



Editorial

Stimulating debate

One of the goals we had when we launched *Open Access Now* was to stimulate debate about Open Access within the scientific community and to provide a forum for an exchange of views. We have been delighted to receive a steady stream of emails containing feedback and comments.

A particularly interesting contribution came from Etienne Joly, an immunologist from Toulouse, France, who included a proposal for a new system of evaluating the impact of a scientific article and the use of such evaluation to determine the amount the author pays in publishing charges. Here, we publish the beginning of his letter and the full text can be found on our website—
<http://biomedcentral.com/openaccess/forum>

The views expressed are exclusively Dr Joly's, and though the model he proposes is different from that developed by BioMed Central, we felt it merited a larger audience and hope that it will initiate debate.

The Open Access future is not yet clearly defined and will benefit enormously from proposals and suggestions from authors and readers. Now is the time to contribute your ideas - we welcome your comments.

Tell us what *you* think.
Do you agree?

**It is the article that
really matters,
not the journal.**

We want to hear from you.
Send us your views. We will
publish selected letters in the
print edition of *Open Access Now*
and on our website.

openaccess@biomedcentral.com
www.biomedcentral.com/openaccess



**Copyright
controversy
surrounding
the Sabo Bill**

See inside...

News

Opening up intellectual property

A group of distinguished scientists, economists and lawyers have signed a letter to Kamil Idris, Director General of the World Intellectual Property Organisation (WIPO), calling for investigation of “new open collaborative development models” without patents.

The 7 July letter notes “in recent years there has been an explosion of open and collaborative projects to create public goods” and claims that these projects raise profound questions regarding intellectual property policies. “They also provide evidence that one can achieve a high level of innovation in some areas of the modern economy without intellectual property protection,” says the letter, adding “excessive, unbalanced or poorly designed intellectual property protections may be counter-productive”. The letter calls on WIPO to convene a meeting next year to discuss new open models.

The letter is signed by over sixty individuals, including prominent academics and lawyers. These include Sir John Sulston, former director of the Wellcome Trust Sanger Institute, near Cambridge, UK, who won the 2002 Nobel

Prize for Medicine. Other signatories are Open Access publishing advocate Peter Suber, Professor of Philosophy at Earlham College, USA, and Berkeley biologist Michael Eisen, a founder of the Public Library of Science (PLoS). Another signatory is Tim Hubbard, Head of the Human Genome Analysis group at the Wellcome Trust Sanger Institute. Hubbard believes that current intellectual property practices are responsible for high drug prices and unequal access to life-saving medication.

An appendix to the letter lists seven examples of open collaborative projects that have had a major impact. These include the development of free and open software and the world wide web. The appendix also emphasizes the importance of sharing information in the success of the Human Genome Project and the SNP Consortium. Open Access scientific publishing gets a special mention, and reference is made to PLoS and BioMed Central.

Francis Gurry, an assistant-director at the WIPO, has been reported as saying “the Director General looks forward with enthusiasm to taking up the invitation to organize a conference to explore the scope and application of these models.”

Letters

A proposal for evaluating and rewarding the impact of research articles

Dear Sir,

For the benefit of the scientific community, complete Open Access to all primary scientific articles is clearly the only way to go. But to ensure the quality of the papers published, it is hard to conceive that scientific publishing could be carried out except by paid professionals. The only viable solution is therefore for publishing charges to be levied on authors. This is in fact very much the route followed by the pioneering enterprise launched as BioMed Central. On the whole, however, authors have been reluctant to publish first-rate papers in such journals because of negative perceptions and upfront charges for publication.

rewarded for making important contributions. For example I would envisage that the amount charged for the publication of a manuscript would be inversely related to the scientific impact of that paper. The basis for this proposal is that papers would be rated retroactively, and this rating would provide the authors with a quotable evaluation of their publication that could be used on their CV or grant application.

Etienne Joly
CICT, Toulouse, France

I believe, however, that it is possible to set up a system whereby papers would be evaluated for publication solely on their scientific soundness, whilst the best papers would be recognized and their authors

Editor's note: Dr Joly's detailed article describing his proposal is on our website and open to comment. www.biomedcentral.com/openaccess/forum
Letters to the Editor continue on the back page.

Sabo bill sparks copyright controversy

When Congressman Martin O. Sabo introduced a bill in the US House of Representatives on June 26 that would make research funded by the American government exempt from copyright protection, he had no idea of the controversy it would generate amongst the research and publishing communities.

“Some of my staff brought the issue to my attention and I thought it made a lot of sense, so I introduced the bill,” said Sabo, a Democrat Representative from Minnesota. “I have discovered that it’s generated lots of interest and lots of controversy. There are lots of scientists who are very interested. And clearly there are people involved in the publishing industry who are making the case for their role in the whole process.”

Currently, work produced by federal employees is exempt from copyright protection, but this doesn’t cover grant recipients. The bill, officially called the ‘Public Access to Science Act’ but also referred to as the ‘Sabo Bill’, aims to amend existing US copyright law so that research that has been “substantially funded” by the US federal government can also not be copyrighted, ensuring its free availability to the public.

“The bill is really fairly simple. I think that it’s a fundamental principle that research that has been funded by the public sector should be generally available to the public free of charge,” Sabo told *Open Access Now*. He feels strongly that US residents shouldn’t have to pay twice – once through taxation to fund research and a second time to gain access to the results.

“It’s wrong when a breast cancer patient cannot access federally funded research data paid for by her hard-earned taxes,” said Sabo in a press statement. “It is wrong when the fami-

ly whose child has a rare disease must pay again for research data their tax dollars already paid for. Common sense dictates we provide the most cutting-edge research to all who may benefit from it – especially when they’ve already paid for it with their tax dollars, and my legislation will do just that.”

When pushed on what “substantially funded” means, Sabo concedes “We haven’t quite sorted that out yet. We’ll have to define that either by law or regulation and come up with a more precise definition of the percentages.” The fact that “substantially” is not defined in the bill might allow the many federal agencies that fund research to define it in their own ways.

Peter Suber, an Open Access pioneer at Earlham College, USA, has called the Public Access to Science Act “the boldest and most direct legislative proposal ever submitted on behalf of Open Access,” and has made suggestions that he feels would enhance the bill’s effectiveness. “Putting works into the public domain and obtaining copyright-holder consent to Open Access are not themselves Open Access,” explains Suber. “They are merely two ways to clear the legal path to Open Access.”

It’s a fundamental principle that research that has been funded by the public sector should be generally available to the public free of charge

Martin Sabo

“The Public Access to Science Act could go further and require actual Open Access. It could require funded researchers to submit their work to Open Access journals or deposit it in



Congressman Sabo’s bill is stimulating debate about copyright and Open Access.

Open Access archives.” Suber suggests additional measures to ensure that copyright legislation accelerates the switch to Open Access. “[The bill] could require federal research grants to cover the processing fees charged by Open Access journals - that is, [it] could treat Open Access publication as a cost of research.” This approach is already being taken by some funding agencies, such as the Howard Hughes Medical Institute (see *Open Access Now*, July 14, 2003).

The Sabo Bill has sparked heated debate within the life sciences community about the importance of copyright and the role of traditional publishers. The bill is supported by the Public Library of Science (PLoS), a non-profit organization that is developing models for Open Access publishing, but some have questioned the consequences of removing copyright protection.

Michael J. Held, Executive Director of Rockefeller University Press (RUP), calls the bill “a hasty and ill-timed measure”. In an editorial in the *Journal of Cell Biology*, Held wrote “I take

issue with a number of the points made by the Sabo Act. It appears to me that this is a thinly veiled attempt by Harold Varmus and the other founders of the Public Library of Science (PLoS) to eventually force all publishers into their Open Access publishing model. As this publishing model is unproven and may well be unsustainable, this is an irresponsible act.”

Held says that “publishers such as RUP seek to hold secure copyright so that we can ensure that we have both the legal right and the resources to guarantee free access, albeit after a brief interval.” Held’s editorial was freely available online prior to publication, to ensure that it reached a wide audience.

The Association of American Universities (AAU) has also opposed the bill. In a letter to Sabo’s office, AAU president Nils Hasselmo expressed the view that denying copyright protection for publications resulting from federally funded research was unnecessary and could prove “quite harmful to the nation’s research enterprise.” He maintains that

copyright protection is important for assuring accuracy and authenticity of publications and maintaining the current publishing process.

The senior editors at PLoS have written a reply to Held and other critics who have, among other points, raised the specter of increased plagiarism in the absence of copyright protection. "Although some concern has been voiced about the consequences of excluding copyright protection, its removal will not leave authors or their works vulnerable to abuse," they say. "Copyright has not been used by publishers or individual authors to protect the integrity of the scientific literature. Rather, rigorous standards of behavior within the scientific community have provided the best deterrent from abuse (including against acts of plagiarism and misuse of another's work)."

Sabo is undeterred by the opposition his bill has met. "Clearly anytime that you are doing something different there are going to be people who are apprehensive and nervous about that. I have already heard from publishers

expressing their concern and I am sure there will be others. People in the publishing business will continue to have an important role but it will involve some change for them. But I have also heard from lots of people supporting the bill. This is just the beginning and it will probably take a while. But we are going to be pushing forward."

Since the bill's introduction, comment on the issue of access to research data has been made at a meeting of the House Appropriations Committee, which allocates the federal budget for the National Library of Medicine (NLM) – next year's budget will be US\$316 million. The Committee commended the NLM for its leadership in developing PubMed Central (see *Open Access Now*, July 28, 2003) and expressed its concern about "reports that there has been a significant change in the availability of research data internationally and a dramatic rise in medical research data subscription costs. NLM is encouraged to examine how the consolidation of for-profit biomedical research publishers, with their increased subscription charges, has

restricted access to vital research information to not-for-profit libraries." The Committee asked for a report by March 2004 on ways to ensure that taxpayer-funded research remains in the public domain and to alleviate restrictions on the availability of information.

The Public Access to Science Act is the boldest and most direct legislative proposal ever submitted on behalf of Open Access

Peter Suber

The Sabo Bill is likely to generate other legislative fallout. "I hope it has impact in other countries too," says

Congressman Sabo. Already there are signs in the UK that the call for Open Access to government-funded research is moving from the academy to the legislature. Dr Ian Gibson, UK Member of Parliament for Norwich North and Chairman of the House of Commons Select Committee for Science and Technology, has submitted a question to the new UK Secretary of State for Health that asks "what plans he has to ensure that all publicly funded research is recorded and made freely available to patients, health professionals, the public and members of the scientific community." Health Secretary John Reid is expected to answer Gibson's question by September 8.

The Sabo Bill will now go to a series of hearings and committees, starting with the Judiciary committee. "It's a long process that could take many months. Our system moves slowly," says Sabo. "I have no guarantee that it will become law. But we are expecting to stimulate lots of debate about this important issue."

Public Access to Science Act

108th CONGRESS 1st Session
H. R. 2613

To amend title 17, United States Code, to exclude from copyright protection works resulting from scientific research substantially funded by the Federal Government.

IN THE HOUSE OF REPRESENTATIVES

June 26, 2003

Mr. SABO (for himself, Ms. KAPTUR, and Mr. FROST) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend title 17, United States Code, to exclude from copyright protection works resulting from scientific research substantially funded by the Federal Government. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION 1. SHORT TITLE.

This Act may be cited as the 'Public Access to Science Act'.

SECTION 2. FINDINGS.

The Congress finds that—

- (1) the United States Government funds basic research with the intention and the belief that the new ideas and discoveries that result from the research will improve the lives and welfare of the people of the United States and around the world;
- (2) works of the United States Government are beyond the reach of copyright protection so that they will be freely available for the benefit of the people of the United States;
- (3) the United States Government spends \$45,000,000,000 a year to support scientific and medical research whose product is new knowledge for the public benefit;
- (4) the Internet makes it possible for this information to be promptly available not only to every scientist and physician who could use it to further the public good, but to every person with access to the Internet at home, in school, or in a library; and
- (5) United States Government funded research belongs to, and should be freely available to, every person in the United States.

SECTION 3. COPYRIGHT STATUS OF WORKS SUBSTANTIALLY FUNDED BY THE FEDERAL GOVERNMENT.

(a) FUNDING AGREEMENTS- Section 105 of title 17, United States Code, is amended—

(1) by striking 'Copyright' and inserting '(a) IN GENERAL—Copyright'; and

(2) by adding at the end the following:

'(b) FEDERALLY FUNDED WORKS- '1) IN GENERAL- Copyright protection under this title is not available for any work produced pursuant to scientific research substantially funded by the Federal Government to the extent provided in the funding agreement entered into by the relevant Federal agency pursuant to paragraph (2).

'(2) PROVISION IN FUNDING AGREEMENTS- Any Federal department or agency that enters into a funding agreement with any person for the performance of scientific research substantially funded by the Federal Government shall include in the agreement a provision that states that copyright protection under this title is not available for any work produced pursuant to such research under the agreement.

'(3) REGULATIONS- Each Federal department or agency that enters into funding agreements to which paragraph (2) applies shall issue regulations to carry out that paragraph.

'(4) DEFINITION- In this subsec-

tion, the term 'funding agreement' means any contract, grant, or cooperative agreement entered into between any Federal agency and any person for the performance of scientific research funded by the Federal Government. Such term includes any assignment, substitution of parties, or subcontract of any type entered into for the performance of such research'.

(b) EFFECTIVE DATE- The amendments made by subsection (a) shall apply to any funding agreement (as defined in section 105(b)(4) of title 17, United States Code, as added by subsection (a) of this section), entered into on or after the date of the enactment of this Act.

SECTION 4. SENSE OF CONGRESS.

It is the sense of the Congress that any Federal department or agency that enters into funding agreements (as defined in section 105(b)(4) of title 17, United States Code, as added by section 3(a) of this Act) should make every effort to develop and support mechanisms for making the published results of the research conducted pursuant to the agreements freely and easily available to the scientific community, the private sector, physicians, and the public.

Letters

Continued from page A1

Funding bodies should make Open Access a condition of awarding grants

Dear Sir,

As a researcher who has been funded for many years by public sources (primarily from CDC and NIH), it is my belief that the benefits of publicly funded research should be available to the public. They should not have to pay for it twice.

Public health research is not a private enterprise, but a public one by its very nature. Moreover public health is a global enterprise and must be freely available to everyone, including the developing world. None of us is safe until we are all safe. Freedom from requiring permission to read, copy and use research literature is also freedom of access.

Scientific information, at least in public health, is not private property, but most especially when it is financed with public funds. Government publications (such as *Environmental Health Perspectives*, one of the leading journals in my field) are already copyright-free, because they are government documents. That has not stopped any of us from trying to publish there.

I am co-Editor-in-Chief of an Open Access journal (*Environmental Health*, a BioMed Central specialty journal available at <http://www.ehjournal.net>).

I started the journal with one of my colleagues because I believe in Open Access and was appalled at the behavior of some of the commercial publishers who were slowly monopolizing the market, a trend that in itself I saw as a danger.

Dave Ozonoff
Boston University School of Public Health,
Boston, MA, USA

Send your letters to:
openaccess@biomedcentral.com

An author speaks...



Ross Upshur,
*Sunnybrook and Women's
College Health Sciences Centre*

Ross Upshur is the director of the Primary Care Research Unit at the Sunnybrook Campus of the Sunnybrook and Women's

College Health Sciences Centre. He has published nine articles in *BMC* journals.

What prompted you to submit your first article?

I was excited by the promise of rapid peer review and publication. I was also impressed by the direct links to PubMed.

How would you describe your experiences of publishing with BioMed Central?

I find BioMed Central a superb publisher to work with. It has, perhaps, the most flawless electronic submission process I have experienced with very few glitches and crashes. Peer review is prompt

and has been, for the most part, constructive and led to improvements in the papers submitted. The other chief virtue of *BMC* journals is their speed of review and very little lag time for publication. This reduces the wait for papers to appear in the literature. Indeed, one of our papers was cited by another *BMC* paper three days after it was posted, a time-span inconceivable in print-based journals.

What do you think you gained from publishing in an Open Access journal?

I believe an online Open Access journal extends the range of readership beyond the confines of libraries and subscriptions and truly opens up global communication of scientific ideas.

WWW?

A short guide to the players, stakeholders and technical terms relevant to Open Access publishing, 'WHAT, WHO and WHY?' keeps readers informed about the world of Open Access.



What is SPARC?

The Scholarly Publishing and Academic Resources Coalition, commonly known as SPARC, describes itself as a "catalyst for action". A non-profit organization, its overall mission is to make scholarly journals affordable. SPARC primarily operates in the science, technology and medicine (STM) arena. The European arm, SPARC Europe, is directly affiliated with SPARC but has a European remit and focus.

SPARC currently operates three main programs. The Alternatives Program provides lower cost, direct competitors to highly priced journals. The Leading Edge Program sponsors projects developing technological use or innovative business models. And the Scientific Communities Program supports the development of portals for distinct academic communities.

SPARC is also heavily involved in encouraging action from librarians and researchers. The Create Change campaign encourages advocacy, while Declaring Independence provides a

guide to running academic journals that are controlled by the community, rather than by commercial publishers.

Who is behind SPARC?

SPARC was created with the support of the US-based Association of Research Libraries (ARL). SPARC is open to institutions from the US, as well as the international academic and research community, and currently has about 200 members in North America, Europe, Asia, and Australia. SPARC members - primarily universities and libraries - support SPARC through annual membership fees.

The umbrella organisation for SPARC Europe is the Ligue des Bibliothèques Européennes de Recherche (LIBER), with additional support from organizations including JISC, a joint committee of UK further and higher education funding bodies.

Why does SPARC exist?

SPARC was launched in June 1998 by a group of libraries frustrated at high journal prices and the rapid rises in subscription costs. The founders established SPARC to promote competition in the scholarly publishing marketplace. The idea was to use libraries' combined buying power to aid the creation and growth of high-quality, low-priced peer-reviewed journals.

SPARC publishes the monthly *Open Access Newsletter*, edited by Peter Suber, which includes news and analysis about the Open Access movement. SPARC also hosts the *Open Access Forum*, an online discussion forum.

www.arl.org/sparc
www.sparceurope.org
www.createchange.org

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