

November 8, 2004

Dr. Elias Zerhouni  
NIH Public Access Comments  
National Institutes of Health  
Office of Extramural Research  
6705 Rockledge Drive, Room 350  
Bethesda, MD 20892-7963

Dear Dr. Zerhouni:

The Board of Trustees of the Association for Research in Vision and Ophthalmology (ARVO), representing over 11,000 clinical and basic researchers, thanks NIH for the concerns about public access to scientific literature and recognizing the importance of archiving scientific research. ARVO expects to play a continuing role in research by providing the high-quality peer review that is essential to the accuracy and integrity of data. However, in order to continue to meet our high standards of quality peer review we must maintain an enterprise that does not leave ARVO open to financial risk or legal liability. We support the concept of open access but do not support implementation of NOTICE # NOT-OD-04-064 (Enhanced Public Access to NIH Research Information) because of adverse ramifications for all stakeholders.

We believe that the NOTICE was issued without sufficient consultation with organizations and authors who provide quality peer review and the process of publication. We encourage NIH to continue discussions with all stakeholders to develop a process that meets our shared goals of rapid dissemination of research findings while maintaining the integrity of research, the viability of the peer-review process, and the maintenance of one recognized source for the data-the published files.

There are a number of questions that are raised by reviewing the NOTICE.

1. What procedures ensure that the integrity of the scientific research is maintained and that multiple copies not conforming to the accepted version of the article are not submitted to PubMed Central?
2. Since this is an unfunded mandate, how are the new responsibilities of the NLM being funded since we understand that the NLM budget will not be increased to accommodate these activities? Since taxpayers will be paying for these activities, full disclosure of costs and how NLM's activities will be funded is essential.
3. Costs affecting all stakeholders have not been defined sufficiently for us to assess the impact on peer-review operations.
4. Will grant funds be cut to meet these new NLM expenses?
5. What is NIH's procedure in relation to embargoed content?

6. Since publishers have a legal liability and responsibility in copyright and patent cases, what are the mechanisms for documenting and notifying publishers of the actual date of deposit and public access of every article? This is a potential liability for NIH as well.

7. What is the definition of publication date that is being used by NIH?

8. Has a process been defined for adjudication of disputes among authors? If so, please provide complete description of process and procedures.

9. How will allegations of scientific misconduct be addressed? One possible example is submitting virtually the same article to several publications: would articles be withdrawn from the archive or public access?

We encourage a stronger, broader PubMed Central and are willing to assist NIH in meeting that goal. We propose the following process in the spirit of cooperation with the intention of maintaining the integrity of data and to ensure that no one will be providing multiple copies or conflicting or spurious materials to the public and to other researchers.

- Publishers would continue to provide free and open access to articles at a rate appropriate for them but we would encourage NLM to electronically retrieve the content from the published versions of all articles, not just NIH-funded articles, and include all content in PubMed Central archive. ARVO is willing to provide free and open access 6 months after publication of all articles.
- Links from meta data at PubMed Central should direct readers to the publisher's live content, which will be guaranteed, not an archived version.
- Only the final, published article should be available and it should be attributable to the publisher and copyright holder.
- Author-supplied files of accepted manuscripts should be cached in an archive inaccessible to the public.
- Publishers would place an NIH icon on contents pages beside articles funded by NIH grants.

It is a disservice to the public and researchers to have multiple, unpublished copies available. Publishers provide the peer review that ensures the accuracy and integrity of articles that we publish. By making pre-publication copies available, there is no guarantee that content has not been altered, which may also put publishers legally at risk regarding unverified statements of dosage, device operations, or even surgical techniques.

ARVO, as a signatory of the DC Principles, supports the principle of free access. All articles in Investigative Ophthalmology & Visual Science (IOVS) are free and open 12 months after publication; all articles in Journal of Vision (JOV) are free and open at time of publication online. As such, we look forward to working with NIH to provide one recognized, guaranteed source for scientific research.

Sincerely yours,

Gary W. Abrams, MD  
President, ARVO

On behalf of the ARVO Board of Trustees  
And President, Gary W. Abrams, MD

By Karen Schools Colson  
ARVO  
Director of Publishing & Communications  
12300 Twinbrook Parkway, Suite 250  
Rockville, MD 20852-1606  
phone: +1.240.221.2925  
fax: +1.240.221.0355  
email: [kcolson@arvo.org](mailto:kcolson@arvo.org)