Science Europe Position Statement on A Harmonised EU Secondary Publication Right: Enabling Open Science and Strengthening European Research

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Scholarly research is an international endeavour, yet the copyright rules that govern how research outputs are shared remain fragmented across EU Member States. Science Europe welcomes the European Commission's Copyright Consultation, and its particular focus on the copyright framework as it applies to scientific research. This position presents the main points expressed in more detail in our response to the consultation.

Concerning EU challenges and barriers related to the use of copyright-protected content for scientific research, there is a need for clearer and interoperable rights information, as well as better alignment between licensing practices and applicable legal exceptions. Divergent national rules and interpretations regarding liability and permitted uses should be harmonised to provide legal certainty and facilitate the cross-border flow of information and research.

Effective copyright exceptions for text and data mining are essential to enable researchers to analyse large volumes of copyright-protected material, including through the use of artificial intelligence. The existing EU research exception for text and data mining must be workable in practice and protected against contractual and technological restrictions. Researchers should also be able to share mined material with colleagues across borders, where necessary for research collaboration. More broadly, greater legal clarity is needed on the use of copyright-protected content in the development and application of AI for research purposes.

Science Europe calls for a harmonised EU secondary publication right (SPR), and for it to be included in the European Research Area Act, a notion already indicated in its response to the Public Consultation on the European Research Area Act (January 2026). Such a right would strengthen open science, reduce legal uncertainty, and thus enhance the competitiveness of European research and innovation.

A harmonised EU secondary publication right should provide, and build on the following elements:

- ***Immediate access, without embargoes***

  The secondary publication right should enable immediate and simultaneous publication in journals and in open access repositories. Embargo periods conflict with existing open access requirements and with the May 2023 Council Conclusions on Scholarly Publishing, and they delay the sharing and reuse of publicly funded knowledge. Long-term preservation of the deposited outputs should also be guaranteed.

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- ***Coverage of the author-accepted manuscript as a minimum, with the version of record also shareable***

  At a minimum, the right should cover author-accepted manuscripts. It should also allow the version of record to be shared, so that researchers and the public can access the definitive, citable text. Making only the accepted manuscript available alongside a paywalled version of record risks creating parallel versions of the same work, which can cause confusion for readers, complicate referencing and citation, and undermine the consistency of the scholarly record. Furthermore, the substantive intellectual work underpinning scholarly publications, including the research, writing and peer review, is primarily carried out by researchers, often with public funding, the public should therefore have access to the final version.

- ***Broad definitions of research outputs and public funding***

  The right should apply to all copyright-protected scholarly outputs, not only journal articles, and should rest on an inclusive definition of public funding. This ensures coverage across disciplines, output types, and funding models. Because the public share of funding in publicly funded institutions cannot be reliably determined or quantified, any funding threshold should be set at a token level of €1.

- ***Open licences***

  Researchers should be able to make their outputs available under an open licence of their choice, such as a Creative Commons licence, to maximise knowledge sharing, reuse and valorisation, for the benefit of researchers, innovators, and society.

- ***A mandatory, cross-border and non-waivable right***

  The secondary publication right must be mandatory in all Member States and apply across borders. It must be protected against technological and contractual restrictions. Without non-waivability, publisher contracts could undermine its effectiveness and leave researchers facing legal uncertainty.

These proposed elements are in line with the Council of the European Union Conclusions on Research Assessment and Implementation of Open Science (June 2022) and the Conclusions on High-Quality, Transparent, Open, Trustworthy and Equitable Scholarly Publishing (May 2023), that frame initiatives such as the Coalition for Advancing Research Assessment (CoARA), the European Open Science Cloud (EOSC), and Open Research Europe (ORE). They also lay the groundwork for a more bibliodiverse future, wherein different scholarly communication models, for example the scholar-led and community-owned open access journals and platforms, are viable publication strategies for an increasing number of researchers and more diverse research outputs.

A harmonised secondary publication right across EU would advance the European Research Area and the fifth freedom of free movement of knowledge, research, and innovation. Science Europe calls for a harmonised, mandatory, and non-waivable secondary publication right that allows immediate open access without embargo, covers all scholarly outputs, and gives European researchers the legal certainty they need to collaborate and share knowledge across borders.