

◆ Open Access: The Revolution in Copyright and Permissions

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Less than 3 centuries separates the evolution of copyright from open access. Before the legal recognition of intellectual property, authors borrowed freely from one another and gave little thought to making money from the controlled sale of their writing. Modern copyright law, according to Frances E Schuweiler, is grounded in the Statute of Anne, enacted in England in 1710 “for the encouragement of learning”, and in the case law that developed from a later 60-year lawsuit. Publishers today therefore do not have perpetual common-law copyright. Governments have the power to grant authors exclusive but limited rights to their work; authors can transfer their ownership rights to publishers; and when the rights expire, the works can be copied freely by anyone. Intellectual-property rights, protected only by individual states at first, were recognized later in a series of international treaties, including the Berne Convention.

Products of intellectual invention have altered the course of events: As personal computers became more affordable to individuals and institutions and as use of the Internet expanded, open access was born as an alternative to the commercial publishing model. As defined by the Association of Research Libraries, open access involves the dissemination of written information from the point of origin “with no expectation of direct monetary reward and . . . at no cost to the reader on the public Internet for purposes of education and research”.

That does not imply that viewers may redistribute information worldwide or for commercial purposes, Schuweiler emphasized. Open access is advocated as a way to meet the specific needs of scientific researchers, especially those who work in locations where current print editions of journals are unaffordable or difficult to obtain.

In recent years, the combination of authors’ increasing interest in retaining copyright ownership and ensuring the broadest possible distribution of their work with the downward trend in library subscriptions and the upward trend in costs for printing and distribution has led many publishers to experiment with online publication and open access. “Open access has changed the very nature of how we do business”, Schuweiler said. Yet, she emphasized, no single access model would be effective for all publishers.

In the traditional publishing model, subscribers and advertisers pay the costs of publication. In one open-access publishing model, authors pay much of the electronic publication costs, often with subsidies from research-funding sources. Authors with economic hardship, however, may be exempted. Several open-access journals and online databases have been launched

with major funding from philanthropic organizations. Most publishers, however, have added open-access provisions to their existing programs. Many delay the provision of open access for usually 6 months or 1 year during which the costs of publication are recouped through subscription sales and user fees; online access during this time is available only to subscribers or to pay-per-view or time-limited users.

Some publishers contract with outside access providers like HighWire Press. According to Richard W Newman, HighWire serves 120 nonprofit and commercial publishers and 350 journals, supporting multiple access models and developing technology as needed to “free content, restrict content, and make money from content”.

It is difficult to control what happens to online content after it is downloaded and printed, but Newman said most users behave responsibly if they know the material is copyrighted. HighWire uses visible “branding” of search results, abstracts, and full-text articles with the journal name in red and page headers and footers that specify the copyright holder, source, and date of downloading of Portable Document Format, or PDF, files to inform users of copyright ownership. And it relies on after-the-fact abuse reporting (for example, usage reports) instead of policing to enforce control. Every article text page also includes a link to the publisher’s online reprint rights and permissions page.

Impact factors at many journals have risen with the provision of open access, as Newman pointed out. If the right balance can be struck among various access levels and if the economic foundation remains sound, open access may even give some journals a competitive edge in attracting high-quality new research. 