



INTERNATIONAL ASSOCIATION OF SCIENTIFIC, TECHNICAL & MEDICAL PUBLISHERS

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European Commission
Information Society
Public Sector Information

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STM submission on the on-line survey on the PSI Directive

The International Association of Scientific, Technical and Medical Publishers ("STM") comprises approximately 100 publishers of journals and reference works, based in 26 countries, including in many Member States of the European Union. EU-based publishers publish 49% of all research articles worldwide (STM's members may originate approximately 2/3 thereof), employing 36,000 staff directly and another 10-20,000 indirectly, and make an Euro 3 billion contribution to the EU's balance of trade. Apart from publishing in print, STM publishers originate and disseminate online, books, journals databases and individual articles and contributions (hereinafter: "Content") of a multitude of European and international scientific, medical and technical authors and scholars. This creative Content is available widely in electronic and in print form for access by individuals, whether through academic and corporate libraries or directly, for use in research, education, in industry, the professions and business.

STM welcomes this opportunity to make its submission as part of the on-line survey on the Directive 2003/98/EC on the re-use of public sector information ("PSI Directive").

STM's interest representative ID number is: 98356852465-08.

STM wishes to contribute constructively to the debate by giving its opinion on what STM believes to be the most important topic (Question about Substance, Scope (Article 1) in the on-line survey) which is considered for possible amendments.

STM fully supports the clear expression in several recitals and Articles of the PSI Directive that copyright and the value-add of the private sector must be respected in the way the PSI Directive is applied.

One consequence of this basic decision at the time of enacting the PSI Directive was also the exclusion in scope of certain public sector institutions that to a large extent are in the business of acquiring and collecting private sector information and copyright-protected works and materials which may also enjoy the *sui generis* protection of databases.

STM views a possible amendment of the PSI Directive as to those sectors currently excluded in terms of Article 1(d), (e) and (f) of the PSI Directive as a source of potential pitfalls. To the extent that a modification of Article 1(f) is considered (dealing with cultural establishments), great care must be taken not to deviate from the basic choice of only including information generated by the public sector as within the scope of the PSI Directive, and not for example with respect to the value-added contributions of the private sectors. The same applies to any potential changes to Article 1(d) (dealing with private and public broadcasting organisations).

For the same, but even more accentuated reasons and also for the considerations below, Article 1(e) (dealing with educational and research establishments) should, in STM's view, not be changed.

Vast amounts of third-party materials which might potentially be included in the scope of the Directive are systematically acquired by the said establishments and institutions, are private sector information in which copyright subsists. In many cases the publishing industry specifically produces and publishes books, journals and other protected content precisely with the institutional market in mind. The said establishments constitute therefore the primary markets for private sector publishers who during the last years have heavily invested and embarked in major digitization projects to convert printed collections into digitally accessible products and services.

Publishers now also publish "born-digital" documents precisely to serve these cultural establishments and institutions and the public at large. They are trusted partners for the long-term preservation of the copyright-protected materials which they produce and publish. To include these materials in the extended scope of the PSI Directive would send the wrong message, given that these materials are already adequately made available by the private publishing sector. Including these materials within the scope of the PSI Directive and encouraging efforts to re-use them, whether commercially or non-commercially, would amount to duplication of the private sector efforts and potentially lead to the creation of a competing public publishing sector, which clearly would be totally beyond the PSI Directive's intention and scope.

Any amendments to the PSI scope must therefore ensure that incentives for such investments – including copyright protection for the resulting value-added products and services – are preserved and strengthened.

Considering Article 1(f) there might be certain circumstances when material in the public domain held by cultural establishments such as museums could serve as a source of information used by publishers to create new works. For example publishers in the disciplines of SSH (Social Sciences and Humanities) might want to re-use those public domain items. It is however understood that those public domain items are owned by the museum and no third party holds intellectual property rights relating to them.

Where the currently excluded public sector institutions require the rights to disseminate private sector information as part of their mandate, publishers are of course willing to grant them the required licences on commercial terms. Thus, for instance, a number of libraries make documents available based on licensing arrangements with publishers.

STM does not object to the inclusion of raw data and certain forms of so-called grey literature in the scope of the PSI Directive, where such raw data or grey literature has been created by the public sector and the copyright subsisting therein is owned by the public sector. The best way to make such raw data and grey literature available may well rest in the formation of public-private partnerships.

In conclusion, STM strongly disagrees with amending the PSI Directive to include additional sectors without first clarifying what the scope of the mandate is that the institutions in that sector cover and whether or not the said mandate is not already served by the private sector.

Very truly yours,

A handwritten signature in black ink, appearing to read "Michael Mabe", with a long horizontal flourish extending to the right.

Michael Mabe,
Chief Executive Officer

Cc: Federation of European Publishers