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Dear Dr Madhan Mohan

**RE: Draft Open Access policy - DBT/DST**

We are grateful for the opportunity to respond to the draft open access policy published jointly by the Department of Biotechnology (DBT) and the Department of Science and Technology (DST). As you will be aware, Elsevier already enjoys a positive relationship in support of the Indian scientific and academic research community, and has active consortium agreements with both the Department of Biotechnology and the Department of Science and Technology. Elsevier also publishes 25 Indian journals through our Production and Hosting model, ensuring these journals and the Indian-sourced content within them have global visibility through our Science Direct platform.

Both I and my colleagues have visited some of your colleagues and enjoyed positive, productive discussions. We look forward to continuing to work with you, in particular to help shape a sustainable policy to achieve your stated goal of making publically funded research available “as soon as possible.” To this end, we offer the following observations of your draft policy and in so doing, draw on our considerable experience in countries such as Mexico, China, the UK and US where we have been able to work closely with so many members of the academic community - universities, funders, libraries, scholarly societies, and publishers - to collaborate constructively.

Our observations are as follows:

**1. Gold open access**

The fastest and most sustainable route to open access is via the gold route, where payment is made up front, usually by the author, their institution or funding body, in the form of an Article Publication Charge (APC), and research outputs are then made freely available to all, after publication. This model not only ensures that the final published version of an article is accessible to all, but that access is immediate. The gold route to open access is used, for example, in the UK, and has led to a large increase in open access research output. It is

therefore welcome that the DBT/DST policy allows for researchers to make their papers open access by publishing in a fully open access journal or in a subscription journal which offers authors the option to make individual articles open access (often referred to as a hybrid journal).

Of course there is a cost to gold OA, as there is with every open access model, and so as to ensure the success of gold OA, funds are typically made available via funding bodies or sometimes through other government agencies and institutions. It is welcome that your draft policy does not rule out such an approach. However, we note that DBT/DST “will not underwrite article processing charges levied by some journals.” We would be keen to understand how/what the conditions for funding might be, and how we might work with you to ensure that researchers can publish their research in any high quality, peer-review journal they may wish to. This includes over 100 of our gold open access journals and over 1,600 of our hybrid journals.

## **2. Green open access**

Your policy similarly allows for authors to make their papers open access by posting their final accepted manuscript (AAM) to an online repository i.e. “green open access.” As with the gold route, Elsevier similarly supports the green route to open access. And, as with the gold route, green OA also requires funding, specifically subscriptions, sustained by embargo periods.

It is welcome that your policy allows for embargo periods to be respected. Your policy proposes to do this by keeping papers deposited upon acceptance ‘closed’ until the embargo period expires. However, embargo periods are typically calculated after the date of final publication, not from the date of acceptance. To avoid confusion and to make the policy as simple as possible to implement and adhere to, we would recommend that an AAM is deposited after publication, to allow the embargo period to be calculated correctly (as well as for the practical reasons set out at point 3).

Your policy also suggests that an embargo period should not be greater than one year, but we would strongly urge you to reconsider this. Whilst an embargo period of 12 months may be suitable for some journals it will not be suitable for all, and we would urge you to allow some flexibility in your embargo periods so that researchers can both comply with your policy and publish in the full range of Elsevier journals. Elsevier operates journal specific embargo periods which typically vary between 12-24 months. These embargo periods are set very carefully to reflect the considerable difference in usage between subject fields and also between journals in the same subject field. This variability in embargo in turn reflects the very different times periods needed to recoup the costs of subscription publishing upon which green open access depends. An embargo period allows for the subscription model to operate with enough time to ensure the journal’s continued viability, which would otherwise not be possible if an AAM was made freely available too soon.

The need for variable embargo periods has been recognised in open access policies adopted in other countries. For example in Mexico, recent open access legislation allows for the respect of all embargo periods. Further, in Brazil, whilst research supported by the Sao Paulo Research Foundation is required to be deposited in a local OA repository, this deposit can be made after the journal’s embargo period. Similar language, respecting variable or journal specific embargo periods, is under consideration as part of Brazil’s open access legislation. And in the UK,

variable embargos of between 12 and 24 months form a crucial element of the Government's open access policy, indicative of the recognition that journal-specific embargo periods are needed to ensure sustainability.

To reiterate, we would be extremely concerned about a policy which sought to introduce embargo periods of 12 months across the board and which were not compatible with the majority of our own journal embargos, as this might impact on Indian authors who wish to publish in the widest possible range of journals. Variable embargos can be made to work, as they have done in Brazil, the UK, Italy, Mexico, and elsewhere, and we would be delighted to work with you to achieve similar ends.

### **3. Date of deposit**

Your policy states that deposits should be made within one week of acceptance by the journal. We would strongly urge you to alter this requirement and to instead allow authors to deposit their manuscripts on or after the date of final *publication* of an article. This will ensure that the near-final version of an article, or the most up-to-date AAM is deposited and will avoid the need for a researcher to keep manually updating whatever they place in a repository upon acceptance, and which could pose a significant administrative burden. Earlier versions of articles typically do not have metadata attached to them, for example. Deposit upon publication also makes it easier to calculate and respect a journal's embargo period, as explained above.

### **4. What should be deposited**

We would welcome the opportunity to discuss your requirement for full text deposit. To alleviate the burden on researchers and on institutional repository managers of having to do this we are developing a suite of tools to support the surfacing of correct versions of articles, without the added burden of collection and collation. For example, our embedded PDF pilot project and other tools to enable institutional repositories to ingest metadata and to track publications by their researchers and institution. We would welcome the opportunity to share details of these pilots with you, and to explore the possibility of collaboration.

### **5. Copyright ownership/transfer**

As currently drafted, your policy states that where a work has been produced by a researcher as part of his employment with a government, copyright "vests in the government body, unless otherwise agreed upon to the contrary." Any transfer of copyright would have to be done through the Government, or with Government consent. Similarly, where research has been produced in an institution, your draft policy suggests that copyright vests in the institution concerned.

Whilst the words "unless otherwise agreed upon to the contrary" suggest some degree of flexibility, we have deep concerns about this element of your draft policy. In particular, we would question whether the author requirement to deposit their work in a repository requires copyright to be held by either the institution or government body. In our experience, authors feel very strongly that copyright in their works should reside with them alone and therefore when publishing on an open access basis we ask authors to grant us an exclusive license to publish, rather than a copyright transfer. In this way, copyright may remain with the author, but we as the publisher are granted the rights we need to publish a work. A similar approach may be pertinent here. Further, if we have understood correctly, the purpose of such a copyright transfer would be

so that articles may be deposited in a repository. We would suggest that the same ends can be achieved without the need for a copyright transfer and this is currently happening in other countries with green open access policies; deposit in a repository can take place without the need for a copyright transfer to the institution of government. Mexico's open access law, for example, includes language that allows for patent, IP, national security and copyright to be respected.

We are also concerned about the impact an alternative copyright ownership structure may have on our ability to publish researchers' work. A copyright transfer system of the kind your policy dictates would make it very difficult for an author to grant us the licensing rights we need to publish on their behalf. Further, to have the addendum supersede any publishing agreement maintains this difficulty and may in fact bind parties to something they have not explicitly agreed to.

We welcome the opportunity to discuss this with you in further detail and perhaps to suggest some alternative wording that would help achieve your policy, ensure compliance, be workable for researchers, and enable researchers to continue to publish with us.

#### **6. Proposed copyright addendum**

In line with our comments at point 5, we are particularly concerned by addendum 3, in which copyright is transferred with respect to all versions of the article. As is implicit in the addendum, such a provision may conflict with the Publication Agreement, which is required for us to be able to publish on behalf of authors. If a copyright transfer of this kind takes precedence over a publication agreement, this may make it impossible for us to publish a work. When such copyright transfer provisions are included in any policy, publishers typically request waivers, and we would be seeking to do so in this case should the provision remain.

#### **7. Commencement date**

We note that papers resulting from funds received from the fiscal year 2012-13 onwards are required to be deposited in line with your policy. For ease of administration, we would suggest that the policy commence with affect from 2015, to allow time for the details of implementation to be worked through with all stakeholders, and so that we have time to assist you and your researchers with this.

#### **8. Working together**

In many cases where an organisation has developed an Open Access policy, Elsevier has worked with the organisation to develop an agreement to enable this policy in our journals. This often involves providing authors with information on the policy and providing agreed options on how they can comply. Examples of such agreements are available at <http://www.elsevier.com/about/open-access/open-access-policies/funding-body-agreements>. We would welcome discussions to develop open access agreements with both DBT and DST.

Your draft policy also makes references to the usefulness of metrics other than impact factor upon which to base the merit of an author's work. Elsevier's approach to the use of metrics in assessment of merit is that a range of metrics that illuminate different types of activity are essential for a complete picture. You may find the following articles interesting, as they set out a

number of pilots we are involved in to help authors understand the impact of their research: <http://editorsupdate.elsevier.com/issue-42-march-2014/elsevier-altmetric-pilots-offer-new-insights-article-impact/> and <http://blog.scopus.com/posts/mendeley-readership-statistics-available-in-scopus>. We would be delighted to discuss these in further detail to see if there are areas of mutual collaboration.

### **9. Concluding remarks**

Thank you again for the opportunity to respond to your draft policy and we look forward to discussing this with you in further detail. Please do let us know when it would be convenient for us to visit you and your colleagues to explain further our concerns with the proposed embargo period, date of deposit, full text deposit, and copyright ownership. Our guiding principle throughout our response has been to ensure that Indian researchers are not inadvertently restricted in their choice of publication, as this may limit the publication of Indian research more generally and in turn could weaken India's global position in his regard. We are firmly committed to working collaboratively with you to develop a sustainable, implementable policy, and to exploring further how we might collaborate on metrics to measure the impact of research.

I look forward to hearing from you.

Yours sincerely,

A handwritten signature in blue ink, appearing to be 'Michiel Kolman', written in a cursive style.

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