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Unintended Consequences?

Because of a ruling by the Treasury Department's Office of Foreign Assets Control (OFAC), this issue of *The Journal of Organic Chemistry* does not contain two articles that should have appeared by now. They were submitted by scientists from Iran, reviewed, and accepted, and one was at the galley proof stage in December. Since then, publication has been delayed while the ACS along with other publishers seek clarification of the OFAC ruling. Although this topic was discussed by Rudy Baum in the January 26, 2004, issue of *Chemical & Engineering News*, I feel compelled to speak directly as Editor-in-Chief of *JOC* because of the damage the OFAC embargo will have on the reputation of the Journal as a leading international forum for publication of research in organic chemistry. Specifically, *JOC*, along with all the other journals of the American Chemical Society and other American publishers, is prohibited from providing comments from peer review and any editorial services to authors from Iran, Iraq, Libya, Sudan, Cuba, and North Korea. According to OFAC's ruling, manuscripts that are accepted by the Journal may only be reproduced in exactly the same form in which they are received.

OFAC apparently relies on the International Emergency Economic Powers Act (IEEPA) passed by Congress in 1977, although this act was modified in 1988 by the "Berman Amendment" to provide a specific exemption for "information or informational materials including but not limited to, publications." This limitation of the authority granted to the President under the IEEPA was further clarified by Congress in 1994 in the "Free Trade in Ideas" Amendment to state that "no embargo may prohibit or restrict directly or indirectly the import or export of information that is protected under the First Amendment to the U.S. Constitution." Despite the clear intent of Congress, in July of 2003, OFAC acted to severely restrict the scope of transactions related to information and informational materials in a manner that interferes with the normal peer review and editorial activities that form the basis for quality control and unfettered dissemination of scientific information. In separate rulings, OFAC specifically included prohibitions against assisting authors in the preparation or editing of their manuscripts as well as peer review activities that would result in any modification of a manuscript before publication. OFAC suggested that publishers might apply for a license to exempt them from these regulations on a country-by-country basis. This inadequate proposal will result in substantial delays for publication of manuscripts from the embargoed countries and undermine the rights granted to publishers under the First Amendment.

Who will be punished by OFAC's rulings? Surely the scientists from Iran whose peer-reviewed articles were embargoed in this issue of *JOC* could have published their work in non-U.S. journals and will probably do so in the future. Who reaps the greater benefit from these publications—the country that provided financial support for the research or the countries where scientists read about the results and are provided with experimental protocols? Whose scientific journals are sullied in the eyes of the international community—those of Iran or the American Chemical Society? The short-sighted punitive rulings by OFAC will, in fact, inflict much more damage on U.S. scientists and U.S. scientific publications than on our colleagues in blacklisted countries who seek to publish in our journals. And does this punitive approach not alienate precisely those individuals who have shown good will to the United States by seeking to publish in our journals? Are these consequences of a badly flawed short-sighted policy unintended? I can only hope so.

At the time this editorial was written, ACS was vigorously working with the scientific publishing community to have the OFAC rulings rescinded. At this point, several options are available, including seeking a restraining order against the ruling. In light of these positive actions taken in concert with the publishing community, ACS has decided to end the moratorium and return to business as usual. In the meantime, *JOC* continues to review manuscripts from embargoed countries for publication.

While the ACS works to have this usurpation of First Amendment rights overturned, I ask for forbearance from the organic chemistry community, in the United States and in other countries, and hope that the Editors of this Journal can continue to rely on your good will as authors, readers, and reviewers during this difficult and distasteful time. One of the authors from Iran, whose manuscript has been in limbo, graciously offered to withdraw his accepted manuscript if its publication caused me embarrassment. I am indeed embarrassed, not because of the manuscript but because of the actions of my own government. While ACS pursues legal options, I urge you to write or call the White House and the members of your Congressional delegation to ask them to take immediate action to rescind the outrageous OFAC rulings.

C. Dale Poulter, Editor-in-Chief

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