



EUROPEAN COMMISSION  
IMPACT ASSESSMENT BOARD

Brussels, D(2011)

## Opinion

**Title**                                    **DG INFSO/DG RTD - Impact Assessment on Access to and Preservation of Scientific Information in the Digital Age (draft version of 9 November 2011)**

### **(A) Context**

Knowledge and innovation are essential to future growth. Europe is committed via its Europe 2020 strategy to become a competitive knowledge-based economy, by improving the production of knowledge, but also the dissemination and sharing of scientific results obtained through publicly funded and co-funded research. With the growing use of the Internet, the scientific community has greater opportunities for the electronic dissemination of research results. The open access (OA) principle aims at providing free on-line access and re-use of knowledge in the form of scientific publications, data, monographs and related materials. Following the Communication on scientific information in the digital age (COM(2007)56 final), the Commission has launched an Open Access Pilot in the 7th Framework Programme in 2009. The IA report focuses on the access to and the preservation of digital scientific information, as instruments to foster an innovative Union.

### **(B) Overall assessment**

**The report does not allow for informed decision-making. It needs a considerable amount of further work to present the analysis in a more structured, precise and accessible form, and to clarify a number of significant key issues. Firstly, the problem definition should be more focused, presenting a clear and structured analysis of the concrete problems to be addressed and the underlying drivers. A more developed baseline scenario should be presented to indicate how the market and regulatory situation would evolve without EU action, as a demonstration of the need for and value added of further EU action. Secondly, the report should demonstrate the intervention logic by defining objectives that correspond much more closely to the concretely identified problems and by presenting a broader range of substantial options that can address them. Thirdly, the report should considerably strengthen the assessment of impacts by providing greater clarity on the expected cost and benefits, including costs for the public sector. Fourthly, the report should compare the options in a more transparent way, and explicitly state the criteria by which the preferred option would be selected. Finally, it should present stakeholder positions throughout the text.**

**Given the nature of these issues, the IAB requests DGs Information Society and Media, and Research and Innovation to resubmit a revised version of the IA report on which it will issue a new opinion.**

### **(C) Main recommendations for improvements**

**(1) Strengthen the problem analysis, the baseline scenario and the necessity of EU action.** The problem definition should be more focused, presenting a clear and structured analysis of the problems and the underlying drivers, using examples of practices from the Member States as well as evidence collected in the evaluation of the OA Pilot in FP7, to illustrate concrete problems. On the basis of a clear definition of "EU-funded research" and "publicly-funded research", the report should distinguish more clearly between publications and data, and separate the analysis of access and preservation issues. In this context, it should also analyse the consequences of OA on copyrights, use of licenses and Intellectual Property Rights, where relevant. The report should explain why this initiative has been launched ahead of the Framework Directive on the European Research Area, and clarify whether there are any links with the recent initiative on public sector information, notably with regard to pricing strategies. The baseline scenario should be further developed, taking into account expected market and regulatory developments at Member State, EU and international level, as well as the intended handling of the VAT problem. The report should indicate to what extent existing EU legislation and international rules apply, and whether they constrain possible EU intervention. The report should explain to what extent the new rules of participation for the Horizon 2020 research framework can ensure Open Access to data and to results of EU-funded research. The report should better explain the necessity of EU action by describing in more detail why actions by Member States alone would not suffice.

**(2) Improve the presentation of the intervention logic.** The objectives should correspond closely to the specific problems to be addressed by this initiative. Where it has been a conscious decision not to address particular problems, this should be clearly explained up-front. The specific objectives in section 3 should be brought in line with the scope of the initiative. Operational objectives should refer to clearly timed and specified targets: they should address the kind of actions that the Member States ought to take when implementing the initiative. Possible priorities and trade-offs between different objectives should be clearly indicated. Following a more focused and coherent presentation of objectives, the report should present more substantive options, providing transparent information about possible differences between the envisaged action, rather than focusing mainly on different delivery instruments.

**(3) Better present the expected impacts.** The analysis of the impacts should be further developed in the main text based on realistic expectations with regard to implementation and compliance patterns in the Member States. The way in which changed practices would influence contractual relations between researchers and publishers should be better assessed. The report should also discuss the possibility that third parties, including international competitors (e.g. US, India, China), would unilaterally benefit from a more intensive use of OA in publicly funded research in Europe, and evaluate the consequences for the competitiveness of European industry and research. The report should clearly identify the expected benefits of OA for the various stakeholders, as well as the expected costs for Member States. Presented cost and benefit estimates should be clearly explained, including their underlying assumptions and level of robustness. The report should also address the possible effects of OA obligations on publishers and on access to international journals, which may object to limitations of their publishing rights. The report should assess impacts on research funding, and address the possibility of a crowding-out of direct support to research by outlays to cover additional publishing costs.

**(4) Provide a clearer comparison of the options.** The report should more clearly compare the broadened set of options on the basis of the criteria of effectiveness, efficiency and coherence. In particular, the effectiveness of the soft law option should be more explicitly assessed. In the comparison table the baseline option should always score 0 by definition. The report should explicitly state the criteria by which the preferred option would be selected. It should also explain in particular the focus on SMEs as main beneficiaries despite their apparent lack of interest to respond to the public consultation.

**(5) Better present the results from the stakeholder consultation.** The report should summarise, in the main text, the analysis of the answers collected from the stakeholders' consultation, and include references to the different opinions of specific stakeholder groups, with regard to the problem, the objectives and the range and content of proposed policy options.

*Some more technical comments have been transmitted directly to the author DG and are expected to be incorporated in the final version of the impact assessment report.*

#### **(D) Procedure and presentation**

The report should be presented in a more structured and accessible form for the non-expert reader. Key concepts (gold/green OA, embargo period, publicly-funded research, etc) should be clearly defined, perhaps in a glossary. The statements made in the main text should be corroborated by evidence, e.g. by providing references to existing studies. Clear references should be given throughout the report whenever quotes are given from existing Directives, proposed initiatives, or other legal and policy documents. Internet links should be verified.

#### **(E) IAB scrutiny process**

Reference number	2011/INFSO/RTD/031
External expertise used	No
Date of Board Meeting	7 December 2011.