

19 September 2012

Open access to scientific information in EU funded programmes

KEY MESSAGES 

- 1** Open access to scientific information from publicly funded research can stimulate and promote research and innovation activities only if the protection of intellectual property rights is ensured.
- 2** Open access for scientific publications from publicly funded research must not interfere with commercial exploitation of research results or the possibility to protect results by intellectual property rights.
- 3** Open access to research data deriving from publicly funded programmes must only apply on a voluntary basis and provided that the legitimate interests of all partners in the consortia are not adversely affected.

Policy developments on open access

On 17 July 2012, the European Commission published a Communication¹ and a Recommendation² to promote open access for scientific information resulting from publicly funded research.

BUSINESSEUROPE supports *in principle* the concept of open access as a driver of scientific and technological progress provided that some essential conditions are fulfilled.

In general terms, the protection of intellectual property rights must always be ensured if open access to scientific information is to stimulate and promote research and innovation activities. Furthermore, it is essential to make a distinction between open access to scientific publications and open access to research data.

¹ COM(2012) 401 "Towards better access to scientific information: boosting the benefits of public investments in research"

² COM(2012) 4890 « Recommendation on access to and preservation of scientific information»

Open access to scientific publications: boundary conditions must apply

In the past BUSINESSEUROPE³ has specified the necessary conditions to be respected when promoting open access for scientific publications from publicly funded research:

- the scope must be limited to published versions or final manuscripts accepted for publication resulting from EU-funded or co-funded research projects;
- there must be no obligation to publish;
- there must be no interference with commercial exploitation of research results or the possibility to protect results by intellectual property rights such as patents.

These conditions seem to be acknowledged by the Commission since it is essentially proposed to extend the current open access pilot running under above conditions within the Framework Programme 7 to the entire Horizon 2020 programme.

BUSINESSEUROPE welcomes this approach.

Open access to research data: legitimate interest of all partners to be protected

The Commission is also proposing to promote open access to research data resulting from publicly funded research. On this purpose the Commission will to set up a pilot scheme on open access to and re-use of research data generated by projects in selected areas of Horizon 2020.

The conditions under which the pilot will operate are not defined and wording in the recent Commission's proposals suggests that further clarification is needed.

The Commission Recommendation⁴ states that: “[...] *concerns in particular in relation to privacy, trade secrets, national security, legitimate commercial interests and to intellectual property rights shall be duly taken into account. Any data, know-how and/or information whatever their form or nature which are held by private parties in a joint public/private partnership prior to the research action and have been identified as such shall not fall under such an obligation*”.

BUSINESSEUROPE would like to express its serious concerns regarding this formulation. It implies that data, know-how, knowledge and/or information resulting as outputs from publicly funded projects involving private parties are to be disregarded. This is inconsistent with the principles set out above and unacceptable.

³ BUSINESSEUROPE, 23-02-2011 “Open Access in the EU’s research programmes”
<http://www.businessseurope.eu/content/default.asp?PageID=568&DocID=28127>

⁴ See note 2, page 6



Legitimate commercial interests require exemption from any open access obligation to research data.

Failing to do so would jeopardise the interest of private parties in participating and investing in such publicly funded projects and therefore reduce the innovation potential of EU research and innovation programmes.

BUSINESSEUROPE urges the EU institutions to address this problem by clarifying that open access to research data deriving from publicly funded programmes must only apply on a voluntary basis and provided that the legitimate interests of all partners in the consortia are not adversely affected.
