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The Honorable Daniel Inouye
Chairman
Committee on Appropriations
United States Senate
Washington, DC 20510

The Honorable Thad Cochran
Ranking Member
Committee on Appropriations
United States Senate
Washington, DC 20510

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Dear Chairman Inouye and Ranking Member Cochran:

On behalf of the many Scientific, Technical and Medical journal publishers who have signed the attached letter and our tens of thousands of U.S. employees, we are writing to express our strong opposition to a very damaging provision that is included in the omnibus appropriations bill:

SEC. 524. The policy regarding public access to research results established for the National Institutes of Health by section 217 of division F of Public Law 111–8 shall apply to all Departments funded in this Act having more than \$100,000,000 in annual expenditures for extramural research.

This provision would impose a new government mandate requiring that private-sector scientific journal articles reporting on government-funded research be made freely available on the Internet. It would expand the negative policy in place at the National Institutes of Health (NIH) to other major federal agencies. Implementation of this provision will undermine private sector investments, jobs, intellectual property, and U.S. leadership in scientific research.

While government funds scientific research, non-profit and commercial journal publishers invest hundreds of millions of dollars each year in the peer review, editing, and publishing of these articles. Government mandates that require these private sector publishers to make their peer-reviewed, value-added journal articles freely available on the Internet would fundamentally undermine a significant segment of the U.S. publishing industry that employs 50,000 in the U.S. and contributes over \$10 billion annually to the U.S. economy.

For many U.S. journal publishers, more than 50% of their revenue comes from overseas subscriptions, contributing to a positive balance of trade.

Publishers welcome the opportunity to work with the federal government to address public access in a meaningful way that does not jeopardize the current robust peer-review publishing system with all the benefits it provides to the U.S. We believe that the public access provision in the America COMPETES legislation which received thoughtful input from many Congressional, Administrative and non-governmental entities is a far better approach.

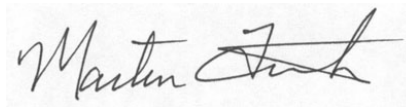
This is a critical issue for our scholarly societies and companies. We urge you to remove the onerous provision expanding the negative NIH public access policy to other federal agencies from the omnibus appropriations legislation.

Thank you in advance for your support on this critical issue.

Sincerely,



Allan Adler
Vice President for Legal and Coordinator
Government Affairs Executive Director



Martin Frank, Ph.D.
DC Principles Coalition and
American Physiological Society

Attached: Letter signed by over 70 scientific and medical societies, university presses and commercial publishers opposing legislation which would expand the NIH policy requiring that private-sector scientific journal articles reporting on government-funded research be made freely available on the Internet.

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April 29, 2010

The Honorable Edolphus Towns
Chair
Committee on Oversight & Government Reform
2232 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Darrell Issa
Ranking Member
Committee on Oversight & Government Reform
2347 Rayburn House Office Building
Washington, D.C. 20515

Dear Representative Towns and Issa:

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, H.R. 5037. 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. H.R. 5037 would diminish copyright protections for these private-sector scientific journal articles. The 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, H.R. 5037 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 approximately three 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) is to 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.

H.R. 5037 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, H.R. 5037 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. H.R. 5037 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 H.R. 5037, 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 Astronomical Society
American Business Media
American Chemical Society
American College of Clinical Pharmacology
American College of Radiology
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 Scientists
American Roentgen Ray Society
American Society of Animal Science
American Society of Agronomy
American Society for Biochemistry and Molecular Biology
American Society for Investigative Pathology
American Society for Pharmacology & Experimental Therapeutics
American Society of Plant Biologists
Association for Research in Vision and Ophthalmology
AVS--Science & Technology of Materials, Interfaces and Processing
Cambridge University Press
Crop Science Society of America
Elsevier
The Endocrine Society
Entomological Society of America
European Association for Cardiothoracic Surgery
Federation of American Societies for Experimental Biology (FASEB)
Genetics Society of America
Human Factors and Ergonomics Society
International Association for Dental Research
International Union of Biochemistry and Molecular Biology (IUBMB)
John Wiley and Sons
Lynne Rienner Publishers, Inc.
The McGraw-Hill Companies
Mycological Society of America
The Optical Society
Oxford University Press
The Physiological Society
Poultry Science Association
Royal College of Psychiatrists
Society for Experimental Biology and Medicine
Society of Nuclear Medicine
Society for the Study of Reproduction
Soil Science Society of America

Springer Publishing Company
Thieme Publishers
University of Chicago Press
Wolters Kluwer Health

Signatories Added After April 29, 2010

American Association of Orthopaedic Surgeons
American Academy of Otolaryngology—Head and Neck Surgery
American College of Surgeons
American Society for Hematology
American Society of Plastic Surgeons
Federation of European Biochemical Societies (FEBS)
Infectious Diseases Society of America
SAGE Publications
Society for General Microbiology
The Protein Society
The Society of Thoracic Surgeons

Cc: Members of the House Oversight and Government Reform Committee