



INTERNATIONAL ASSOCIATION OF SCIENTIFIC, TECHNICAL & MEDICAL PUBLISHERS

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The Hague, 15 September 2008

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**STM submission on the Consultation on the  
Public Sector Information**

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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 Consultation on Public Sector Information and the Directive 2003/98/EC.

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. STM understands that the present consultation is not seeking to reverse this fundamental decision which is in the interest of the EU cultural sector and the information and knowledge society in it.

One consequence of this basic decision at the time of enacting the PSI Directive was also the exclusion 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.

For this reason, STM views the possible extension of the PSI Directive to those sectors currently excluded in terms of Article 1 (d), (e) and (f) of the PSI Directive as a source of potential pitfalls: Vast amounts of third-party materials which would potentially be included in the scope of the Directive and 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.

In particular, STM objects to the notion expressed in paragraph 3(ii), page 4, of the Consultation Document on the Review of the PSI Directive.

The said paragraph suggests that European cultural establishments, education and research organisations and public service broadcasters may pursue social and economic goals and thereby engage in "commercial and non-commercial re-use of material" they hold and in respect of which they have "embarked in major digitisation efforts". The said institutions constitute primary markets for private sector publishers. Moreover, private sector publishers themselves have embarked on large digitisation programmes and now also publish "born-digital" documents precisely to serve these cultural establishments and institutions and the public at large. Publishers also 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, namely, that these materials are already adequately made available by the private sector 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 sector publishing sector, which clearly would be totally beyond the PSI Directive's intention and scope.

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 licenses 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, currently the subject of the High-Level Group on the EU i2010 Digital Library Initiative.

In conclusion, STM would not be in favour of extending the PSI Directive to 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,



Michael Mabe,  
Chief Executive Officer

Cc: Federation of European Publishers