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January 21, 2010

Office of Science and Technology Policy  
725 17th Street, NW.,  
Washington, DC 20502

Re: Open Government Recommendations

This letter responds to the Request for Public Comment by the Office of Science and Technology Policy on public access policies for science and technology funding agencies across the federal government.

The Copyright Alliance supports the goal of ensuring public access to information, such as data and technical reports that result from scientific research supported by the federal government. However, writings such as journal articles that report on government-funded research but are the outputs of publishers do not fall into that category. Copyrighted works resulting from private sector investments and not directly funded by government should not be redistributed by government agencies without the authorization of the copyright owners.

The Copyright Alliance believes copyright law has been a strong driver of scientific research through the important role of scientific, technical and medical publishers. The Copyright Alliance also notes that if federal policymakers wish to alter the rights of copyright owners, it is typical to do so by amending the appropriate copyright statutes, not through executive action.

Imposing a requirement that scientific, technical and medical publishers surrender works they have peer reviewed and published, so that they then at a certain time can be posted on a government web site at no cost to the general public or reimbursement to the publisher, infringes on the publishers' copyrights, in particular their rights to reproduction and distribution.

OSTP should be aware that this very issue is being examined in the 111<sup>th</sup> Congress. House Judiciary Committee Chairman John

Conyers, Jr., has introduced HR-801, the Fair Copyright in Research Works Act. The legislation would support public access to results of research funded by the federal government, but would respect the rights of copyright owners in their works about such research in which they have invested. The Chairman has eloquently stated how his legislation supports scientific research and information dissemination:

“This bill will help restore the overall IP policy that was in place since the Bayh-Dole Act, Stevenson-Wydler, and the Copyright Statute were enacted. The congressional debates on these laws back then are equally relevant today. We expressly gave our Nation’s scientists broad intellectual property rights in government-funded science to incentivize the advancement and dissemination of science and to allow for public private partnerships.”

The Copyright Alliance supports OSTP’s mission to promote a more educated and informed public while at the same time promoting continued cutting-edge research in the U.S. scientific community. We feel that these goals are not incompatible with the maintenance of the rights of copyright owners, and that changes to a copyright owner’s rights are best pursued through amending copyright law.

Thank you for your attention,

A handwritten signature in black ink, appearing to read "Patrick Ross", written in a cursive style.

Patrick Ross  
Executive Director  
Copyright Alliance