Professor Braman introduces the first issue of the journal with an exploration of the definition, scope, and relevance of the concept of “information policy.” She sets forth the five criteria which define it as a coherent field of study, and notes the timeliness of its having a journal, as information policy increasingly shapes the world in which we live.

Historically, new scholarly journals appeared when new subjects of study achieved disciplinary or subdisciplinary status. Today, they are also created when new audiences and communities of scholarly practice appear. In the area of information policy, we see all three types of developments. As a subject of study, information policy emerged as a distinct field during the last decades of the 20th century as one manifestation of the shift from an industrial to an information society, in a manner parallel to the appearance of the micro- and macro-economics of information. In both law and economics, the new fields offer a coherent lens into ideas and realities that have long histories but that were not previously understood to be related to each other. An audience for information policy analysis has appeared among those undergraduate and graduate students, scholars, policymakers, policy analysts, and members of the public who find it necessary to understand the combined effects of the laws and regulations involving information from across legal silos historically treated as unrelated to each other. The interdisciplinarity of the community of scholarly practice engaged in information policy analysis is exemplified in the fact that the editors of this new journal sit in a college of communications rather than in either an information science unit or a law school.

This is neither the time nor the place – nor is there the space – to engage in a comprehensive review of the literature on information policy. This type of analysis can be found elsewhere in my own work, and in that of a number of other scholars. Reviews of this literature fall into two types. Those that focus on the phrase “information policy” itself are more narrow in focus, tend to report on a much shorter history, and draw almost exclusively from information science. Those that orient instead around the subject matter tend to be much more broad in their scope, place contemporary information policy within a long historical context (even the Romans kept detailed records on their

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citizens, and there were 21 provisions relating to information policy in the U.S. Constitution and Bill of Rights\(^1\), and are more likely to be interdisciplinary in nature.

The classical narrow definition of information policy involves such issues as access to government information, but the earliest use of the phrase “information policy” by governments actually referred to propaganda efforts during World War I. During the 1970s and 1980s, national governments around the world toyed with the notion of developing comprehensive “national information policies.” Such discussions marked a significant turning point in appreciation of the salience of information policy. Though information policy creates the conditions under which all other decision making, public discourse, and political activity take place, it was long considered “low policy” of relative unimportance. The concept of a national information policy became possible only because political leaders around the world came to recognize that, in fact, laws and regulations affecting information are actually matters of “high policy” of overarching strategic importance. Although ultimately few governments put comprehensive single information policy packages in place, the shift in perspective indicated by relatively short-lived debates over national information policies was enduring and the intensity of information policymaking has continued to increase worldwide.

One sign of the widespread appreciation for information policy today can be found in the scholarly literature. A bibliographic search in late 2010 discovered over 60 scholarly journals that had recently published articles with the phrase “information policy” in either the title or the topic of the article. A non-exhaustive listing of the subjects addressed by these journals includes business and management, health, energy, economics and economic development, food policy, intelligence, regional studies, sociology, crisis management, environmental protection and ecology, marketing, the humanities, public opinion, regional studies, computer science, national security, philosophy, biotechnology, and organizational sociology as well as to-be-expected subjects such as government and public administration, information science, library science, communication, and science and technology studies.

In recent years, it is the broader, more interdisciplinary approach to information policy – as seen in the call for submissions to this journal – that has thus become dominant, with the classical approach to government information policy remaining a centrally important subset of the field. The editors of this journal include “information and communications technologies, applications, users, institutions, businesses, and cultures” within their purview. Such a categorical listing makes it possible to bring policy issues as disparate as access to broadband networks, privacy rights, and intellectual property into the same conversation. For analytical purposes, we can go further.

Colloquially, information policy provides an umbrella term for all laws, regulations, and doctrinal positions that deal with information, communication, and culture. More precisely:

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\(^1\) Twenty of these principles are discussed in Sandra Braman, *Change of State: Information, Policy, and Power* (Cambridge, MA: MIT Press, 2006), but thanks to Steven Aftergood of the Federation of American Scientists for drawing to my attention the additional constitutional requirement that the government report on public expenditures.
Information policy is comprised of laws, regulations, and doctrinal positions – and other decision making and practices with society-wide constitutive effects – involving information creation, processing, flows, access, and use.

Marking the boundaries of the domain with “information creation, processing, flows, access, and use” provides a synthetic and succinct heuristic that meets important evaluative criteria. (1) It is valid. This definition of the information policy domain has repeatedly demonstrated its utility for identifying the information policy elements in a wide variety of types of legal instruments, from arms control treaties to Supreme Court decisions. It is as valid for studying the history of information policy as it is for proposed laws under debate today. (2) It is comprehensive. Whether the subject under discussion is access to government information, mass media, the census, research funding, or network neutrality, this approach makes it possible to analyze the issue at hand through common lenses. Indeed, it provides a means of identifying information policy issues that may not have historically been evident despite their constitutive impact, such as export controls, the census, and rules for accounting systems. (3) It is theoretically sound, based on economic, social, political, and cultural theories explicated in depth elsewhere in my work and that of many other authors. (4) It is methodologically operationalizable; that is, it is a definitional approach that can be easily incorporated into the operational details of uses of a variety of research methods. And (5) it is translatable into the multiple languages in which the audiences of information policy speak, from those of traditional types of legal analysis to the narratives of popular culture.

The distinctions among the five informational activities included in the definition above – creation, processing, flows, access, and use – result from a synthesis of the many, many conceptualizations of information production chains that are used implicitly and explicitly across disciplines. The more elaborate version of my own conceptualization of the information production chain, for example, further breaks down the notion of creation to treat the production of information (for example, via journalistic practice or the scientific method), the creation of information de novo (during moments of innovative artistic genius, or through spontaneous mutations of pre-existing information), and the generation of information as we move through our institutional and personal lives (as when records are generated about our marriages, educational degrees, and so forth). I distinguish between the transportation of information and its distribution, and so on. Irrespective of the model of the information production chain being used by an information policy analyst, though, the five processes included in the definition will be evident.

Inevitably, the question of how to define information itself comes up. A review of the hundreds of definitions of information that have been put forward finds that they fall into six types: information as a resource, a commodity, perception of pattern, a basin of possibility, an agent, and a constitutive force in society. Each of these has its use within information policy analysis and each represents a different way of thinking about such matters as the relation between information and knowledge. More than one of these may be useful at different stages of analyzing a specific piece of information policy, though my view is that any policy analysis should begin and conclude with attention to the constitutive and constitutional effects of decision making involving information.
“Other” decision making practices are included in the definition of information policy because the formal institutions and processes of geopolitically recognized governments don’t operate in isolation from decision making by the private sector, civil society efforts, and social and cultural trends. Indeed, any specific configuration of formal government institutions, processes, and laws is best understood as an expression of an inevitably ephemeral moment of relationships and structures within a much broader legal field as understood in a Bourdieuan sense. This was always the case, but is even more so during this period of fundamental transformations in law-state-society relations. Analysis of information policy must therefore include not only (1) the formal decisions, decision making processes, and entities of government; but also (2) the formal and informal decisions, decision-making processes, and entities of both private and public sector entities of governance; and (3) the cultural habits and predispositions of governmentality that sustain and enable both governance and government.

Copyright law provides a vivid example of the necessity of taking all three of these into account. Law itself comes from government, but the practices about which corporate content providers are concerned are culturally based. It was pressure from the private sector that turned Internet service providers into arms of the state for the purposes of treating alleged copyright infringers as guilty before any judicial determination regarding the legality of the behavior challenged (under the Digital Millennium Copyright Act). And it has been communities of practice, beginning with documentary producers, who have produced their own “best practices” regarding fair use, who are successfully pushing back to ensure that copyright law also continues to comply with the constitutional mandate of ensuring that intellectual property serves society as a whole. A full understanding of developments in copyright law, therefore, cannot be achieved without including governance and governmentality as well as government in the analysis.

The editors describe the journal as international in scope. This is, of course, necessary in an environment in which information policy decisions at all levels of the social structure are interpenetrated. Cities, that is, sometimes now make foreign policy. The footprint of a broadcaster may well not map onto the polity of a specific geopolitical entity, affecting what might be either desired or possible from a given public sphere. Decisions made at the global level by ICANN work themselves out daily in our private lives as we click on licensing agreements to get online, and when we do so we are often voluntarily giving up constitutional rights.

There are other interdependencies. Technology design may be the instrument of law, or it may provide a means of superseding the law altogether. Privacy may be a matter of property rights, and vice versa. Surveillance reduces our right to access information via reading publicly available newspapers when the readership of specific news items is tracked. Thus information policy analysts will want to take policy precession into account – interactions, that is, between the effects of two or more different types of laws and regulations as they influence how any single law or regulation is implemented and experienced on the ground.

This journal’s emphasis on current or “near-current” legal issues is a tough one. The problem goes in both directions, so let me offer two examples. Looking back, policymakers dealing with network
neutrality cannot possibly make informed decisions without understanding the long history of universal access in telecommunications and the even longer history of protections for free speech from the perspective of what is required to have meaningful access to participation in political decision making. Looking forward, it is likely to be a number of years before we see actual laws and regulations protecting us against “inference” and “aggregation” attacks, even though practice is underway and gaining in sophistication. The development of arguments against classifying certain modes of logic as illegal will also take many years. If those interested in protecting the public interest in information policy wait until laws in this area will be voted upon, it will be many years too late to effectively begin to mount a constitutional defense.

This brings us back, again, to “why?” The sociological, political, legal, and intellectual arguments for launching a journal on information policy are clear. For the individual, the question is deontological. Information policy involves decision making and practice that shape the conditions under which we can learn about the factors shaping the world in which we live, speak with each other about shared matters of public concern, and exercise agency in our lives as individuals and communities. Legal and political language describing the motivation of engaging in this work – at least for this thinker – comes from the world of human rights and civil liberties. The motivation can also be depicted in phenomenological terms: This is work that addresses the means by which social forms based upon the most fundamental of cultural values, and the relations with the human and natural environments that they uniquely enable, can survive under 21st century technological, political, and ecological conditions.