



17 March 2008

Elias A. Zerhourni, MD, Director
National Institutes of Health
9000 Rockville Pike
Bethesda, MD 20892

Via: Email to [http://PublicAccessComments@nih.gov](mailto:PublicAccessComments@nih.gov)

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

Dear Dr. Zerhourni:

On behalf of the IEEE, we are writing in response to the announced implementation plans for the NIH Revised Policy on Public Access. As one of the world's leading not-for-profit scholarly publishers, the IEEE wishes to express concern that

1. The implementation of NIH Public Access pursuant to recent legislation embodied in the Consolidated Appropriations Act of 2008 (Public Law 110-161) appears to be proceeding with greater haste than is in the best interest of the public, and
2. The NIH should give serious consideration to enlisting experienced scholarly publishers to help implement Public Access Policy in a way that will provide maximum benefit to the public, and that
3. The NIH may not be fully aware of what we believe are important principles governing scholarly publishing. (See <http://www.ieee.org/web/publications/rights/PublishingPrinciples.html>).

As you recall, the Senate committee report (110-107) associated with the FY08 LHHS Appropriations Act directed NIH to seek publisher input to ensure that publishers' copyright protections are maintained under this new policy. The request for comments via web-based questionnaires and a brief public meeting to be held less than two weeks from the proposed roll-out of NIH's public access policy does not seem to adequately comply with this Senate directive. The IEEE is concerned that, in NIH's haste to move forward, it has not considered the full implication of the plan and we do not believe that speed to implementation is in the best interests of the public or publishers.

We urge NIH to consider a number of alternatives that do not compete with publishers' interests and that protect the copyright of publishers and their authors. With this in mind, we recommend that NIH consider the following:

1. A proposal to use services of experienced scholarly publishers, in lieu of developing a separate and costly repository of NIH-funded research. This could include a simple link from Pub Med Central to the publisher's final version of the published manuscript.
2. The SCOAP3 model (Sponsoring Consortium for Open Access Publishing in Particle Physics) for supporting NIH-funded research. This would assume that NIH would reimburse publishers for the cost of making NIH-funded research publicly available, in lieu of author payment. IEEE recently expressed an interest in working with CERN and the SCOAP3 group to experiment in this area.



IEEE's core purpose is to foster technological innovation and excellence for the benefit of humanity. The IEEE is also committed to providing access to scholarly and professional publications in a convenient, timely, and affordable manner. Late in 2007, the IEEE developed a set of "Principles of Scholarly Publishing" that we believe is important to carry out our publishing mission successfully. In principle, IEEE is supportive of alternative publishing models, like public access, as long as there is a business model to sustain these activities.

Among the publishing principles IEEE has adopted are:

- Society benefits from an objective and intellectually free scholarly publishing environment that is unfettered by censorship or bias based on personal, commercial, or governmental agenda.
- In order to perpetuate itself, scholarly publishing requires financial support from self-sustaining business models.
- Copyright and intellectual property rights of authors and publishers must be protected in any publishing activity, including those that involve government-mandated policies on access to government sponsored research.

We hope the NIH will respect the IEEE Principles Scholarly Publication as it implements the new public access policy, and again, we urge all parties to the discussion to read our entire set of principles at <http://www.ieee.org/web/publications/rights/PublishingPrinciples.html>.

We hope you will give some consideration to these points and that the HHS and NIH will provide for a full Notice and Comment Rulemaking, rather than this brief request for information, in order to provide ample opportunity to provide comment on this important implementation.

Sincerely,

A handwritten signature in blue ink that reads "John Baillieul". The signature is written in a cursive style with a prominent initial "J".

John Baillieul
Vice President, Publication Services and Products

A handwritten signature in blue ink that reads "Anthony Durniak". The signature is written in a cursive style with a prominent initial "A".

Anthony Durniak
Staff Executive, IEEE Publications