access to the Congressional Record, the Federal Register, and, as determined by the Superintendent of Documents, other appropriate publications distributed by the Superintendent of Documents." 21 Both the directory and the system containing the Congressional Record and the Federal Register were to be made available one year after enactment. 22 Department heads could request that their information be included, and the Superintendent was given leave to try to accommodate such requests. 23

Another important difference was in who should be consulted by the Superintendent of Documents in carrying out the Act. Whereas the earlier bills stated that the consulting group should consist of federal agencies, database users, libraries, and others likely to be affected, H.R. 5983 described the consulting group as "users of the directory and . . . system.

---

17. Insiders say the unofficial reason was opposition from Republicans opposed to passing a bill sponsored by then-vice presidential candidate Al Gore. James P. Love, Gateway/WINDO Alert, Internet Message on LISTSERVE GOVDOC-L@PSUVM.BITNET, James P. Love (LOVE@PUCC@PSUVM.PSUEDU) (Sept. 14, 1992, 11:45:14). All messages from Love referred to in this article can be found in GOVDOC-L.
19. Bernadine Abbott Hoduski, a professional staff member of the Joint Committee on Printing and a former librarian, said that part of the reason for watering down the WINDO/Gateway concept was fear of a presidential veto. Hoduski phone interview, supra note 2.
20. H.R. 5983 § 4101(a)(1).
21. Id. § 4101(a)(2).
22. Id. § 4102(c).
23. Id. § 4101(b).
... and other providers of similar information services.\textsuperscript{24} The fees section was basically unchanged.

One of the biggest differences between the compromise bill and its predecessors was on reporting. H.R. 5983 required that a feasibility study be submitted no later than two years after enactment of the bill,\textsuperscript{25} whereas the earlier bills had required an annual report. The Superintendent of Documents was still required to consult heads of departments and agencies, other users of federal electronic information, and other persons likely to be affected, as in the previous bills.\textsuperscript{26} Whereas the two earlier bills called for the Superintendent of Documents to rely upon agency and data storage systems and retrieval software wherever possible,\textsuperscript{27} H.R. 5983 had the study "assess the maximum use feasible of computer systems, data storage systems, and retrieval software . . . maintained by [government] departments and agencies to enhance access to Federal electronic information."\textsuperscript{28} S. 2813 called specifically for using Internet and NREN; H.R. 5983 only directed the Superintendent of Documents to "determine the feasibility" of using those and other networks,\textsuperscript{29} and to "study the development of compatible standards . . . ; specify the development and maintenance costs of the directory and [proposed] system; . . . analyze the cost savings . . . ; and obtain, from the Comptroller General, an independent evaluation of the utility and efficiency of the directory and the system of access."\textsuperscript{30}

The House of Representatives passed H.R. 5983 on Sept. 29, 1992.\textsuperscript{31} It was scheduled for a Senate vote, but that vote was held off by an anonymous Senate Republican.\textsuperscript{32} H.R. 5983 never reached the Senate floor, and died with the end of the 102d Congress.

According to James P. Love, Director of the Taxpayer Assets Project, a consumer watchdog group, the compromise bill was the work of Republicans working closely with lobbyists for the Industry Information Association (IIA).\textsuperscript{33} Because of the scandals with the House bank and post office, bitter partisan battles held off an earlier vote on H.R. 2772, giving

\begin{itemize}
  \item \textsuperscript{24} Id. § 4101(c).
  \item \textsuperscript{25} Id. § 3(b).
  \item \textsuperscript{26} Id. § 3(a)(1).
  \item \textsuperscript{27} H.R. 2772 § 4002(b); S. 2813 § 4002(3).
  \item \textsuperscript{28} H.R. 5983 § 3(a)(2).
  \item \textsuperscript{29} Id. § 3(a)(3).
  \item \textsuperscript{30} Id. § 3(a)(4)-(7).
  \item \textsuperscript{31} 138 CONG. REC. H9683, H9684 (daily ed. Sept. 29, 1992).
  \item \textsuperscript{32} James P. Love, GPO WINDO Transformed, Internet Message (Oct. 5, 1992, 15:31:06). According to Hoduski, one Senator "put a blind hold on [H.R. 5983]." She said that the Committee on Printing knew the hold was placed by a Republican, but they didn't know which one took action against the bill. Hoduski phone interview, supra note 2.
  \item \textsuperscript{33} James P. Love, New WINDO Bill, Internet message (Sept. 25, 1992, 14:57:00).
\end{itemize}
the Republicans the clout of an expiring term to get their compromises through the Committee.34

II. The WINDO/Gateway Concept

Many presenters at the joint hearing on the WINDO/Gateway legislation spoke in favor of U.S. citizens' right to easy, affordable access to government information. Congressman Major R. Owens (D-N.Y.) said in his prepared statement:

As new technologies make it possible to improve the quality, quantity, and the usefulness of Government information, the American people are surely entitled to reap the benefits. It is their information; they have already bought and paid for it. They should not be asked to pay someone else in order to access and use this information.35

Other important factors behind the legislation included the ability to have "one-stop shopping" for government information, low-cost availability, access to the information through Internet or NREN, standardized procedures governing the dissemination of electronic information, and allowing the depository libraries to play a significant role in the distribution of electronic government information. Support for the bills was overwhelming, but not unanimous. Opponents complained about the potential high cost and suggested using a directory alternative, decreasing GPO's role, and omitting Internet and NREN requirements. They were also reluctant to place the government in the role of a commercial information provider.

The following sections discuss various aspects of the WINDO/Gateway bills as presented in the Joint Hearing on July 23, 1992.

A. Right of Access

Throughout the hearing, the right of the American public to have access to government information was affirmed. Patricia Glass Schuman, past-president of the American Library Association (ALA), said:

[T]he critical issue is not whether Government information should be freely available to the public. The premise of free access is essential to our democracy. The crucial question is: who will pay—and who will profit? Access is not simply a matter of economics. As the sponsors of these bills obviously realize, access is a matter of public policy.36

34. Id.
36. Id. at 88 (statement of Patricia G. Schuman).
According to Schuman, approximately 167,000 citizens per week use depository libraries, and depositories annually receive 20 million copies of 40,000 government publications.\textsuperscript{37} She mentioned a 1989 survey of depository libraries, which showed that at least $21.4 million is spent annually by depository libraries to provide public access to government information.\textsuperscript{38} Many Americans use their right to obtain government information, and by exercising that right they are more informed and make better decisions regarding government issues. Ann Symons, an Alaskan librarian, noted that both libraries and government officials have the obligation to ensure that all people, no matter where they live, no matter what their circumstance[,] have the information they need to work, to learn, to be responsible decisionmakers. We have the opportunity with these bills to make a tremendous difference in the daily lives of people and their ability to be full and informed participants in our democracy.\textsuperscript{39}

A submitted statement made the point that not having access to this information is creating a dangerous gap between the information rich and the information poor, an age of information disparity that in this "database renaissance threatens to become a new round of dark ages, complete with a class of data priests and one of dataless serfs."\textsuperscript{40}

\textbf{B. One-Stop Shopping or an Electronic Directory?}

In his statement, then Public Printer Robert W. Houk said that the WINDO/Gateway bills "represent an idea whose time has come,"\textsuperscript{41} adding that the legislation was in line with GPO's plans for the future and its strategic vision:

GPO is not just for printing anymore. The effective fulfillment of our mission in the information age requires that we expand our electronic information services to the public. This is the conclusion that has consistently been supported by the [Joint Committee on Printing]. It was the conclusion of the Office of Technology Assessment's 1988 report, Informing the Nation. Most important of all, it is the conclusion that is now widely shared by depository librarians and their patrons, by professional library associations, by the Federal agencies GPO serves,

\begin{footnotes}
\item[37] Id. at 86.
\item[38] Id. (no cite was provided).
\item[39] Id. at 97 (statement of Ann Symons).
\end{footnotes}
and by Government information users throughout the general pub-
lic.\textsuperscript{42}

James P. Love of the Taxpayer Assets Project pointed out that the
concept of one-stop shopping for online information is consistent with
GPO's current status as a provider of one-stop shopping for paper
publications.\textsuperscript{43} Additional benefits of having a single point of access,
according to James A. Nelson, Kentucky State Librarian and Commissi-
er, would be that the information "will be easier to find and use than is
currently the case; and, perhaps more significantly, if government agencies
are planning and designing their systems for access through this kind of
a tool, they are more likely to develop a total system approach to easy
access."\textsuperscript{44} Speaking for the ALA, Schuman stated that a "one-stop gateway
is an equitable and cost-effective way to provide Government information
to the public."\textsuperscript{45}

Despite this widespread support, private industry pushed for GPO to
provide only a directory. The Industry Information Association (IIA)
replaced single-point access with a recommendation for a directory (which
would also give publicity for IIA members' products).

We believe there is an important role for GPO to play in electronic
dissemination of Government information, but it may not be, in our
view, quite as ambitious as the role that is contemplated by these bills.

\textbf{\ldots}

The GPO could be directed to disseminate a timely and complete
directory of Federal information resources that are available to the
public in electronic form. That directory should include both govern-
mental and non-governmental sources of access to this information.\textsuperscript{46}

\textbf{C. Cost Factors}

Cost was a large concern for both supporters and opponents of the
plan. Supporters railed against the fees charged by commercial information
vendors providing government information. Many consumer groups do not
have the money to pay these fees and must do without important
information.\textsuperscript{47} Restricted access to government information also affects

\textsuperscript{42} Id. at 11-12.
\textsuperscript{43} Id. at 140.
\textsuperscript{44} Id. at 69.
\textsuperscript{45} Id. at 90.
\textsuperscript{46} Id. at 77 (emphasis added) (statement of Steven J. Metalitz, General Counsel, Information Industry
Association).
\textsuperscript{47} In her statement, Penny Loeb, a reporter for New York Newsday, told of a Long Island, New York,
watchdog group that was trying to discover why the Jamaica Water Supply Company charged customers nearly
twice that of many other private water companies on the island. The information they needed was in the
concerned citizens, reporters needing information for an exposé, and students and researchers needing the latest government reports relating to their studies.

Federal agencies would benefit from WINDO/Gateway legislation and save themselves (and, by default, the taxpayers) money. According to Robert Oakley, speaking for the American Association of Law Libraries, "The amount of money spent by Federal agencies in searching private sector databases for Government information, often searching for information from their own agencies, is incalculable." Additional savings would come from increasing government productivity by satisfying the public's demand for government information: "Congressional staff, administrative agencies employees, and court clerks will spend less time locating and mailing documents and more time on other tasks." The director of the Taxpayer Assets Project pointed out that the "economics of providing public access to Government databases are very attractive. In those cases where the Government has already designed an online information system, the largest expenses have already been incurred, and the incremental costs of adding additional users is often a trivial expense." But the participants could not agree on the cost estimates. IIA's general counsel said that GPO's estimate of $4.5 million for an electronic Congressional Record amortized annually assumed rapid elimination of the paper Congressional Record. Houk responded that he was uncomfortable with the figure:

The $4.5 million figure that is cited is correct. It was contained in the back of a detailed analysis GPO did of a proposal for the electronic [Congressional] Record. However, that proposal . . . assumed that in developing an electronic Record, GPO would build an entire network among the 1,400 depository libraries. Many things have changed since [then], including the possibility of using NREN and Internet, and a variety of other things, that would change the cost parameters significantly.

Securities and Exchange Commission (SEC) and was available through DIALOG. The only catch was it would have cost them over $1,000 to peruse the five years of data they needed. Fortunately for the group, one member was able to get the information from the disclosure services used by his corporation. The group's search ended with the Public Service Commission of New York State ordering a $2 million refund to the customers. If the group had not had a member with access to the SEC information, however, it would not have been able to pursue the case. Id. at 72.

48. Id. at 128 (statement of Robert Oakley).
49. Id.
50. Id. at 139 (statement of James P. Love, Director, Taxpayer Assets Project).
51. Id. at 90-91 (testimony of Steven J. Metalitz, General Counsel, Information Industry Association).
52. Id. at 91 (testimony of Robert W. Houk, Public Printer, GPO).
Similarly, the OMB, using 1989 figures gathered at the request of the Committee on Government Operations, stated:

The Commerce Department's Patent and Trademark Office estimated that providing free access to the Classified Search and Image Retrieval (CSIR) System to the 65 patent depository libraries would entail nearly $7 million in start-up costs and over $9 million in annual recurring costs. The Securities and Exchange Commission estimated that providing access to the Electronic Data Gathering and Retrieval (EDGAR) system to the 1400 depository libraries would cost between $9 million and $17 million per year depending on usage.\(^\text{53}\)

ALA refuted those figures:

OMB's use of 1989 figures in an attempt to estimate the cost of providing free online access to depository libraries is unreliable and of questionable utility. The estimates of telecommunications costs made at that time assumed that library users would dial in to agency databases using conventional telephone lines, or that separate networks would be necessary. Today's technology has reduced these costs.

Other assumptions in the agency estimates cited by OMB are also questionable. To cite one example, a recent review by James Love, Director of the Taxpayer Assets Project, shows flaws in the 1989 estimates of between $9 to $17 million per year for providing online access to EDGAR to 1,400 depository libraries. The EDGAR analysis was based on erroneous assumptions that the Securities and Exchange Commission would bear the costs of installing terminals for the libraries and that the SEC would pay the telecommunications charges of 1.125 to 2.25 million hours of use per year. In fact, libraries bear the cost of purchasing microcomputers and terminals to use online services and CD-ROM products. Most libraries will use Internet and local area networks whose costs are shared by their parent institutions. In those instances, library access costs will not come out of depository appropriations. It is also highly unlikely that depository library demand would reach the excessive level of use each year on which the cost estimates were based, or that all depository libraries would want access to SEC data.\(^\text{54}\)

**D. Internet and NREN: Viable or Not?**

S. 2813 specifically called for using the Internet and NREN as networks to afford access to WINDO/Gateway. This designation was enthusiastically supported by GPO, the library community, the National Commission on Libraries and Information Science (NCLIS), and ALA.

\(^{53}\) *Id.* at 112 (statement of Frank Hodsoll, Office of Management and Budget).

\(^{54}\) *Id.* at 103 (letter to Charlie Rose, Chair, Joint Committee on Printing and Wendell Ford, Vice Chair, Joint Committee, from Eileen D. Cooke, Director, American Library Association).
Through their various testimonies, all agreed that NREN and, to a lesser degree, the Internet would be the appropriate choice for the WINDO/Gateway. Richard P. West, Chair of the Steering Committee of the Coalition for Networked Information, stated that the Coalition was "particularly interested in models that use . . . NREN and the global Internet as the network infrastructure for the GPO WINDO/Gateway initiative." Patricia Schuman stated, "The WINDO/Gateway proposal could be most effectively implemented through the NREN." In its prepared statement, NCLIS stated, "The Commission encourages use of the Internet and the National Research and Education Network as the bases for planning an electronic network gateway or access window for information produced by the Federal government."

OMB refuted that support: "NREN is designed primarily to support research and education applications which require communications between supercomputers, and to develop advanced, high-speed communications. As a test bed, the NREN is not a network for general purpose communications."


Serving as a "test bed for further research and development of high-capacity and high-speed computing networks" is only one of the ten network characteristics assigned to NREN in Public Law 102-194, the High Performance Computing Act of 1991 [Sec. 102(c)(10)]. Additionally, OMB appears to have overlooked the language of the law which provides specifically for improved dissemination of Federal agency data and electronic information in Sec. 101(a)(2)(E).

E. Role of the Depository Libraries

In all three versions of the WINDO/Gateway legislation, depository libraries were provided free access to electronic government information. The important role that the nearly 1,400 federal depositories play in providing access to government information was repeatedly emphasized. William Graves, Associate Provost for Information and Technology at the University of North Carolina at Chapel Hill, said:

55. Id. at 28 (statement of Richard P. West).
56. Id. at 89 (statement of Patricia G. Schuman, Past President, American Library Association).
57. Id. at 107 (statement of Michael Farrell, National Commission on Libraries and Information Science).
58. Id. at 111 (statement of Frank Hodson, Office of Management and Budget).
The depository libraries I think are the guarantee of public access until that day arrives when we can [access information from our homes]. Even then, the [d]epository libraries will play a role because librarians bring much to [the information retrieval process]. We in the public don't always understand how to access information or how to use it when we access it. That will continue to be a real role for the depository libraries.61

Schuman noted:

Free access to the GPO Gateway through the Depository Library Program is an important component of the two bills. The majority of citizens, including many small businesses, do not have access to a computer and modem. Even those who do, lack both the familiarity with Government information resources and technical expertise to locate and access [them].62

AALL also strongly supported the provision of free access to the depositories: "For over 100 years, these libraries have served as primary disseminators of Government information. Depository libraries have invested substantial funds, time, and personnel to provide and promote public access to government publications."63

F. Impact on Commercial Vendors

The OMB and the IIA had much to say about the potential effects of the WINDO/Gateway proposal on private industry. IIA's predominant concern was that government would be competing unfairly against private industry:

If a government-subsidized entrant were to crowd out private sector competitors in this field [of government information], the public would be the loser. The need, rooted in the First Amendment, to promote a diversity of sources for Government information is at its apex with material such as the Congressional Record. A de facto government monopoly over this information would not only cripple competition; it would undermine self-government.64

OMB fell back on Circular No. A-130 to strengthen its argument citing the need for diversity of information sources: "It would be unfortunate if legislation were enacted which tilted the playing field in a manner that

61. Id. at 51 (testimony of William Graves, Associate Provost for Information and Technology, University of North Carolina).
62. Id. at 88 (statement of Patricia G. Schuman, Past President, American Library Association).
63. Id. at 127 (statement of Robert Oakley, American Association of Law Libraries).
64. Id. at 81-82 (statement of Steven J. Metallitz, General Counsel, Information Industry Association).
upset the delicate balance that has fostered the nation's first rank, competitive, information industry.\textsuperscript{65}

Most presenters understood the vendors' fears and were thoughtful and logical in their responses. ALA was quick to pick up on OMB's use of Circular No. A-130, countering that OMB had itself created the lopsided conditions: "We find it hard to characterize the WINDO/Gateway bills as tilting the playing field in favor of one set of information disseminators--instead the WINDO/Gateway would restore balance. We believe that it is the current OMB Circular A-130 . . . that created the tilt in the first place."\textsuperscript{66}

In anticipating the vendors' arguments, the Taxpayer Assets Project asserted that vendors providing government information without adding any value to it would see a decline in business. Enacting the WINDO/Gateway plan, however, would expand opportunities for vendors, as the gateway would "prime the pump," encouraging more people to use online services:

Private sector companies that provide "value added" information services will be better off, since it will be less expensive for them to acquire access to the basic documents and records of the Government. The higher up the "food chain" in the information service sector, the more the Gateway will "complement" private sector services.\textsuperscript{67}

\section*{III. Action in the 103d Congress}

As ALA Director Eileen Cooke punned in the December 1992 issue of \textit{American Libraries}, the failure to enact legislation in the 102d Congress wasn't "curtains for WINDO."\textsuperscript{68} The passage in the 103d Congress of S. 564, the Government Printing Office Electronic Information Access Enhancement Act of 1993,\textsuperscript{69} breathed life into the 1992 compromise bill, H.R. 5983. Because both H.R. 5983 and S. 564 bore the same title, one might assume that their content was substantially the same, especially since Rose had promised that the next bill would have more teeth.

There were substantial changes, however. The two bills start off similarly, with the creation of a directory of federal public information and online access to the \textit{Congressional Record}, \textit{Federal Register}, and other publications as appropriate. S. 564 adds the requirement of operating "an electronic storage facility for federal electronic information to which online

\begin{footnotesize}
\bibitem{65} \textit{Id}. at 111 (statement of Frank Hodsall, Office of Management and Budget).
\bibitem{66} \textit{Id}. at 102-03 (statement of Eileen D. Cooke, Director, American Library Association).
\bibitem{67} \textit{Id}. at 142 (statement of James P. Love, Taxpayer Assets Project).
\bibitem{68} 23 \textit{AM. LIBR}. 967 (1992) (quoting Eileen Cooke).
\bibitem{69} President Clinton signed S. 564 on June 8, 1993, making it Public Law 103-40. 107 Stat. 112 (1993).
\end{footnotesize}
access is made available." Both bills have the same requirements for departmental requests, consultation, fees, and a one-year operational deadline.

Significantly, however, H.R. 5983's requirement for a feasibility study targeting the use of NREN and the Internet disappeared from S. 564. In fact, of the seven points outlined in H.R. 5983, only one was retained: an analysis of cost savings, which was added as a requirement of the biennial report.

It was clear from the 1992 hearings that the availability of the GPO's electronic gateway or directory over the Internet or NREN was a priority for librarians and the general public. It is unclear why the feasibility study was removed from the 1993 bill.

In the meantime, NTIS has started a pilot program called FedWorld, which is an electronic gateway to more than 200 government online systems. Some reports indicate that this system will take the place of the GPO program. FedWorld's Business Manager, Robert Bunge, denies this, however, and says that the GPO has signed a contract to develop a gateway with the University of Kentucky, to take effect May 1994. According to Bunge, "FedWorld's mission statement is to locate . . . and deliver government information. . . . I would like to see FedWorld have a gateway to the GPO. We're not as competitive as the press seems to see it." FedWorld currently has several beta test sites and should be available over the Internet soon. Bunge says that FedWorld recognizes the need for the person on the street and the depository libraries to have low-cost or free access. "We're working out the future [of FedWorld]. I see in the future you will always have some level of access for free."
IV. What Does Government Information Really Cost?

There is some confusion about the exact number of federal electronic databases. In her testimony before the Joint Committee on Printing, Sandra McAninch, Head of the Government Publications Department at the University of Kentucky Library, said that one privately produced government database finder listed about 375 government databases, and another listed 450.80 McAninch said that CIDS, a Department of Agriculture database, was supposed to be available to depository libraries, yet they knew nothing of it. She remarked that it took four days to find out how to use CIDS, a situation she called "unacceptable."81 Obviously, the lack of information about federal databases is a problem.

Another problem is the often prohibitive cost of obtaining government information. For example, a Princeton student was trying to get information from the Federal Reserve about bank liquidity for his senior thesis. The Federal Reserve wanted to charge him approximately $500 a tape, which would have cost him $20,000 for the 40 quarters of data he needed. In response, the Princeton Library filed a Freedom of Information Act request with the Federal Reserve. The request was denied, on the basis that the student could buy the information for $20,000 from National Technical Information Services.82

James P. Love also described several instances where private industry monopolies hinder access to information. When the Taxpayer Assets Project tried to obtain data on the number of square feet of construction permits issued by local governments, it ran into a brick wall. Love said that the Bureau of Census "deliberately omits this statistic from its survey, because McGraw Hill's F.W. Dodge subsidiary exercises a monopoly on the collection and dissemination of this statistic."83 To get ten years of data from the vendor would have cost $197,673, compared to $700 for twenty years of data that the Bureau of Census would have charged had it provided the statistic. When Love asked the Department of Commerce to modify the survey to include the data, he was told that "a policy decision had been made to leave the question out to protect the F.W. Dodge monopoly."84

80. Hearing on Government Information as a Public Asset, supra note 3, at 29 (testimony of Sandra McAninch, Head of Government Publications, University of Kentucky Library).
81. Id. at 28.
82. Fortunately, the student knew the president of the Federal Reserve Bank of Minneapolis, who had the search performed for $760. Id. at 54-55 (statement of James P. Love).
83. Id. at 70.
84. Id. at 71.
When private companies compile a database for a government agency or use contracts to get copyright control of public information, a conflict arises. Love testified that, after the Federal Maritime Commission (FMC) had Knight-Ridder set up its database for ocean liner tariffs, Knight-Ridder claimed that because of its enormous investment, it would be unfair competition for the government to make it available otherwise. The FMC implemented a rule that would have provided online access to the businesses needing ocean liner tariff information. Congress, however, passed a law mandating that the FMC disseminate the information to businesses on magnetic tape for $30,000 a year. Most businesses did not want to handle daily magnetic tape shipments; they wanted to dial up by modem to access the system. The new law thus prevented the public from accessing that database.  

JURIS is a large Department of Justice legal database that contains case law, executive orders, the C.F.R., and other information, much of which has been supplied to the Justice Department under a contract with West Publishing Company. Love stated:

Under the terms of this contract, West provides the Department of Justice with the text of court decisions, plus WESTLAW "headnotes" for the cases. According to Department of Justice officials, West copyrights its headnotes, and it is impossible to strip the headnotes from the text of the court decisions. As a result, West Publishing is effectively able to copyright the Department of Justice database on Federal court decisions, and is in a position to prevent the Department of Justice from providing public access to the data base.

Thus, the problem of access to government information goes beyond paying the vendor's price. It includes monopolies; excessively high rates charged by for-profit government agencies; lack of publicity about federal databases, which prevents the public and depository libraries from using the data; and copyrighting material in such a way as to deny public access to accompanying government information. Love argued:

Agency officials sometimes try to dismiss public interest in access to electronic data bases as only coming from privileged groups, or from people who will make money on the information. These Government officials are making moral judgments about who should be allowed to gain access to Government information. Personally, I see no reason why commercial firms should not be allowed to gain on-line access to

85. Id. at 56-57.
86. On September 30, 1993, West announced that it would not seek renewal of this contract. "West Won't Seek Renewal of JURIS Contract with Department of Justice" (Sept. 30, 1993) (press release).
87. Hearing on Government Information as a Public Asset, supra note 3, at 78.
Government databases, when they are willing to pay fees equal to the cost of providing the service. If a reporter from the Wall Street Journal or a stock analyst from Dean Witter want corporate disclosure information directly from the SEC, and are willing to pay the cost of its dissemination, they should be treated with the same respect and attention as Mead Data Central, Dun and Bradstreet, Dialog, or other large data vendors. These same agency officials apparently see the importance of tailoring their dissemination programs to the exact needs of the data vendors. The "let them eat cake attitude" toward the broader public of end-users of data is an affront to all citizens.  

At the hearing titled New Technology and the Government Printing Office, the Chair of the Joint Committee on Printing called it "contradictory" to have taxpayer dollars pay for government information, then say that a vendor should stand between the government and the people receiving the information: "If you think government is too expensive, too big, too pervasive, you ought to be looking for ways to give the public the absolute maximum return on its dollar; and one way to do that is to make the information . . . cheaply, quickly, and easily available to everybody."  

V. The Structure of a New Information Policy

Throughout the hearings on access to government information, several clear mandates arose from the library community, the public, agencies, and business. The first is the use of NREN or Internet to access the WINDO/Gateway system.

Very clearly, the notion of disseminating government information over the Internet is an idea whose time has come. As the NREN comes into being, the current user base is expected to expand from the present estimated one to three million users by a factor of 3 to 10. . . .

If, as many believe and wish, the NREN forms the basis for an even larger data network for general public access, its potential as a widespread and low-cost condu[i]t for Federal agencies to distribute on-line information is plain.  

The second mandate is to fulfill the American public's right to access federal information. This requires no or low fees and a single point of access to the information. Many people have difficulty getting information from the various databases. GPO needs more than a directory. GPO needs to be given the goal of serving as the government's information focal point.

---

88. Id. at 67-68.
89. Hearings on New Technology, supra note 3, at 165 (testimony of Charlie Rose).
90. Id. at 168 (testimony of Steven Wolff, Director, Division of Networking and Communications, National Science Foundation).
This idea falls in line with the recommendations of many presenters, that information dissemination should take place from one central agency.

The third mandate is that the depository libraries should have a large part in the dissemination process, including free access to whatever system is decided upon. The Public Printer firmly believes that this is the direction in which the GPO should be moving:

"[T]here is sound justification for expanding GPO's participation in providing the Depository Library Program with improved access to government information through online database services. I have come to this conclusion based on my assessment that GPO must become involved in this area to meet the increasing needs of the public served by the Depository Library Program." 91

Houk's vision for the depository library program of the twenty-first century is one providing "fuller, more timely, and more effective access to government information services." 92 McAninch calls the depository system the nation's "safety net for access to Government information." 93 She, the ALA, and others want more participation from other federal agencies in the depository library program, and feel that a proactive stance by GPO would increase participation.

Other countries have reconsidered their information policies. A report on the national information policy in the United Kingdom determined that "[t]he cornerstone of any policy ought to be [the public's] needs: after all any Government policy, no matter the field, should have the welfare of the general public foremost." 94 When the Canadian government revamped its government printing agency, it found that "[p]eople wanted a one stop shop." 95 How best to provide the public with access to government information should be the most important factor when creating policy. The 1976 Report to the President on a National Information Policy called for encouraging "access to information and information systems by all segments of society to meet the basic needs of people, to improve the quality of life and to enable the responsibilities of citizenship to be met." 96 By including the requirements for NREN/Internet, one-stop shopping, and

91. Id. at 10 (testimony of Robert W. Houk).
92. Id. at 13.
93. Id. at 30 (testimony of Sandra McAninch, Head of Government Publications, University of Kentucky Library).
94. IAN MALLEY, NATIONAL INFORMATION POLICY IN THE UK 30 (1988).
95. Hearings on New Technology, supra note 3, at 82 (testimony of John Farley, Assistant Director for Advanced Communications Systems, National Printing Bureau, Ottawa, Canada).
96. STAFF OF THE DOMESTIC COUNCIL COMMITTEE ON THE RIGHT OF PRIVACY, NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE, NATIONAL INFORMATION POLICY: REPORT TO THE PRESIDENT OF THE UNITED STATES 202 (1976) [hereinafter NATIONAL INFORMATION POLICY].
a strong role for the depository libraries, a new federal information policy could accomplish the lofty goals put out in 1976 and echoed by England and Canada.

VI. Conclusion

It seems apparent that despite having a GPO electronic access bill passed into law, the problem of a national information policy is not solved. Librarians will still need to press for appropriations for the GPO’s Depository Library Program and for use of the Internet and NREN. Librarians should let the Vice President and the White House know that they wish to see a marriage between the GPO and NREN or Internet. As evidenced by the reduced contents of Public Law 103-40, White House support is not a guarantee, and librarians cannot stop speaking out and asking for the programs they need.

A national information policy is neither a pipe dream nor a given. It will take hard work, consistent lobbying, and the grassroots support of all librarians. We must continue to pursue aggressively a strong, balanced, and fair policy that will benefit all United States citizens. If, as ALA President Marilyn Miller said, libraries and government are in a partnership, librarians should not be willing to be silent partners, but instead should work on a shared partnership where their voices are heard and respected.

Voices should be raised to ensure that access to affordable government information is provided to every citizen, that the system uses NREN or Internet, and that a strong, no-fee role is maintained for the depository libraries.

To debate whether there should be a national information policy is pointless. There will be such a policy. It will be the result of the answers to the many questions raised . . . and the answers to other questions not yet foreseen. It will exist whether or not these answers are arrived at consciously or unconsciously, by commission or omission, carefully or haphazardly, in a comprehensive or in a piecemeal fashion.

This nation does not need an unconscious, haphazard national information policy. Instead, by working together, acting together, and speaking together for the principles of universal access to government information, everyone concerned will ensure that the issues brought forth in the WINDO/Gateway hearings and legislation contribute to a careful and comprehensive national information policy.

97. See supra note 73.
98. NATIONAL INFORMATION POLICY, supra note 96, at 182-83.