Transparency and technological change: Ensuring equal and sustained public access to government information

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A B S T R A C T
The Obama administration campaigned on the platform of increased transparency and access to government information after the limitations of the Bush years. As part of this focus on transparency, the Obama administration is emphasizing the use of e-government and new social media services to open up access to government. This paper explores the considerations and challenges of this approach, such as the inclusion of members of the public with limited access to the internet, the use of non-governmental channels to disseminate government information, the permanence of digital-born government information, and the design of e-government.

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1. History and intent of freedom of information

The importance of widely distributed and accessible government information in a democratic society, along with an informed citizenry which can actively participate in their civic obligations, remains the foundation of the American constitutional republic. The Declaration of Independence specifically notes the separation of public records and legislative bodies as one of the reasons for the revolution, while the Constitution established a national postal system for distribution of information and the First Amendment of the Bill of Rights focuses on information access and exchange through freedoms of exchange, assembly, and press. As Quinn (2003) notes, "The idea of public information was a radical concept at the time of the American revolution" (p. 283). However, the framers of the Constitution clearly considered this issue to be a major priority.

Many of the constitutional founders of the United States, including James Madison, Thomas Jefferson, and George Mason, placed great value on the necessity of the new government to foster a culture of open official publishing and information by the government, distributing these publications for easy duplication in regional newspapers, along with their collection in other public institutions at the local level (McDermott, 2008). These values of access and exchange served the development of a participatory democracy well, as the key underlying concept of these democratic rights is necessity of access to meaningful social and political information (Jaeger, 2005; Jaeger & Burnett, 2005). Without access to important information, it is possible to have free expression yet not have a democratic government (Berlin, 1996).

Among its first acts, Congress mandated the printing and distribution of laws and treaties, the preservation of state papers, the creation of official places where the public could access printed government information, and the maintenance of files in government agencies (Relyea, 2009a; Shuler, Jaeger, & Bertot, 2010). These mandates were unified by the goal of making government information available to the public, with the intentions of ensuring an informed electorate and bringing transparency to the process of governance. The right to access government information has long been viewed as essential to participation in the democratic process, trust in government, prevention of corruption, informed decision-making, the accuracy of government information, and provision of information to the public, companies, and journalists, among other essential functions in society (Bertot et al., 2009; Cullier & Pietrowski, 2009; Mulgan, 2007; Quinn, 2003; Relyea, 2009a; Shuler et al., 2010).

This goal of transparency was formalized with the passage of the Freedom of Information Act (FOIA) in 1966. Even within the historical context of promoting access to government information, the legislative branch was far more enthusiastic about FOIA than the executive branch. Prior to FOIA, many government agencies were reluctant or unwilling to release unpublished information (Relyea, 2009a). When FOIA was passed by Congress, "no agency or department supported the legislation, and the President signed it into law with no small amount of reluctance" (Relyea, 2009b, p. 314). As a result of FOIA, the United States became the first nation with a law guaranteeing a legal right to request government information.

As an international issue, transparency came to prominence after World War I in the post-war negotiations (Braman, 2006). It took a long period of time for other nations to begin following the lead of the United States, however. In the mid-1980s, only 11 nations had freedom of information laws, but by the end of 2004, 59 nations had adopted freedom of information laws (Relly & Sabharwal, 2009;...
Transparency is now held to be a key part of democratic governance. Democratic countries not only are more likely to be transparent, they also tend to produce more information than authoritarian governments (Lord, 2006). And transparency serves to keep government honest—“Good government must be seen to be done” (Kierkegaard, 2009, p. 26).

In spite of its position as the pioneer in government openness and transparency, the United States is exiting a period under the George W. Bush administration that witnessed the executive branch aggressively working to restrict government openness and transparency. The Bush administration worked to keep as much information as possible related to their activities away from public view and other parts of government, the executive branch went to federal court to fight against Government Accountability Office (GAO) requests for information about administration activities (Relyea & Halchin, 2003). Additionally, information requests by the GAO or Congress itself were rejected by the administration included information about energy policy-making task forces, communications between the Vice President and the Department of Defense about contracts to Halliburton, documents about prisoner abuse in Iraq, cost estimates for the Medicare prescription drug plan, air pollution data, presidential advisor Karl Rove’s meetings with executives of companies in which he owned stock, and information requested by the Congressional Committee investigating the 9/11 attacks (Committee on Government Reform, 2004).

The Bush administration also limited access to information by frequently ignoring and refusing to acknowledge FOIA requests, while members of the Cabinet and advisors took the unusual step of routinely refusing to testify before Congressional Committees (Relyea & Halchin, 2003). Administration officials were given specific talking points about issues from which they were ordered not to deviate when discussing policies (Suskind, 2004). When members of the cabinet, such as Treasury Secretary Paul O’Neill, did not closely follow the assigned script, they were forced out of their jobs (Suskind, 2004). Perhaps the most telling policy of the Bush administration in relation to transparency was announced by Attorney General John Ashcroft in October 2001,reinterpret ing FOIA so that “he gave a green light to the entire federal government to resist disclosure if there was any plausible reason to do so” (Gup, 2007, p. 18). Unfortunately, Congressional oversight of transparency slacked at the same time that Bush administration was working to severely limit transparency in many ways (Jaeger, 2007, 2009; Relyea, 2009b).

2. Technology, transparency, and the Obama administration

After the Bush years, transparency advocates greeted the Obama campaign and election with great anticipation. Obama campaigned with a heavy focus on information policy in his platform, including promises of greatly increased government transparency and the use of new technologies to new means of access to government information (Jaeger, Paquette, & Simmons, 2010). A day after he took office, Obama issued two executive orders requiring government agencies to err on the side of openness when considering FOIA requests for government records and opening presidential records to the public.

Since those initial executive orders, much of the focus of the Obama administration has been on increasing government transparency through the use of technology. This approach is in keeping with the development of technology and with international practices in transparency. In terms of access, the internet has greatly reduced the cost of collecting, distributing, and accessing government information (Roberts, 2006). As a result of these capacities, recent years have seen trends toward using e-government for greater access to government records and increased focus on the proactive release of information (Cullier & Piotrowski, 2009). As a result of this use of e-government for dissemination, transparency is now seen to include a legal right to request access to specific documents that are not being provided online (Fuchs, 2006).

Using the internet to promote transparency is reasonable, not only in terms of the technological capacity, but also because it meets the expectations of many members of the public. The vast majority of government information is now born digital, and many users want access to it in electronic form (Kubicek, 2008; Priebe, Welch, & MacGillvray, 2008). The internet has also increased interest in accessing government information. There are positive correlations between the use of the internet for gathering news and support for access to government information (Cullier & Piotrowski, 2009). And, increasingly, individuals seek government information and services electronically (Smith, 2010).

However, new government initiatives in using the internet to promote access to government information are being shaped by the realities of the information behavior of internet users. Among college-educated individuals searching for government information, 77.4% regularly used Google or another commercial search engine (Burroughs, 2009). Since that survey was completed, Google launched a new product that allows for the search of laws, statutes, cases, law review articles, and other legal materials, which will likely serve to increase reliance on Google to search for government information.

Based on the platform of the Obama campaign, the Obama administration seemed well-positioned to adapt open government practices to the expectations of the internet era. These approaches include encouraging agencies to emphasize transparency, participation, and collaboration by:

- Developing the www.data.gov site to provide direct access to enormous amounts of unrefined government data with the hope that the visitors to the site will find new uses for the data and that these new uses can create previously unavailable insights into government activities and larger societal issues.
- Using social media—such as blogs, wikis, social networking sites, RSS feeds, cloud applications, and virtual worlds—to make government information available and to provide means of direct contact with the government. These same tools have been used to encourage citizens to generate content for the government, such as Department of Health and Human Services’ contest for best H1N1 flu prevention YouTube videos.
- Creating sites that allow access to the data of government processes, particularly spending, such as the www.recovery.gov; www.usaspending.gov; and it.usaspending.gov sites, which are intended to promote public monitoring of government spending.
- Holding online meetings and soliciting online comments to get public feedback on proposed policies and regulations. The White House has even held online meetings to discuss and promote its open government initiatives.
- Mandating that agencies create their own open government plans and web pages.

The administration also appointed a Chief Technology Officer and a Chief Information Officer to spearhead these approaches (Lipowicz, 2009; Thibodeau, 2009). These efforts are apparently working. The use of social media to create records, disseminate information, and communicate with the public and between agencies began before the Obama administration took office (NARA, 2006). The use of social media, however, has already considerably expanded on their watch (Barr, 2008; Chang & Kannan, 2008; Kauffman, 2007; Laris, 2009; Osino, 2008; Sternstein, 2006; Snyder, 2009; Wyld, 2008).

Before the end of its first year in office, the Obama administration issued a report, entitled Open Government: A Progress Report to the American People, which disclosed their efforts to increase government openness, including a list of future openness projects that federal
agencies committed to implement (White House, 2009). The report curiously reiterates that the information and services being described are free and downloadable, as if that was some kind of e-government innovation. In addition, the report lists numerous uses of social media approaches to promote transparency across many different agencies and promises the expansion of these efforts through many new transparency initiatives employing social media, including at least one new program from each cabinet-level agency. These are to be part of the Open Government Directive plans and initiatives undertaken by agencies by April 2010, which will continue to evolve.

While efforts to employ new technologies to improve access to government information are admirable, the approaches raise two key concerns. First, many members of the public lack internet access in their homes, while others with access may lack the levels of technological sophistication or government literacy to use these channels of access or the newest types of social media. Second, an important part of transparency is long-term access to the information, but the use of social media may make preservation for long-term access difficult.

3. Access, skill, and usage of e-government transparency

The internet has had a profound impact on information behavior and reshaped virtually every channel of information access—newspapers, television, movies, magazines, books, music, and all forms of telecommunications—in the past decade (Kirchoff, 2009; Lyons, 2009; Zolli, 2010). However, these changes have not been uniformly distributed or equally available to all. There remain significant gaps in society in terms of access to the internet, access to broadband speed, and skill with technology. Yet, the new methods of transparency being applied by the Obama administration assume access to and skill using the internet and related technologies.

In light of the general issues with access to e-government, these assumptions are questionable. In many locations, the lack of availability of computers, internet access, or even basic electrical and telecommunications infrastructure are barriers to access (Singh & Sahu, 2008). In a nation where there are still places that lack basic phone service, high-end internet access for all homes in the United States is not a given. Many households lack internet access and may with internet access lack broadband speed access, which is necessary for many online activities, including many types of social media. Nearly 40% of homes lack internet access, and many of those families have no interest in or ability to get internet access (Horrigan, 2009). Among homes with internet access, 45% lack broadband access, while 10% continue to rely on dial-up internet service (Horrigan, 2008). In rural areas, only 38% of homes have broadband access (Horrigan, 2008). Clearly, using e-government to promote transparency will not serve the members of the public with no internet access or with inadequate internet access.

Even for members of the public with internet access, e-government services generally are limited by difficulties in organization, structure, search, metadata, and other factors (Bertot, Jaeger, & McClure, 2008). Consider the unrefined scope and disorganization of the typical results of a search on www.usa.gov. E-government in the United States simply has not been designed to account for the needs of the users of e-government, particularly the members of the public seeking information or engagement (Jaeger & Bertot, 2010).

Some agencies still resist making their materials more accessible to the public. In addition, some government agencies and officials evidence ambivalence toward direct public participation in the governing process through electronic means (Ho & Ni, 2004; Jaeger & Matteson, 2009; Tsai, Choi, & Perry, 2009). While many government leaders emphasize the transformative effect of e-government, agencies still primarily use it as a way to make information available, provide forms and electronic filing, create an electronic face for government, and distribute the viewpoints of government agencies (Chadwick, 2001; Chadwick & May, 2003; Jaeger, 2005; Mahler & Regan, 2006). It is likely that the use of e-government as a tool of transparency has been hampered by many political leaders’ lack of understanding of the technologies and their potential (Coleman, 2004; Graff, 2007; Jaeger et al., 2010). These complex attitudes toward participation and transparency through e-government may be evidenced in the fact that many meetings, hearings, and other forms of online transparency have been announced a short time before occurring.

Such problems with government agency approaches to transparency through e-government are exacerbated by the general lack of familiarity with the structure of government, lack of education about the value of e-government, language barriers, and attitudes toward technology and government among much of the general population (Jaeger & Thompson, 2003, 2004). When people search for government information, they generally do so as the result of a major life need, and, generally speaking, these needs are not articulated in terms of needing information from a specific government agency.

The use of computers and internet access in public libraries reveals the real gaps in access to e-government. As the usage of e-government to deliver information, communication, and services to members of the public has become commonplace, the demand in public libraries for access to and assistance using e-government has skyrocketed, creating sizeable new demands on libraries (Jaeger & Bertot, 2009). Not only do the people without home access come to the library for access to e-government, but many people with home access also use library computers for e-government access because they either lack sufficient access speeds at home to accomplish their tasks or because they lack government literacy to find what they are searching for without help (Bertot, Jaeger, Langa, & McClure, 2006a,b). Reliance on the public library for access is not evenly distributed across society, as 51% of African Americans and 41% of Latinos who use the internet rely on public libraries for access (FCC, 2010). Of the 169 million visitors to public libraries, 45% use the internet as part of their visits (Becker et al., 2010). A key reason for this usage is e-government. Among patrons using e-government in libraries, 52.4% do not own a computer, 42.4% lack access both at home and at work, 40% are there because access is free, and 38.1% rely on the assistance of librarians (Gibson, Bertot, & McClure, 2009).

The reliance on public libraries for access to and assistance with e-government encapsulates the challenges faced by the Obama administration in bringing government transparency to the public through e-government. Making electronic transparency equally available will be a significant task. However, to be embraced by the public, it will need to not only be available to all, but be designed to be usable by all. These issues include examining ways to address the following: establishing usability, functionality, and accessibility of content; meeting access, information, service, and technology needs; promoting government and information and technology literacy; making appropriate and accurate content and services available; meeting user expectations; promoting trust; and encouraging lifelong usage (Jaeger & Bertot, 2010). Achieving user-centered e-government that accounts for all of these issues will require a considerable reassessment of many of the current approaches to e-government (Jaeger & Bertot, 2010).

4. The sustainability of new methods of transparency

Transparency is an issue that has not only short-term considerations—for example, can members of the public reach the information they seek?—but also long-term considerations. Government information must survive in an accessible format and location to provide for long-term transparency. The embrace of social media and other new internet-enabled technologies as a means of disseminating government information may create long-term challenges in the preservation of and access to such government information in later years.
Changes in technologies and formats have been a problem for archiving and preserving government information for many years. The National Archives and Records Administration (NARA) now must maintain a vast array of storage and display devices, file formats, software programs, hardware, and other means used for the retrieval of electronic, audio, and video files created in innumerable different ways over the past several decades. While the need to retrieve files in file format from the 1980s such as WordPerfect, or in a briefly used storage medium like laserdisc or zip drives can be challenging and time-consuming, NARA is at least in the position of having the information with which to work. In the case of information generated and distributed through social media, the situation can be very different.

Social media have been quickly adopted by many government agencies as means to reach members of the public with little study of how effective these services are. The types of social media employed by agencies seem at least partly driven by the level of attention given to the services in the media rather than how well they will work to distribute government information. These decisions can be seen as part of the general trend of governments regularly adopting and sustaining “policies for political reasons that have little to do with the stated evidence” (Mulgan, 2007, p. 572). However, it is difficult to imagine the framers of the Constitution viewing the 140 characters or less approach of Twitter as their vision of an ideal means of informing the public.

The use of social media to make government information available also raises the potential of the impact of the government information being diluted as a result of the process of social tagging. If the National Institutes of Health and the Department of Health and Human Services are posting updates about H1N1 flu to Twitter, they will be joining a chorus of non-governmental posts about the same topic. As users can tag posts with identifiers, the government information will get lost among myriad other posts about the same topic. As users can tag posts with identifiers, the government information will get lost among myriad other posts about the same topic. As such, the underlying philosophies about permanence of services is generally quite limited.

The General Service Administration (GSA) has created agreements for working with social media providers to ensure that government agencies retain more rights than other users with the information they post. However, the short history of the World Wide Web has demonstrated that permanence of services is generally quite limited. The evolution of internet technology outpaces even the imaginations of many of the people who study the future of technology. For example, in Lessig (2002), in a forecast that clearly turned out to be less than accurate, predicted that “AOL Time Warner and Microsoft—[would] define the next five years of the internet’s life” (p. 267). There is little reason to be confident that YouTube, Twitter, Flickr, and Second Life will not have joined GeoCities and AOL in the dustbin of internet history within five years. And then, how will government information that has been generated and disseminated through such services; deliberative and participatory citizen-government interactions; and other social media technology-dependent activities be preserved for long-term transparency?

The problems with long-term access to government information when it is generated through social media are part of a larger issue that has been found in many government agencies—problems with determining what digital-born information to save and with remembering to save it. Several investigations have found that government agencies often have insufficient policies and procedures to ensure that digital-born information is retained in a coherent fashion (Pear, 2008). In some cases, even the directors of agencies demonstrate a lack of understanding of the materials that should be preserved (Pear, 2008). While it is relatively straightforward to retrieve a requested paper document in a fifty-year-old file box, it is pretty much impossible to retrieve a requested electronic document that was carelessly deleted years before.

Even if every relevant bit of electronic government data and information is preserved, the issue of information location and retrieval will become an enormous long-term issue for transparency. In a practical sense, transparency can only exist when things that are being sought can be located and retrieved. With the geyers of information and data flowing through government websites, social media applications, and other avenues, the amount of content to store and sort through becomes an ever-larger task. In March 2010, the Archivist of the United States reminded Congress that “the backbone of a transparent and accountable government is good records management” (Ferriero, 2010, n. p.).

At some point, the volume of information and data being made available may paradoxically limit transparency by making it difficult for users to find content, even though it exists somewhere. When considering this concern, keep in mind that that www.usa.gov—the entry portal for U.S. e-government—still lacks a reasonable search engine after more than a decade of existence. However, at this writing in April 2010, GSA announced a major overhaul to www.usa.gov that will include a revised search product, among other changes.

To truly provide access to the information and data, transparency must encompass all aspects of information access. Users must have physical access (be able to reach the content), intellectual access (be able to understand the content), and social access (be able to share the content) for government information to become completely transparent (Burnett, Jaeger, & Thompson, 2008; Jaeger & Burnett, 2010). Without any of these forms of access to physical or digital content, transparency will not succeed at the societal level. The robustness of all forms of access as a part of transparency “is a strong determinant of the type of government and the levels of freedom accorded in a society” (Jaeger & Burnett, 2010, pp. 65–66).

Clearly, the digital age poses many challenges in terms of creating and following policies for the preservation of digital-born government information and these challenges must be settled in the near future to ensure long-term transparency of government information. Not only must the use of new technologies such as social media be handled in a manner that does not jeopardize the continued existence of the information, but more attention must also be paid to educating government employees about the proper ways to save the government information that needs to be preserved to promote transparency through time.

5. Toward citizen-centered transparency in the electronic age

Internationally, the internet has made transparency easier for governments to accomplish in practical ways, but it has also added new complications to ensuring equal access to and preservation of digital-born government information. The direction of the future of transparency will be defined by the solutions different governments employ to address these new issues. However, transparency is now used in so many ways in so many countries, “the term has been stretched to the point of making its unqualified use almost meaningless” (von Furstenberg, 2001, p. 107). As such, the underlying philosophies about the true value of transparency will play a significant role in shaping how effective it is in each nation.

In the United States, the origins of the emphasis on transparency center around the idea of an informed citizenry that is able to engage in political discourse and shape the future directions of the
government. As such, it is useful to consider the development of e-government as a tool of transparency in terms of the development of e-government as a means of citizen engagement and involvement. “If e-government is to be truly transformative of government in terms of citizen participation and engagement, then e-government must be citizen-centered in its development and implementation” (Jaeger & Bertot, 2010, p. 4).

If the Obama administration’s renewed commitments to transparency and the focus on the capacities of e-government and the web as an avenue to advance transparency are to succeed, their efforts must ultimately result in citizen-centered approaches that are available to and usable by all members of the public. Until more homes have broadband level internet access and more members of the public are comfortable using e-government, increased transparency through e-government will not translate into increased citizen education or engagement. As the American Recovery and Rehabilitation Act (ARRA) included $7.2 billion in broadband stimulus funding and loans, ARRA may at least begin to address these broadband discrepancies.

Ultimately, “without a change in power and political will, externally imposed transparency codes and standards will forever be chasing an elusive target” (von Furstenberg, 2001, p. 115). In the case of the United States, the technological changes that can be used to promote transparency seem to be outpacing not only the ability of many members of the public to interact with government information through technology, but also the awareness of and commitment to transparency in some government agencies.

Thus far, the emphasis of the Obama administration on transparency seems to be on using new technologies to deliver government information. However, for the Obama administration’s goals of increased transparency to make a genuine impact on the interaction of members of the public with government information, future policy will need to focus on the human dimensions of transparency, not just the technological dimensions.

References


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