



Critique of ongoing “Economic analysis of options for improving EU legislative and regulatory frameworks with impact on access and reuse of publicly funded R&I results and of publications and data for scientific purposes”

8 December 2025

Executive summary

The undersigned organisations wish to express strong concerns with the design of this study and questionnaire administered to publishers with regards to the Secondary Publication Right (SPR) and the research exception.

Despite continued and detailed feedback provided challenging the necessity of regulatory intervention for the stated purposes under any of the envisaged scenarios, the approach taken reveals basic methodological flaws, showing a predisposition toward confirmation bias and closing off potential options, while creating risks of potentially legally-problematic scenarios becoming a reality. Its structure requires speculative quantification, frames regulatory change as inevitable, assumes causality between events and limits nuanced input.

While we appreciate the addition of some open-ended text boxes in response to our request, we are still unable to fill out the bulk of the questionnaire with sufficient confidence because much of the requested data does not exist. In some cases, we are further restricted by competition law.

As a result, the questionnaire’s current design risks producing biased and misleading conclusions, which will not accurately capture the perspective of publishers, nor reflect the potential impact of policy interventions on the academic publishing ecosystem.

We strongly believe this important topic deserves a thorough and rigorous analysis. In that spirit, we have developed a set of recommendations intended to help steer the process toward credible, constructive, and effective outcomes.

Recommendations for improvements

1. **Ensure balanced language:** Leading terms should be avoided, and positive and negative potential outcomes should both be presented equally.
2. **Avoid binary framing of regulatory intensity:** Questions present only 'lighter' and 'stronger' regulatory options. This characterisation is simplistic and misleading, given that the two scenarios selected are already the most extreme ones. It limits nuanced discussion and explicitly endorses regulatory change. The policy framing should be broadened to obtain sufficient data to be able to actually compare a variety of policy interventions rather than binary options – including options not to intervene and other, more gradual scenarios.
3. **Find alternatives to quantification of impact:** The questionnaire asks respondents to provide percentage changes in revenue, costs, and other metrics. This approach oversimplifies complex realities and tries to

force speculative answers including where data does not exist. The survey asks for quantitative assessment of the impact of SPR regimes without understanding that they differ widely (e.g., length of embargo, threshold for public funding, article versions, etc.). It is unclear how this could be collectively quantified and how those responses would be useful. Beyond these problematic aspects of the approach, EU and national competition law prohibits trade associations, which includes the undersigned associations, from discussing, collecting or disseminating commercially-sensitive information or strategic data, precisely the type of information these questions seek. Unless such information is legitimately in the public domain, these exchanges may infringe competition law. Our members find themselves in a similar position.

4. ***Solicit information that does not presume causality:*** The survey assumes that the impact of SPR can be distinguished from the many other factors influencing the scholarly communication chain and attributes changes in publishers' financial performance to existing SPRs without accounting for other market or regulatory factors. Without deep and costly research per-publisher and per-country, it is not possible for publishers to explain or refute such correlations. Reporting minimal impact may be used to justify expanding SPR, while significant impact could be seen as evidence of policy success or need for further intervention. The reality is more complex. We recommend clarifying how confounding factors will be addressed in the study.
5. ***Ensure all questions allow for open-ended responses:*** The overly simplified design of the questionnaire with its predominance of closed-ended and numeric value-oriented questions restricts publishers from providing necessary context or alternative perspectives. Initially, there was also no opportunity, except in the final text box reserved for final thoughts, for publishers to address with any substance the proposal to introduce a mandatory copyright exception for research. This situation has been addressed and additional open ended questions were added, but only for a portion of the survey. In this way, respondents are not allowed to explain cumulative effects or uncertainties, creating a situation where any answer could be used prejudice publishers' work. Without the opportunity to provide nuanced or multifaceted answers, the survey data may skew perceptions and potentially influence policy or public opinion based on incomplete information. We recommend considering qualitative input going forward, to allow respondents to provide context, and explain complexities and uncertainties in their own words. This will lead to richer and more comprehensive research.
6. ***Avoid leading question design:*** The survey assumes that the proposed interventions will enhance the dissemination of knowledge, yet there is no evidence such outcomes would materialise. At the same time, potential significant risks – such as the weakening of peer review and the erosion of the integrity of the scientific record – receive little or no consideration.
7. ***Ensure proper assessment and avoid generalisation of results:*** whilst the study mainly explores academic publications accessed and reused for scientific purposes, other content types might be impacted by some of the interventions considered. Further assessment of impact must be conducted for those publishers whose content is produced without public funding and whose sustainability depends on editorial investment, timeliness, licensing, and legal certainty. In particular, assumptions of automatic public benefit from expanded access or reuse are not transferable. It is therefore essential that the study's limitations are clearly acknowledged and that its findings are not extrapolated beyond the specific context in which it is carried.

We, signatories, stand ready to further engage on this crucial topic for our memberships, and collaborate with the EU Commission and other stakeholders to support effective, evidence-based policy-making.

Signatories

ALPSP, the Association of Learned and Professional Society Publishers, is the international trade association which supports and represents not-for-profit organizations that publish scholarly and professional content. Our diverse membership encompasses society, university, and traditional publishers, alongside their associated communities. We have 320 member organizations spanning 35 countries dedicated to the principles of accuracy, reliability, and trustworthiness in information dissemination.

EMMA, the European Magazine Media Association, is the unique and complete representation of Europe's magazine media, enjoyed by millions of consumers on both paper and digital formats, covering automotive, business, financial, news, children, comics, teenage, general interest, home, men's and women's titles, TV guides, B2B and scientific journals. See: www.magazinemedi.eu/

ENPA, the European Newspaper Publishers' Association, is the largest representative body of newspaper publishers across Europe, promoting press freedom and authoritative news content on print and digital formats. ENPA is a principal interlocutor to the EU institutions and a key driver of media policy debates. See: www.enpa.eu/

EPC, the European Publishers Council, represents the Chairmen and Chief Executive Officers of Europe's leading publishing groups, spanning news media, magazines, academic journals, books, digital publishing and broadcasting. EPC works to ensure effective copyright protection, fair and functioning editorial media markets, and the long term sustainability of professional publishing and independent journalism in Europe.

FEP, the Federation of European Publishers (FEP) is an independent, non-commercial umbrella association of European book publishers' associations. FEP represents 29 national associations of publishers of books, learned journals and educational resources from all over Europe. FEP is the voice of the great majority of publishers in Europe. Founded in 1967, FEP deals with European legislation and advises publishers' associations on copyright and other legislative issues. Based in Brussels, FEP in Brussels and acts on behalf of its members in discussions and negotiations with the institutions of the European Union, according to its core principles: freedom to create and to publish, respect of copyright, cultural diversity, reading promotion.

IPA, the International Publishers Association, is the world's largest federation of publishers associations with 105 members in 84 countries. Established in 1896, the IPA is an industry body with a human rights mandate. The IPA's mission is to promote and protect publishing and to raise awareness of publishing as a force for economic, cultural and social development. Working in cooperation with the World Intellectual Property Organization (WIPO) and numerous international NGOs, the IPA champions the interests of book and journal publishing at national and supranational level. Internationally, the IPA actively opposes censorship and promotes copyright, freedom to publish (including through the IPA Prix Voltaire), and literacy.

STM, the international trade body representing academic publishers, supports members in their mission to advance research worldwide. Our over 140 members based in over 20 countries around the world collectively publish 66% of all journal articles and tens of thousands of monographs and reference works. As academic and professional publishers, learned societies, university presses, start-ups and established players we work together to serve society by developing standards and technology to ensure research is of high quality, trustworthy and easy to access. We promote the contribution that publishers make to innovation, openness and the sharing of knowledge and embrace change to support the growth and sustainability of the research ecosystem.