



Association of American Universities

Office of the President

July 18, 2003

Representative Martin Sabo
2336 Rayburn House Office Building
Washington, DC 20515

Dear Martin:

I write concerning H.R. 2613, the Public Access to Science Act. AAU strongly supports what we understand to be the objective of this legislation: to enhance public access to the results of federally funded scientific research. However, we believe that the denial of copyright protection for publications resulting from federally funded research, the primary tool contained in the bill, not only is unnecessary for the achievement of this objective but also may prove quite harmful to the nation's research enterprise, which you have done so much to support. Therefore, AAU must oppose this bill.

The major federal research funding agencies already require that the results of research they fund be made publicly available. That research is published through a large and expanding number of sources. Nevertheless, you have identified a genuine and important problem. Access to published research results is becoming more difficult. This is true, in part, because of the rapidly increasing cost of scientific, technical, and medical (STM) journals, particularly journals published by some commercial publishers. AAU has been deeply involved in efforts to address this problem. A number of not-for-profit academic society publishers are working collaboratively with us and others in the academic and scientific communities to increase access to the results of research by seeking ways to control the costs of STM publishing and better exploit the capacity of the Internet to provide faster, broader, more affordable access to the results of all research.

While we are eager to consider other means of accomplishing greater public access, we are concerned that loss of copyright protection could seriously impair current academic publishing arrangements. That would diminish, not expand, the dissemination of research results and also disrupt ongoing efforts to improve the system of scholarly publishing. Copyright protection is an important means of assuring the accuracy and authenticity of publications, and is important in maintaining other critical aspects of the publishing process, including not only initial dissemination of research results but also compilation and dissemination of derivative works, and archiving of works essential to preserving the scientific record.

Therefore, we believe that copyright protection needs to be maintained while the national and international academic and scientific communities continue their several efforts to find improved ways to disseminate the results of research to the scientific community and to the broader public, which is the intended beneficiary of the international research endeavor.

In addition to our concerns about the impact of H.R. 2613 on STM publishing, we note that the bill would apply well beyond publication of journal articles, affecting copyrighted works such as computer software. Loss of copyright protection for such works would diminish the demonstrably effective incentives for universities and industry to collaborate in technology transfer, moving the results of fundamental research into commercial development for the benefit of society. The Section 4 Sense of the Congress provisions

call by extension for a reversal of the highly successful Bayh-Dole Act of 1980, which has helped move the results of fundamental research into commercial development, producing a wide array of products and processes of great benefit to the nation.

Given the importance and complexity of STM publishing, a thorough, objective study that would analyze the full range of national and international scientific publishing practices could assist the academic and scientific communities in their efforts to improve the methods for disseminating research results. Such a study could prove quite helpful in understanding the many complicated factors governing STM publishing, including the role of commercial versus non-commercial publishers, the impact of national versus international and academic versus industrial and government dimensions of STM publishing, print versus online publishing, subscription models of journal publishing versus open access models funded by submission fees or other “front-end” financing mechanisms, the critical importance of preservation and provision for effective access to the archival record, and the possible role of open access national and university repositories in which published material would be deposited at some period after initial publication. I note that the Committee Report accompanying the House FY 2004 Labor, Health and Human Services, and Education, and Related Agencies Appropriations bill calls on the National Library of Medicine (NLM) to conduct a study of the rising costs of commercial biomedical journals and ways to address this disturbing trend. It might be advisable to modify this request to have NLM engage a non-governmental entity such as the National Academies’ National Research Council to conduct the broader analytic study outlined above.

I hope that AAU can work with you and your staff to pursue what I believe are genuinely shared goals in a manner that can bring together the several facets of the national research enterprise—universities, their faculties, academic societies, libraries, STM publishers, and Congress and key federal agencies, which provide such critical funding for academic research. A careful examination of the current system of scientific publishing and the various proposals for improving it could point the way to achieving our shared goals through means broadly supported within the academic community.

With best personal regards!

Cordially,



Nils Hasselmo
President

cc: Robert Bruininks, President, University of Minnesota
John Engelen, Director of Federal Relations, University of Minnesota