



Statement of John Conyers, Jr.  
H.R. 3043, 2008 Labor, Health and Human  
Services, and Education Appropriations  
Extension of Remarks Regarding NIH Public Access Policy  
July 18, 2007

Madam Speaker, I rise not to oppose this legislation but to raise a very serious concern about a provision in the bill to mandate that the National Institutes of Health (NIH) change its public access policy for journal articles. Under this provision, the current, voluntary program to provide journal articles to NIH will now become a federally mandated requirement that private and nonprofit sector copyright owners provide their materials for posting – free-of-charge – by NIH on its publicly available websites.

I sympathize with the laudable goal of widely disseminating the results of publicly-funded research that comprises some of the information contained in these journals. And I am pleased to note that the bill does contain language stating “that the NIH shall implement the public access policy in a manner consistent with copyright law.” I trust that this provision will mean that the agency must cooperate with journal owners and authors to assure that their rights are fully protected and that they receive just compensation for this use of their works.

However, I believe this new mandate will have unintended and negative consequences and will set worrisome precedents that may in the future actually diminish the amount of scientific, technical and medical information available to the public. By severely restricting the scope of protection for a critical class of copyrighted works, this provision could ultimately reduce incentives for publishers to continue to make substantial investments in conducting peer review of research prior to publication.

Finally, this provision could send a mixed message to our trading

partners about the importance of intellectual property rights (IPR) to our economy. Such a message may make it difficult to advocate strong IPR protection and enforcement abroad, including the U.S. government's efforts to spread respect for IPR abroad and slow the trend in compulsory licensing of pharmaceutical patents by other nations.

Because this provision contains significant implications for IPR, the Committee on the Judiciary should have been given an opportunity to hold a hearing to further explore the complex issues involved.