

May 30, 2008

NIH Public Access Staff
National Institutes of Health

Transmitted via <http://publicaccess.nih.gov/comments2/comments.htm>

RE: The International and American Associations for Dental Research Response to the NIH Public Access Policy Request for Information NOT-OD-08-060 (March 28, 2008)

To the National Institutes of Health:

The International Association for Dental Research (IADR) and its American Division, the American Association for Dental Research (AADR), are owners and publishers of the *Journal of Dental Research (JDR)*, a specialized scientific journal that uniquely serves the craniofacial and dental research community. The IADR, with over 10,500 members worldwide, including 4,500 members in the AADR, is dedicated to advancing research to improve oral health and to facilitating the communication and application of research findings.

One method of research communication is through our flagship journal, the *JDR*, which has the highest Scientific Impact Factor (SIF) of any peer-reviewed dental journal. The main source of revenue to cover the expenses of the peer review infrastructure, print publication and online version comes from individual and institutional subscriptions. In a typical year, the *JDR* will have about 30% of its accepted research manuscripts with some NIH funding, so the currently enacted NIH policy will have a significant impact on the *JDR*. Any significant disruption of subscription revenue will adversely affect the financial viability of the *JDR*.

The IADR and AADR strongly support the concept of free access to scientific literature online and, in recent years, have taken significant steps toward that goal. We invested substantial resources in information and Web technologies so that the *JDR* was able to go full-text online in January, 2002. The IADR and AADR Boards adopted the Washington, DC Principles for Free Access to Science (www.dcprinciples.org). Since January 2005, all online *JDR* articles have been free to the scientific community and public at-large 12 months after initial publication. And to further enhance free access to the *JDR*, we digitized all content back to the journal's inception in 1919 – again, at significant cost to the Associations. This is providing a unique free access resource to over 86 years of the most pivotal published literature in the dental field. Our present record emphasizes our commitment to and responsibility for moving toward the goal of free access and acting as custodians of this literature in the long term.

The IADR and AADR expressed opposition to NIH's earlier voluntary policy of public access, as outlined in NIH NOT-OD-05-022, mainly because of our concern that, in a flat to declining budget environment, the NIH would be investing resources to duplicate a function that was already being handled by the private and, in our case and many other

cases, the non-profit sectors. We expressed concern that by favoring one business model of publishing (author-pays) over another (reader-pays), the NIH policy could very well have the unintended consequence of *limiting* public access to scientific literature by causing the collapse of a number of society-published scientifically important journals. Another serious concern regarded the potential undermining of the publisher's copyright.

Our concerns and those of many others in the scientific and publishing communities notwithstanding, Congress passed and the President signed, in December 2007, the Consolidated Appropriations Act, 2008, which included Division G, Title II, Section 218 of PL 110-161:

SEC. 218. The Director of the National Institutes of Health shall require that all investigators funded by the NIH submit or have submitted for them to the National Library of Medicine's PubMed Central an electronic version of their final peer-reviewed manuscripts upon acceptance for publication, to be made publicly available no later than 12 months after the official date of publication: Provided, That the NIH shall implement the public access policy in a manner consistent with copyright law.

On January 11, 2008, the NIH issued a revised policy implementing this law, as described in the NIH Guide for Grants and Contracts (NOT-OD-08-03), with an effective date of April 7, 2008. An open meeting was held on March 20, 2008 on the NIH campus, and the IADR/AADR had an opportunity to comment along with other stakeholders. On March 28, 2008, a Request for Information was issued (NOT-OD-08-060).

While the IADR/AADR supports free access to science as described above, we strongly object to the NIH's interpretation and current implementation of the mandatory language contained in Division G, Title II, Section 218 of the Consolidated Appropriations Act, 2008. Specifically and most importantly, we do not believe that the NIH has adequately addressed Congress' proviso that "the NIH shall implement the public access policy in a manner consistent with copyright law."

Requiring NIH grantees and NIH intramural scientists to deposit their final accepted manuscript to NIH PubMed Central (PMC) inherently denies our journal the main benefit of our copyright, namely, the ability to decide how and in what form our journal is distributed. Requiring that the accepted manuscript be placed in PMC, even with a 12-month delay from publication for public access, diminishes the value of our journal business model, which relies on exclusivity to drive traffic, advertising and subscriptions. As mentioned previously, the IADR and AADR have been proactive in allowing free access to all of our journal content, with a 12-month embargo period to non-subscribers. We are able to offer *JDR* content free of access controls only by the value we derive from driving traffic to our own Web site. It is a source of advertising, attracts new subscribers for the newest content, and recruits new members to our association. We do not have that opportunity if non-subscribers access our copyrighted material only through the earlier accepted manuscript available on PMC. We do not believe that, by so burdening our

copyright, the NIH has addressed the legislative mandate to implement the policy “in a manner consistent with copyright law”.

Other alternatives to the NIH policy of mandated centralized posting on PMC can and should be considered, alternatives that would still be consistent with the legislative mandate of public access within 12 months of publication. The IADR and AADR, as publishers of the *Journal of Dental Research*, are willing to provide PMC with a link to the final authoritative version of the published article, with the same embargo period. As the NIH is aware, significant value is added by publishers in the copy-editing process. Yet, the current implementation of the public access policy retains the earlier non-authoritative version of the accepted manuscript on the PMC site. Surely the interest of the public would be better served by having access to the final authoritative publication, rather than to an unedited manuscript. In addition, our online platform provided by HighWire Press of Stanford University provides extensive linkages to related research, references, the ISI Web of Science, Google Scholar, and PubMed - significant advantages provided only by the final authoritative version of the published article.

The current implementation of the public access policy now also includes review articles in the mandatory submission of accepted peer-reviewed manuscripts. This is of concern to us, especially since the NIH previously encouraged us to add review articles to our journals as a way to protect our subscription base under the voluntary policy. The *Journal of Dental Research* now features content from *Critical Reviews in Oral Biology & Medicine*. The Associate Editor for this section of the *JDR* solicits review articles based on the scientific expertise of the invited authors, not on their NIH funding status. Even if the author is NIH-funded, the time devoted to writing a thorough scientific review would typically be outside the percent time claimed on the “% effort on the project” on any NIH grant. Unless the NIH is specifically funding the review article through a grant mechanism, or the review is being written by an NIH employee, it seems unfair and a further burden on our copyright to usurp review articles as well in this blanket policy.

In closing, the IADR and AADR do not believe that the NIH has adequately addressed Congress’ proviso that “the NIH shall implement the public access policy in a manner consistent with copyright law.” We look forward to the NIH response to our concerns and remain firmly committed to the concept of free access to science as signatories to the DC Principles for Free Access to Science (www.dcprinciples.org).

Sincerely,

Christopher H. Fox, DMD, DMSc
Executive Director
International and American Associations for Dental Research

Professor Anthony J. Smith, BSc, PhD
Editor-in-Chief
Journal of Dental Research