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Copyright and research: an archivangelist's perspective

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Abstract

Conflation of academic copyright issues with respect to books (whether text books, research monographs or popularisations) and research articles, is rife in the academic publishing industry. A charitable interpretation is that this is because to publishers they are all effectively the same: a product produced for commercial benefit. An uncharitable interpretation is that this is a classic Fear Uncertainty and Doubt approach, in an attempt to delay the inevitable move to Open Access (OA) to research articles. To authors, however, research articles and books are generally very different things. Research articles are produced without the expectation of direct financial return, whereas books generally include some consideration of financial return.

Taylor's "Copyright and research: an academic publisher's perspective" (SCRIPT-ed 4:2) falls wholesale into this mental trap and in particular his lauding of the position paper of the Association of American Professional and Scholarly Publishers, shows a lack of understanding of the continuing huge loss to scholarship of a lack of OA to research articles. It should be regarded as a categorical imperative for scholars to embrace OA to research articles.

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1. Introduction

Taylor (2007) begins with a discussion of copyright in monographs, focussing on the dual role of authors as producers and consumers of copyright. It is pleasant to see a representative of the academic publishing industry acknowledging the derivative nature of all modern creative work. However, after a promising start, the article takes a left turn out of a balanced approach to book publishing and attacks a “full-scale tilt into unrestricted Open Access” for research articles, without any shift in tone or consideration of the entirely different economics of journal publishing to book publishing, nor of the differences in the relationship between authors (and other scholars) and publishers in the separate arenas of journal and book publishing (Harnad, 2003).

The appeal to the Gowers review’s economic case that journal publishing contributes £1 billion to the UK economy is a classic example of the economic broken window fallacy (Bastiat, 1850): the idea that any movement of money is automatically good for the economy (so by breaking a window a small boy is helping the economy because the glazier gets more work — whereas the reality is that the community is poorer by the value of one window and the money given to the glazier would otherwise go to some other part of the economy making the entire community richer by what is bought *and* the window). Even ignoring how much of that £1 billion comes straight out of the coffers of British universities (money which could be much better spent on other things) there is no evidence that a move to Open Access (OA) would catastrophically reduce the journal publishing industry’s turnover (using catastrophic in its technical mathematical sense of a sudden and near-complete phase change). Indeed, as I shall show below, the evidence from the only subjects so far to achieve close to 100% OA (HE physics and Astronomy) is that journal subscriptions and hence profits from existing print operations remain healthy. And in all the economic discussion the real cost of *not* moving to OA is ignored: the constant and huge loss of efficient communication between scholars, and in particular the stifling of innovative interdisciplinary research and cross-discipline synergy of research.

2. The Definition of Open Access

The academic publishing houses have very successfully spread all sorts of confusion regarding what OA actually is. The consensus amongst academics who have studied the question of how to move peer-reviewed academic communications out of the Gutenberg era and into the Licklider/Berners-Lee area is that OA consists of: immediate (on acceptance for publication) free (as in beer) online access to the full final (amended following review) text of scholarly/scientific journal articles.

What OA is *not*, is anything to do with monographs, underlying data, removing/radically revising the peer review process, or requiring that the publisher’s formatting be available. The text (and associated diagrams) are what matters in OA. As another archivist put it in a private email, it is the new knowledge that matters, what new conclusions have been drawn or “give me a shoulder to stand on”. Occasionally, minor errors in copy do change the meaning of a text substantially, but in the world of OA these would quickly be challenged (to paraphrase Raymond

(2001) “to many eyes, all typos are visible”) and OA repositories allow revised versions to be added without over-writing the peer-reviewed original.

3. Routes to Open Access

Over a decade of debate since the “subversive proposal” from Harnad (1995) has generated a consensus amongst most of the scholars discussing the issue that there are two methods of reaching universal OA for “new” material (Harnad *et al.* , 2004):

Green OA Research funders and employing institutions require their researchers to place a copy of either their final submitted version of a paper, or a copy of the publisher’s PDF, in an online repository together with the appropriate meta-data (author names, title, abstract, publication details) in either a central or institutional repository.

Gold OA All journals place the papers they publish in freely accessible online databases.

The reason for the funder and employer mandate included in the Green OA description is that experience has shown that without such mandates “spontaneous” archiving runs at only around 15% of new articles published. The reason we focus on “new” material, that is material published after the creation of the archive and the mandate, is that requiring authors to spend the time to deposit their whole backlog of output is a sure way to lose their support — the more prolific authors may have hundreds of articles to deposit which even at only a few minutes per article represents a huge immediate pile of work with no clear method of setting a deadline. For each new piece, the additional work of deposit is a tiny addition to the total workload of performing the research, and writing and publishing the paper.

A consideration of the effort involved in persuading the thousands of publishers, who have hundreds of different cost-recovery and/or profit-making systems, to change over to the Gold OA route compared with the possibility of persuading the much smaller number of funding bodies and universities that it is in their, and their researchers’ interests, to follow the Green route has led to the adoption of Green OA as the standard approach of the OA evangelism community. In fact a vast majority (91% of journals according to the <http://romeo.eprints.org/stats.php> ROMEO service on 13th July 2007) currently endorse green self-archiving by authors. Despite their apparent acceptance of Green self-archiving, many publishers consistently lobby against the adoption of mandates designed to make such self-archiving a reality, showing that it is but a marketing exercise they are involved in, rather than a true commitment to access to research results.

A brief mention must be made of the ID/OA compromise that is the fallback position where publishers either do not endorse green deposit or require an “embargo period” on setting open access to the deposited article. The Immediate Deposit/Optional Access system involves the immediate deposit of an article in an appropriate repository upon acceptance for publication, but sets only the meta-data on full access. The two main repository systems in use (<http://www.eprints.org/EPrints> and <http://www.dspace.org/DSpace>) both include a button for each such embargoed items which sends an email to the depositing author requesting an electronic off-print be sent. The author simply clicks on the embedded HTML button in the email to trigger the repository to email such an off-print. Thus the off-print system, in operation for decades in pre-internet academia, has an easy to use equivalent in the Green OA

world. EPrints and DSpace even allow automatic expiry of an embargo period at a date set on deposit.

4. The Costs of Closed and Open Access

Taylor's article, and other statements by publishers of academic journals, constantly harp on about the costs of producing journals and argue that in any move to OA publishing these costs must be equivalently covered or else the whole journal publishing world will come crashing down about the academics' ears. Taylor's statement about that:

A full-scale tilt into unrestricted Open Access would be too big a shift. Someone has to pay, and it can be argued that the current mildly regulated framework which "publisher-controlled" copyright represents does the job quite well: of keeping the economics in equilibrium.

... is simply the latest example of such claims. However, the road to Green OA has nothing to do with the economics of journal publishing (Berners-Lee *et al.*, 2005). It has been demonstrated very clearly in Physics, where close to 100% of the papers published each year are self-archived in the central <http://www.arxiv.org/arXiv> repository, that Green OA archiving has not had a dramatic effect on the subscription income of physics journal publishers. Constant claims by publishers that they need more data are simply obfuscation of this fact.

Should Green OA archiving ever lead to a significant diminution of the subscription incomes of journal publishers, the savings that universities would thus be making on subscription costs could be applied to funding "author-pays" Gold OA. But it must be in this order, not in the order that some publishers appear to be pushing — that of piecemeal moves by individual authors paying extra author charges in order to have their papers appear without the gatekeeping charges on publisher's websites. Such double-dipping by publishers should be treated with the contempt it deserves.

The cost of continuing with Closed Access is not the loss of a £1 billion industry to the UK (Harnad, 2005), but the loss of countless communications between scholars worldwide that could revolutionise science and scholarship. For the individual author it is the loss of citations and impact, the loss of having one's work read.

Unlike books, journal authors are not paid for their publication. They publish either because they are required to (publish-or-perish, dissemination requirements from grant funders) or because they wish to communicate their ideas and their results to the wider community. Having mandated the dissemination of the results of funded research, funding bodies are short-changing themselves by allowing those results to be hidden behind toll charges and a print publishing system fit for 1950 not for 2000, let alone 2007.

5. FUD: Publishers Banging the Table

"If you have the law on your side, you argue the law. If you have the truth on your side, you argue the truth. If you have neither, bang on the table with your fist, loudly and with as much conviction as possible."

The publishers are banging the table. Just like the music industry, finally waking up to the damage it has done to itself, with so-called DRM they are trying to turn the clock back to the Gutenberg era when the technology has moved on. Having hiked prices for print journal subscriptions well over inflation for more than a decade, academic publishers worry that the advent of OA might harm their profits. If so, the market will develop new models to allow cost-recovery and profit-making from providing the necessary services in academic article publishing.

The writers and readers of academic journal articles are all the same people. The peer reviewers are the same people. Most of the quality element editors are the same people (in a few fields professional content editors exist but in most they are senior academics providing their time on an honorary basis). Whereas fifty years ago, publishers provided significant copy-editing and layout services, these days the vast majority of such work is done by the computer on which the article is composed. Since most of the system comprises academics doing their work for free, any rebalancing of the publishing system would be swift and probably relatively painless. Reduction in the profits of publishers would not diminish economic activity but allow academia to divert the money from the pockets of publishers and back to the research itself, if it were even to happen, which it has not yet in the near 100% OA world of Physics.

6. Categorical Imperative

To be an academic carries with it a great deal of freedom, or at least it should. At a time when pressures on academic freedom are rife, everywhere from Australia to Zimbabwe, academics should be confronting the responsibilities that go with their cherished and fought-for freedoms. That responsibility is to disseminate one's work as widely as possible, to hold it up for criticism and to allow others to build on it. To do so demands that we hold Open Access to our articles as a categorical imperative and not allow the tail of academic publishing to wag the dog of academic communication.

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