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Sent via Fax: 202-225-7680

July 5, 2007

The Honorable John Conyers
Chairman
House Committee on the Judiciary
United States House of Representatives
Washington, D.C. 20515

Dear Chairman Conyers:

We are writing concerning language in the Labor HHS Appropriations bill that could adversely impact the rights of U.S. copyright owners without the benefit of any consideration by the House committee with legislative jurisdiction over U.S. copyright law and policy. We represent non-profit and commercial as well as academic and society publishers of scientific journals who are members of the Professional and Scholarly Publishing Division of the Association of American Publishers, (www.publishers.org) and the DC Principles Coalition of scientific publishers (www.dcpinciples.org).

The language at issue in Section 216 of the House bill would change the National Institutes of Health (NIH)'s Public Access policy for NIH grantee submission of private-sector journal articles written about NIH-funded research from a voluntary policy to a mandatory one. The NIH policy, first launched amidst substantial controversy in 2005, makes the final, peer-reviewed manuscripts for such private-sector published articles freely available online to the world within 12 months of publication in a journal, taking the benefit of the substantial investments that scientific journal publishers in the U.S. make in providing peer review, editing, fact-checking and other editorial processing that ensure the high quality and scientific integrity of their published contents.

Journal publishers are concerned that free online availability of these materials from the U.S. Government within this limited window after publication will adversely impact their ability to recover publication costs through subscriptions and otherwise exercise their rights as copyright owners; nevertheless, they have attempted to work in good faith with the NIH to secure the submission of manuscripts based on the view that a voluntary submission policy permits the journal publishers to continue to fully exercise their rights as copyright owners in the published articles, including with respect to their careful association with NIH in making the contents of the articles freely available online. However, the publishers believe that a mandatory policy requiring that these final, peer-reviewed manuscripts be made freely available

on the NIH web site for worldwide copying and downloading would effectively eliminate their ability to exercise their rights as copyright owners.

Changing the NIH policy to a government mandate will weaken the copyright protections that motivate journal publishers to make the enormous investments in content and infrastructure needed to ensure widespread access to journal articles in digital form. It will also raise serious questions about U.S. copyright policy and U.S. adherence to key principles in international treaties.

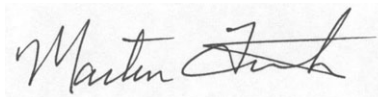
Considering the serious potential consequences of the proposed change in the NIH policy for copyright and scientific research publishing, we respectfully ask you to urge the Appropriations Committee to take no action to change the current voluntary NIH policy to a mandatory one until the Judiciary Committee has looked at the copyright implications of such a policy change.

Thank you for your consideration.

Sincerely,



Brian Crawford, Ph.D.
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American Chemical Society and
Chairman, Executive Council
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