

Information Policies in Spain

Alfons Cornella, ESADE Barcelona

cornella@esade.es

May 1997

Abstract

This paper describes information policies in Spain from three angles: legislation on information, actions to promote and stimulate information exchange, and information management in public administrations. Spanish legislation has had to be brought in line with European Union laws and is therefore fairly modern, as is shown by several specific examples. Nevertheless, the country suffers from a certain lack of information transparency, which is particularly evident when seeking to gain access to government information. This may perhaps be due to the fact that there is no law that guarantees the right of general access to information. The paper also reports that there is little discussion about how to turn Spain into an information society and what little there is is focused more on infrastructure than on infostructure, which is perhaps more important. The paper then poses the question of whether Spain's current model of economic development can continue to be valid without a parallel model of information development that provides vital support to the educational system, libraries and the local information industry.

The political and economic context

Some historians trace the problems of contemporary Spain to events dating as far back as the early 19th century. Invasion by Napoleon's troops; cautious and repeated, but almost always doomed, attempts to move towards a true democracy; a variety of political and military pronunciamientos and the disastrous outcome of the 1898 Spanish-American war were topped off by the Spanish civil war of 1936-1939. The years of General Franco's dictatorship, which lasted from the end of the

war until 1975, were considered by some to be a period of economic growth, though more people believe that growth was less than in other European countries (also destroyed by war). Moreover, economic growth was not accompanied by the political and social modernization to be expected of a western European country, and this caused Spain's development to lag yet further behind. Just how heavily the country's future had been mortgaged by the dictatorship's autarchic system became clearly evident years later when Spain at last became a full member of the European Community.

Two years after Franco's death in 1975, a fully democratic system was introduced with the encouragement of the restored monarchy. The country's democratically elected representatives were then forced to address the political, administrative and social modernization that had been put off for decades. This task was not made any easier by the fact that Spain was plunged into an economic recession, partly as the result of its delayed reaction to the international oil crisis. Back then, Spanish politicians were seeking consensus and striving to avoid all possible sources of conflict. This attitude enabled them to produce a workable Constitution in 1978. The new Constitution, one of Europe's most modern, established a framework that defined the rights and duties of private citizens and public administrations and recognized a manifest reality: there were parts of Spain with rights to political autonomy (an autonomy that was not to be understood in the federalist sense, but nonetheless represented a sharp break with the country's highly centralist past).

Following the election of a socialist president in 1982 (and his re-elections in 1986 and 1992) and his subsequent replacement by a conservative politician in 1996, the new democratic system is firmly in place. Over the years Spain has made considerable progress in terms of respect for fundamental human rights and its society has become visibly more modern. This was undeniably helped by the fact that Spain became a member of the European Economic Community in 1986. Part of the pressure on Spanish legislators during the past decade was due to the need to rewrite a great number of laws in order to bring them in line with European

legislation.

In 1995 the OECD ranked Spain's economy as the 8th largest in the world, with a volume of 557 billion dollars, only 7 billion less than Canada and more than the economies of the Netherlands and Australia (OECD, 1996).¹ Between 1984 and 1994 Spain's GDP increased an average of 2.9% per annum. However, when per capita GDP is viewed in terms of PPP,² Spain was 21st among OECD countries, with \$13,581, while PPP in the United States, for example, amounted to \$25,512.

Spain has benefited from a considerable amount of European Union funding, but this has had relatively little impact on individual income. While Spain's GDP per capita income amounted to 66% of the European average in 1985, in 1996 it was 76.7%.³ However, it should be recalled that in 1975 it had been as high as 79.2%, a figure similar to that registered in 1991 before the outbreak of the recession. In other words, Spain's entry in the European Union does not appear to have had a direct impact on per capita income (Gasòliba 1996). Moreover, structural and political problems caused Spain's unemployment rate to be the highest of all OECD countries. Though other countries, such as Ireland, appear to have benefited more from EC membership, Spain has always been one of the least Euro-sceptic of all European Union countries: Spaniards are generally favorably inclined towards the idea of a united Europe.

Information culture

Spaniards are reputed to be friendly, carefree, open and communicative, an image more suited to Spain as a tourist destination than to the reality of a country that embraces a number of different languages and cultures.⁴ Although it is true that individual Spaniards are generally quite communicative, organizations, whether public or private, tend to be reluctant to divulge information.

Some authors attribute government secrecy to the country's Napoleonic past.

More recently, the Franco regime was obsessed with controlling society by obstructing the information flow.⁵ Even now the private sector is equally unwilling to share information: 30% of the companies listed in the trade registers as going concerns prefer to risk costly fines rather than present their annual financial reports. There is no real way of knowing whether this is simply a slavish imitation of the government's traditional reluctance to provide access to information or whether there is some other reason for their secrecy.

Although the situation has not yet been thoroughly studied, one gets the impression that Spanish organizations could well be a good example of a substratum that has developed a computer culture (most organizations are equipped with computers) without having developed a parallel information culture (more and better computers do not make people better equipped to use information, much less share it for the mutual good of both organizations and the public).⁶

The educational system can be partly blamed for Spain's lack of information culture. Traditionally more concerned with transmitting lifelong knowledge (in theory, schools and universities furnish all the information needed for one's career) than with teaching students how to learn, the Spanish system does little to help students develop information skills so that they can quickly update their knowledge. Anglo-Saxon educational systems pay more attention to this aspect of learning, which is almost certainly better suited to our continuously changing times. The fact that there is so little emphasis on school libraries is another indication of the Spanish system's lack of concern with information. This translates to a limited information culture in organizations whose managers and professional staffs did not develop information skills while at school.

Public and private organizations' reluctance to divulge information contrasts sharply with what is to be expected at the dawn of the much-heralded "information society". On the one hand, government reluctance to divulge information is contrary to the principle of transparent information and the derived right of public access. Only information transparency (the "sunshine" principle) and easy and

regular access to information about government activities (the public access principle) can guarantee a truly democratic system. On the other hand, unless private businesses realize that the most competitive companies are those that know how to make the best use of information their possibilities of surviving on the world stage will be very limited. Both the public and private sectors should aim to move away from information control (designed to prevent leakage of available information) and start using information as a factor of competitiveness.⁷

In a society that tends to jealously guard its information, what can public powers be expected to do to ensure general access to information?

What is information policy?

In Spain there is no official document that clearly explains the country's information policy. There is not even a list of laws, actions and policies which could come under this heading. In short, it would appear that the Spanish authorities are not even clear about what an information policy is. This in itself is not particularly worrying because, as Rowlands (1996, p. 14) says, "there are at least as many definitions of information policy as there are writers on the subject". Weingarten (1989, p. 79) described information policies as "the set of all public sector laws, regulations and policies that encourage, discourage or regulate the creation, use, storage, communication, and presentation of information." However as will be discussed somewhat further on, Spain's telephone monopoly has done as much or more than the public sector to develop an information society. Indeed, a look at public actions alone might not be sufficient to describe Spanish information policy

Spain's public information policy measures can be divided into three major categories: legislation on information, actions aimed to encourage and promote the use of information, and attempts to improve information resource management in public administrations.

As in any other western country, Spain has a complex system of laws on information. Basically, these laws regulate private citizens' rights to information. Different aspects of these rights are recognized in apparently unrelated Spanish laws and guaranteed by the 1978 Spanish Constitution. Indeed, the Constitution is so recent that it explicitly recognizes new rights relating to information technology, among them the need for individuals to be protected against possible violations of their privacy. These rights have been further developed in specific laws such as the *Ley de Regulación del Tratamiento Automatizado de Datos de Carácter Personal* (which limits the use of computer files containing personal data), the *Ley de Régimen Jurídico de las Administraciones Públicas* (which is the closest thing in Spanish legislation to a Freedom of Information Act), the copyright act and the new penal code, which regulates computer information-related criminal acts. Each of these laws will be discussed in greater detail in the following pages.

Actions designed to encourage and promote use of information

As mentioned earlier, Spain, unlike the United States or other European countries,⁸ does not have a general plan for becoming an information society. There is no document that lists a series of actions to be undertaken by the public powers with this aim. However, and possibly without the public powers even being aware of it, a number of actions have been undertaken and have either directly or indirectly, helped informationalize Spanish society.

One of the most important of these actions is the *Plan Nacional de Investigación Científica y Desarrollo Tecnológico* which has been investing heavily in R&D since 1986. Financial aid programs fund training for research personnel, among them a grants program for study abroad and cross-disciplinary programs in the field of information technology, which have made public research agencies and companies much more aware of information as a resource. Along similar lines, the *Oficinas de Transferencia de Tecnología* have stimulated the flow of technological information among universities, research centers and businesses and have indirectly helped increase the business community's information culture. The

Instituto de la Pequeña y Mediana Empresa Industrial's "Iniciativa Pyme", has embarked on a program partly funded by the European Union, which awards grants for developing information services for small and medium-sized industries. However, it is still too soon to evaluate the impact of these aids.

Some of the regional development agencies have even subsidized corporate modem purchases in an attempt to facilitate the business community's use of electronic information services. This, of course, is a typical example of failure to understand the country's true information problems. While the campaign may have led to the purchase of a great many modems, it overlooked the fact that the real reason electronic information services were not widely used was not lack of equipment (which, in any case, is ridiculously cheap) but that there were no database distributors in Spain. This forced companies to have separate connections with every data base supplier (and learn a variety of very different retrieval languages). Moreover, it was difficult to find personnel skilled enough to be able to make good use of these electronic information sources.⁹ Another reason that Spanish companies have little interest in national electronic information sources is the poor fit between information supply and demand (Cornella 1996, p. 19), not to speak of the remarkable paucity of information on domestic markets. In fact, this may be the reason for the considerable growth of domestic information on Internet registered in the past two years.

Experiments in encouraging the creation of information societies are being carried out in several parts of Spain (among them, the town of Villena¹⁰ where attempts are being made to shape "a new telematics-based framework for commercial and personal relations that will serve as an observatory for monitoring the population's acceptance of these new technologies". Others are banking on new technologies as a way of making university education available throughout their territory (among them the *Universitat Oberta de Catalunya*,¹¹ one of the world's first Internet-based distance learning centers, which recently received a European Union Bangemann Award).

The newly-created *Instituto Cervantes*,¹² which aims to promote the use of the Spanish language throughout the world, could be a powerful information tool. Although the Instituto has gotten off to a slow start, the important thing is that there is an enormous Spanish-speaking public and therefore a huge potential market for information in this language. Unless we take advantage of this, English will rule supreme on the information highways. What good will the most advanced Spanish information policies be if the English information market continues growing faster?

It is particularly noteworthy that Spain's telephone monopoly, *Telefónica*, was so quick to see the opportunities of Internet and take advantage of them by developing *InfoVia*, a sort of "Spanish Internet" that it plans to export to all the Latin American countries in which it operates. It is very possible that InfoVia has done more to stimulate the use of information highways in Spain than any government policy. After all, people are most concerned with their personal economy: what interests them is finding a reasonably priced way to get involved in telematics. InfoVia is the answer. Spanish Internet suppliers can now be reached from anywhere in the country for no more than the cost of a local telephone call.

Although this paper may overlook other actions aimed at encouraging and promoting the use of information in Spain, it definitely appears that the emphasis has been more on developing information infrastructures (which is where the money and the business opportunities really lie) than on content or policies designed to turn the population into intelligent information consumers (which is the real key to enabling a society to use technology to improve the quality of life). This is why newspaper articles give so little coverage to information content while front page headlines and page after page of copy are devoted to reporting on the imminent deregulation of telecommunications, the "digital war" among the various broadcasting groups fighting for permission to establish a digital television platform in Spain, and the clashes over the powers of the different public administrations to regulate cable television. It is true that information policies run the risk of being overwhelmed by the issue of infrastructures. As Rowlands (1996, p. 13) so

accurate puts it - "information policy has been largely technology-driven" - but it is nevertheless odd that no one is talking about what "digital education" will mean in terms of Spanish competitiveness, while lengthy articles continue to be discuss whether or not televised soccer games are a fundamental right.¹³

Information resource management.

During the past decade, local, regional, and central government agencies in Spain have rapidly become more computerized. While in 1990, there were approximately 26,000 computers in central government offices (not counting universities, the Ministry of Defense and computers used for school management purposes), by 1995 the figure was close to 118, 000 (Informe Reina-95, p. 59). In 1989 there were only four computer terminals for every 100 civil servants, but by 1995 there were 20 (Informe Reina-95, p.127). If only white-collar government employees are taken into account there is now one terminal for every two civil servants (Informe Reina-95, p. 128). In 1995 the Spanish central government alone spent almost 800 million dollars on computer material and services . The figure is almost double if local and regional government expenditures are included (Informe Iria-94).

These figures are low compared to the 25 billion dollars the United States federal government spends annually on information technologies (Plocher, 1996). Still, the problems of managing information resources are very similar. In both cases, the information resource management policy appears to be aimed more at getting the government to do things right than in managing to get it to do the right things. The guidelines of the *Consejo Superior de Informática*,¹⁴ an agency which answers to the Ministry of Public Administrations and is in charge of defining an information resources policy for all levels of government, therefore include such actions as listing existing resources or establishing rules for procuring computer-related goods and services or correctly exchanging files among different government agencies, but provided no guidelines on how to achieve a more efficient use of information.

Spanish texts on information resource management policies have not yet evolved along the lines of their U.S. counterparts. Readers will recall that although the spirit of information efficiency was already expressed in the report by the Commission on Federal Paperwork (1977), which stated that "it is time to view the problem of paperwork and red tape, not as documents to be managed, but rather as information content to be treated as a valuable resource" (quoted in Polcher, 1996), it was a long time before a more developed concept of information resources management caused emphasis to shift from efficient materials procurement to fulfillment of government agency objectives.

A look at the various versions of the U.S. Paperwork Reduction Act and Circular A-130, which implements the act, shows how the idea of IRM has developed:

Circular A-130 (1985 version):

"The term IRM means the planning, budgeting, organizing, directing, training, promoting, controlling and management activities associated with the burden, collection, creation, use and dissemination of information by agencies, and includes the management of information and related resources such as automatic data processing equipment..."

Circular A-130 (1993 version):

"The term IRM means the planning, budgeting, organizing, directing, training and administrative control associated with government information resources. The term encompasses both information itself and the related resources, such as personnel, equipment, funds and information technologies".

PRA (1995):

"The term information resources management means the process of managing information resources to accomplish agency missions and to improve agency performance, including through the reduction of information collection burdens on the public."

These texts demonstrate how emphasis shifted from *controlling computer-related spending* to *accomplishing agency missions and improving agency performance*; from a focus on *information technologies* to a focus on *information per se*, from an emphasis on *productivity* to an emphasis on *performance*. But there is every indication that this evolution of concepts has not yet reached Spanish governments. Spain's current situation is similar to the one McClure et al. (1989, p. 55) criticized in reference to the attitude of the US Office for Management and Budget, "the OMB has chosen to use its legal power mainly to regulate the procurement of IT in federal departments and to reduce government costs rather than to maximize the benefits of government information for users".

Although there does not yet exist a document that clearly specifies what Spanish government policy on information management and dissemination should be (possibly because, as will be seen further on, there is actually no right of general access to public information), some interesting steps have nevertheless been taken in this direction. Thus, Royal Decree 208 of February 9, 1996, which regulates the State's general government information and public services, "aims to be a turning point in terms of providing information policy orientation and attention to the public." It introduces *Comisiones Ministeriales de Información Administrativa*, Ministry-level commissions which are in charge of coordinating information actions undertaken by the various units of their respective ministries. The umbrella agency for the entire central government is the *Comisión Interministerial de Información Administrativa*.¹⁵ Among the objectives of the Ministry-level commissions are permanently improving communication with the general public, improving the technical media that facilitate information management, improving human resources, etc. The objectives of the Inter-Ministerial Commission, in turn, include introducing a single telephone number for all the central information units of the various ministerial departments, setting up a system for interchanging data bases among information offices, establishing a technical advisory service for remodelling information offices, designing a joint advertising plan for information centers, setting up personnel training programs in government information, etc.

It is curious to say the least that while there has been a notable lack of planning in terms of making government information available to the general public, there has been a genuine outbreak of fever in public agencies.¹⁶ What has not been accomplished at policy level has been accomplished by the remarkable success of Internet in Spain.¹⁷ Various public agencies fought to be the first on the web and offer the best possible content.¹⁸ This is rather surprising when you consider that some of the databases now available on were available more than a decade ago in ASCII formats, although they were not easily accessible to private citizens.¹⁹ The variety of formats and designs to be found in public agency websites would indicate that there are no rules or even a style sheet.²⁰

Moreover, no synergy has as yet been achieved between the public and private sectors in order to maximize the benefits of government information for users.²¹ As there is no general information policy, every department applies its own policy. Much of the information which could be of interest to businesses, (such as industry, market and product statistics) often never even enters the information circuit in Spain, to the detriment of individuals and companies alike. The situation is further complicated by the lack of coordination and the dispersion of government registers.²²

Lastly, it is possible that government interest in Internet may eventually allow many Spanish information professionals to see a long-cherished dream come true: the establishment of a Government Locator Information System similar to existing systems in other countries. Such a system locates documents produced, stored or distributed by public administrations. It should be noted here that Spain has no equivalent of the United States' Government Printing Office and every public agency publishes whatever material it judges opportune (many Ministries and regional governments even have their own printing offices). To further aggravate the problems of anyone wanting to locate government information, Spain has no equivalent of the US Depository Library Program (in other words, there is no program whereby selected libraries in Spain are systematically sent copies of

documents produced by the various public administrations).

The 1978 Spanish Constitution ²³

The current Spanish Constitution was passed in 1978 and was inspired by the desire to make Spain an advanced society. Its preamble proclaims the will of the Spanish people to "establish an advanced democratic society" and "promote the cultural and economic progress in order to ensure a worthy quality of life for all". As the guiding principal for economic and social policy, Article 40.1 stipulates that "the public powers shall promote conditions that encourage social and economic progress and a more equitable distribution of regional and personal income within the framework of a policy of economic stability. They shall especially endeavor to apply a policy aimed at achieving full employment".

The right to know is recognized in Article 20.1 d as one of the "fundamental rights and public freedoms". The article establishes the right to "freely communicate and receive true information through any medium of dissemination. The law shall regulate the right to invoke the clause of conscience and professional secrecy when exercising these freedoms". In order to make it abundantly clear that the law will not tolerate the systematic infringement of the principal of transparent information practiced by the former regime, Article 20.2 establishes that "the exercise of these rights cannot be restricted by any form of prior censorship".

Some authors have discussed Article 20.1.d. at length, maintaining that its recognition of the right of access to "true" information is one of the keys to the democratic system.²⁴ But from the standpoint of information, the article is not very clear inasmuch as this "right to be informed" is directly linked to communications media, regardless of their type. In other words, it appears that legislators were more concerned with establishing a principle that would prevent prior censorship than in recognizing the general principle of *the right of access to information*. This right to information appears to have been recognized from a re-active position,

attempting to stipulate how the public powers should *not* act rather than establishing how recognition of this fundamental right obliges public administrations to have an active information policy with the ultimate goal of benefiting society.

The Spanish Constitution does not address the issue of information transparency from a pro-active stance, possibly because the concept of a "right to information" was so new to its authors. Oddly enough, while the text is very progressive in terms of such issues as environmental rights,²⁵ it is much less so when it addresses the equally new issue of information as a basic civil, or third-generation right. Were the Constitution being written today, at a time when the media are filled with reports on information highways, its authors would surely have paid more attention to the public's right to information.

Article 105.b reveals that the Constitution is not clear on public rights to information. This article deals with public access to government information and begins with the controversial statement, "the law shall regulate" rather than clearly stating that what follows is a fundamental right. Paragraph b specifies that "[the law shall regulate] public access to government archives and registers, except in those cases in which access would jeopardize State security or defense, the investigation of crimes, or individual privacy".²⁶ It suffices here to say that guaranteeing public access to government information does not necessarily mean that government agencies have a duty to actively disseminate the information in their power. Unlike laws such as the U.S. Freedom of Information Act, its French equivalent or the laws of most of the Scandinavian countries, Article 105.b of the Spanish constitution does not clearly state that government information (which is, of course, paid for with public funds) is a public asset except when national security is at stake or for other justified reasons.

In addition to the principles of freedom of expression and information (Article 20) and recognition of the need to regulate access to government information (Article 105.b.) the Constitution also addresses other "information-intensive" issues, such

as the right to privacy. Thus, in the chapter on fundamental rights and civil liberties, Article 18.3 establishes that "the secrecy of communication, particularly via postal, telegraph and telephone services, shall be guaranteed unless a court decision is made to the contrary".²⁷ Along the same lines, Article 18.4 establishes that "the law shall limit the use of computerized information in order to guarantee the honor and privacy of all citizens and their families and the full exercise of their rights". This article was subsequently developed in a law which will be discussed later on.

Access to government information

If a democratic society is to function correctly laws must be passed regulating the individual's rights of access to information and public information in particular. This type of fundamental political right is not only essential for supervising and monitoring the actions of public administrations and consequently for improving their management, but is also a third generation human right (OJEC C156, 1983, p.8). The main problem in correctly defining this right involves determining just what is understood to be public information.

There are three major views as regards what information should be considered to be public, i.e. accessible to private citizens. First, administrative files should be accessible to anyone involved in court cases. Second, files containing personal data should be accessible to the people concerned. And third, government information should be accessible, regardless of whether or not the consulting individual or legal entity has a specific interest or is involved in a court case (OJEC C156, 1993, p. 7). This third case would be an example of general access to government information.

Not all European countries recognize the right of general access to public information.²⁸ The European Commission itself has aimed to set a precedent with its Decision 94/90/CECA which guarantees very broad access to EC information

(European Commission, 1997). This decision literally states that "the public shall have the greatest possible access to the documents of the Commission and the Council", with "document" being understood to mean "all writings, regardless of their medium, which contain existing data and which are in the possession of the Commission or the Council" (in other words, documents that do not require the production of new information, as opposed to information furnished to order for certain applicants). In other words, the European Commission embraces the principle that all government information should be public (easily accessible by private citizens) with the limitations (exceptions) necessary in order to safeguard the general public interest (for example, national security) or protect individuals (for example, personal privacy).

As mentioned above, Article 105.b of the Spanish Constitution states that "[the law shall regulate] public access to government archives and registers, except in those cases in which access would jeopardize State security or defense, the investigation of crimes, or individual privacy". But it is not clear from the wording of the article whether it recognizes that the public's right of general access to information is a principle as described above, or if it is a supplementary right of the democratic system, which guarantees that people with a legitimate interest (because they are involved in a court case, for example, or because the files contain personal information about them) have access to government files. From the standpoint of the private citizen, the important thing is obviously *what* information can be consulted and *by whom*. In order to reply to these questions, we must look at the law that specifically governs the right of access to public archives and registers, Law 30/1992 of November 26th, the *Régimen Jurídico de las Administraciones Públicas y del Procedimiento Administrativo Común*.²⁹

Article 35.a of the aforementioned law recognizes the right of private citizens "to know, at all times, the status of any procedures in which they are interested parties and to obtain copies of any documents forming part of these procedures". It thus becomes imperative to define what is meant by an interested party. The response is found in Article 31, which states that "interested parties in administrative

procedures are considered as a) those who institute such proceedings by virtue of their individual or collective rights or legitimate interests ; b) those who have not instituted the procedure, but have rights which may be affected by the decision made, and c) those whose individual or collective legitimate interests could be affected by the decision and who appear in the court proceedings before a final decision has been made". This article thus guarantees the rights of access to public information specified above, but does not guarantee what we refer to as the right of general access to public information.

Furthermore, Article 35h recognizes the right of "access to government registers and archives on the terms established in the Constitution and in this or other laws". For a better understanding of this article, we must turn to Article 37.1 which recognizes that "citizens have the right of access to the registers and documents which are contained in government archives as part of a file, regardless of the form of expression, written, recorded or in image, or the type of medium in which they appear, so long as these files refer to proceedings concluded by the date of application". The subsequent paragraphs of Article 37 specify the exceptions to this right, which are aimed basically at safeguarding the public interest and individual privacy. The wording makes it difficult to interpret as establishing a principle of general access to public information; first, because it never clearly defines the meaning of "file" and second, because access is limited to files that are already closed.

It is easy to imagine situations in which right of access to government information is not sufficiently recognized or guaranteed. For example, does a private citizen have the right to consult a report that a government department has commissioned from a consultant on the future of a particular branch of the country's industry? ³⁰ How much access do journalists have to documents that are not actually files? What devices ensure that people know what government information exists and to what extent it is disseminated, either actively or passively? Where can citizens turn when they feel that their right of access to information has been denied?

If the right of general access to public information in Spain is to be properly recognized and guaranteed, the country probably needs a specific law, similar to the U.S. Freedom of Information Act. It is not enough that some court decisions appear to recognize this right.³¹ Moreover, it is possible that lack of such a law is hindering the development of the information industry in Spain, preventing it from occupying a position consonant with that of the country's economic position on the world stage. The main reason for this is that in Spain, as in the most other countries, the public sector is the principal producer of information, much of which cannot be used without the participation of the private sector. Public-private synergies should be encouraged. But without a law on general access to public information, information will not be transparent enough to make this possible.

Lastly, it should be noted that Article 38.3 of the law stipulates that "general registers, as well as all government records of documents and correspondence received from private parties or government agencies, should be stored in an electronic format". Paragraph 4 of the same article further specifies that "public administrations shall enter into collaboration agreements in order to establish systems of intercommunication and coordination of registers that will guarantee computer compatibility and telematic transmission of entries". In other words, the law recognizes that information technologies should be used to handle registers. This may indicate that the law is still more concerned with computer infrastructure than with the use of information technologies to guarantee the public's general access to government information.

Privacy

Article 18 of the Spanish Constitution guarantees citizens' rights to personal honor and privacy for themselves and their families and recognizes the principle of privileged communications. It is also interesting to note that Article 8 stipulates that "the law shall limit the use of computerized information in order to guarantee the honor and privacy of all citizens and their families and full respect of their rights".

Spain, thus has a constitutional provision that guarantees citizens the right of protection from undue use of information technologies. The exact wording of the law is contained in Ley Orgánica 5/1982 of October 29, *Regulación del Tratamiento Automatizado de los Datos de Carácter Personal* (LORTAD), which generally aims to establish a regulatory framework that prevents unlawful trade of personal data in possession of either the public or private sector.

The LORTAD is grounded in a series of principles which should be mentioned here. For example, files containing personal data cannot be used for any purpose other than that for which they were originally intended, except with the consent of the parties concerned. Personal data contained in files should be "accurate and up to date ". All citizens have the right to know what information is contained in their files and to correct or cancel registrations in which these data appear. Protection of certain data is particularly strict: opening files for the exclusive purpose of storing personal data that reveal ideology, beliefs, race or social status is strictly prohibited and inclusion of any of these data in any file must be expressly authorized in writing by the parties concerned. The law also requires that people responsible for files containing personal data take the security measures necessary to ensure that these data will not be lost, altered or handled without authorization, and undertake to keep them a professional secret.

Article 11 is particularly important in that it stipulates the conditions under which creators of files containing personal data are permitted to assign rights of these files to a third party. Under the terms of the article, "personal data....may only be assigned [to third parties] for purposes directly related to the legitimate activities of the assignor and the assignee and *with the prior consent of the party concerned* "

³² There are, of course, a number of exceptions (as, for example, when the information is taken from public sources such as telephone books). Paragraph 3 of the article specifies that "the consent [of the party concerned] will not be valid unless it is given to a specific or specifiable assignee or if the purpose of the assignment is not clearly stated". Article 19 prevents government departments from interchanging data for purposes other than that for which the data files were

originally created.

Restrictions on assigning personal data files have been strongly criticized by some sectors. For example, direct marketing firms consider Article 29 a serious hindrance to their operations because it stipulates that "those who are dedicated to collecting addresses, disseminating documents, advertising or direct mail campaigns and other similar activities, shall use computerized lists of names and addresses or other personal data only when this information is contained in publicly accessible documents or when it has been furnished by the parties concerned or obtained with their consent". In other words, they cannot make use of files other than those they have created themselves with the consent of the people listed therein, or public files.³³

It is evident that one of LORTAD's principal objectives is to prevent trading in personal data, whether publicly or privately owned. Before the law went into effect such transactions were quite common. As an example, several sources quote seven million pesetas as the black market price of information taken from Spanish voters' registers.³⁴ This information is obtained directly from the main voters' register by political parties set up for the sole purpose of obtaining this information in order to sell it illegally.³⁵

The Agencia de Protección de Datos³⁶ is in charge of monitoring application of the LORTAD.³⁷ Since its creation in 1992 the agency has penalized hundreds of activities that violated the terms of the Law. In 1996 alone, more than 1000 complaints were filed and 900 actions taken. Among the companies penalized are several that produced data banks of delinquent debtors and furnished personal data to companies which later offered their services to "erase" listings for a price. According to the law, any such service should be free of charge. In this particular case, the company was denounced for illegally furnishing personal information to a company other than that which produced the register (i.e. illegal assignment). The APD has regulated various personal data collection activities which were not sufficiently covered under the terms of LORTAD. Even personal data noted by

private security guards at the entrances to businesses, in casinos and gambling halls (name, identification number, employer's name, etc.) have been used for commercial purposes.

But the best known company to have been penalized by the APD is RENFE, the Spanish state railway which was fined 50 million pesetas for using data about employees' union affiliations in order to dock the salaries of the members of the union that had called a strike.³⁸

The scope of the law is illustrated by the fact that the Ministry of Home Affairs had to abandon the idea of collecting data on "merely suspect" or "unusual" behaviour³⁹ because, under the terms of the LORTAD, "the collection and computerized treatment of personal data for police purposes....without the consent of the parties concerned, is restricted to those cases and types of data which are necessary in order to prevent a *real danger* to public safety or avoid criminal infractions...." (Article 20). In other words, no one can be "blacklisted" as the result of "mere suspicion". Police records cannot be opened unless there are well-founded indications that the person involved is a "real danger" to State security. The Spanish government ombudsman was even brought into this case and stressed the need for legislation governing police databases.

Copyright

In 1996, all copyright legislation was summarized in a single law. Before then, legislation had been contained in a number of laws that had been passed as required by technological progress (one very clear example was the case of computer program copyrights). Moreover, the law needed to be rewritten in order to bring it in line with EC Directive 93/98 of October 29, 1996. The Spanish copyright act is the *Ley de Propiedad Intelectual* (Law 22/1987 of November 11) summarized in *Real Decreto Legislativo 1/1996*, of April 12th.

A copyright act is obviously essential now that copy technologies are so highly developed. For example, it should be noted that illegal copying caused the Spanish audio-visual industry to lose 100 million dollars in 1995,⁴⁰ while losses to the publishing industry amounted to 400 million dollars.⁴¹

The most interesting feature of the Spanish copyright law is precisely its stipulation that "all original literary, artistic or scientific creations expressed in any medium or vehicle, tangible or intangible, *currently in existence or which are invented in the future* may be copyrighted" (Article 10). This includes books, musical compositions, any kind of audio-visual or art work, computer programs, etc. In other words, the definition of what can be copyrighted is very broad in terms of both content and medium (the technology used to store the information). However, it is not sufficiently clear whether documents produced by public administrations can be copyrighted or not, inasmuch as Article 13 simply states that "legal provisions, regulations and bills, court decisions and minutes, agreements, deliberations and opinions of public agencies as well as official translations of all the aforementioned texts are not subject to copyright".⁴²

Another interesting feature of the law is that it permits *private copies* of original material (specifically, "reproduction for strictly private use"), "so long as the copy is not used collectively or for gain". The law establishes that copyright holders will be paid for copies made for private use by means of a fee included in the price of all copy machines sold in the country (photocopiers, recording equipment, cassettes, video tapes, etc.).⁴³ This principal can be applied to any original material subject to reproduction but does not apply to computer software.⁴⁴

The fees paid on copy machines and other means of reproducing printed texts are collected by CEDRO (Centro Español de Derechos Reprográficos), which equitably distributes the revenue collected among copyright holders in Spain (basically publishers).⁴⁵ ⁴⁶ In cases when copies made are not for private use (in universities, for example) CEDRO acts as a sort of Spanish version of the Copyright Clearing Center, issuing copying licenses. CEDRO was originally

founded and the copyright fee introduced primarily because the Spanish publishing industry was losing more than \$400 million a year due to illegal reprography.⁴⁷ Curiously enough, CEDRO claims that governments themselves are violating the copyright law "by omission or ignorance" because they do not control illegal reproduction in public institutions, among them public universities (Rodrigo 1995, p. 2).

The penal code

In countries whose judicial system is not based on Common Law, the penal code is extremely important. Spain's new version went into effect at the end of 1995 (*Ley Orgánica* 10/1995 of November 2nd), superseding the 1963 code, an update of which had been pending ever since the new Constitution was approved in 1978.

The penal code is a very complete and extremely complex piece of legislation that aims to cover all possible criminal acts. It would seem unlikely that a text written at a certain moment in time could foresee crimes involving information technologies that have yet to be invented. Nevertheless, the Spanish penal code is quite helpful in establishing penalties for crimes that are typical of the information age.⁴⁸

For example, the code gives a detailed description of violations against privacy (Article 197.1), stating that it is a punishable offense "to gain access to secrets or violate the privacy of any individual by taking possession without consent of his/her papers, letters, electronic mail messages or any other documents or personal effects or intercepting telecommunications or using specialized devices for listening, broadcasting, recording or reproducing sound, images or *any other communications signal*. The penal code is new enough that legislators were able to include such recent developments as electronic mail and classify as a criminal act the unlawful interception of any type of communications signal. Likewise, defamation through Internet is a punishable offense inasmuch as it is "propagated in print media, broadcast or transmitted by any other similarly effective medium"

(Article 211).

Article 197.2 stipulates that anyone who takes possession of, uses or alters to the detriment of a third party personal data stored in "computer, electronic or telematic files or any other type of public or private archive or register" will be prosecuted in accordance with the terms of LORTAD.

Information crimes (i.e. crimes involving use of information or information technology) are described in several parts of the penal code. Article 264 classifies the introduction of computer viruses and systems sabotage as crimes, stating that anyone who "uses any medium to destroy, alter, render useless or in any other way damage electronic data, programs or documents belonging to third parties and contained in computer networks, media (supports) or systems" will be prosecuted.

Article 248 establishes that electronic fraud is a criminal offense inasmuch as "anyone who manipulates computer or similar information with the aim of transferring ownership of any asset without the consent of its owner and for purposes of financial gain shall be considered to have committed an electronic fraud".

Article 278 classifies industrial espionage as a criminal offense, stating that "anyone who appropriates any form of data, written or electronic documents, computer disks or other objects related thereto in order to discover business secrets" shall be prosecuted by law.

Article 282 covers misleading advertising, classifying as criminal offenders "manufacturers, wholesalers or retailers whose advertisements or offers make false claims or attribute false characteristics to their goods or services." Also liable to prosecution are "legal or de facto administrators of any company established or in the process of establishment who deny or otherwise prevent any partner from exercising his/her right to information or participation in the

management or control of company activities...." (Article 293).

However, like all codes that attempt to foresee all possible offenses, the Spanish penal code has shortcomings, which have already been revealed, particularly in terms of information-related issues. Thus, for example, prostituting minors, using them for exhibitionistic or pornographic purposes, and showing or selling pornography to minors are criminal offenses, but supplying or showing adults pornographic material in which minors appear is not classified as an offense. As a result, at the end of 1996 Spain was forced to dismiss the case of two students who were selling child pornography through Internet.⁴⁹ Cases like this make one wonder whether a penal system based on a code (whereby only offenses listed in the code are considered as crimes) can be adapted fast enough to the new forms of crime created by information highways or whether systems based on Common Law are more flexible and useful for this purpose. Moreover, it is obvious that Internet crimes can only be prosecuted and punished by international laws.

Telecommunications

As of 1995 Spain had more than 15 million standard telephone lines, or approximately 38.50 lines per 100 inhabitants (the European Union average is 49 lines per 100 inhabitants). There are also 3.5 million mobile telephones (approximately 9 per every 100 inhabitants as opposed to the European average of 8.5 per 100).⁵⁰ Spain's Telefónica is the world's 10th largest telephone company (with billings of almost 14 billion dollars).⁵¹ In 1995, public investments in telecommunications amounted to about 93 dollars per capita as opposed to the OECD average of \$118.⁵²

Until very recently Telefónica had the monopoly on telecommunications in Spain. The *Ley de Ordenación de las Telecomunicaciones* (Law 31 of December 18, 1987, which was later amended by Law 32/of December 3, 1992, popularly known as LOT) stated that telecommunications are "essential services, ownership of

which is reserved for the public sector".⁵³ The State also monopolized management, administration and control of the electromagnetic spectrum. Telecommunications services were divided into four groups (in accordance with the criteria established by the International Telecommunications Union): end services (i.e. telephone and other user-to-user communication services), carrier services (services that transmit signals between network terminals), value added services (for example, telematic access to information) and broadcasting services (basically any form of radio or television). Law 31/1987 established that Telefónica would have a monopoly on both final and carrier services and moreover stipulated that 75% of the company's capital had to be Spanish owned. In exchange, the State required Telefónica to provide coverage throughout the entire territory (guaranteeing universal access)⁵⁴ and had final approval on telephone charges. Value added and broadcasting services were open to competition, within a specific regulatory framework.

Telefónica's monopoly on end and carrier services was obviously incompatible with the European Commission's guidelines for deregulating the telecommunications market. The LOT was therefore amended by Royal Decree-Law 6 of June 7, 1996, which abolished the monopoly on end and carrier services, opening them to competition. In order to "guarantee the conditions of competition, ensure correct price setting and arbitrate conflicts occurring in the industry, the Comisión del Mercado de las Telecomunicaciones⁵⁵ was created. The new law also increased the 25% limit on foreign-owned capital in telecommunications companies and enabled Retevisión, the public agency responsible for transmitting television signals, to offer end and carrier telecommunications services, thus establishing a duopoly in Spanish telecommunications. Telefónica has since been completely privatized and Retevisión will be privatized during 1997 and 1998.

Although telecommunications in the European Union will be fully deregulated at the beginning of 1998, some member countries, including Spain, have been given additional time to adapt their structures to the new situation. Thus full deregulation is not expected to take place in Spain until the beginning of 2003, although on

several occasions the government has stated its intent to complete the process prior to this deadline.

The situation in the Spanish telecommunications industry is currently as follows:⁵⁶ Basic telephone services (end services) are furnished by a single operator, although a second operator (Retevisión) is expected to enter the market in 1998. Telefónica has the monopoly on analogue mobile telephone systems and a duopoly (with Airtel) on digital systems. Carrier services are partly deregulated. Data transmission is fully deregulated, but Retevisión has the monopoly on television signal transmission. Value added services are open to competition. Broadcasting services are partially deregulated (the *Ley de Televisión Privada* established a concession system which limited Spain to four private television channels, all of which use terrestrial broadcasting systems). The situation in Spain thus cannot be compared with that of countries like the United States or the United Kingdom where telecommunications have been deregulated for over fifteen years.

Article 28 of the *Ley de Ordenación de las Telecomunicaciones* stipulates that the government should design and apply a national telecommunications plan. "In order to insure integrated planning of services, the Ministry of Transport, Tourism and Communications shall draft a national telecommunications plan in conjunction with the state agencies competent in such matters, present this plan to the government for its approval and monitor application of the plan, which shall stipulate the development and extension of networks and services and the introduction of new ones over a specified number of years in order to promote the gradual integration of telecommunications networks, industrial development and the introduction of advanced technologies. The plan shall undertake to guarantee that the introduction of such technologies shall not interfere with the delivery of previously existing services in either operational or economic terms".

The only telecommunications plan actually drafted covered the years between 1990 and 1994. The need to deregulate the industry and the plan's inability to influence the investment decisions of the principle agents involved, particularly

Telefónica and Correos (the public postal system), rendered it all but ineffective. No new plan has been drafted since then.

Libraries in Spain

There are 8,700 libraries in Spain ⁵⁷ (an average of slightly more than one library per 5000 inhabitants) reporting to a variety of agencies and institutions (central, regional and local governments, universities, private organizations, companies, etc.). It is interesting to note that 50% of the libraries now in existence went into operation after 1980 and only 11% date back to before 1940. Spain's library system is thus fairly modern (Pablo, 1997). Spanish libraries stock a total of about 88 million books (slightly over 2 books per inhabitant) ⁵⁸ and employ about 19,000 people. Operating expenses for Spain's libraries total \$900 million, i.e. approximately \$22 per capita (INE, 1996).⁵⁹

Public libraries are governed by two laws, DR 582/1989 (*Reglamento de Bibliotecas Públicas del Estado y del Sistema Español de Bibliotecas* and Law 16/1095 (*Patrimonio Histórico Español*), which are complemented by a variety of regulations issued by the country's various regional governments. The final goal of the library system should be to guarantee the Constitutional principal expressed in Article 44.1, which states that "the public powers shall promote and encourage access to culture, to which everyone is entitled" by facilitating access to reading material.

Under the terms of Article 148.1.15 of the Constitution, most of the public libraries report to Spain's regional governments. However, there are two major groups of libraries that continue to report to the central government: the State⁶⁰ and municipal public libraries.⁶¹

Between 1983 and 1993, the central government invested approximately 100 million dollars in the INVERCAS program of investments in State-owned public

libraries. Most of the investments were for new buildings or remodelling and renovating existing libraries. In fact, many experts believe that most investments in public libraries go towards improving infrastructures rather than providing better service to the public (MEC, 1994). Spanish libraries are becoming computerized,⁶² and many of their catalogues can now be consulted through Internet. The biggest libraries also provide access to multi-media material (basically CD-ROMS), although no figures are available on this. In contrast, very few libraries offer their users on-site access to Internet.

As regards the educational background of librarians in Spain, almost half of them do not have university degrees in librarianship studies, but have been trained on the job. In fact, almost one-fourth of Spain's 19,000 librarians have no degrees of any kind (Pablo, 1997). These figures are a major challenge to the library system in terms of higher education and professional recycling and hint that corporatist problems are likely to occur in future when Spanish libraries are forced to renew their technologies.⁶³

Serving the public

Despite the fact that Spain has no general information policy, certain specific fields have registered a noteworthy development in the past few years. For example, taxpayer-government relations have become considerably more computerized. First of all, since 1996 taxpayers can file their income tax returns with the Agencia Tributaria⁶⁴ by telephone. Even before that, the agency began offering a cost-price computer program called *Padre* that helps taxpayers figure out their income tax returns. Moreover, certain municipal and other taxes can be paid directly through the banks' automatic cash dispensers.⁶⁵

The tax authorities have recently announced that companies and self-employed professionals will be permitted to present their financial statements in electronic formats, so long as they abide by certain rules.⁶⁶ It would thus appear that the

government considers taxation one of the main areas in which to apply policies involving direct interchange of information between the government and the population. Indeed, if there is one area in which the public demands true government efficiency it is taxation, particularly in countries like Spain where many taxpayers are entitled to refunds. It is not by chance that one of the government's first audio-text services is aimed to help taxpayers check on the status of their tax returns.⁶⁷ And it is no coincidence that the media seized on the problems that plagued the system during the 1996 filing period (which were probably caused by the service being underdimensioned) to spur discussion about whether efficiency and public administration are incompatible.

Spain's tax authority was one of the first government agencies to publish a document specifying citizens' rights vis-à-vis its particular field of action (*Carta de Derechos y Garantías de los Contribuyentes*).⁶⁸ At the same time, the Consejo Defensor del Contribuyente, or taxpayers' defense council, was created "in order to increase the efficiency and transparency of tax management by making the tax authority more accessible to taxpayers". The Council accepts taxpayers' complaints....and "shall ensure that the government responds satisfactorily within the time limits specified". Moreover, the Council is "empowered to propose changes in tax legislation".

The environment is another area in which the government seems especially sensitive to the issue of the public right to information. The 1995 *Ley de Acceso a la Información Ambiental* recognizes the public's right to demand any type of government information related to the environment and receive a response within a maximum of two months. This act is, in fact, simply an adoption of European Union Directive 90/313,⁶⁹ which also requires that public administrations regularly publish information about the general state of the environment.

Moreover, the Centro de Información Administrativa furnishes information about central government functions and services, public employment opportunities, prizes, grants, financial aids and subsidies. This information is available by

telephone and will presumably be available in Internet in the near future.⁷⁰ It also lists all information offices pertaining to Spain's regional governments and other public agencies.⁷¹ In addition, there is also a special small business information service, *PYME Area de Información*, which provides e-mail reports on financial aid, public tender announcements, trade fairs, taxes, labor regulations, etc.⁷²

Finally, special mention should be made of one of the most interesting projects currently underway in Spain: a program whereby town halls throughout the country will serve as "one-stop shops". The idea is to "enable the public to present applications, reports and correspondence addressed to the State government and its related or dependent public agencies (regional entities, agencies, etc.) to local government registries so that the public can deal with the State government through their town halls without having to travel elsewhere". The objective for the near future is to turn local governments into "one-stop shops" for all levels of government (central, regional and local). These facilities will no doubt be subsequently enhanced with virtual one-stop shops accessible through Internet.

It is to be expected that government communication with the public will increase in coming years, either because an information policy is enacted or because the democratic process automatically leads to increased information transparency. Unfortunately, however, several recent incidents make one suspect that politicians continue to feel that information transparency is something they can manipulate in order to win more votes.

As an example, information has been manipulated on a large scale in order to move certain strategic pawns on the chessboard of power (successful bankers and financiers, now facing prison sentences, financed reports containing information that was damaging to high-ranking politicians in the party previously in power). This may have worked to the advantage of the then opposition party, which was quick to promise information transparency when it came to power. However, one of the first blows to this principle came when the new government stopped publishing the *Boletín Estadístico del Registro Central de Personal*, which reported on the

number of civil servants employed in the country's various levels of government.⁷³ Though the government alleged budget restrictions as the reason for suspending publication, some analysts felt that the true intent was to prevent people from verifying whether or not campaign promises to eliminate the number of management-level public employees had been kept.

There is perhaps nothing worse for a country in the process of becoming an information society than using information and particularly government information transparency as a means of winning votes.

Conclusions

This article has attempted to describe the current status of three facets of information policies in Spain: legislation on information, actions aimed to encourage and promote the use of information, and attempts to improve information resource management in public administrations. Specific options for the country's information development will be published in a subsequent article.⁷⁴ However, certain points discussed here are worthy of comment.

First of all, and although neither empirical information nor statistical data corroborate these opinions, a number of the Spanish information specialists consulted feel that there is a mismatch between the country's economic development and its information development. For example, the volume of Spain's electronic information market is much lower than it should be were there a direct correlation between GDP and consumer spending on information.⁷⁵ Curiously enough, the information industry is one of the least transparent in terms of information about itself.⁷⁶

Two conclusions can be drawn from this. First, we need better information about the current situation and the evolution of both the information market and the

information industry. Unless national statistics plans take this into account it will be impossible to design appropriate information policies. Secondly, economic growth alone does not guarantee a parallel growth in the use of information. However, a failure to develop in terms of information may well end up having a major impact on the economy which, in countries that aspire to an acceptable level of social welfare is, or should be, turning into a digital economy (Tapscott, 1996). The case of Spain, which has registered a considerable development in its economy (though not in its information services) in the past few years could serve as an example to other rapidly developing countries elsewhere in the world.

Obviously there is always a doubt about whether or not a government decision to adopt an information policy is ideologically based. In other words, can an information society simply develop as the result of natural market behavior, as liberals would have us believe, or do we need to plan and develop certain infrastructures that will spur private initiative? It would appear that most Western governments are agreed that they must support the creation of infrastructures. However, now that it is imperative to reduce the public deficit, one of the principal ways to do this will be by deregulating the telecommunications market. But one major question still remains: is it enough for governments to provide infrastructures or do they also need to take steps to create, promote and disseminate infostructures or content, rather than just TV cables and satellite dishes. Governments are likely to play an important role here because in most countries they are the principal producers of information and particularly of information that could be of interest to the business community. But if this information is to be produced or used for the good of society, governments need to shape a culture of information transparency and legislation that clearly specifies that private citizens have a right of general access to government information except when it might endanger State security or respect for individual privacy. This reveals the close links between information policies and legislation.

My personal opinion, shared by many of the other information specialists I have consulted in Spain in the past few months, is that our Constitution is not sufficiently

clear on this right of general access to information, and thus possibly indicates that Spain needs an equivalent of the US Freedom of Information Act.

Still, Spanish legislation is fairly advanced in other aspects, among them laws protecting personal data and copyright laws. However, the epitome of Spanish legislation, the 1995 Penal Code, has recently revealed its shortcomings in terms of controlling crime related to new information technologies. It may well be necessary to clarify the broad spectrum of laws that deal in some way or other with various aspects of information, even if only in order to classify and cross-reference them.

As far as I have been able to discover, there are no academics in Spain dedicated exclusively to the study of government information policy. This would explain the almost total lack of publications on the subject.⁷⁷ Scientific production in this field should therefore be stimulated.

Information specialists should help shift the focus of discussions on the information society from its technological aspects to its content. This is particularly important in Spain, which ought to take advantage of the fact that Spanish is the world's third most spoken language (after Mandarin Chinese and English). Moreover, they should stress the vital importance of the educational system because winning a place in the information society will very likely be contingent on having an information-literate, rather than simply computer-literate, population, who have been taught to be intelligent consumers of information. People whose schooling teaches them how to learn by themselves will be able to continue learning throughout their professional lives.

Special attention should be paid to developing an improved library system. However, libraries should be understood differently, more as multimedia resource centers that keep society from being divided into classes that are either rich or poor in terms of information. If deregulated communications are the engine of new development, support of the education system, libraries and other such

components of the infostructure are its fuel. Governments must seriously analyze whether or not it is worth investing in libraries and be conscious of the serious repercussions their decisions will have. In order to avoid errors, their decisions should be based on the recommendations of recognized experts and contained in a national information society plan, similar to those that have been drafted in other countries. And, as I have tried to make clear throughout this paper, such a plan must be much more than simply a telecommunications plan.

References

Bredemeier, Willi (1996) Mixing it with the market. Does an information policy help? *Information World Review*, July-August, p28.

Commission on Federal Paperwork (1977) *Information Resources Management: A Report of the Commission of Federal Paperwork*. Washington, DC: GPO.

Cornella, A. (1996) *Información Digital para la Empresa. Una introducción a los servicios de Información Electrónica*. Barcelona, Spain: Marcombo Boixareu Editores.

Crespo, Juan Bautista (1993) *La informatización de las bibliotecas en la Comunidad Europea. Estudio Comparativo*. Madrid, Spain: SEDIC y Ministerio de Cultura.

Elhazaz Molina, Andrés (1992) Bases de datos para el servicio público, en *Encuentro sobre Bases de Datos en la Administración Pública, Madrid 1990*. Madrid, Spain: Ministerio para las Administraciones Públicas, Colección Informes y Documentos.

European Commission (1997) *Acceso a los documentos de la Comisión. Guía del Ciudadano*. Luxemburg, Luxemburg: Oficina de Publicaciones Oficiales de la Comunidad Europea.

Flanz, Gisbert H. (1979) "The Spanish Constitution", in Albert P. Blaustein and Gisbert H. Flanz (Eds.) *Constitutions of the World*. Dobbs Ferry, NY: Oceana Publications, Inc.

Freixes, Teresa (1996) *Libertades Informativas e Integración Europea*. Madrid, Spain: Colex.

Gasòliba, Carles (1996) 1986-1996, deu anys d'integració europea. *Revista Econòmica Banca Catalana*, num 109, September.

INE (1996) *Estadística de Bibliotecas 1994*. Madrid, Spain: Instituto Nacional de Estadística.

Informe Iria-94 (1995) *La informática en las Administraciones Públicas*. Madrid, Spain: Ministerio para las Administraciones Públicas.

Informe Reina-95 (1996) *La Informática en la Administración del Estado*. Madrid, Spain: Ministerio para las Administraciones Públicas.

MAP (1995) *Directorio De Servicios de Información Electrónica de la Administración General del Estado*. Madrid, Spain: Ministerio para las Administraciones Públicas.

McClure, Charles R., Bishop, Ann, and Doty, Philip (1989) Federal Information Policy Development: The Role of the Office of Management and Budget, in C. R. McClure, P. Hernon and H.C. Relyea (Eds.) *United States Information Policies: Views and Perspectives* Norwood, NJ: Ablex Publishing Corp.

MEC (1994) *Inversiones en Bibliotecas Públicas del Estado 1983-1993*. Madrid, Spain: Ministerio de Cultura, Dirección General del Libro y Bibliotecas.

Moore, Nick (1996) Policy Issues in the Multimedia Age. *Journal of Information Science*, 22(3): 213-218.

OECD (1996) *OECD in Figures. Statistics of the member countries*. Paris, France: Organisation for Economic Co-operation and Development.

OECD (1997). *Communications Outlook*. Paris, France: Organisation for Economic Co-operation and Development.

OJEC C156 (1993) El acceso de los ciudadanos a los documentos de las instituciones. Comunicación al Consejo, al Parlamento Europeo y al Comité Económico y Social. *Official Journal of the European Communities* (Spanish version), June 8th 1993, p5.

Pablo, Virginia de (1997) Las bibliotecas en España. *DeLibros*, Dossier Enero.

Plocher, David (1996) The Paperwork Reduction Act of 1995: A Second Chance for Information Resources Management. *Government Information Quarterly*, 13(1): 35-50.

Pomed Sánchez, Luis Alberto (1989) *El derecho de acceso de los ciudadanos a los archivos y registros administrativos*. Madrid, Spain: Instituto Nacional de Administración Pública.

Ripol Carulla, Santiago (1995) *Las libertades de información y de comunicación en Europa*. Madrid, Spain: Editorial Tecnos.

Rodrigo, Elena (1995) Reprografía ilegal en España. *DeLibros*, Dossier Enero.

Rowlands, Ian (1996) Understanding Information Policy: Concepts, Frameworks and Research Tools. *Journal of Information Science*, 22(1): 13-25.

Taylor, R.S. (1986) *Value-added processes in information systems*. Norwood, NJ: Ablex Publishing Corp.

Villaverde Menéndez, Ignacio (1995) *Los derechos del público. El derecho a recibir información del Artículo 20.1.d) de la Constitución Española de 1978*. Madrid, Spain: Editorial Tecnos.

Weingarten, Fred W. (1989) Federal Information Policy Development: The Congressional Perspective, in C. R. McClure, P. Herson and H.C. Relyea (Eds.) *United States Information Policies: Views and Perspectives*. Norwood, NJ: Ablex Publishing Corp.

Notes

1. Spain has on several occasions requested membership in the G7 group of the world's richest countries.
2. Purchasing Power Parities.
3. *El País*, April 23, 1997: "Los españoles son un 23% más pobres que los europeos pese a mejorar medio punto el pasado año."
4. Three languages other than Spanish are spoken in Spain and recognized as official languages in their respective regions or autonomous communities.
5. Not only was censorship extremely strict, but even some major international treaties such as the *Tratado de Amistad y Cooperación entre España y los Estados Unidos* were not even published in the *Boletín Oficial del Estado* (Pomed, 1989, p. 88).
6. For a more complete definition of information culture, see Cornella (1996, p. 13) or Taylor (1986, p. 224).
7. EEC Document C156/5.
8. The Scandinavian countries (particularly Denmark), Germany and France are designing specific strategies to make their countries information societies. For a summary of these strategies see <http://www.kuntaliito.fi:80/locregis/strategy.htm>.
9. Until very recently, librarians' training was fairly "traditional" and not much attention was paid to new technologies. As a result, many of the information specialists employed in Spanish companies come from other fields and their information and computer skills are generally self-taught.

10. See <http://davinci.villena.infoville.tissat.es/SO/Infoville>.

11. See <http://www.uoc.es>

12. See <http://www.cervantes.es/>

13. This is the issue of an obscure, and somewhat demagogic discussion started by the current government, which maintains that pay-per-view channels should be prevented from broadcasting soccer games. Curiously enough, the idea appears to be aimed at cutting off the revenue earned by the country's only pay-per-view channel, which some people consider ostile to the conservative government.

14. For a list of the *Consejo Superior de Informática's* principal strategy lines, see <http://www.map.es/csi/lineas.htm>.

15. See <http://www.map.es/directorio/map/cia/ciia.htm>.

16. As the *Comisión Interministerial de Información Administrativa* admits, "the resources allocated to administrative information have been contingent upon the actual interest of the individual executive agencies and also on the extent of the commitment of their managers". In other words, government information services have not always been understood as a requisite of good government.

17. The fact that there are more than 300 Internet service providers for 1,000,000 Internet subscribers in Spain reveals the extent of the interest Internet has aroused among Spanish entrepreneurs.

18. A list of public administration information services available on Internet can be found in the Ministry of Public Administrations' HIA (*Hipercentro de Información Administrativa*), see <http://www.map.es> and <http://ebro.unizar.es/azae/admon/direcadm.htm>.

19. There is a directory with hundreds of available central government data bases, most of which are little used and not commercially exploited (among other reasons, because there is little synergy between the public and private sectors in terms of exploiting these resources). See *Directorio de Servicios de Información Electrónica de la Administración General del Estado* (MAP 1995). However, there is no similar directory for public administrations as a whole, i.e. central, regional and local governments.

20. There are only some general recommendations, which appear in <http://www.map.es/directorio/map/cia/pl2.htm>.

21. See Elhazaz (1992).

22. For a comparative analysis of use of availability of government information in European Union countries, see <http://www2.echo.lu/en/publaw/publaw.html>.

23. The complete text of the 1978 Spanish Constitution is available (in Spanish and English) through <http://alcazaba.unex.es/constitucion>

24. See, for example, Villaverde (1995), Freixes (1996) or Ripol (1995).

25. The Constitution establishes that "everyone has the right to enjoy an environment that is

suitable for human development, and the duty to persevere it.....The public powers shall safeguard the rational use of all natural resources, with the aim of protecting and improving the quality of life and defending and restoring the environment, basing (their actions) on essential collective solidarity (Article 45).

26. This article is developed in the *Ley de Régimen Jurídico de las Administraciones Públicas*, which will be discussed further on.

27. Violation of these rights is considered a crime under the terms of the 1995 Penal Code, which will be discussed further on.

28. See, OJEC C 156 1993 for a comparison of legislation in various EU countries.

29. This law is applicable at all levels of government, State, regional and local.

30. The author has been in this position twice and in both cases was denied access to the reports. On one occasion the reason given was that the report requested was for the exclusive use of the head of a central government agency.

31. A Spanish judge recently ruled that a journalist should be allowed access to a military archive in order to investigate one of the most confused cases of the final days of the Franco regime: the 1974 execution of Heinz Chez (*El País*, November 29, 1996). While the military court (a typical example of a closed source of information) denied the journalist access to the file, Catalonia's Superior Court of Justice ruled that "the decision that public powers cannot limit access to sources of information considered as public and which are not affected by restrictions established by law derives from the requirement that information be true and the duty of the Government to cooperate in the effective safeguarding of this fundamental right". Oddly enough, the Military Court had denied access on the grounds that the journalist did not qualify as a "legitimately interested party". But the Catalan Superior Court made it clear that "a restrictive interpretation of the right of access to registers and archives, and particularly, the access of investigators, would be contrary to the very idea of access to public information". Thus, who has a "legitimate interest" in a particular piece of information remains open to discussion.

32. As an example, banks are required to give their customers written notification to the effect that certain personal information may be used by some of their subsidiaries, such as insurance companies.

33. As a counterproposal some associations of affected companies have suggested that rather than restricting the use of files containing personal data, there should be a file in which individuals can voluntarily register their refusal to be listed in any file that might be used for commercial purposes.

34. *El País*, March 9, 1995, p. 23, "El censo electoral se vende en el mercado negro por siete millones de pesetas".

35. Two people were recently tried for creating a political party for this purpose and are facing prison sentences for illicit association and operating under false pretenses. *El País*, January 2, 1997, op. 14, "Batacazo electoral").

36. Accessible through <http://www.mnap.es/directorios/ProteccionDatos>. From this page the APD replies by e-mail to questions about data protection, and is an excellent example of a public

service.

37. Complete information on these points can be obtained through <http://www.map.es/directorio/ProteccionDatos/datd5.htm> and <http://www.map.es/directorio/ProteccionDatos/datd6.htm>

38. *El País*, December 29, 1996, p. 20 "Renfe, empresas de morosos y un periódico, entre los primeros sancionados por abusos informáticos".

39. *El País*, January 25, p. 13, "La policía almacenará en sus ordenadores meras sospechas de unos ciudadanos sobre otros" and *El País*, January 28, 1997, p. 23, "Interior retira la orden policial de fichar por meras sospechas a los ciudadanos y promete cambiarla".

40. *El País*, March 17, 1996, p. 12 Neg., "La piratería audiovisual hace estragos multimillonarios".

41. See Rodrigo (1995).

42. Curiously enough, and despite the terms of this Article, the supplement to the Boletín Oficial del Estado which contained the revised text of the Copyright Act bears the copyright symbol.

43. An estimated 90-95% of all copy machines sold in Spain have paid this fee.

44. The Spanish Consumers' Union protested this law while it was still under discussion, arguing that the fee was too general. For example, the Consumers' Union maintained that if an individual recorded a film or record by a foreign author, the copy machine fee should not be paid to Spanish producers and authors.

45. Almost all Spanish publishers are CEDRO members.

46. Royalties for original non-printed material are collected and distributed by other agencies, such as EGEDA (Entidad de Gestión de Derechos de los Productores Audiovisuales) in the case of audiovisual products.

47. According to a CEDRO study, illegal reprography largely takes place in public and private libraries and university copying services. The agency estimates that abolishing illegal copying practices could reduce the price of books published in Spain by as much as 40% (Rodrigo, 1995).

48. Indeed, some experts consider the Spanish penal code to be one of the world's first to explicitly deal with Internet crimes.

49. *El País*, October 12, 1996, p. 25, " El caso del tráfico de pornografía infantil por Internet en Vic puede ser archivado."

50. According to basic data on telecommunications in Europe, available through <http://www.ispo.cec.be/esis/Eubasic.htm>

51. In April 1997 Telefónica joined forces with BT and MCI to make the Concert group the world's third ranking group of operators.

52. OECD (1997).

53. These and other laws on telecommunications in Spain are available from the Centro de

Investigación y Promoción de Redes y Servicios Telemáticos, Universidad Politécnica de Madrid, accessible in <http://www.cipres.upm.es/mercado/espana/legisl/index.htm>.

54. Article 16 , Law 31/1987 establishes that "all citizens shall have a right to telephone service, both in the form of public telephones and as home subscribers".

55. Similar to the United States' Federal Communications Commission.

56. To compare the situation with other EU countries, see the ISPO web on <http://www.ispo.cec.be/esis/Eubasic.htm>. For comparisons with OECD countries, see OECD (1997), p. 20, which gives information as at January 1997.

57. This is the figure given by the Biblioteca Nacional's Spanish library directory (<http://www.bne.es/16/incre.html>). The Instituto Nacional de Estadística's 1994 library statistics set the figure at 6,500 (not including privately-owned libraries not open to the general public). Many of Spain's leading libraries can be accessed through Internet, via web or telnet. For a directory, see <http://www.rediris.es/recursos/bibliotecas/>.

58. According to the *Study of Library Economics in the European Community* (1994), European Union libraries stocked 4.11 books per capita in the 1986-1990 period. The EFTA figure was 9.82.

59. Complete information is available from <http://www.ine.es/~joseba/espa96/cult.pdf>

60. See the list and Internet address in <http://www.mcu.es/bpe/bpe.html>.

61. A list of municipal public libraries and their addresses is available through <http://www.bcl.uva.es/correo/>.

62. See Crespo, 1993,

63. Indeed, in 1996 and 1997 one of the most controversial issues for librarians and information specialists listed in Spain's most important distribution list (iwetel@listserv.rediris.es) has been whether or not professional certification should be a requisite for listing.

64. The equivalent of the United States Internal Revenue Service (IRS).

65. Spain's network of automatic cash dispensers is one of the world's most advanced.

66. *El País* , July 7, 1996.

67. *La Vanguardia*, October 25, 1994.

68. Accessible in <http://aeat.tsai.es/aeat/indice.htm>.

69. Curiously enough, this was one of the EU Directives that Spanish law took longest to adopt.

70. See <http://www.map.es/directorio/map/cia/diptico.htm>.

71. See <http://www.map.es/directorio/map/cia/agenda/agenda.htm>.

72. See <http://www.mcx.es/dgpyme/infopyme.html>.

73. *El País*, February 17, 1997, p. 15.

74. A first version of this work was produced by the author in 1991 as part of a study entitled "Improving Innovation Through Better Information. Towards a Technological Information Policy in Spain", which was carried out under the direction of Professor Charles R. McClure at the Syracuse University School of Information Studies. The methodology used was policy options and recommendations (see Majchrzak (1990) for a detailed description of this methodology).

75. According to a study commissioned by the European Union in 1996, the electronic information market in Spain totalled 75 million ECUs in 1995, while it amounted to 1174 million ECUs in the United Kingdom, 594 million in Germany and 353 million in France. Even in much smaller countries like the Netherlands and Denmark, the market was considerably larger than in Spain (259 million ECUs in the Netherlands and 156 million in Denmark) (Policy Studies Institute, 1996).

76. There are numerous gaps in official statistics on the information industry. However, this is also true in other countries. For example, it is difficult, if not impossible, to estimate how many people can be considered knowledge or information workers because they are traditionally classified as part of the service sector.

77. While it is true that there are a number of publications on information law, most of them concentrate on the public's right to receive information through the media or the rights of the media to provide this information. Others focus on very specific aspects of legislation, such as data or copyright protection.