Corporations and Transparency: Improving Consumer Markets and Increasing Public Accountability

By Joel Gurin¹ and Beth Simone Noveck²

Oxford Conference, “Transparency and Accountability in Government and Media”

Session, “Valuing Transparency in Government and the Media”

From cuneiform to card catalogs, people have always recorded data. But now we have tools to collect information faster than ever before. The proliferation of data includes statistics collected by governments about the economy, such as unemployment data or data that we supply on our tax returns and patent filings. When the media refer to the era of “Big Data,” they are including the vast amounts of information we also passively generate. Our mobile phones and cars contain sensors to track and report our location, position, acceleration, and temperature. The smart meters in our homes reveal when we turn on the heat or hot water. Companies increasingly gather data about our shopping and web browsing habits. The world’s storehouse of digital information is growing at the rate of five trillion bits per second.³

What is revolutionary is not only the quantity of data but also how we can use computers to search, sort, compare, aggregate, visualize, and track data. This kind of analysis can help us understand more about ourselves, our communities, and our environment, realizing the benefits of what has been called the quantified self⁴ and community.⁵ But these benefits can only be realized if data are available in a form that computers can ingest and process.⁶ Data must be open—freely accessible and computable. When data are open, anyone can create sophisticated visualizations, models and analyses as well as spot mistakes or mix and mash across datasets to yield new insights.

The ability of third parties to participate is what makes open data truly transformative. When data are open, data stop being just data and become, instead, a catalyst for creative problem solving and

¹ Joel Gurin is Executive Director of the OrgPedia Project at New York Law School. He has served as Editorial Director and Executive Vice President of Consumers Union, Chief of the Consumer and Governmental Affairs Bureau of the Federal Communications Commission, and Chair of the White House Task Force on Smart Disclosure.
² Beth Simone Noveck is a Professor of Law at New York Law School (on leave) and a Visiting Professor at the NYU Robert F. Wagner Graduate School of Public Service and the MIT Media Lab. She served as United States Deputy Chief Technology Officer and Director, Open Government Initiative in the White House (2009-2011).
⁴ QuantifiedSelf.com is an online community for those interested in “self-tracking to gather, share knowledge and experiences, and discover resources.”
⁵ Esther Dyson, The Quantified Community, http://www.project-syndicate.org/commentary/the-quantified-community (“I predict (and am trying to foster) the emergence of a Quantified Community movement, with communities measuring the state, health, and activities of their people and institutions, thereby improving them. Just consider: each town has its own schools, library, police, roads and bridges, businesses, and, of course, people. All of them potentially generate a lot of data, most of it uncollected and unanalyzed. That is about to change.”)
⁶ For more on the definition and value of Open Data, see Beth Simone Noveck and Daniel Goroff, Liberating Data for Impact: 990 Data and the Nonprofit Sector, Aspen Institute, January 2013.
⁷ For more on the definition and value of Open Data, see Beth Simone Noveck and Daniel Goroff, Liberating Data for Impact: 990 Data and the Nonprofit Sector, Aspen Institute, January 2013.
innovation by a community. Governments in several countries, including the United States, have committed themselves to greater transparency and are publishing open data in computable formats online. Open data can have an impact in two often-overlooked areas: it can empower consumer choice and it can increase institutional accountability in the public interest. (Open data is also catalyzing new entrepreneurial opportunities and job growth, though we will not focus on the economic impact in this paper.)

Open data can empower consumers to make more informed decisions in the marketplace. A new policy approach, known as “smart disclosure,” aims to give consumers more complete data about the cost, quality, and safety of the products and services they buy, as well as the labor practices and health and environmental impact of product manufacturers and service providers. Smart disclosure is already being used in online and mobile applications to help consumers choose products and services and thus remedy market failures due to insufficient consumer information. Smart disclosure has its roots in behavioral economic theory that better information will lead to better consumer decisions about cars, mobile phone plans, financial services, health care, higher education, home energy options, and other services. In addition, the theory holds that informing consumers will make consumer markets more efficient, fostering competition and innovation.

While smart disclosure can be an innovative and progressive approach to consumer protection, it’s ultimately limited to consumer product and service markets. Open data can drive accountability about corporate behavior in ways that go beyond consumer choice, markets, and pricing, when governments also demand that data about corporate ownership and control and corporate activities be disclosed. In the same way that greater disclosure about the workings of government agencies is intended to lead to decreased corruption, there is an assumption that governments can make the entities they regulate more accountable by collecting and disclosing data about them, or requiring those entities to disclose data themselves, particularly if the data is disclosed in standardized and computable formats. A new foundation-backed effort called OrgPedia, which we also discuss in this paper, uses both government-mandated and other sources of data to make corporate ownership structures more transparent – what we can call organizational transparency. Its goal is to enable regulators, researchers and journalists to hold companies accountable for those actions that are outside the purview of smart disclosure.

Greater transparency is essential to help prevent corporate abuses in the boardroom or the mine. Smart disclosure and organizational transparency can provide investigative opportunities for print, online, and broadcast media, making new kinds of journalistic analysis and reporting possible. With such data tools journalists can pull together information from disparate databases to analyze issues and trends across organizations and sectors in ways never before possible, potentially leading to more effective journalism even in the wake of reduced budgets. However, both smart disclosure and organizational transparency rely on open data to beef up transparency beyond what investigative journalism can do after the fact. These new, tech-enabled transparency practices are intended to spur corporate accountability and also,

---

8 The benefits are still assumed. Because smart disclosure depends on the most recent technology to work, the approach is still fairly new and needs to be further studied.
10 See citations to resources on smart disclosure in footnotes 11 through 13 below.
perhaps more importantly, to improve governmental effectiveness and accountability. Much of the story of corporate malfeasance involves a shared failure between business and regulators who fail to enforce regulations. These new forms of transparency represent experimental techniques for improving the watchdog functions of government.\(^{11}\)

With open data about organizations and about the products they produce in computable formats, the hope is that we can develop tools to target scarce enforcement resources. For example, if we can “see” when a company is engaged in price gouging or can visualize a company’s labor and environmental violations on a map, then we can get early warning signs about where oversight is most needed. The hope is that smart disclosure and organizational transparency can result in more effective regulation that may, at the same time, be less burdensome to business than mandated and directive approaches such as rate regulation.

As powerful as smart disclosure and organizational transparency can be, they’re not always enough to solve problems that may need stricter regulations. An overreliance on transparency to improve markets and corporate behavior could lead to an abdication of government responsibility and a privatizing of public functions.\(^{12}\) This paper explores how these new kinds of tech-enabled transparency can best be used to help drive greater accountability in the industries that government agencies regulate, and where the pitfalls are in using them. We also discuss the ways that increased corporate transparency can be used by the media to benefit the public. And we conclude with a discussion of the research now needed to assess whether and when transparency works to produce greater accountability, and what the limits are of this approach.

**Smart disclosure: Helping consumers through transparency**

Since 2011, President Obama’s Administration has taken several steps to promote smart disclosure as a policy approach designed to help consumers make better informed decisions, foster data-driven innovations that benefit consumers, and help create more transparent, efficient markets for goods and services. The Task Force on Smart Disclosure: Information and Efficiency in Consumer Markets was established by the National Science and Technology Council in July 2011 to study this approach.\(^{13}\) With support from the Task Force, the U.S. government included smart disclosure in its national open government plan\(^{14}\), and the Office of Management and Budget released a guidance memo instructing agencies on how to use smart disclosure where appropriate\(^{15}\).

Smart disclosure involves releasing data that can fuel the creation of Web-enabled tools that benefit consumers. Web entrepreneurs and others are using smart-disclosure data to create online and mobile “choice engines”—tools that help consumers make important and difficult choices in sectors such

---


\(^{13}\) The Charter of the Task Force on Smart Disclosure: Information and Efficiency in Consumer Markets is available at www.whitehouse.gov.


as health care, education, personal finance, energy, transportation, and telecommunications. Air travel search sites are a prime example of choice engines: They allow consumers to filter data by using information about their preferred airlines, travel times, price range, and other factors, and find a small selection of flights that meet their needs out of hundreds of possibilities. Unlike older forms of product transparency such as food labels, Smart Disclosure practices focus on creating tools using multiple variables where there is not necessarily one “right” answer. In other words, in today’s complex product markets such as financial products or mobile phones, consumer protecting is not simply about showing the number of calories but showing a range of product attributes, enabling each person to decide what the good or bad choice is for that individual.

Smart disclosure is being implemented in the hope that informed consumers will make for more transparent and efficient consumer markets. For example, when service providers profit from hidden fees, consumers can’t accurately compare the true price of different services, and competition suffers. But when consumers can easily assess price and quality, competition becomes more robust, and new, innovative companies can compete more effectively against those that are already established. Smart disclosure can support job creation both by fostering the growth of these new companies and by fostering a growing industry of websites and apps that work as consumer choice engines.

Some smart-disclosure choice engines have created their own databases about products and services – for example, by doing customer satisfaction surveys on insurance companies, airlines, or other service providers (as Consumer Reports does), or by scraping information from companies’ websites and cell phone bills submitted by consumers (like the American company BillShrink). But government agencies and legislators can support such efforts by mandating the release of consumer-focused data. The best examples are those where the government:

1) Mandates data to be disclosed across an industry (comprehensive),
2) in standard, computable formats (open data),
3) which can be used by government or others to create choice engines and apps (to support informed consumer choice).

In the U.S., Congress has mandated some forms of smart disclosure and agencies now have smart-disclosure initiatives in several sectors, including the following.

**Education.** The Higher Education Opportunity Act of 2008 added substantially to the original Higher Education Act of 1965, with several provisions to increase transparency and consumer information on student loans, college costs, and other financial issues. To help implement the Act, the U.S. Department of Education now provides government data and online tools to help students and families choose a college and decide how to finance their education. The Department’s College Navigator website includes net price calculators that allow prospective students to enter information about themselves to find out what students like them paid to attend each institution in the previous year, after taking grants and scholarship aid into account.

---

16 Personal communication by Joel Gurin with CEO of BillShrink, Schwark Satyavolu. June 2010 and following.
17 U.S. Congress, H.R. 4137, Sections 110, 111, 112, 120, and other sections.
**Personal finance.** The Consumer Financial Protection Bureau, a new agency created by Congress in response to the financial crisis, is undertaking a number of initiatives to improve transparency both through conventional printed forms and through online disclosure of data. The Bureau’s mission, as stated on its website, is driven by the concept of using transparency to empower consumers: “The central mission of the Consumer Financial Protection Bureau (CFPB) is to make markets for consumer financial products and services work for Americans — whether they are applying for a mortgage, choosing among credit cards, or using any number of other consumer financial products. . . Above all, this means ensuring that consumers get the information they need to make the financial decisions they believe are best for themselves and their families—that prices are clear up front, that risks are visible, and that nothing is buried in fine print. In a market that works, consumers should be able to make direct comparisons among products and no provider should be able to build, or feel pressure to build, a business model around unfair, deceptive, or abusive practices.”

**Health care.** The Affordable Care Act, the U.S. health care reform legislation passed in 2010, established a strong role for consumer choice in health care: Under its provisions, many consumers will choose and purchase health insurance from state-based exchanges. In a related effort, the U.S. Department of Health and Human Services (HHS) has developed interactive online consumer tools, such as Healthcare.gov and Medicare.gov, which help consumers compare insurance plans and the quality of health care providers. The department worked with the health insurance industry to provide information tailored to the individual’s needs, including data on the number of applicants denied coverage, which had not been previously available.

**Transportation.** The Department of Transportation (DOT) has long published data on airlines’ on-time performance and consumer complaints against airlines. The DOT also now requires airlines to advertise the full price of flights, including taxes and fees, so that consumers can accurately assess their costs through travel websites and other means. In establishing this rule, the DOT took note of the way that consumers now shop for air travel online, and even estimated the value of time that consumers would save in searching for flights with the new rule.

**Personal data for individuals: Health and energy use.** In order to make the best possible choices, consumers don’t only need the kind of data about products and services described in these examples: They also need easy access to data about themselves that will help them match their own needs to what’s available in the market. Someone purchasing health insurance, for example, will benefit from easy access to his or her medical records in figuring out how to get the best affordable coverage for the kinds of health care they use. In the U.S., the government has launched the Blue Button initiative, which has developed into a public-private partnership where agencies and companies are giving individuals access to their personal electronic health records. The U.S. government has also worked with private energy suppliers to launch Green Button, which is making personal energy usage data available to tens of millions of consumers.

---

millions of their customers. Similarly, the U.K. government’s Midata initiative has been working with industry to make data about consumers’ energy use and other consumer data available to each individual.

OrgPedia: Organizational transparency in the public interest

Where smart disclosure makes data about services available for consumers to use, OrgPedia – a new resource now in development – will deliver data about for-profit and nonprofit corporations for journalists, regulators, and concerned citizens to use. While smart disclosure is focused on empowering individual consumer choice, OrgPedia is designed to make visible the ownership and control relationship among firms and directors and enable users to mash up data about corporate entities from different sources. For example, OrgPedia will make it possible to learn whether environmental violations at a company’s many factories add up to a poor environmental record for the parent company, or whether a company with a history of labor problems has other issues as well. OrgPedia is one of a handful of new efforts designed to increase organizational transparency about finances, governance, structure, and operations of both for-profit and nonprofit organizations. Examples include Open Corporates and Duedil in the U.K., and LittleSis and CorpWatch in the U.S.

The most basic form of organizational transparency – the disclosure of corporate ownership and control structures, which is a prime focus of OrgPedia – could be a major step to increase corporate accountability. There are many examples of corporations that have used complex ownership structures to make it difficult to trace their actions, and their violations of regulations, back to a single corporate source.

One classic example of investigative reporting on corporate behavior demonstrates why organizational transparency is necessary. A New York Times Pulitzer Prize winning series on McWane, Inc. managed to uncover that “…in plant after plant, year after year, McWane workers have been maimed, burned, sickened and killed by the same safety and health failures. Flammable materials are mishandled; respirators are not provided; machines are missing safety guards; employees are not trained.” Yet the reporters also noted that “The evidence spills forth from hundreds of regulatory files scattered in government offices around the country -- more than 400 safety violations and 450 environmental violations since 1995 alone.” What is needed now, and what OrgPedia is designed to provide, is a way to organize such “scattered” data that makes it much easier to spot, analyze, and report on a company’s patterns of regulatory violations and unsafe practices.

Complex corporate structures may have both contributed to the global financial crisis and made it more difficult to solve. An international banking study done after the collapse of Lehman Brothers found that “The Lehman Brothers group consisted of 2,985 legal entities that operated in some 50 countries. . . . It consisted of a complicated mix of both regulated and unregulated entities. . . . [A] trade performed in one company could be booked in another. The lines of business did not necessarily map to the legal entity lines of the companies. . . . Structures of this complexity are common in large international financial

23 See description of Midata initiative at webarchive.nationalarchives.gov.uk.
Greater organizational transparency can make it easier to spot risky patterns in investment firms and to help resolve problems quickly when they arise.

Finally, consumers often care about corporate ownership, especially when a parent company is taking a position they disagree with. The New York Times reported that consumers protested to Kashi, an American food company with an “organic” image, when they learned that Kashi’s parent company, the cereal manufacturer Kellogg’s, was lobbying against labeling foods containing genetically modified organisms. The Times quoted a spokesman for an organic industry group as saying that “Consumers aren’t always aware that their favorite organic brands are in fact owned by big multinationals, and now they’re finding out that the premium they’ve paid to buy these organic products is being spent to fight against something they believe in passionately. . . . They feel like they’ve been had.”

To increase organizational transparency of all kinds, the OrgPedia Project, designed by a consortium of leading research universities with initial funding from the Alfred P. Sloan Foundation, is now being planned as a "Wikipedia of firms." It is envisioned as a free and open website that will enable regulators, researchers, journalists, activists, and investors to map a company’s ownership structure and visualize its financial, environmental, workplace, health and safety performance firmwide. It will combine clearly labeled data from government, such as securities, environmental and patent filings, with data from public and private sources as well as information contributed and corrected by companies, organizations and individuals. By bringing these data sources together, OrgPedia will aim to create an independent source for comprehensive information about public and private, domestic and global firms.

OrgPedia is organized around the belief that one of the best ways to gather data quickly about the “terra incognita” of companies and organizations globally is to crowdsource that data, offering incentives such as challenges and prizes to people to contribute missing information and rate and rank each other’s contributions for accuracy.

OrgPedia is designed to be a downloadable resource for economists, regulators and researchers. It will make available a rich array of information, including:

- “Business card” information with name, location, and other identifying information about individual firms;
- Ownership information about who owns and manages the firm and whom it owns and operates;
- Open government data about each corporation, including securities and patent filings and environmental and labor records;
- Data from other public and private sources; and
- Most importantly, bulk downloads of data across multiple firms and sectors.

OrgPedia will draw on government agencies that collect data through regulatory processes, on information provided by corporations themselves, on private sources of information such as financial databases and news reports, and on members of the public. Like Wikipedia, OrgPedia will use public participation to check and add to data from other sources – and will allow corporations, in turn, to correct inaccurate information about themselves. Unlike Wikipedia, however, OrgPedia will highlight the

---

provenance of each data element so that users can decide for themselves which sources they trust for different kinds of information.

One of the goals of this project is to enable users to analyze issues that cut across an entire industry, in addition to looking up data for individual corporations one at a time. OrgPedia will use linked data to enable users to do mash-ups of different data sets and will provide basic interactive and analytic tools. It will also support the development of new tools through an API that will enable other organizations to import OrgPedia data for their own projects.

OrgPedia and other corporate-transparency websites can be used by researchers, journalists, policymakers, and watchdog organizations. They can also help corporations and investors better understand the business environment in which they operate. These websites enable companies to learn about both competitors and potential partners in their field, and give investors both financial data and reputational data to help them determine the potential and risk of investing in a given company.

New government reporting standards will support the development of OrgPedia and similar resources. In the U.S., the Securities and Exchange Commission (SEC) now collects and releases data on companies using eXtensible Business Reporting Language (XBRL), a computer language that makes it possible to embed large amounts of data in a form that can be easily searched and analyzed with the use of computers. Governments in the United Kingdom, Australia, Belgium, China, Ireland, Japan, Singapore, and Sweden have similar requirements. In South Africa, companies are required to use XBRL to report data on their environmental and social impact in addition to financial data. This type of reporting, known both as ESG reporting (Environmental, Social, and Governance) and “One Report,” is of increasing interest to investors both in the U.S. and abroad.27

The opportunities for media

Both smart disclosure and the kind of organizational transparency exemplified by OrgPedia represent efforts to apply the technology of big data to the problem of reducing obfuscation – often the result of entrenched legal loopholes – in firm behavior. Given the lack of transparency there has been in the past, these new forms of disclosure could open up new opportunities for journalists and media of all types – print, broadcast, and online.

Smart disclosure has the potential to revolutionize service journalism. While consumer-focused reporting has a long history, the increasing complexity of consumer services and issues poses new challenges. In the past, staples of consumer-focused service journalism have included exposing scams, highlighting product-safety concerns, and giving consumers general advice on finding the best deals in airline flights, credit cards, or other services. Today, however, consumer services have reached a level of complexity that demands more sophisticated reporting and analysis. Service plans have become more confusing, whether a consumer is choosing a combination of devices and data plans from a wireless provider or trying to sort out the intricacies of health insurance. As smart disclosure begins to make the markets for consumer services more transparent, a new generation of Web-savvy journalists can take advantage of its new data and applications.

At a higher level, smart disclosure will make it easier to analyze patterns across an industry and report on the results – for example, by identifying health insurance companies that have the highest rates...
of denying claims, or credit cards that charge the highest late fees. It can enable journalists to analyze consumer markets and expose industries that rely on hidden fees, confusing terms of service, or other forms of obfuscation to profit from their customers’ confusion. Smart disclosure can also reveal problems of quality in health care, nursing homes, and other essential services that can have an impact on public health.

Where smart disclosure provides new opportunities in consumer reporting, OrgPedia and similar websites will make possible new journalistic research and reporting on corporate practices. OrgPedia in particular will make it possible both to do research on individual companies’ practices – for example, determining whether a company has a record of labor or environmental violations – and to look at practices and issues across an entire industry, such as electronics manufacturing, food production, or financial services. Local reporters, too, will be able to use OrgPedia to investigate local plants and factories, tie them to their parent companies, and identify issues in the context of those companies’ overall behavior. The kind of reporting that the New York Times did on McWane, Inc., described above, will now become much easier for investigative journalists around the country to do.

Government agencies are not the only drivers of corporate transparency, they are also critical sources of open data that can be increasingly useful to the media. The report, “The Information Needs of Communities,” released by the U.S. Federal Communications Commission in 2011, cited the potential power of data released by the government. As the report noted, “The effective dissemination of government-collected information can empower citizens, improve accountability, lower reporting costs, and stimulate entrepreneurship.”

In both the U.K. and the U.S., leading consumer organizations have begun to work with their respective governments on transparency initiatives. These organizations are both advocacy organizations and consumer-focused publishers, and work with government and government data in both capacities. Which? in the U.K. has worked with the government’s Midata initiative, and has advised the government on both consumer interests and consumer concerns about access to personal data. In the U.S., Consumer Reports now uses a number of government databases as sources for its evaluation of products and services. For example, the organization mines data from the National Highway Traffic and Safety Administration to identify car safety problems, and from the National Health and Nutrition Evaluation Survey for issues related to food safety. As data reporting and analysis continue to improve, other consumer publications and media outlets will be able to analyze any number of government data sources in the same way.

As the U.S. and other governments make more open data available, journalists of all kinds, in all media, will be able to use the data in the interest of accountability journalism. By providing a new level of information about consumer services, smart disclosure can change the standard for how government agencies should help consumers, and will make agencies more accountable for promoting consumer protection and empowerment. As described above, federal agencies are already giving consumers more data about important aspects of health, finance, energy, education and transportation. While the

---

30 Meetings of Joel Gurin with Consumer Reports staff, January 2012.
responsible agencies have sometimes done this at the direction of Congress, other smart-disclosure initiatives have been conceived of and implemented as agency rulemakings or simply as highly effective online tools that agencies can provide. As more agencies use smart disclosure, journalists, as well as consumer advocates, can legitimately ask why those that don’t practice smart disclosure are lagging behind.

While we believe that both smart disclosure and organizational transparency will be important tools for journalists, the proof will come as they are put into practice. We look forward to seeing new, creative case studies that demonstrate when and how open data are most effective. In particular, it will be important to see how new tools can make it possible to do classic kinds of investigative projects in less time, at lower cost, and with more comprehensive results than before.

Finally, journalists, advocates, and the public at large will have to determine when open data is enough, and when more direct regulation is needed. Simply telling the public about hazardous products, foods, or drugs, for example, is important, but it would never substitute for recalling them and getting them off the market. In many cases, transparency and traditional regulation need to go hand in hand, and journalists can help keep regulators honest if they rely on open data when they should also be taking direct action.

Toward a corporate transparency research agenda ³¹

While corporate transparency may be improving both consumer decision-making and public accountability, research is needed on exactly how effective it can be and under what circumstances. Since smart disclosure and Web-enabled “choice engines” are relatively new consumer tools, there has been little formal research on how much they can help consumers make informed decisions that benefit them. There is also little research on the impact of the kind of corporate transparency represented by OrgPedia and similar websites. Not enough is known about what forms of corporate disclosure are most accurate and useful or, on a technical level, how different kinds of corporate data can best be organized, managed, and analyzed.

For smart disclosure, an intriguing and important question is whether, and under what circumstances, transparency can benefit the providers of products and services themselves. It’s likely that consumers will reward companies that are transparent about their practices in markets where consumers have especially confusing choices. (For example, some major health insurers are now helping their policyholders with online tools for choosing health-care providers with high ratings from their patients and low out-of-pocket costs.) Companies may adopt smart disclosure voluntarily to clean their own house and reduce the risk of more burdensome regulation. And businesses have an interest in smart disclosure when they themselves are consumers of services: There are now online resources that use smart disclosure to help companies manage their pension plans, choose money-saving cell phone plans, and control their health-insurance costs. By assessing the potential business benefits of smart disclosure,

³¹ The John D. and Catherine T. MacArthur Foundation has funded an effort led by Professor Noveck to plan a Research Network on Opening Government in 2012-2013. This pre-Network, on which Joel Gurin also serves, includes in its scope the research agenda on the impact of open government data. See www.openinggovernment.org.
researchers could help encourage voluntary disclosure that can be faster and less contentious than a government regulatory process.

Research is also needed on Environmental, Social, and Governance (ESG) reporting, which has become a significant area of interest and concern for investors, social activists, and the leaders of corporations themselves. Much of the drive for this kind of corporate transparency has come from activists who want to use it to improve corporate practices for the public good. For example, the Carbon Disclosure Project collects data provided by corporations about the impact of their operations on carbon emissions, and provides the data to institutional investors who represent close to 80 trillion dollars in assets. Data on corporate activities is also used by investment managers directing socially responsible funds, and, ultimately, by individual investors concerned about the use of their investment dollars. Increasingly, ESG data is being seen as a key measure of corporate leadership and corporate sustainability that should concern even investors who are only interested in a company’s financial performance. There is a need for research on how to establish standards for ESG reporting, how to ensure accuracy and usability of ESG data, and how journalists and others can make use of these insights into corporate practices.32

Another area for research is more technical: We need to research approaches to pattern recognition that can help us learn more from the data that government already collects. Since it is difficult for government agencies to mandate transparency against strong industry opposition, and even more difficult for legislative bodies to enact new mandates for transparency, the best first approach is to make as much as possible of the data we now have. For example, sophisticated analysis could help detect ownership or other relationships between entities that have not been made public, or could find companies that have violated labor as well as environmental regulations. This kind of analysis will require major advances in web and economic sciences, but may serve the public interest in important ways.

An overriding question – and one with major implications for regulatory policy – is how effective transparency can be in comparison with more directive forms of regulation. While there has already been research in this area, including the wide-ranging analysis done by Harvard’s Transparency Policy Project,33 more work will be needed as open data makes new levels of corporate transparency possible. As important as transparency is, it should not be seen as a panacea or a substitute for stricter regulations where those are necessary.

Two examples of environmental regulation in the U.S. show the potential impact of combining mandates for transparency with more traditionally directive regulations. The Clean Air and Clean Water Acts have been the basis of national pollution control measures in the U.S. But at the same time, the Toxics Release Inventory, launched by the Environmental Protection Agency (EPA) in the 1980’s, has publicized annual pollution levels from individual industrial plants, using transparency to shame the worst offenders into improving. Regarding fuel efficiency, government-mandated labels have given new-car buyers information on estimated miles-per-gallon for years, and were recently redesigned to make this information even more transparent and useful to consumers. But the government is not relying on transparency alone to improve fuel efficiency: In August 2012, the U.S. Department of Transportation

---

33 See “Full Disclosure,” op. cit. at footnote 10.
and Environmental Protection Agency announced ambitious new fuel efficiency standards that all vehicle manufacturers will have to meet.34

With new technology available to collect, analyze, and distribute large amounts of data, corporate transparency can become a market-changing tool. For perhaps the first time, our ability to analyze data is catching up to the complexity of modern corporations and their global activities. Government agencies and data-savvy journalists are both key players in the emerging data ecosystem, and will play critical and complementary roles in defining the future of corporate transparency. We should never expect transparency and disclosure to take the place of more directive government regulation. But the current efforts to improve corporate transparency, and thus corporate accountability, are beginning to show their potential to help individual consumers and the public interest.