



OFFICE OF SCIENCE AND TECHNOLOGY POLICY

REQUEST FOR INFORMATION:  
PUBLIC ACCESS TO PEER-REVIEWED  
SCHOLARLY PUBLICATIONS RESULTING  
FROM FEDERALLY FUNDED RESEARCH  
Published at 76 Fed. Reg. 68518 (November 4, 2011)

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WRITTEN COMMENTS OF

COPYRIGHT CLEARANCE CENTER, INC.

January 12, 2012  
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Introduction

Copyright Clearance Center, Inc. (“CCC”), submits these written comments in response to the Request for Information of the Office of Science and Technology Policy published at 76 Fed. Reg. 68518 (November 4, 2011) regarding public access to peer-reviewed scholarly publications resulting from federally funded research.

CCC offers a host of different forms of licensing of text-based copyrighted materials, on behalf of publishers, authors and other creators (collectively, “rightsholders”), to users of all kinds, including academic, business and government organizations. These forms of licensing include (i) traditional collective licensing (one license covers all designated use of a repertory for a year), as well as (ii) both centralized (at CCC’s office and website) and decentralized (at the websites of participating rightsholders) licensing on an as-needed basis. The development of these different licensing models and modes of access was driven by the varying needs for use of content of many different types of users of scholarly (as well as trade, news and educational) publications. In the course of our business, we represent thousands and thousands of rightsholders of those copyrighted works, including thousands of rightsholders in peer-reviewed scholarly publications, and we sell licenses every year to thousands of users (virtually all of which – businesses, colleges and universities, and government agencies) are themselves organizations that together represent tens of millions of employees, students and associates.

### Licensing is Part of a Larger Distribution System to Help Support Dissemination of Scholarly, Peer-Reviewed Articles and Books

Rightsholders use licensing services like those offered by CCC as part of what the Request for Information terms “long-term stewardship and broad public access to the peer-reviewed scholarly publications that result from federally funded scientific research,” p. 68518. Such licensing helps contribute to the financial resources necessary to enable peer-reviewed publishing – and the awareness, curation and stewardship of scholarly output that such publishing represents – as well as to enable public access to the resulting books and articles. Licensing in the scholarly publishing industry fulfills this task not only by collecting royalties from users who pay for rights to re-use (such as the rights to reproduce and redistribute) published materials but also, in both the fee-paid and the large number of no-fee transactions managed by rightsholders and CCC, by providing feedback to rightsholders about the materials that users actually use. The financial contributions from the communities that use peer-reviewed materials for separate research (such as R&D-intensive commercial businesses) help pay for the overall publication effort; the feedback from both paying and no-fee licensees helps guide the direction of future publications.

In its licensing services, CCC serves both rightsholders and content users of all types and sizes. In CCC’s experience, the breadth of differing needs for licensing services arise from a host of distinctions not only among rightsholders’ business models, but also among the fields in which rightsholders research and publish, the user communities to which their materials are directed and the uses those users make of the materials, and their own funding sources. These differences underlie answers which the Office will receive to many of the questions posed in the Request for Information, including, for example, about the nature of interoperability among sources of materials or the need for, and the length of, embargo periods before public access is made free-of-charge.

In the past year or so, the scholarly publishing community – including both not-for-profit and for-profit publishers – has shown itself capable of addressing these distinctions while still serving those who need or want access to published materials. It has done so by expanding the distribution mechanisms available to different markets; one major example, assisted by CCC and its decentralized licensing facility (RightsLink<sup>®</sup>), is the development of an “open access” publishing model that enables interested authors and research institutions, rather than readers, to pay for publication and to direct the publisher to make public access to the articles they authored free-of-charge immediately upon publication – thereby supporting the traditional, and traditionally important, peer-access publishing model through a different funding mechanism. At the same time, varying distribution models – from annual subscriptions, to pay-per-copy or pay-per-article, to pay-for-access, to “rental”, of journal articles and books – are widespread in the publishing industry, with different models (and different pricing structures, including between those available to commercial, non-commercial and even individual users of the same material) of different utility to different users. Because these many models are available, the publishing industry is able to serve the scientific and other communities – both as creators and as

users of copyrighted material – in a market-sensitive way, drawing multiple sources of revenue together to support the entire system.

Any “one-size-fits-all” model for access to scholarly publications, like that enacted by the National Institutes of Health for public access, fails to distinguish the different needs of rightsholders and users, and even of the funders of research both inside and outside the government. By doing so, such a model upsets the balance among revenue sources that sustains science publishing and risks collapsing systematic dissemination of scientific research altogether. Recognition of such a risk has enabled private funders of research, such as the Howard Hughes Medical Institute and the Wellcome Trust, to work with rightsholders to sustain the balance. In contrast with the NIH policy, the America COMPETES Act, upon which this Request for Information is based, (i) established a public access policy for research funded by the National Science Foundation, (ii) provides a constructive model that can be replicated in a timely manner at other federal agencies, and (iii) is far more likely to support the long-standing and well-functioning scientific discovery and innovation system of publishing experimental results, maintaining the consequent economic benefits and employment, and supporting the Constitutionally-mandated system of intellectual property.

### Conclusion

CCC strongly supports the continued vitality of the traditional peer-reviewed scholarly publishing system, with its wide variety of systems of distribution – including sales of copies, licensing of uses, and appropriate free-of-charge access as part of an overall system that ensures financial health for a system that has served science dissemination in the United States and world well. CCC encourages the Office of Science and Technology Policy to learn about the breadth and depth of alternative forms of access, and market-sensitivity to users and uses, that peer-reviewed scholarly publishing has developed in the United States and around the world and to take that into account in developing recommendations to the National Science and Technology Council for future government policy. CCC stands ready to be of assistance to the Office in any way possible.

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