

July 3, 2020

President Donald J. Trump  
The White House  
1600 Pennsylvania Avenue NW  
Washington, DC 20500

Dear President Trump:

We write to bring to your attention a very concerning proposal that would undermine American intellectual property protection and impair the communication of scientific and medical research that improves the lives of millions of Americans.

For the past several months, the White House Office of Science and Technology Policy (OSTP) was considering a policy change to require that privately produced and privately funded peer-reviewed journal articles be made freely available to the public immediately upon publication if they discuss any underlying research supported by a government grant. This policy change would effectively eliminate the copyright protection that incentivizes and enables hundreds of American scientific and medical organizations and publishers to invest billions of dollars in producing and disseminating high-quality peer-reviewed articles.

From the very beginning of our Nation, the Framers understood the importance of copyright protection in spurring advances in science—enshrining in Article I of the Constitution Congress' power to “promote the progress of science . . . by securing for limited times to authors . . . the exclusive right to their respective writings.” As a result, for over two hundred years our copyright laws have empowered America's innovative and creative minds to communicate, making possible the developments for sharing their analyses of scientific and medical research through rigorous and reliable peer-reviewed journal articles.

It is critical to understand that the copyrighted expression embodied in these articles is a distinct product from any underlying research data that may have been supported by a government grant. Unlike raw data produced in the lab, the copyrighted articles collectively embody the labor, creativity, and investments of thousands of individuals and organizations who receive no government support for their work. In requiring that the *articles*—rather than the underlying data—be given away for free, proponents of the policy are effectively proposing that we prevent these individuals and organizations from capturing the value of their own work merely because it builds upon and adds value to an upstream component that received government support.

Not only is this inconsistent with the Constitutional foundations of our intellectual property system, this logic would set a dangerous precedent that could be used to justify government ownership of countless consumer products that in one way or another build upon or incorporate data or insights from government-supported research. Instead of encouraging the private sector

to invest on top of government-supported research to create and sell a valuable product that benefits the American people, the proposal would make it impossible for the private sector to do so, leaving it to the government—and therefore the American taxpayers—to fund the production and distribution of these peer-reviewed articles.

If the government eviscerates copyright protection for these works, our country would produce fewer—and lower-quality—peer-reviewed articles, and everyday Americans would suffer the consequences. Doctors would be less informed when treating patients, engineers would be less informed when designing cars, chemists would be less informed when developing life-saving drugs, and the list goes on. By restricting the free market for communicating scientific and medical research, the proposal would harm the millions of Americans that benefit from the treatments, products, and services that rely on this communication.

It is important to note that this policy also runs counter to the Administration's trade goals for intellectual property. The United States is the world leader in producing high-quality peer-reviewed journal articles, and these copyrighted articles are sold all over the world, contributing billions of dollars to U.S. intellectual property exports. Instead of exporting these valuable American products at a substantial trade surplus, the policy would give them away to the rest of the world for free, effectively forcing American taxpayers to subsidize China's and other countries' consumption of American intellectual property.

The Administration should not allow OSTP to undermine our country's intellectual property system to the detriment of the American people. We have recently heard encouraging reports that the policy change may be on hold. We very much hope this is the case, and we urge you to ensure that OSTP does not consider this policy change again in the future.

We look forward to working together to address these concerns.

Sincerely,

James Edwards  
Executive Director  
Conservatives for Property Rights

Daniel Schneider  
Executive Director  
American Conservative Union

C. Preston Noell III  
President  
Tradition, Family, Property, Inc.

Seton Motley  
President  
Less Government

Tim Andrews  
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Citizens Against Government Waste