

**Before the
Office of Science and Technology Policy
Executive Office of the President
Washington, D.C. 20502**

In the Matter of Request for Information: Public Access to Peer-Reviewed Scholarly Publications Resulting From Federally Funded Research

Comments of Wolters Kluwer Health

Wolters Kluwer Health is pleased to respond to the Request for Information (“RFI”) from the Office of Science and Technology Policy on approaches for ensuring long-term stewardship and broad public access to the peer-reviewed scholarly publications that result from federally-funded scientific research.¹ Wolters Kluwer Health believes that recommendations on such approaches must be discussed in the context of the Administration’s goals on economic growth and innovation – the strategy for which identifies health information technology as a national priority, but also notes that intellectual property enforcement is critical for continued innovation. Therefore, in addition to commenting on the questions raised in the RFI, Wolters Kluwer Health will provide herein information on some of its activities in healthcare IT innovation.

Introduction

Wolters Kluwer Health (“WKH”), a medical and health care publisher, is a leading global provider of medical information, workflow solutions, and platforms for research and development, as well as business intelligence tools. As a publisher, WKH is dedicated to broad access to peer-reviewed scholarly publications. WKH’s mandate includes providing access not just to the publications themselves, but to an array of medical information, tools, and solutions. These are used by healthcare professionals and organizations worldwide, improving clinical practice, and raising access to quality and cost-effective healthcare.

¹ See *Request for Information: Public Access to Peer-Reviewed Scholarly Publications Resulting from Federally Funded Research*, Notice of Request for Information, 76 Fed. Reg. 68518-01 (2011).

Investment in On-Line Tools to Improve Medical Research

WKH has invested substantially in recent years in new productivity workflow tools and access options and expanded its clinical content offerings to improve medical research.

The company recently introduced workflow improvements to its flagship research platform, OvidSP. These enhancements focused on improving the researcher's productivity with the My Project and the Ovid Toolbar, each of which helps users effectively manage their search strategies and research projects within a single, integrated platform. WKH has helped researchers not just in the United States, but in other countries as well, through the launch of local language search portals for use in many emerging markets including those in Asia and the Middle East. For instance, WKH has partnered with the Egyptian Ministry of Higher Education and State Ministry for Scientific Research to collaborate on the development and publication of leading medical and scientific journals and to help create a 'Center of Excellence' in the region.

WKH, through its Lippincott Williams & Wilkins ("LWW") business, has continued to enhance its e-journal platform with new features and functionality for journal readers and editors, including new email alerting features, "publish ahead of print" content alerts, topical collection alerts, as well as personalization features.

Investment in On-Line Tools for Education and Service Delivery for Healthcare Professionals

WKH is dedicated to expediting the results of medical research into the practice of healthcare. Through its investment in digital and human resources, the company can now, on average, translate medical research into practice guidelines for use by physicians, nurses and physician assistants within 10 weeks, in almost 20 practice areas, with almost 9,000 topics, by over 5,000 authors and editors. WKH has invested significant resources in expediting research results to physicians' point-of-care. The company is dedicated to ensuring research does not sit unused in an archive, but is applied in the delivery of care giver training and patient services. It should be noted that in the past it could take years for clinical research to impact actual patient care.

As the Chief Executive Officer of Wolters Kluwer N.V., parent company of WKH, has recognized, by 2013, more people will access the internet on mobile devices than from desktops.² Wolters Kluwer N.V. has launched several initiatives across the company to take full advantage of this trend, including the development by WKH of mobile apps for care givers at the point-of-care. WKH has devoted significant time and effort to reshaping and transferring our products to mobile devices that reach our customers at their point-of-use.

² NANCY MCKINSTRY, 2010 ANNUAL REPORT: MESSAGE FROM THE CEO (2010), *avail. at* <http://reports.wolterskluwer.com/2010/ar/messagefromthecoo.html?cat=m>.

WKH is proud to be a leader in the development of mobile apps for healthcare professionals. WKH has launched 500 education titles in multiple e-book formats, including iPad® apps. Wolters Kluwer Mobility Lab supports the mobile development across the organization by focusing on the interface to multiple mobile operating systems, including for e-books, mobile apps, portable interfaces, and other workflow-centric online solutions. Going forward, WKH is looking at the next-generation of mobility products that are compatible with Blackberry, iOS, and Android systems and concepts based upon the professional user's workflow.

LWW – a Wolters Kluwer Health business - was the first medical publisher to introduce the ePub export format for retrieving articles for devices including the iPad®, Barnes & Noble Nook, and Sony Reader. WKH was one of the first biomedical publishers to introduce an iPhone® app, Journals@LWW, for mobile access to LWW published journal content. The app recommends LWW titles based on specialty preferences and pushes article content based on user selections. WKH is now introducing iPad® apps for its leading journals, which offer not just the text in an easily accessible format, but also include new multimedia content to enhance the communication of clinical information. As a partner for some of the country's leading medical associations, WKH is delivering real benefit to physicians and nurses in their daily practice.

WKH has invested in other on-line tools for healthcare professionals. The company developed an interactive testing platform for nursing students designed to help students learn and prepare for their national exam. This adaptive quizzing product delivers personal practice tests and allows students to track individual or class performance to optimize results. WKH's on-line tools also offer educators real time analysis at the class and individual student levels. Given the importance of electronic medical records ("EMR"), WKH has also invested in EMR educational software. One of WKH's products integrates a simulated electronic medical record into a learning tool for students to prepare future nurses for the demands of the evolving healthcare climate in the 21st century.

WKH has also developed tools for members of the general public who may be interested in particular healthcare developments in specialized fields. For instance, WKH has made its *Heart Insight* and *Urology* journals, published on behalf of its clients the American Heart Association and American Urological Association respectively, accessible on mobile devices by the general public.

Investment in mobile content and apps and other digital tools to improve point-of-care services requires that WKH earn a return on its investment in journal publishing. WKH would not be able to innovate and develop mobile tools for physicians to access up-to-date results from clinical trials, training programs, and other apps if it does not have sufficient revenue from journal subscriptions.

Recommendations on Approaches to Stewardship and Public Access

On behalf of the National Science and Technology Council’s Task Force on Public Access to Scholarly Publications, the RFI requests information and comment on eight questions regarding approaches for long-term stewardship and public access to the peer-reviewed scholarly publications that result from federally-funded scientific research. Wolters Kluwer Health will comment on several issues raised in the questions.

Embargo Periods

As raised in Questions 2 and 8, regarding embargo periods, it is not good policy for the United States Government to expropriate intellectual property of private entities from which it seeks innovation. The government should ensure that there is an embargo period prior to allowing users around the globe free, unpaid access to content for which publishers hold a copyright. Mandated free access to copyrighted material is inconsistent with the Administration’s goals of sustainable economic growth and technology innovation. Twelve months is not a sufficient amount of time for some publications to recoup the investment in scholarly manuscripts for which copyright is transferred from the author to the publisher. In no instance should an embargo period be shortened from twelve months, as some free access proponents have argued.

President Obama recognized in his Innovation Strategy that protecting intellectual property rights is critical to encouraging innovation.³ This is equally as important for scholarly publications as for other types of copyrighted content. Publishers invest significant editorial and administrative resources organizing peer-review of the many manuscripts they receive, and then invest additional resources after a manuscript is accepted for publication and the copyright is transferred from the author to the publisher. Editors, highly educated and knowledgeable experts in their discipline, bring value in their very selection of manuscripts to assign to peer-reviewers. That selection is intended to contribute to and advance the state of knowledge for that particular discipline. The final scholarly publication is the result of substantial investment by the publisher. At no point is it appropriate for the U.S. government to mandate that the public – including many overseas institutions for which the publication has economic value – should have free, non-paid access to the peer-reviewed manuscript accepted for publishing or the published article.

³ See EXECUTIVE OFFICE OF THE PRESIDENT, NATIONAL ECONOMIC COUNCIL, OFFICE OF SCIENCE AND TECHNOLOGY POLICY, A STRATEGY FOR AMERICAN INNOVATION: DRIVING TOWARDS SUSTAINABLE GROWTH AND QUALITY JOBS 15 (2009), *avail. at* http://www.whitehouse.gov/assets/documents/SEPT_20__Innovation_Whitepaper_FINAL.pdf (“Protect intellectual property rights. Intellectual property is to the digital age what physical goods were to the industrial age. We must ensure that intellectual property is protected in foreign markets”); *see also* DEPARTMENT OF COMMERCE, NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION, INTERNET POLICY TASK FORCE, COPYRIGHT (2010), *avail. at* <http://www.ntia.doc.gov/category/copyright> (“The Department of Commerce’s Internet Policy Task Force is conducting a comprehensive review of the relationship between the availability and protection of online copyrighted works and innovation in the Internet economy”).

Patient Access

For most biomedical publishers, patients – the primary beneficiaries - are not the primary market. While WKH has in fact developed tools for patients and other members of the general public to access scholarly publications on SmartPhones and tablets, its primary market is not patients. WKH is a supporter of *patientINFORM*, through which it and other publishers fund the development of free access to on-line material for patients and support links to our scientific literature of broad public interest. *PatientINFORM* is a collaborative effort by patient health organizations, medical societies, health information professionals, and scholarly and medical publishers like WKH.⁴ WKH clients the American Heart Association, the American Society for Nephrology, and the American Cancer Society, as well as other voluntary health organizations create on-line material for patients and their caregivers describing research developments and providing links to the full text of research articles selected from participating journals.⁵ The publishers allow readers following links from *patientINFORM* material located on the health organizations' sites to access the full text of these articles without a subscription, and these publishers provide patients and caregivers with free or reduced-fee access to other articles in participating journals.⁶

Relative to Question 1, on what policies federal agencies can take to grow existing markets related to the access and analysis of peer-reviewed publications that result from federally-funded scientific research, funding of *patientINFORM* from federal agencies such as the U.S. Department of Health and Human Services' Agency for Healthcare Research and Quality would help ensure that higher levels of content would be available to the public on *patientINFORM*. Federal funding of *patientINFORM* would realize a form of private-public partnership to encourage accessibility to peer-reviewed publications, envisioned in Questions 4 and 6.

Innovation Strategy

As noted above, President Obama has highlighted the importance of innovation to continued U.S. economic growth and competitiveness. WKH shares the goal of “harnessing the power of data and technology” to create “innovations in health care delivery”.⁷ As WKH's CEO has noted, “innovation for Wolters Kluwer Health is our history, our vision, and our future.”⁸ WKH drives innovation through continual research and development, unique industry partnerships and collaborations, strategic acquisitions, and investment in cutting-edge technologies and solutions. Innovation is the lifeblood of what we do to help our customers make healthcare better.

⁴ See *PATIENTINFORM, PARTICIPATING ORGANIZATIONS* (2010), *avail. at* <http://www.patientinform.org/participating-organizations/>.

⁵ *See id.*

⁶ *Id.*

⁷ THE WHITE HOUSE, *INNOVATION* (2011), *avail. at* <http://www.whitehouse.gov/economy/business/innovation> (“*The White House on Innovation*”).

⁸ See *WOLTERS KLUWER, 2010 ANNUAL REPORT: REPORT OF THE EXECUTIVE BOARD* (2010), *avail. at* <http://reports.wolterskluwer.com/2010/ar/servicepages/search.php?q=health&pageID=13078&cat=b>.

WKH is therefore committed to technology adoption, as a means to improve healthcare. With an aging population and a shortage of healthcare professionals, it is critical that technology be adopted that can help improve productivity of clinical service delivery. Technology can help caregivers reduce medical errors, eliminate waste, and improve patient outcomes. WKH is focused on extending its current products to new markets, as well as driving future content, tools, and software expansion, all of which will enhance workflow solutions. Mandated free, on-line global access to our copyrighted material reduces the very revenue that makes such innovation possible.

As the President has noted, intellectual property rights, including copyright, are critical for continued innovation and growth of the Internet economy.⁹ To ensure that publishers such as WKH are able to continue to provide innovation in health care delivery, government policies must protect copyright, both at home and abroad. Recently, the National Institutes of Health (“NIH”) acknowledged that over two-thirds of users accessing free, on-line journals from PubMedCentral are foreign.¹⁰ Policies that mandate free access to copyrighted biomedical content will undermine innovation, economic growth, and patient care.

Open Government

WKH supports the Administration’s goals of making government open and government data more accessible. It therefore supports the policies of the America COMPETES Act of making Project Outcome Reports on federally-funded research available on-line for the general public. Under America COMPETES, Congress directed the National Science Foundation (“NSF”) to ensure that “all final project reports and citations of published research documents resulting from research funded in whole, or in part, by the Foundation, are made available to the public in a timely manner and in electronic form through the Foundation’s Website.”¹¹ Currently, just NSF is required to make Project Outcome Reports of NSF-funded research available on-line. Relative to Question 1, WKH supports making project outcome reports on research resulting from all federal-agency funding, including NSF, NIH and others, available for free on-line public access. In addition to meeting the Administration’s goal of enhanced public access to the results of federally-funded research, such a policy would provide researchers both the positive and negative results of research, and the results of applied - not just basic - research. Importantly, public access to project outcome reports, a form of results of federally-funded research, would not undermine the copyright of publishers and their ability to innovate and compete in the global marketplace.

⁹ See The White House on Innovation (“We are applying these Internet innovation principles in our work on privacy, cyber security and copyright, to preserve the Internet as a source of growth and greater possibility for America and the World”).

¹⁰ See Letter from Susan R. Cornell, J.D., FOIA Officer, the National Institutes of Health, to Allan Adler, Vice President for Legal and Government Affairs, Association of American Publishers at 8 (May 19, 2011) (enclosure).

¹¹ America Creating Opportunities to Meaningfully Promote Excellence in Technology, Education, and Science Act (America COMPETES Act), Pub. L. No. 110-69, § 7010, 121 Stat. 572 (2007).

Conclusion

The President has stated that “We should be helping American companies compete and sell their products all over the world. We should be making it easier and faster to turn new ideas into new jobs and new businesses.”¹² A policy that mandates that copyrighted material should be made available for free on-line – including to foreign entities that would otherwise pay for that content – does not help companies like Wolters Kluwer Health compete and sell our products all over the world. In fact, the NIH policy facilitates global piracy. Wolters Kluwer Health and other publishers participate in a number of programs designed to enhance public access to the results of federally-funded research, including *patientINFORM*. Wolters Kluwer Health would welcome government funding of *patientINFORM* to expand the range of content accessible to patients and their caregivers on the site, such as lay translations of biomedical articles, in addition to providing summaries of research articles.

Wolters Kluwer Health also supports the America COMPETES model of making project outcome reports on federally-funded research available on-line for free public access. That model, expanded to NIH and other funding agencies, would not undermine copyright or innovation in healthcare information technology and would expand information to researchers to include applied research and negative research results.

Wolters Kluwer Health also recognizes that the government could provide an important role in data curation, including in standards-setting, since publishers engage in publishing and not curation. In an era of constrained federal budgets, and in light of the innovation the private sector has delivered in point-of-care content delivery, it is more efficient for the federal government to focus on data curation. Federal government leadership in curation standards, along with free public access to project outcome reports on the results of federally-funded research, would help the long-term stewardship and broad public access to the peer-reviewed scholarly publications that result from federally-funded scientific research, without undermining the private sector’s ability to continue to invest in innovative ways to enhance access to such research.

Respectfully submitted,

/s/

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¹² BARACK OBAMA, THE WHITE HOUSE, TECHNOLOGY (SEPT. 16, 2011), *avail. at* <http://www.whitehouse.gov/issues/technology>.

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