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Gulf on Open Access to Federally Financed Research

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During the next few weeks, the Obama administration's Office of Science and Technology Policy will submit to Congress a progress report on its search for a balanced approach to the contentious and complex question of how government-financed scientific research should be disseminated in the digital age.

Advocates of "open access," who include many scientists, libraries and universities, say that reports of scientific discoveries paid for by government grants should be made available on the Web immediately and without charge to anyone who wants to see them.

Opponents, which include many private and nonprofit publishers and many professional societies, argue that an unfettered policy would bankrupt journals and make a shambles of the peer-review and article selection system that has served the world scientific community for centuries.

Both sides have bills pending before Congress, and both have bipartisan support, but sponsors of legislation favored by publishers said Monday that they would not push their bill in this session, and neither measure seemed likely to move forward in an election year.

Despite the lack of movement, current evidence suggests that Congress has little enthusiasm for either extreme — full open access or an affirmation of the traditional system. Instead it appears to be moving toward a middle ground. The Obama administration's report will take an even more measured approach and is not expected to make specific recommendations.

"We are developing policy objectives," said Michael Stebbins, the assistant director for biotechnology in the Office of Science and Technology Policy who is helping oversee the report's preparation. "We would like to maximize the availability of the results of federally funded research to get the most out of public investments, but want to balance that need against any potential harm that policies might have on publishers."

The battle over scientific publishing was joined a decade ago when researchers realized that the Internet rendered obsolete the core of the traditional business model — that dissemination of key discoveries could be accomplished only by mailing out results in

hard-copy journals. Publishers recouped their costs and made their profits through subscriptions and advertising.

The Internet brought a clamor from many scientists and interest groups for open access — making papers instantly available on the Web. Michael B. Eisen, a molecular biologist at the University of California, Berkeley, and a founder of the open-access [Public Library of Science](#), [argues](#) that with the advent of the digital age, “the notion that the good of science is served in any way by giving it to publishers evaporates.”

Commercial publishers, and many nonprofits, however, emphasize that their role extends far beyond merely mailing out scientific reports. The journals convene peer-review panels, select the papers and edit them. If the government required open-access publication of these carefully prepared research papers, it would be “infringing upon and taking without compensation the added value the journal provides,” said Allan R. Adler, vice president for legal and governmental affairs for the Association of American Publishers.

The federal government, in the Consolidated Appropriations Act of 2008, established a legislative starting point to deal with this impasse, requiring researchers financed by the National Institutes of Health — \$25.7 billion in grants annually — to post their final peer-reviewed papers on its free-access Web archive [PubMed Central](#) no later than a year after publication. Scientists who wanted the new papers immediately could get them by subscription or by paying publishers a premium for electronic copies.

The program appears to be a success. Well over a million researchers and interested nonscientists are using PubMed Central every day, and publishers are not going bankrupt, although Mr. Adler warned that it was too early to assess the damage the policy is causing their industry. And open-access advocates are not satisfied with the N.I.H. model because it falls short of true open access and, in Dr. Eisen’s words, is thus “not enough.”

The debate between these two extremes has been remarkably vitriolic, in part, perhaps, because neither side has been completely honest. Mr. Adler would not discuss publishers’ profit margins, and open-access advocates frequently say that the journals are low-overhead cash cows that are gouging the public. Open-access scientists, on the other hand, are less than candid about how important it is to their careers to be published in prominent traditional journals. If scientists truly wished to kill the system, all they would have to do is withhold submissions.

It was this nasty standoff in part that prompted the House Committee on Science, Space and Technology in 2010 to assemble a task force of stakeholders to ask the White House to review the debate and present options. Publishers were also afraid that the Obama administration was going to impose an open-access policy without consulting them.

“No one was satisfied with the way this was going — folks from all sides were coming to us,”

said Bart Gordon, a Tennessee Democrat and former Science Committee chairman now retired from Congress. “We were most of all a convener, and tried to do it outside the spotlight so people didn’t have to posture as much.”

The results of their work appeared in the America Competes Reauthorization Act last year, calling on the administration to prepare the coming report on possible dissemination policies for all government agencies with an annual research budget of \$100 million or more. There are about a dozen of these.

In December, with the administration’s deadline approaching, Representative Darrell Issa, Republican of California, the chairman of the House Committee on Oversight and Government Reform, and Representative Carolyn B. Maloney, Democrat of New York, a committee member, introduced the Research Works Act, which would prohibit federal agencies from disseminating research without the prior consent of the publisher. The bill tracked closely with similar 2008 legislation — never brought to a vote — that sought to roll back the N.I.H. experiment as an infringement of publisher-held copyrights. The Research Works Act appeared to do the same thing.

Then early this month, both the Senate and House introduced a competing bill, the Federal Research Public Access Act of 2012, another measure with antecedents in past Congresses, which essentially extends the N.I.H. program to all federal agencies with outside research budgets of \$100 million or more, and limits the embargo on public access to six months.

Neither bill is expected to move forward this year. Mr. Issa and Ms. Maloney said in a statement on Monday that they “will not be taking legislative action” on the Research Works Act, which has no other sponsors. They acknowledged that greater public access “appears to be the wave of the future,” but emphasized that the transition must be “collaborative” and “must respect copyright law.”

The Issa-Maloney statement coincided Monday with the announcement by Elsevier, the Amsterdam-based publisher of about 2,000 scientific journals and a leading backer of the Research Works Act, that it was withdrawing its backing for the bill, “although we continue to oppose government mandates in this area.” More than 5,700 researchers had joined a [boycott of Elsevier](#), in part for its support of the bill.

The Public Access Act (two House sponsors) is in a different position. Some supporters may regard it as a way station on the legislative road to full open access at a later time, but its Congressional backers have a different idea. For them, the N.I.H. is a viable model and the Public Access Act, or something like it, could be the last word.

“We’re not looking to put publishers out of business,” said Representative Mike Doyle, the Pennsylvania Democrat who introduced the bill. “My purpose is not to go to complete open-access. We see the bill as a reasonable middle ground. The N.I.H. is proving that it

works.”