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July 30, 2009

The Honorable Joseph I. Lieberman
Chair
Committee on Homeland Security and
Governmental Affairs
340 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Susan M. Collins
Ranking Member
Committee on Homeland Security and
and Governmental Affairs
350 Dirksen Senate Office Building
Washington, DC 20510

Dear Senators Lieberman and Collins:

On behalf of many publisher members of the Professional and Scholarly Publishing division of the Association of American Publishers, the DC Principles Coalition, and other leading publishers, we are writing to express our strong opposition to the Federal Research Public Access Act, S. 1373. This bill would require that final manuscripts of peer-reviewed, private-sector journal articles reporting on federally-funded research be made freely available on government-run websites no later than six months after publication. This unnecessary legislation would undermine copyright and adversely impact the existing peer review system that ensures the high quality of scientific and other scholarly research in the United States. In addition, it would impose costly new mandates on federal agencies.

The diverse publishers whose concerns are shared by the undersigned are responsible for coordinating the publication of thousands of journals reporting on basic research and original scholarship, disseminating collectively tens of thousands of refereed research articles by U.S.-funded researchers annually. S. 1373 would diminish copyright protections for these private-sector scientific journal articles. The new government mandate proposed by this legislation would result in the government distribution of copyrighted journal articles without compensation. Copyright is essential to protecting these works and to preserving incentives for the private sector to continue to invest in peer review, editing, publishing, and maintaining the electronic record of vetted scientific journal articles

Commercial and not-for-profit publishers invest hundreds of millions of dollars each year in the existing process of independent peer review. This important step in the publishing process ensures that all research articles undergo rigorous technical review by experts in specialized fields prior to publication. Although peer reviewers themselves are typically not paid, publishers incur considerable staff, capital, and operational costs to manage the peer review system and to meet the standards of excellence of hundreds of thousands of peer reviewers and journal editors. Publishers also provide the software and networked

systems that enable authors to submit articles across the web, significantly decreasing the time to publication. Publishers have developed, deployed, and continue to refine complex systems that enable distributed groups of editors to manage the peer review process, track document flow, and balance workload among designated peer reviewers in leading research centers around the world.

Publishers support reasonable efforts by the Federal Government to make the results of publicly-funded research widely available; however, S. 1373 takes the wrong approach. We strongly support the statutory directive to ensure broad access to the results of publicly-funded research as enacted by Congress two years ago in the America Creating Opportunities to Meaningfully Promote Excellence in Technology, Education, and Science (COMPETES) Act. Under that law, the National Science Foundation (NSF) will provide meaningful public access to the results of NSF-funded research in a way that does not undermine copyright protections in private-sector journal articles. We also support ongoing studies and collaborations among key constituencies to understand and address this complex and controversial issue in a meaningful way that meets the broadest public need without unintended negative consequences.

S. 1373 is unnecessary and duplicates existing mechanisms that enable the public to access research in the sciences, social sciences and humanities published in scholarly journals. It would require the affected federal agencies to develop and maintain costly electronic repositories. To do so, agencies will need to divert millions of dollars away from federal research grants and towards database costs. We strongly believe that the public benefits more when agency research dollars are spent on the advancement of knowledge through research and not on back-office administrative costs. There is no need for federal agencies to replicate content on their own sites when web-linking approaches to publishers' authoritative versions could serve better the same goal of public access. Acting on its own in the free market, the publishing industry already has made more research information available to more people than at any time in history. Articles are widely available in major academic centers and private-sector online databases, as well as through public libraries, state universities and interlibrary loan programs. Many professional, academic and business organizations also provide professionals with access to the research literature.

By requiring the wholesale open posting of research articles on the web by essentially all major U.S. funding agencies, S. 1373 positions the government to become a competitor of independent publishers operating within the private sector in a well-established marketplace. By depositing articles in databases with no access controls, federal agencies would be asking the American taxpayer to subsidize the dissemination of information to anyone in the world with access to the Internet-- including those governments and corporations around the world that now purchase peer-reviewed research articles reporting on U.S.-funded research. University presses and smaller publishers, particularly professional associations that maintain one or few peer-reviewed journals as part of their scholarly mission, are concerned that their publishing activities would be jeopardized by the economic consequences of this proposed legislation. Such unintended consequences cannot be good for U.S. research competitiveness. S. 1373 is a "one-way experiment" with attendant risks of failure and collateral damage that U.S. research simply cannot afford.

For these reasons, we strongly oppose S.1373, the Federal Research Public Access Act.

Sincerely,

Acoustical Society of America
American Academy of Pediatrics
American Association of Anatomists
American Association for Cancer Research
American Association for Clinical Chemistry
American Association for Dental Research
American Association of Immunologists
American Association of Physics Teachers
American Association of Physicists in Medicine
American Astronomical Society
American Chemical Society
American College of Chest Physicians
American College of Clinical Pharmacology
American Dairy Science Association
American Dental Association
American Geophysical Union
American Institute of Aeronautics and Astronautics
American Institute of Biological Sciences
American Institute of Physics
American Medical Association
American Psychiatric Publishing, Inc.
American Psychological Association
American Physiological Society
American Registry of Professional Animal Scientist
American Society of Animal Science
American Society for Biochemistry and Molecular Biology
American Society of Hematology
American Society for Investigative Pathology
American Society for Pharmacology & Experimental Therapeutics
American Society of Plant Biologists
Aries Systems Corporation
Association of Computing Machinery
Association for Research in Vision and Ophthalmology
AVS--Science & Technology of Materials, Interfaces and Processing
The Biochemical Society
British Psychological Society
Cambridge University Press
Elsevier

Emerald Group Publishing Limited
The Endocrine Society
Entomological Society of America
European Association for Cardiothoracic Surgery
Federation of American Societies for Experimental Biology (FASEB)
Federation of European Biochemistry Societies
Genetics Society of America
Human Factors and Ergonomics Society
Infectious Diseases Society of America
International Association for Dental Research
International Journal of Developmental Biology (UBC Press)
Lynne Rienner Publishers, Inc.
The McGraw-Hill Companies
Mycological Society of America
Optical Society
The Physiological Society
Poultry Science Association
Protein Science
The Protein Society
Royal Society of Chemistry
SAGE Publications
Society for Experimental Biology and Medicine
Society for General Microbiology
Society of Petroleum Engineers
Society for the Study of Reproduction
Thieme Publishers
University of Chicago Press
Whiting & Birch Ltd
Wiley-Blackwell
Wolters Kluwer Health
Woodhead Publishing Ltd

Signatories added after July 30, 2009

British Medical Journal
Association of Learned and Professional Society Publishers

Cc: Members of the Senate Committee on Homeland Security and Governmental Affairs