Overview of Public Policy for PSI in USA

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Overview

In this presentation I will provide an overview of the hierarchy of laws and policies affecting PSI access and use in the U.S. federal government.

I also will identify stakeholder groups involved in developing, managing, and enforcing PSI laws and policies.

The purpose is to stimulate a subsequent discussion.

Laws and Policies Affecting Information Access & Use

I. Laws and Policies Promoting Open Access to PSI in the U.S.

A. Treaties making information available/open:
1. Specific treaties (e.g., sharing of information in Antarctic or disasters)

B. Legislation (federal)
1. Copyright Act of 1976 https://www.govinfo.gov/content/pkg/STATUTE-90/pdf/STATUTE-90-Pg2541.pdf
2. Paperwork Reduction Act of 1980 https://www.govinfo.gov/content/pkg/STATUTE-94/pdf/STATUTE-94-Pg2812.pdf
3. Government in the Sunshine Act of 1976 https://www.govinfo.gov/content/pkg/STATUTE-90/pdf/STATUTE-90-Pg1241.pdf
4. Freedom of Information Act of 1967 https://www.archives.gov/foia
5. E-Government Act of 2002 https://www.govinfo.gov/app/details/PLAW-107publ347

Laws and Policies Affecting Information Access & Use

I. Laws and Policies Promoting Open Access to PSI in the U.S.

C. Federal regulations implementing legislation

1. White House Office of Management and Budget (OMB) Circular

     A-130: Managing Information as a Strategic Resource
https://obamawhitehouse.archives.gov/sites/default/files/omb/assets/OMB/circulars/a130/a130revised.pdf

2. Individual federal agency regulations/policies/contracts and grants

D. Federal judicial decisions/interpretation of the law

E. Private law and common-use licensing; applies only to gov-funded info
1. Creative Commons waivers/licenses (CC0 or CC-BY license)
2. Other contracts (non-standard)

F. Community norms

Laws and Policies Affecting Information Access & Use

II. Information Protection Laws and Policies in the U.S

A. Treaties protecting PSI
1. Intellectual property laws
- No copyright for Federal government PSI in US, but some exceptions
- Other IP laws apply to PSI in the US
- Database protection (strong exclusive property right in EU, some other countries, but not in US)
2. Specific subject-matter treaties (business, security, law enforcement, etc.)

B. National legislation
1. National security/export control
2. Privacy protection (general and specific applications, such as health records, census, research on human subjects, business uses)
3. Business confidentiality (data collected by government, but not released)
4. Law enforcement
5. Specific applications (protection of indigenous people, endangered species)

Laws and Policies Affecting Information Access & Use

II. Information Protection Laws and Policies in the U.S. (continued)

C. Regulations implementing legislation by the executive branch
- Public sector organizations and sub-units all have their own regulations

D. Judicial decisions interpreting the treaties, legislation, and regulation

E. Private law
- Restrictive contracts/licenses (power of the two-party deal—most important on the internet)

F. Community norms/strategic behavior/business practices

Law and Policy Development for PSI

Key stakeholders in the development of PSI access and use policies:

Top-down policy development
- Government (executive, legislative, judicial) and advisory bodies
- Regulations of ministries for creating PSI internally and externally
- International and intergovernmental organizations

Bottom-up policy development
- Industry institutions and groups
- Universities and not-for-profit organizations
- Learned societies and experts
- Media
- Informatics organizations/institutions (libraries, data centers, archives)
- General public