

August 13, 2001

Ms. Brooke Dickson
Office of Information and Regulatory Affairs
Office of Management and Budget
Washington, DC 20503

RE: *OMB Proposed Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by Federal Agencies*

Dear Ms. Dickson:

Thank you for the opportunity to comment on the Office of Management and Budget (OMB) Proposed Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by Federal Agencies. The following comments take into consideration the impact of the Internet and electronic dissemination, particularly as the Internet becomes the primary medium for the government to provide public access to government information.

The Software & Information Industry Association (SIIA) is the principal trade association of the software code and information content industries, representing approximately 1,000 leading high-tech companies that develop and market software and electronic content for business, education, consumers and the Internet. Our members include many traditional and electronic publishers that provide a wide variety of information products and services covering nearly every subject matter imaginable, as well as companies that obtain information from government agencies and incorporate this data into products and services that are then sold to the public. These companies help serve the varied needs of society that obtain information from sources other than government itself, whether for reasons of convenience or efficiency.

The “Underlying Principles” set forth in the Federal Register notice of June 28, identify a varying level of “importance” of information disseminated by agencies, noting “[t]he more important the information, the higher the quality standards to which it should be held.” Subsequently, the principle also associates increased quality with increased costs by stating that “[t]he guidelines recognize, however, that information quality comes at a cost” (66 FR 34490, June 28, 2001). Therefore, we recommend that the guidelines specifically instruct agencies to cooperate with the private sector to achieve optimal results, particularly with respect to making appropriate decisions about allocation of limited resources to ensure the necessary quality standards.

Historically, private sector information disseminators have helped the Government selectively allocate tax dollars to facilitate public access to information that enjoys great public demand and repeated requests. This has been accomplished through both public-

private partnerships and independent efforts by the private sector, resulting in agencies focusing on their most requested information. Any revisions to federal government information policy should ensure that scarce taxpayer funds are used to meet clearly identified public needs not otherwise served by the private sector, and consistent with this principle, to provide the appropriate level of quality necessary.

The Internet, by enabling effective electronic dissemination, presents a great medium for the Government to make its information available to the public that never before existed. However, electronic dissemination does not alleviate the challenges with respect to ensuring the quality, utility, objectivity and integrity, and enabling respective factions of the public with the information that pertains to it. While the Internet can provide an access point for the public to a wide range of government information, “whether the information is useful to all users of the information,” and “whether the disseminated information is being presented in an accurate, clear, complete, and unbiased manner” continue to be objectives that require significant attention, resources and decisions.

“Federal agencies disseminate many types of information for many types of programs and functions. Should the OMB guidelines devote particular attention to specific types of information or information dissemination products?” (66 FR 34491, June 28, 2001)

SIIA strongly believes that the OMB guidelines should devote particular attention to specific types of information and information dissemination products, particularly focusing on “government information” and “information technology products.”

First, with respect to the type of information, we strongly recommend that the guidelines require agencies to disseminate “government information” only, rather than also undertaking initiatives to provide access to non-government information, that which is published in the private sector. Agency efforts to provide access to a wide range of non-government information would be unprecedented, inappropriate and damaging to the national information infrastructure. To prevent such an occurrence, it is vital that these guidelines clearly instruct agencies to disseminate only government information. Given agencies’ limited resources, dissemination of non-government information is clearly not an appropriate use of such resources, particularly given the need for quality maximization. In those circumstances where the Government or the public need a combination of “government information” and non-government information together in the same information resource, agencies should continue to rely on private sector sources where possible to provide those needs.

Second, given that the Internet has enabled the Government and agencies the ability to make significantly more information directly available to more of the public, organization and usability have become major challenges to help individuals find the information that they need. To meet these needs, agencies have already begun utilizing “information technology products” such as Web portals and search engines to facilitate searching and use of information for relevance.

By recognizing that creating Web portals and information technology retrieval devices and services constitute an “information dissemination product,” agencies should approach such “products” in the same manner as they do with traditional information dissemination products. This addition to the list of products would also serve to reinforce for agencies the applicability of Circular A-130 guidelines that encourage agencies to rely on the private sector for such products. These guidelines already direct agencies to utilize the private sector for developing certain information technology products in order to maximize limited resources.

“Should OMB develop specific guidelines to address information that Federal agencies disseminate from a web page? Is there any need to adopt these guidelines to address information that Federal agencies disseminate from a web page?” (66 FR 34491, June 28, 2001)

SIIA also strongly believes that OMB should develop specific guidelines to address information that Federal agencies disseminate from a web page, as well as guidelines regarding dissemination models. In addition to instructing agencies to disseminate only “government information,” as noted above, these guidelines should reiterate the objective for agencies to cooperate and partner with the private sector, as established by the Paperwork Reduction Act of 1995 (44 USC Sec. 3506(d)), and in accordance with OMB circular A-130.

Additionally, the comments below regarding hyperlinks to information provide specific recommendations for to provide guidance for agency use of a web page.

V. Definitions

First, very closely related to the comments above regarding the types of information disseminated by agencies and the use of “information technology products,” such as web portals, it is critical to recognize hyperlinks in the definition of “Information.”

The nature of the Internet is such that even the most rudimentary web page providing hyperlinks to information becomes a “portal,” or an information resource that is similar to an index or a table of contents. Such an information resource goes beyond merely providing an index to information by directing users to the information by providing a path for the user to access that information. Therefore, in some cases, the presence of a hyperlink to information can have very much the same effect of posting the information directly on the site.

For example, agencies providing hyperlinks to non-government providers of information can have the dangerous, undesirable affect of picking winners and losers among information providers. That is, by the very nature of making decisions about which links to include for the benefit of the public, based on a conscious decision made by an agency as to what information is pertinent and necessary, there is also a decision about which links

not to include, and an obligation borne by the agency to continue maintaining such links and performing quality assurance to the link destination. Not only is it an inappropriate role for agencies to perform such information reviews, decisions and recommendations, it is also clearly an inappropriate use of limited agency resources that could be better spent on assuring the availability and quality of government information.

Additionally, in providing links to non-government information, agencies run a very substantial risk of duplicating information products and services already provided by the private sector. It can be safely assumed that any significant public demand for access to non-government information would provide adequate incentive for the creation of a product (e.g. web portal, database, etc.) within the private sector. Agency creation of such a portal for facilitating access to non-government information would provide unfair competition with existing services which, in turn, threatens the long-term viability of private sector information products and services. Ultimately, this practice could result in a government monopoly in information services for certain types of information. It clearly goes without saying that such a result would have a negative impact on public access to such information in the form of inferior services.

Finally, providing links in certain circumstances may also facilitate infringement of intellectual property rights, including copyright and trademarks.

Second, the definition of "Dissemination" should also clearly include use of a web site since such action is clearly "government initiated" and results in the "distribution of information to the public."

Conclusion

These comments identify significant changes that need to be made to the draft guidelines for the overall benefit of public access to government information, and the recommendations are intended to help Federal agencies continue encouraging a diversity of sources for government information, and to prevent the unwanted, negative ramifications of Federal agencies entering into the inappropriate role of facilitating access to non-government information, or the role of value-added information providers. Now more than ever, it is crucial that we maintain the delicate balance between the role of agencies in disseminating government information, and that of the private sector.

I hope that these comments are helpful in providing guidance to revise the proposed guidelines. If you have any questions or would like to discuss further, please don't hesitate to contact me or Mark Bohannon, SIIA General Counsel and Vice President of Government Affairs, at (202) 452-1600 ext. 325.

Sincerely,



Ken Wasch
President