

TO: NIH Public Access Comments
National Institutes of Health
Office of Extramural Research
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FROM: William A. Kuperman, President, Acoustical Society of America

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SUBJECT: NOT-OD-04-064: Enhanced Public Access to NIH Research Information

I am writing for the Acoustical Society of America (ASA), as its President, regarding public comment on “Enhanced Public Access to NIH Research Information.” For 75 years the ASA has been the premier worldwide scientific society in acoustics dedicated to increasing and diffusing the knowledge of acoustics and its applications. The ASA has 7400 members and publishes two, peer-reviewed journals, *The Journal of the Acoustical Society of America* (JASA) and *Acoustics Research Letters Online* (ARLO). The ASA is a member organization of the American Institute of Physics (AIP). JASA is a highly rated peer-reviewed journal, and ARLO provides an open access, fully multimedia journal for short articles on acoustics published in a timely manner. Many authors who publish in JASA and ARLO receive NIH support in a wide range of areas including bioacoustics, biomedical ultrasound, hearing, noise, and speech. Thus, the NIH proposal will have a significant impact on the ASA, and in turn on the dissemination of peer-reviewed information on acoustics.

The ASA believes that the NIH proposal is flawed in terms of its concept and recommended implementation. This letter will highlight those issues that are most relevant to the ASA. A list of questions compiled by the AIP is also attached. The ASA feels that all of these questions must be satisfactorily answered before the NIH changes a system of public dissemination of scientific information that has served society well for more than 300 years.

The ASA’s main objections to the proposed policy are:

- 1) **If implemented, the NIH policy will harm scientific and professional societies, publishers, authors, libraries, and institutions at which NIH-funded research is conducted, and scientific discourse and scholarship, without accomplishing its stated objective to provide access to medical information in a way that can truly help patients.**
- 2) **The real issue being considered is not one of access, but of who will pay for the cost of publication and peer review.**
- 3) **The proposed policy and its implementation appears to be based on a naïve and poor understanding of how research is reviewed and published in journals such as JASA and ARLO.**

These main objections are based on the following concerns, for which the ASA would appreciate an NIH response:

- 1) According to the NIH proposal, PubMed Central (PMC) will become a major (maybe THE major) source for published research in biomedicine. The NIH cannot know future

congressional budget allocations and, thus, it cannot know the future of PMC and it cannot guarantee the archiving of information at PMC. Currently journals like JASA and ARLO do an excellent job of archiving their materials.

- 2) Congressional or legislated mandate might restrict what is published at PMC, just as attempts have been made to restrict what type of research NIH can fund. The PMC is a tool of the government and journal publications are not. Journal publications, especially those provided by not-for-profit societies such as the ASA, provide the public with an unbiased presentation of scientific information that the NIH cannot guarantee will occur at PMC. For the same reasons that our news is not published by the government, it is not a good idea to have the nation's science published by the government.
- 3) The NIH proposal is vague as to what constitutes a manuscript that must be submitted to PMC. Are books (academic, text, trade, popular, etc.), book chapters, meeting proceedings, meeting abstracts, non-peer reviewed manuscripts, etc. included? If books are to be included, then the costs of maintaining PMC will be much higher. There would be no financial incentive for publishers to produce books if the books will be freely available. This would eliminate scientific book publication of all kinds, which would not be in the nation's best interest. If books are not to be submitted to PMC, then what differentiates a book from a non-book (**i.e., what is the definition of a manuscript that has to be submitted to PMC?**)? What would prevent a journal from deciding that their journal is a book and does not have to be submitted to PMC? If books are not to be submitted to PMC, then why is it ok for the consumer to pay for a book, but not a journal? As I hope the NIH can see, the proposed policy is not only poorly conceived but is fraught with a lack of specificity making its successful implementation unlikely.
- 4) The ASA appreciates the implication within the NIH proposal of the importance of peer review and the role that scientific and professional societies, journals, and publishers play in providing peer review. The ASA was also pleased to see that the NIH proposal appears to recognize that there are costs associated with providing peer review. It was disappointing to read that NIH "trusts" that the proposed "policy will not result in unreasonable or disproportionate charges." As the NIH is aware this policy will lead to lost revenues for scientific and professional societies, journals, and publishers. The ASA feels that the NIH should do considerably more to define "unreasonable and disproportionate," and to provide data and information about the increased costs if this proposed policy is implemented.
- 5) The ASA believes that peer review is crucial to insuring the quality of scientific publications. The current NIH proposal places the future of peer review at great risk, in that the source of funds required to support peer review may no longer be available to scientific and professional societies, journals, and publishers. The NIH must do everything possible to insure that the quality of peer review is maintained so that the nation receives the highest quality publication of scientific research.
- 6) The ASA believes that libraries will no longer subscribe to journals like JASA, if journal articles will be freely available only six months after they are published in journals. Timely access to journals is not a high priority for most libraries. Library subscriptions are a major source of income for offsetting the costs of dissemination and peer review provided by not-for-profit societies such as the ASA.
- 7) If peer review costs and the current methods for recovering those costs are removed, who will pay for peer review? About the only alternative to cover these costs will be to switch the costs from the consumer to the producer. Many scientific and professional societies, journals, and publishers are contemplating charging their authors a mandatory fee to cover the cost of publishing and peer review of their manuscripts. We can think of few examples in our economy where the producer plays all of the costs and the consumer none. Please note that the consumer

currently pays the ASA for the publication and the peer review of the research manuscript, not for the conduct of the research. The ASA believes that its charges for access to our journals are reasonable (\$105/year for a journal subscription, \$1450/year library subscription, \$10.50 for an individual article) for covering our costs of publication and peer-review, and we do not see why this system needs changing.

- 8) If in the future the NIH-funded author will have to cover publication and peer-review costs, will the NIH provide the necessary resources? If not, is it really in our nation's best interest for an NIH-funded researcher to divert funds in his/her grant from conducting research to paying for publication and peer review, which is what is likely to happen if budgets are not increased.
- 9) It is likely that if the NIH proposal is enacted hospitals, research laboratories, foundations, and the other institutions that conduct NIH-funded research will have to provide support to its researchers for them to publish. The NIH proposal provides no data or information about what these costs may be.
- 10) If scientific and professional societies, journals, and publishers can only survive by charging their authors for publication and peer review, then an ethical issue of financial conflict of interest is probable. That is, the review process maintained by the scientific and professional societies, journals, and publishers will review the product that they need for financial survival. Compare this to the current situation in which the review process provides the best possible product to attract consumers to pay for the journal/article. The ASA feels that the current practice is healthy for the dissemination of scientific research, while the probable practice in the future could undermine the peer review process. The ASA believes that the NIH should be concerned about any possible erosion of the peer review process.
- 11) The NIH has not provided cost/benefit assessments of the increased costs associated with expanding PMC, but the cost to tax payers must be relatively high to duplicate the publication of manuscripts already published in journals.
- 12) The timing of manuscript submission and publication in journals and at PMC and its rationale described in the NIH proposal is at best confusing and at worse wasteful. Thus, the NIH proposal requires clarity regarding the process of manuscript submission to PMC and the relationship between NIH and the journal publishers. Such clarity will hopefully explain why it is necessary for the manuscript to be held at the NIH for six or more months before being publicly available and why the non-edited version has to be submitted. Such an explanation should provide a more realistic estimate of journal publication delays, and how the NIH and the journals/publishers, such as the ASA, are to coordinate information with PMC about the manuscript and, very importantly, who is to pay for this coordination.
- 13) It seems probable to the ASA that Congress will insist that other federal agencies also provide open access to research manuscripts. It is short sighted of the NIH to propose their policy in isolation of other federal funding of research, especially since a lot of biomedical research is funded from multiple sources.
- 14) As with publications in JASA and ARLO, a great deal of biomedical research is conducted in collaboration with non-U.S. scientists raising issues which the NIH proposal does not consider.
- 15) The ASA believes that the NIH has overlooked the fact that support of NIH-sponsored research is a joint venture between the NIH and the institutions at which the research is conducted. Thus, universities, hospitals, research laboratories, foundations, and other institutions that conduct NIH-funded research are just as crucial stake holders as the NIH in the dissemination of research publications. The ASA believes that it is likely that these institutions will have to bare some of the costs that the NIH proposal will create. We believe that it would be in the nation's best interest for the NIH to work with these institutions in formulating any plans to change current publication practices, instead of acting unilaterally as it has.

- 16) The ASA publishes ARLO in an open-access, web-based format that could include all forms of multimedia (vivid color, audio, video of all sorts, etc.). Will PMC have the bandwidth necessary to accommodate such multimedia presentations, especially given the ever increasing need for greater bandwidth? In addition, having an open-access article published twice (ARLO and PMC) in its entirety is a waste of tax-payer's dollars.
- 17) There is no mention in the NIH proposal concerning the protection of intellectual property rights (e.g., copyrights) regarding articles published by journals (which do have such protections) and then made freely available at PMC. Before any policy is implemented the NIH must develop clear procedures for the protection of copyrights and other intellectual property rights of manuscripts available at PMC.

Thus, for all of the reasons stated above and covered in the attached list of questions compiled by the American Institute of Physics (AIP), the Acoustical Society of America (ASA) respectfully recommends that the NIH not approve its proposed policy on NIH research information (NOT-OD-04-064).

Compiled by the American Institute of Physics (AIP):

Questions the NIH Has Not Addressed

- **Does the NIH fail to acknowledge the value added by publishers?** By stipulating that authors should post their final published articles on PubMedCentral, the NIH clearly recognizes that the unrefereed reports it receives from its grantees are not as valuable as the peer-reviewed articles published in scholarly journals. Yet the NIH proposal minimizes the substantial investments and contributions of publishers in this process. The NIH must put bias aside and take an objective look at the essential and substantial role that publishers play in scientific discourse. We can work together to find a way to more effectively meet the NIH's objectives without the government expropriating publishers' investments and causing disruption to the entire fabric of scientific communication.
- **What will be the impact on the many scientific and medical publications and professional societies that rely on the subscription income to pay for their operations?** The NIH mandate for open archiving six months after publication will have the effect of forcing publishers to adopt author-paid models of open access because it puts journal licenses and subscriptions at risk of cancellation. The six-month stipulation will be especially damaging for those journals with longer publication cycles, those that support small specialized fields, or those that publish more articles that stem from NIH-funded research. This could cause the demise of many scientific and medical publications and professional societies and, as a result, an erosion of scholarship and professionalism in these fields.
- **Will the plan encourage censorship or politicization of science?** Would centralized government control over the provision of public access to the results of NIH-funded research carry necessary safeguards to ensure that access is not improperly manipulated for political objectives or otherwise controlled in conjunction with debates over public policy?
- **How will author-researchers be affected?** How would implementation of the NIH plan impact the rights of NIH-funded researchers regarding articles they generate based on their research? How would it impact multi-author papers? How would it impact the publication of results from research funded by multiple sources in addition to NIH? How would it impact academic freedom in the university research and publishing settings? Would authors of research papers continue to have the right to make their own choices among journals or other venues of first publication? Will they have less money to spend on research if a portion of their funding must be earmarked to cover the costs of publication? The NIH has gone on record saying it will not provide additional funds to grantees to support these costs. Authors who cannot afford to pay will be disenfranchised; others will be forced to reduce the number of articles they publish.
- **Is a central government-run repository the best approach? Will it compromise the integrity of the scientific record?** The NIH policy advocates the transformation of PubMedCentral, which currently houses content from only a small fraction of the biomedical literature, into a huge central repository without even looking at the alternatives. Publishers have invested millions of dollars in digitizing their content building a successful distributed aggregation network of cross-linked journals, and the majority of STM publishers worldwide now participate in *CrossRef*, a not-for-profit collaborative enterprise (www.crossref.org) that

uses a unique and permanent system of identification, the Digital Object Identifier, to facilitate reliability, authentication, and discoverability via the web. The NIH should leverage this successful and significant investment, rather than try to "reinvent the wheel" with its own "one size fits all" solution.

- **Who will foot the bill for a central repository?** Publishers know from recent experience that the costs of developing and sustaining a publishing platform that can handle the capacity of the government-funded scientific output (including activities such as collecting, converting, and archiving articles, hosting the site, providing search capabilities, tagging and standardizing files for retrieval, for example) will not be insignificant. The NIH has not addressed the issue of operating costs, leaving open the likelihood that the costs will reduce the funding available for research itself or create an additional burden for taxpayers.
- **What would happen if the principle that "the taxpayers have already paid for the research" were applied also to patents, pharmaceuticals, and other products of government-funded research?** Mandating the deposit of research articles to a repository reduces the value of the license or copyright transfer that an author can make, by eliminating the exclusivity of the grant and making it impossible for the publisher to recoup investment. It could set a dangerous precedent with respect to an independent investigator's control over patent and trademark rights. It runs counter to established US law that affords investigators and their employers the right to benefit financially from the results of federally funded research conducted under their auspices.
- **What will be the impact of the NIH's proposal on US jobs and exports, particularly if other federal funding agencies follow suit?** STM publishing is a major export business for US-based publishers, both commercial and not-for-profit. Billions of dollars of revenue--money that supports US jobs and that adds considerably to federal, state, and local federal tax coffers--come from international publishing sales. An open archive would be, by its very nature, open worldwide and so it would put a swift end to this revenue stream and the jobs it supports. If other government and private funding agencies follow the NIH's lead, the harmful consequences would intensify.
- **Will it really help patients and families?** There is no evidence that open access will accelerate research for medical cures. Patients and their families would be better served by efforts that addressed the crisis in health literacy, yet the NIH proposal does not address how to help the layperson interpret the high-level science reported in journal articles in an appropriate context, so that they can understand and apply the clinical relevance of such studies to their own situations.
- **Should government dictate how, when, and where researchers publish?** Is it appropriate for the U.S. government to put its thumb on the scale in favor of one business model and thereby dictate how, when, and where researchers publish? Are we prepared to accept the socialization of biomedical publishing?