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## **Comments on EU COM report “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”**

16 June 2026

As ALPSP, EMMA ENPA, EPC, FEP, SocPC, and STM, we represent a broad cross-section of the publishing sector, including commercial, society, and independent houses across academic, news and book publishing. We support the dissemination, validation and long-term stewardship of the knowledge ecosystem.

We have followed this policy workstream closely over time, previously shared our assessment and would like to take the opportunity to share our observations in response to the economic analysis report released on 30 April 2026.

Our interest is grounded in a strong commitment to advancing trusted knowledge circulation, but also in ensuring that policy choices are rooted in robust evidence and support sustainable publishing approaches across a diverse European ecosystem. Against that backdrop, while the report contains some findings that align with points previously raised by the sector, it also reveals important methodological and evidentiary weaknesses that, in our view, should be carefully considered before drawing policy conclusions.

### **Key takeaways from the economic analysis report**

Significant failings were already evident in the study’s design and data collection phase and are confirmed in the final report, which draws conclusions far beyond what the evidence would support. In particular, we highlight:

- reliance on perception-based evidence in place of measurable impact data, incomplete scenario coverage, and significant gaps in the representation and classification of the publishing sector;
- that any material effect from the Secondary Publication Right (SPR) would depend on implementation choices that actively undermine the real existing drivers of Open Access (OA) transition and disproportionately affect the small, society and micro publishers that make up the majority of the European publishing ecosystem – despite benefits that remain largely hypothetical rather than demonstrated,
- that a sufficiently robust evidentiary basis is not established for legislative change on the research exception.

Despite the methodological flaws, we are nonetheless in agreement with some of the core findings of the report, which correctly:

- finds limited real-world SPR effect where it exists,
- admits the OA baseline in Europe is already high (reducing headroom),
- recognises that OA uptake is driven by factors other than the SPR (mostly transformative agreements, TAs), which are a demonstrated success achieved in partnership with publishers.

## Looking ahead

- Ultimately, achieving Europe's shared objectives on access, reuse and research performance will require more than top-down policy intervention alone. We therefore invite the European Commission to work closely with publishers, authors and other stakeholders to develop practical, sustainable solutions that support innovation and openness while respecting the fundamental freedoms, rights and legitimate interests of publishers, learned societies and researchers on which high-quality scholarly communication depends.
- We encourage and stand ready to support any future research or policy reflection in this area, with the aim of helping ensure that subsequent studies are methodologically robust, evidence-based, and fully representative of the diversity and realities of the European publishing sector.

## Detailed observations

### Data coverage and representativeness issue

Our previously expressed concerns regarding the data collection and analysis remain and are reinforced by the report:

- **Survey and interview evidence should not be treated as a substitute for hard impact evidence:** stakeholder perceptions are valuable in identifying issues such as awareness, ambiguity and operational burden, but they do not demonstrate macro-level outcomes such as changes in OA share, research efficiency or innovation performance. Policy interventions of this scale should not rely primarily on perception-based survey findings, particularly where robust impact evidence is limited and the risks to the competitiveness and quality of the research ecosystem are potentially significant.
- We flagged during the data-collection phase that the **scenarios considered were incomplete** because they entirely omitted scenarios involving embargoes on the Accepted Manuscript (AM). It is therefore **not clear what data was used for Scenario A**, since the relevant data was not collected as part of the study. This looks like a post-factum correction.
- The study acknowledges limitations in capturing not-for-profit and society publishers and the difficulty of comprehensive verification. Reliance on the Orbis database and manual screening raises questions about **selection bias toward commercial entities** that are more legible in corporate registries. During the study itself, many publishers did not receive the survey directly and struggled to engage with the process, further increasing the risk that relevant parts of the sector were left out. Even those publishers who were able to engage with the process struggled to quantify the impact of the proposed measures, compounding the lack of usable data. Policy conclusions about competitiveness, concentration, and vulnerability of "small/community publishers" depend heavily on accurate industry structure data. If **non-profit/society and smaller specialist publishers are undercounted or mischaracterised**, the impact distribution could be equally mischaracterised. Even for commercial entities, **the mapping of publishing groups/subsidiaries appears incomplete and contains inaccuracies** e.g., Springer Nature is identified as a subsidiary of Medlock Limited when there is no connection between the two and big European academic publishers are missing, including RELX/Elsevier and Wiley-VCH Verlag GmbH & Co.

## SPR – baseline/open-access dynamics/impacts are not sufficiently controlled

- **The available evidence on SPR impact appears limited and does not demonstrate a consistent causal effect:** existing national Secondary Publication Rights (SPR) have shown limited or no measurable impact on overall OA shares, with transformative agreements appearing to be the bigger driver of OA in Europe and Green OA (self-archival) not increasing following the introduction of SPR.
- **Empirical signal for SPR is weak and confounded:** it is difficult to extrapolate confidently to EU-wide effects and recommending EU-wide intervention.
- **“High OA baseline” calls into question the scale of additional gains attributable to SPR:** the already-high OA uptake (60-70%) caps marginal gains, while risks to investment incentives and service continuity may be proportionally larger. Thus, “incremental benefit” arguments need to be realistic – even in strong SPR settings as those would undermine the factors that sustained the achievement of 60-70% OA in Europe in the first place. Yet several scenario narratives still imply meaningful “system-level” access effects.
- With an already high baseline, the case for **major regulatory intervention should meet a high evidentiary threshold** and should be backed by positive evidence of effect<sup>1</sup>. Instead, the evidence presented shows that SPR adds regulatory complexity to a transition already being driven actively through other mechanisms.
- **Effects of strong SPR implementation may disproportionately impact small and society publishers and learned societies** – which make up the majority of the European ecosystem.
- **EU-specific obligations could create competitive asymmetries at international level:** the study benchmarks EU policy options against Canada, Japan, the UK and the US, and in doing so points to a wider international context in which equivalent requirements do not appear to apply. This raises a legitimate concern that additional EU-only obligations could place EU-established publishers at a structural disadvantage in areas such as author attraction, licensing negotiations and broader commercial operations. That risk should be assessed carefully in evaluating proportionality when assessing likely effects of further intervention. This also puts researchers in a difficult position when it comes to international collaboration.

## Mischaracterisation of scholarly publishing dynamics

- There is an assessment of publishing costs, but it is not clarified that publishing spend is proportionally small relative to total research investment: the report estimates €4bn publishing expenditures, compared to estimated €81.7 billion on research which equals to ~5%<sup>2</sup>.
- While the report refers to concerns about “double dipping”, this characterisation does not accurately reflect how TAs operate in practice. These agreements were developed jointly by publishers and libraries precisely to manage the transition between subscription and open access models through a single, central “read and publish” arrangement. They therefore cover two

<sup>1</sup> [https://commission.europa.eu/law/law-making-process/better-regulation\\_en](https://commission.europa.eu/law/law-making-process/better-regulation_en)

<sup>2</sup> <https://ec.europa.eu/eurostat/web/products-eurostat-news/w/ddn-20241211-2>

distinct functions within one framework, but **at article level the payment is for either access to published content or publishing new articles, not both.**

- The study derives connections between the introduction of the SPR and growth in both hybrid and Diamond OA, whereas those are both funded OA models and a distinctly different route from self-archival of a subscription article, which the SPR enables. The **lack of proved causality** was confirmed during the presentation of the study, where it was added that the team couldn't explain exactly why SPR would lead to more hybrid OA, and their best guess is that this result likely reflects other developments happening at the same time – especially the introduction/expansion of transformative agreements or similar parallel policy/market changes – so effectively disproving the claimed connection.
- It is not clear **how the SPR is expected to work**, given it is not a model in itself and exists only for subscription articles, and for it to produce measurable gains, it would need to actively undermine Gold and Hybrid OA towards subscription-based journals, directly damaging the routes that are actually delivering the OA transition.
- The study's treatment of **peer-review costs** appears to equate those costs primarily with the aggregate time contributed by external reviewers. That approach risks understating the full costs incurred in practice, as publishers also bear the infrastructure and coordination costs required to run peer review effectively, including management systems, editorial administration, reviewer identification and assignment, follow-up, and quality-control processes. A fuller assessment of peer review should therefore reflect both the distributed contribution of reviewers and the organisational systems needed to make that contribution function at scale.

#### Findings on the research exception are inconclusive

- **Internal tension in the research-exception analysis:** the report suggests that broader sharing and reuse would generate gains, but it waves off how those gains could harm both primary and secondary licensing since there are market solutions for those uses. If access still depends on subscriptions, then any expansion of downstream sharing and reuse needs to be assessed against the risk of displacing licensing revenues and weakening the commercial basis on which those services are provided so the finding that “primary licensing isn't expected to be impacted” is not robust.
- **Costs/impacts cannot be credibly estimated without implementation detail:** absent clarity on the scope and conditions of the exception (e.g., on the use of a “secure technical environment”), any assessment of costs remains inherently speculative. Because the policy options are only “stylised representations,” stakeholders themselves had difficulty estimating likely impacts and outcomes depend heavily on how key elements are ultimately defined and implemented in legislation and practice.
- **The study does not provide a clear evidentiary basis for legislative change on the research exception, because its own findings repeatedly acknowledge that the evidence is limited, context-dependent, and ultimately inconclusive.** The report states that the expected economic effects of changes to the scientific research exception are “inherently difficult to measure directly,” that there is an “absence of robust, harmonised quantitative data at EU level,” and that

the broader evidence base is “relatively thin and fragmented,” with “empirical evidence on exceptions ... limited”. On this basis, the report explicitly avoids point estimates and instead assesses impacts only in terms of expected direction and relative scale. Taken together, these admissions show that the study does not establish a sufficiently robust empirical foundation for reform of the research exception.

### **Economic analysis and scenarios proposed should not be considered in isolation**

- This report needs to be considered alongside earlier studies, which consistently warned, in particular, that any EU-wide SPR must be designed with great caution.
- A previous study on these topics stressed<sup>3</sup> that the three-step test makes it unlikely that an SPR could safely permit use of the Version of Record (with any embargo period) and of the Accepted Manuscript (especially with low or no embargo periods), apply in absence of a public funding threshold or extend to third-party content. It also highlighted risks linked to private international law, noting that any EU measure should avoid exposing authors to infringement claims abroad. Overall, it explicitly warned that “caution is advised” in designing any EU SPR.
- Similarly, it was noted<sup>4</sup> that departures from embargoes and inclusion of the final published version are likely to raise serious concerns for publishers, that policymakers must “walk a fine line,” and that broad configurations of SPR could fundamentally reshape publisher business models, particularly for smaller and specialist publishers.
- Finally, it was also noted<sup>5</sup> that embargo periods and the article version covered by the SPR are elements that perform a balancing act between the rights of rightsholders and the interest of public interest institutions.

### **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.

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<sup>3</sup> European Commission: Directorate-General for Research and Innovation, *Study on EU copyright and related rights and access to and reuse of scientific publications, including open access – Exceptions and limitations, rights retention strategies and the secondary publication right*, Publications Office of the European Union, 2022, <https://data.europa.eu/doi/10.2777/891665>

<sup>4</sup> European Commission: Directorate-General for Research and Innovation, *Improving access to and reuse of research results, publications and data for scientific purposes – Study to evaluate the effects of the EU copyright framework on research and the effects of potential interventions and to identify and present relevant provisions for research in EU data and digital legislation, with a focus on rights and obligations*, Publications Office of the European Union, 2024, <https://data.europa.eu/doi/10.2777/633395>

<sup>5</sup> European Commission: Directorate-General for Communications Networks, Content and Technology, Visionary Analytics, OK Consulting, KEA European Affairs and Ecorys, *Copyright in distance education and research – Exploring the role of copyright in facilitating access to digital collections of libraries and other public interest institutions – Final report*, 2025, <https://data.europa.eu/doi/10.2759/4694352>



**EMMA**, the European Magazine Media Association, is the unique and complete representation of Europe's magazine media, which is today enjoyed by millions of consumers on various platforms, encompassing both paper and digital formats. EMMA represents thousands of publishing houses and magazine titles across Europe in print and digital.

**ENPA**, the European Newspaper Publishers' Association is the largest representative body of newspaper publishers across Europe. ENPA advocates for 15 national organisations across 14 European countries and is a principal interlocutor to the EU institutions and a key driver of media policy debates in the European Union.

**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, 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.

**SocPC**, The Society Publishers' Coalition is a group of over 150 not-for-profit learned societies, community publishers and charities who publish trusted research, and who use any financial surpluses from their publishing activities to fund their other mission-related activities and support their disciplines. We believe that community-led publications play a vital role in the scholarly publishing landscape, prioritising trusted research, ethical practice and community benefit above all else. We are united in our aim to build a fairer, more sustainable scholarly communication ecosystem, centred on community-led publications and focused on benefiting researchers and society as a whole.

**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.