



LIBER RESPONSE TO THE PUBLIC CONSULTATION ON THE EUROPEAN RESEARCH AREA (ERA) ACT

23/01/2026

Are there any other key challenges regarding the free circulation of scientific knowledge or possible ways to address them that you think should be considered?

There is a lack of harmonisation in terms of Open Access requirements and copyright legislation that blocks sharing and access to data/knowledge for researchers. Differing national laws create uncertainty which chills research activity and prevents collaboration between institutions and especially across national borders.

Despite progress on OA many research outputs and research data are not available or locked behind paywalls which prevent knowledge exchange and valorisation. A mandated EU wide Secondary Publishing Right - with maximum scope, zero embargo, open licensing to facilitate subsequent use and no contract override or charging - that aligns practice across member states should be introduced providing immediate access to research outputs including reuse for any/all purposes to maximise impact of EU research.

TDM is an integral part of innovative research in all scientific disciplines, including AI, and the evidence that we have regarding their implementation is concerning. The research exception in copyright law is disjointed and not aligned across member states which cases a problem and increases risk in EU research which fails to maximise the true potential of European Research. Increased risk delays research activity, increases costs and reduces effective and efficient use of research funding.

A harmonised research exemption including provisions allowing for international collaborations and public private partnerships (including with commercial organisations) should be introduced. LIBER urges the EC to update the research exception in Article 5(3)(a) of the InfoSoc Directive, making it flexible (principles-based), and meaningfully protecting it against override by contract or abuse of technological protection measures. It should be clear that this exception is applicable within any, and all, digital and data legislation, and the ERA Act

Are there any other key challenges regarding knowledge valorisation and possible ways to address them that you think should be considered?

The legal framework surrounding research should reflect the policy realities and obligations researchers and institutions now face. Legislation does not easily enable sharing of knowledge and collaboration with commercial partners.

Many researchers work part time splitting their time with roles outside of educational/ non-commercial sectors. Knowledge valorisation often includes creating spinouts, start-ups, and SMEs to develop research, often still collaborating with the originating university. This creates a public-private partnership encountering problems with relevant and applicable legislation, including but not limited to copyright legislation.

Clarity should be provided to enable greater translation of research outputs to leverage real world societal and commercial impact.





Are there any other key challenges or problems regarding Artificial Intelligence guidance in research and possible ways to address them that you think should be considered?

LIBER highlights 2 additional key challenges that were also addressed in LIBER's feedback on the ERA Act September 2025: https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/14608-EuropeanResearch-Area-Act/F3680306_en

"Technological protection measures and the marginalisation of research organisations in data, digital market, and AI legislation stifle innovation and undermine the effectiveness of our institutional and subject repositories."

"As outlined in the Action Plan for Open Repositories for Europe, these infrastructures can act as a counterbalance in an oligopolistic digital economy by providing public infrastructure to support generative AI, new publishing models, and other novel uses."

AI is a cornerstone of research activity in all fields and disciplines. AI research requires access to data to create knowledge and scientific discoveries. The ability to access and use all knowledge for research purposes should not be restricted by technical protection measures or opt outs.

The continued questioning and uncertainty around the legal framework is creating fear that is preventing research from taking place, even within research institutions using their own data using AI. This is causing EU researchers to fall behind and lose any advantage to researchers in countries with more permissive and accepting regulatory environments.

Legally certain confirmation of the validity and application of existing (or revised) TDM and research exceptions to AI uses in research.