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**STM submission
on Green Paper Towards a Common Strategic Framework for EU Research and
Innovation Funding**

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The International Association of Scientific, Technical and Medical Publishers ("STM") is the leading global trade association for academic and professional publishers. It has over 110 members in 27 countries who each year collectively publish nearly 66% of all journal articles worldwide and tens of thousands of monographs and reference works. STM members include learned societies, university presses, private companies, new starts and established players

EU-based STM publishers publish 49% of all research articles worldwide (STM's members originate approximately 2/3 thereof), employing 36,000 staff directly and another 10-20,000 indirectly, and make a €3b contribution to the EU's balance of trade. STM publishers have actively embraced the opportunities of the digital environment, starting with journal content and other "native" digital products such as software, data and databases, as well as other digital tools. For more than fifteen years now, science and medical researchers, along with medical practitioners, have had ubiquitous access to online tools that include published information, links between references in the literature, data sets and software that can be manipulated by the user, and visual supplemental information such as video and three-dimensional illustrations that can be viewed from different perspectives by the user.

STM applauds the Green Paper's recognition that Europe's growth depends on research and innovation as key drivers of social and economic prosperity and welcomes this opportunity to make its submission as part of the Paper's call for public comment.

STM's submission is composed of two parts:

- A. STM's position on access to Scientific Information and Intellectual Property Rights; and
- B. STM's answers to the specific questions raised in the Green Paper

A. STM's position on access to scientific information and Intellectual Property Rights

Society benefits from the pursuit, distribution, preservation and usage of reliable scientific publications and data. Scientific, technical and medical (STM) publishers are trusted partners in this endeavour and an indispensable link in scholarly communication because they provide the services and infrastructure that enables the discovery, registration, certification, finalization, dissemination, and preservation of research articles through peer-reviewed journals and the web platforms that host them. Both journals and the web platforms that publishers underwrite are an integral part of the scholarly communication system that fuels research and innovation.

STM publishers are fully committed to the wide dissemination and unrestricted access to their trusted content but services and infrastructure that publishers provide must be paid for in some way. STM supports any and all business models of access that are sustainable, and ensure the integrity and permanence of the trusted scholarly record on which progress is built.

A sound intellectual property framework, including robust copyright legislation, as well as adequate and effective enforcement are necessary prerequisites to the continuation of publishers investment in the development and discovery of the trusted research on which innovation is built.

B. STM's answers to the specific questions raised in the Green Paper

7. *What should be the measures of success for EU research and innovation funding? Which performance indicators could be used?*

With the announcement of the renewed Innovation Union Scoreboard in February 2011 the European Commission has already introduced indicators which highlight the innovation challenge in Europe. In addition to those proposed by the Commission, STM supports the implementation of measures that use citations to evaluate the quality and impact of published papers in peer-reviewed journals. STM recognizes that citation-based measures are most often useful in the physical and life sciences and that the assessment of success in fields such as Social Sciences and Humanities might require a different or modified methodology. Any measures developed should take into account the number of publications per annum and discipline-specific relationships between journal articles and books or book chapters.

12. *How should the role of the Commission's Joint Research Centre be improved in supporting policy-making and forward-looking activities?*

The EU is both a user of Intellectual Property Rights (IPRs) and, in some cases, an owner of IPRs. Moreover, the EU, through DG-Internal Market is responsible for setting a level playing field by adopting fair, transparent and non-discriminatory IPR policies. The Joint Research Centre (JRC) of the Commission has a role to play in the design, delivery and implementation of the CSF and IPR-related policies. In STM's view, JRC might be approached for advisory input into EU IPR policies and the EU's international co-operation on such policies. More specifically, the JRC might be

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consulted with the EU-wide implementation of IPR policies set by the Commission (Commission as owner of rights) and policies applicable to the Commission (Commission as user of rights). In addition, the JRC could play a useful role in education and training about IPRs for EU institutions. The JRC should also be available as a resource where the Commission or EU institutions consider initiating IPR litigation and also where the Commission or EU Institutions may need to defend a claim related to IPRs.

20. How should intellectual property rules governing EU funding strike the right balance between competitiveness aspects and the need for access to and dissemination of scientific results?

A. Basic Principles of IPR and the Public vs Private Sector Information Paradigm

Intellectual property rules of the EU must take into account national IPR laws as currently there is no EU-wide IPR title, except in certain cases for trademarks and designs. Copyright and patents in particular, are a matter of the national law of the EU Member States and EU IPR rules must respect the structure, diversity and also the balance struck in those laws.

Intellectual property rules of the EU must also respect international treaties, in particular the WIPO Copyright Treaty 1996 (WCT) to which the EU and its Member States are a party. Art. 10 WCT binds the EU to respect the so-called three-step test:

“Contracting Parties may, in their national legislation, provide for limitations of or exceptions to the rights granted to authors of literary and artistic works under this Treaty in certain special cases that do not conflict with a normal exploitation of the work and do not unreasonably prejudice the legitimate interests of the author. Art. 10(1) WCT, Art. 10(2) WCT mandates the three-step test for exceptions and limitations permitted under the Berne Convention that contracting parties may also apply in their laws.

Thus, to the extent that the EU legislates, the three-step test provides the balance and also a test and a guide for competitiveness: market-driven solutions to the creation and dissemination of knowledge.

Reliable papers that report on publicly funded research should be available to the reader, but not necessarily for free. The vital role copyright plays in enabling sustainable and trusted scholarly communication must not be eroded because of content in electronic formats. Freedom of research, one of the fundamental rights of EU citizens must be upheld. This also means that the authors of scientific findings must be free to determine whether and in which way their works are published.

In addition to the above considerations, EU IPR rules relating to EU employees and contracted researchers should also respect all EU rules on public procurement and be subject to human rights, requirements of fairness and non-discrimination. IPR rules should also ensure that the EU does not compete with private sector publishers.

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B. Public Access Does Not Mean Free Access

The public interest is not served if access to and dissemination of trusted scientific publications and data is not sustainable. Just as governments must replenish their funds annually in order to continue their useful functions, so too publishers must be allowed gather the financial resources that have enabled them to make more information available to more people in more ways than at any time in human history.

STM publishers are at the forefront of innovation and constantly engaged in supporting, adapting, maintaining and developing cutting-edge technological solutions that enhance the ways in which the research community and society at large produces, accesses, uses and shares trusted scientific knowledge, and how the research community works collaboratively to identify and solve the key challenges facing our world. This investment in the future of innovation and research communication has a cost that must be recovered.

C. Requirements of Sustainable Access to and Dissemination of Trusted Scientific Research Requires

IPR rules governing EU funding should create and maintain a level playing field for the development of sustainable methods of enabling access to and dissemination of trusted scientific publications and data. This means that EU IPR rules should be business model neutral and not favour or be biased towards a particular model of funding publications that communicate scientific results. Intellectual property rules governing EU funding must allow publishers to obtain the exclusive use of copyrighted content in relevant media (e.g. online, electronic, print, micro-fiche etc) so that the substantial investments they make in scholarly communication can be recovered. Moreover, the copyright system must permit publishers to enforce their rights against third-parties who intend to free-ride or illegally develop additional or competing services on the back of the publishers' added value.

Scientists and researchers, whether or not affiliated with the EU as employers or by virtue of contractual arrangements or funding, must have the freedom to choose where and how to publish their scientific findings.

25. *How should research infrastructures (including EU-wide e-infrastructures) be supported at EU level?*

STM welcomes the efforts of the EU to create and support EU-wide e-infrastructures for sharing research data in all science disciplines. STM does not support efforts to develop e-infrastructures that duplicate the access to scientific publications that is already being provided by private-sector publishers. Given the severely constrained public budget, and the aim of the European Commission "to make the most out of every Euro", the development of EU wide e-infrastructures should be focused on the area of greatest need – i.e. public access to publicly funded research data.

26. *How should international cooperation with non-EU countries be supported e.g. in terms of priority areas of strategic interest, instruments, reciprocity (including on IPR aspects) or cooperation with Member States?*

The EU should insist that its trading partners respect IPRs. A recent trade negotiation with Canada shows the importance of this aspect, as a law proposed in Canada would have seriously undermined IPRs owned by EU rightsholders and would also have allowed, for instance, Canadian institutions of higher learning to compete unfairly with the higher learning institutions in Europe. Any free trade agreement should include a chapter on IPRs. The level of protection a trading partner guarantees, whilst not necessarily equal to the one prevailing in Europe, should not be allowed to undermine or prejudice the rights of the EU or individual EU rightsholders.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Michael Mabe", with a long, sweeping flourish extending to the right.

Michael Mabe
Chief Executive Officer

cc. Federation of European Publishers