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March 13, 2006

The Honorable Arlen Specter
Chairman, Subcommittee on Labor, HHS, and Education
Committee on Appropriations
United States Senate
Washington, DC 20510 Sent Via Fax: 202-228-2321

Re: Labor-HHS Appropriations--NIH Public Access Policy

Dear Mr. Chairman:

I write on behalf of the Professional and Scholarly Publishing (PSP) division of the Association of American Publishers as well as the attached list of publishers within the DC Principles Coalition to urge you to oppose efforts to modify and expand the NIH public access policy, which has been in effect for just nine months, and in operation for even less time. The changes being proposed—without any independent study of the effects of the underlying policy or the suggested expansion—are unjustified at this early stage of implementation of this already complicated policy. If implemented, the proposed changes will destabilize many scientific publishers across disciplines and sectors.

The 130 professional societies, commercial publishers, and university presses of the PSP division publish the vast majority of materials used in the U.S. by scholars and professionals in science, medicine, technology, and other fields. Full *public access* to scientific articles has always been central to our mission because competition demands it and because timely access to quality peer-reviewed journals is fundamental to scientific progress. The real question is whether the government should dictate how much time a publisher has to recoup its costs before mandating free access to articles based on federal research—and whether the promised public benefits of such an approach are worth the long-term costs.

In 2004, NIH initially considered providing free access to peer-reviewed journal manuscripts derived from NIH-funded research within *six* months after publication. After reviewing a vast number of comments, NIH recognized the potential adverse impact of this approach on publishers—including nonprofit publishers whose journals have long been critical to their public missions—and opted instead for a more flexible, voluntary policy that called for free access within *12* months of publication. Now, some are urging NIH to reverse this carefully balanced policy by making it mandatory and mandating free access to articles just six months after publication.

The current move to make the policy mandatory stems from misleading information about the basis for the low initial participation rate by authors. While many authors are aware of the policy, surveys suggest that they don't understand it. (Among the factors affecting participation are uncertainty about how to comply, the benefits of doing so, the role of publishers, and the impact on copyright and quality control). Surveys show that nearly all affected publishers fully support their authors' participation, but NIH has been slow to accommodate article submissions by publishers on behalf of authors. NIH could increase

voluntary participation by leveraging communications between publishers and authors, and by working directly with those publishers who are willing and able to submit articles on behalf of authors who wish to participate. By working more closely with publishers overall, NIH could increase efficiency and participation while protecting the integrity and copyright of articles as well.

To this end, NIH should recognize that providing seamless links to existing publisher web sites for the final published article and essential context is the best way to ensure an article's integrity and improve public understanding of health research. Yet some propose that NIH take on the added role of disseminating the final published article as well—a further complication and duplication. Rather than NIH taking on this role, NIH should rely on longstanding publisher sites for the finished article and essential context to improve efficiency, safeguard scientific quality, and enhance public access to all biomedical research—not just the 10% of articles funded by NIH.

There is no justification for mandating free access to articles only six months after publication. This hasty request to modify the current policy will clearly harm publishers, and its long-term impact on scientific quality, nonprofit missions, and federal spending has yet to be objectively evaluated. While harm to publishers will vary given the wide range of publishing models and journal profiles, the harm is undeniable because generally more than 70% of an article's usage occurs *after* six months.* The impact would be serious—reducing subscriptions, discouraging investments in new dissemination technologies, and devaluing the overall asset of journals—particularly in specialized areas.

Of the manuscripts submitted to NIH thus far, 76% have been designated for open release within six months, suggesting that the policy's flexibility is working and that a new arbitrary timetable mandate is unnecessary. In fact, during the last meeting and in subsequent comments, within NIH's own Public Access Working Group (which includes only token representation by publishers), a majority of members (7 of 13) recognized the need for a 12-month period and for allowing market forces to work to prevent undue harm to publishers.

Overall, while the initial report to Congress in January from NIH Director Zerhouni is worth reviewing, it can be no substitute for the objective, long-term analysis sorely needed on this issue. We believe discussions about major policy revisions must be informed by independent study of the long-range implications of the current policy and any changes. The lack of evidence and study on such a major policy shift is particularly worrisome as NIH publishing efforts come increasingly at the expense of research grants and as other agencies are being encouraged to follow suit.

We look forward to continued work with NIH and Congress on this critical issue in the interest of science and society. Thank you for considering our collective concerns.

Sincerely,



Brian D. Crawford, PhD
Chairman, PSP Executive Council, Association of American Publishers
Senior Vice President, Journals Publishing Group, American Chemical Society

* Source: Tenopir & King, Towards Electronic Journals, Special Libraries Association, p. 189; 2000

Other supporting non-profit publishers (within DC Principles Coalition):

- American Association for Cancer Research
- American Association for Clinical Chemistry

- American Dairy Science Association
- American Physiological Society
- American Society of Animal Science
- American Society for Nutrition
- American Society of Plant Biologists
- American Society for Pharmacology and Experimental Therapeutics
- Association for Research in Vision and Ophthalmology
- The Poultry Science Association
- The Protein Society
- The Society for Experimental Biology and Medicine
- The Society for the Study of Reproduction