

March 17, 2008

Elias A. Zerhouni, M.D., Director  
National Institutes of Health  
9000 Rockville Pike  
Bethesda, MD 20892  
Transmitted via email to PublicAccess@nih.gov

RE: NIH Notice on Public Meeting: Seeking Comments on the Implementation of the NIH  
Public Access Policy  
NOT-OD-08-057 (March 7, 2008)

Dear Dr. Zerhouni:

I am writing on behalf of John Wiley and Sons to express important practical concerns related to the implementation of the "NIH Revised Policy on Enhancing Public Access to Archived Publications Resulting From NIH-Funded Research." Our biomedical division Wiley-Blackwell is one of the world's foremost academic and professional publishers with a combined list of more than 1,400 scholarly peer-reviewed journals. We are also the world's largest society publisher, working with 700 societies that represent close to 1,000,000 members globally.

While Wiley supports the concept of "public access" to government-funded research, **we believe that the NIH mandatory policy must be implemented in a way that maximizes its effectiveness to the public and the scientific research community, ensures protection of copyright and protects our business and employees.** To achieve this objective, it will be critical for NIH to work closely with publishers. Specifically, Wiley looks forward to working with NIH to address the following concerns:

- **Formal Consultative Mechanism Between NIH and Publishers.** We are encouraged that NIH is finally starting a dialogue with publishers, investigators, and representatives from scientific associations to ensure the success of this initiative. However, Wiley believes that NIH should adopt a more cautious and thoughtful approach, following through in its partnerships with scientific publishers in exploring through a formal process how to properly implement this new policy. Indeed, **rushing implementation could carry with it the potential of causing irreparable harm to the integrity of science and to the very mission of NIH.** The Senate has directed NIH "to seek and carefully take into account the advice of journal publishers on the implementation of this policy." How exactly will NIH incorporate the concerns of publishers moving forward if the policy is already implemented?
- **Business Impact and Compensation.** The public indisputably benefits from new cures and innovative discoveries generated by scientists who access and build upon the research described in first-class articles published and disseminated via advanced information systems

supported by the substantial investments of publishers. Peer review represents a significant investment by publishers like Wiley, and neither originates with licensor-authors nor is it the product of NIH funding. Yet under the new policy, NIH insists on appropriating the final, peer-reviewed manuscript. Publishers recoup the expense of peer review, production, and distribution by several means, including commercial sales both domestically and abroad. As a result, when copyrighted articles are freely available online, their commercial value is significantly eroded. How will you ensure that the policy will protect publishers' copyrighted assets and maintain the commercial value of the copyrighted manuscripts? How will you ensure that any revisions to copyrighted materials such as reformatting, enhancing, linking or otherwise changing the articles do not undermine the rights and value-added provided by publishers like Wiley? How will you ensure that the articles on PMC maintain the publishers' branding, and any corresponding disclaimers and notices?

- **Cost and management.** The mandatory public access policy will not change the cost of scientific publishing, but will shift the burden of that cost away from scientific publishers and onto authors and the funding agency. At what cost? Why is simply linking to publishers' web sites, rather than mandatory deposition at PubMed Central, not acceptable? It would certainly be a more efficient, less costly way to achieve the desired increased access. The policy provides for publisher deposit of final published articles on behalf of authors, and includes allowance for the use of grant funds in the payment of publication fees levied on NIH-funded authors. Will NIH be empowered to negotiate such licensing terms, including payment, on a publisher-by-publisher basis, as certain non-government funding agencies have done?

John Wiley and Sons is eager to work with NIH to enhance public accessibility of scientific research results and address these specific concerns. We hope to find ways to do so while continuing to protect the publishing enterprise that has nurtured and served the scientific research community.

Respectfully,



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Signed in Mr. Kelly's absence  
by Diane Saad, Executive Assistant