Ownership and copyright of scholarly works

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Recent proposed laws that affect copyright (1)

- Stop Online Piracy Act (SOPA)
  - expand the ability of U.S. law enforcement to fight online trafficking in copyrighted intellectual property and counterfeit goods. Provisions include the requesting of court orders to bar advertising networks and payment facilities from conducting business with infringing websites, and search engines from linking to the sites, and court order requiring internet service providers to block access to the sites.
  - Pulled 20 January 2012 (two days after major campaign from Wikipedia and other big sites shutting down in protest).

Recent proposed laws that affect copyright (2)

- Protect IP Act (PIPA)
  - US Senate Bill 968 introduced 12 May 2011 (previous iteration COICA 2010)
  - goal of giving the US government and copyright holders additional tools to curb access to “rogue websites dedicated to infringing on counterfeit goods”, especially those registered outside the U.S.
  - Pulled 20 January 2012 (two days after major campaign from Wikipedia and other big sites shutting down in protest)

What does this tell us?

- Copyright owners are nervous
- The copyright laws don’t work for new technology
- These are not the first versions of these acts and won’t be the last
- New technology has very powerful tools (like social networking) to campaign against proposed laws

What would the laws mean for us here?

- SOPA and PIPA, in theory could mean that university webpages get pulled down:
  - most (all?) host staff pages where research staff upload publisher’s versions of their work on their sites. This is against the copyright agreements they have signed when they were published.
  - These pages host user generated content

What is the copyright situation in Australia?

- Caveat…..I’m not a lawyer
  - In 2000 the ‘Digital Rights Amendment’ attempted to try and bring copyright into line with new technology.
  - Australian Law Reform Commission current review “Copyright and the Digital Economy” (report due 30 Nov 2013)
  - Debate: Fair Use/ Fair Dealing
Digital Rights Addendum 2000

“The Government believes that libraries and archives must be able to use new technologies to provide access to copyright material for the general community”

That was then

• Twelve years ago, even though publishers were moving to electronic licensing at the time, libraries were still maintaining print subscriptions to many journals.
• Any person off the street could walk into a University library, look up the catalogue, find a bound journal on the shelf and copy an article to take home.

This is now

• Almost all journals are electronic.
• Libraries rarely subscribe to the print version, if it exists at all.
• Many university libraries, including at the ANU, have moved books offsite to a holding facility
• Shelves are now banks of computers, plus lounges and meeting areas for students.

How do you print?

• In many cases if you go to a university library and you are not a member of the staff or student body, you are unable to log into the system to look up a journal.
• Even if you can log in to the catalogue when physically in the library and see the online journal articles, how do you print them out without a printing account?

Open Access to the rescue!

“the results of scholarly research should be freely available to anyone with access to the internet”

(OA is achieving what the addendum didn’t)

Open access images are available under a Creative Commons licence. I don’t have to seek permission.
Cost of subscriptions

• Cost of subscriptions are exponentially increasing, particularly to STM journals
• Subscription to serials/purchase of books budget in university libraries:
  – 2000 = 50/50
  – 2011 = 80/20

How is open access achieved?

• Two ‘roads’ to open access:
  – Gold road – open access publishing
  – Green road – making a version available in a repository

Gold (open access) publishing

Institutional reader | Publisher | Author
---|---|---
free | Funding body | free
Non-institutional reader | free | free

Article processing charges can range from $0 to US$3000

The model can work - PLoS One

Interactive open-access journal for the communication of all peer-reviewed scientific and medical research.

• Short peer review period
• Multi-disciplinary
• Estab 2007, by 2010 world’s largest journal (6749 articles)
• Lower article processing costs

Green open access publishing

Managing copyright in OA

• The challenge for open access is the complexity of copyright compliance.
  – Many institutions, including the ANU undertake the copyright checking on behalf of the authors.
  – This requires administrative staff and an extra cost to the institution
• Open access is actually far from free for an institution.
Generally

- It is fairly standard for academics authors to sign a publishers agreement when they publish in a journal or through conference proceedings.
- This transfers copyright ownership to the publisher.
- Authors can’t sign away their moral rights they just sign away their right to make money!!

Copyright is different in academia

- Copyright refers to the ownership of the work.
- When the copyright is assigned to publishers they make money directly from the work.
- But in science publishing ownership and financial reward are separated - a scientific author cannot be separated from their work.
- Authors receive reward (not financial gain) from the work.

Scientific authorship = responsibility

Author → Responsibility → MORAL RIGHTS → Paper

Copyright debate in open access

- Not about rights of users (readers) and copyright owners
- About right of authors or institutions given copyright ownership of publishers
- Terms and distinctions in OA copyright negotiations – like versions – are industry NOT legal
- Journal/publisher copyright permission statements make distinctions between these

Copyright management comes down to the version

Preprint
Submitted Version
Work sent to publishers for review
Postprint
Accepted Version
Accepted Manuscript
Author’s peer reviewed and corrected final version
Published
Version of Record

For green OA the accepted version is ‘gold’!

Preprint
Submitted Version
Work sent to publishers for review
Postprint
Accepted Version
Accepted Manuscript
Author’s peer reviewed and corrected final version
Published
Version of Record

Published
Version of Record
Risk management

- We need to make sure of a few things:
  - The depositing author knows we have put the work in (we send an email to the author)
  - All authors know about the work being OA (we absolve this to the ANU author)
  - The 'agent' has permission to work on behalf of the author (we need this because some publishers are very specific that authors are allowed to put material in but institutions are not) (This is achieved through having the author send us an email giving permission)

Scholarly publishing = failed economy

- There are arguments that the entire scholarly publishing system is a 'failed economic market'.
- In economics 101, the price of goods is a balance between how much the customer is prepared to pay and how much the product costs to make (and the necessary profit margin).
- But in scholarly publishing the seller and buyer never meet.
- The end users of academic publications – the academic community – do not directly pay for them.
- All purchases are brokered through their institution’s libraries

Scientific credit

- The production end of the market - writing articles and having them reviewed and published - is again a failed market.
- Economics 101 the creator of the product is rewarded in payment for the product.
- ‘Academic gift principle’
- Authorship of academic articles and conference papers is not repaid in monetary terms
- The credit that is in the form of rewards through peer review – reputation, prizes, tenure, membership of societies

The cycle of scholarly communication

- Read → Idea → Grant → Research → Publish → Reward = peer recognition

Unit of scholarly communication – scholarly article

- 1665 Philosophical Transactions of the Royal Society est. 2012 Electronic-only journals

Scientific authorship means reward

- Reward ≠ $
Scientific authorship means credit

Multi-authored papers
- In science, often normal to be many authors on a single paper.
- Multi-authorship is problematic if we consider authorship to be about responsibility rather than recognition.
- Scientists need the recognition to obtain the reward in the peer system.
- Authorship is seen as a trading chip in the scientific game.
- Of course anyone who has been associated with a paper wants to be given ‘credit’ for their work.
- This is sometimes referred to as honorific authorship.

Embedded in the reward system

Open Access is becoming political
- Funding bodies now requiring open access to work, eg:
  - Wellcome Trust 2005
  - NIH
  - RCUK
- Institutions have own mandates, eg:
  - QUT
  - MIT

NHMRC
- New policy as of 1 July 2012
- Any work published as a result of NHMRC grant must be available in an institutional repository within 12 months of publication.
- Researchers can request funds for gold OA publication

Australian Research Council
- Discovery Grants funding rules 2012:
  - Researchers may spend up to 2% of grant on gold OA publication
  - Final report must say why work is not publicly available
Recent proposed law that affects scholarly publishing

- Research Works Act (RWA)
  - US House Bill 3699 introduced 16 December 2012
- It would be illegal for government funding body to make OA publication a condition of funding
- Put forward by two congress people
  - Found to both have accepted large donations from Elsevier in previous financial year

What has happened?

- Major blogging campaign
- Elsevier boycott – petition started by Tim Gowers
- Elsevier withdrew support for Bill
- Bill pulled 28 February 2012
- Federal Research Public Access Act (FRPAA)
  - Senate Bill 2096 and House Bill 4004 introduced 9 February 2012. (Reworking of the 2006 and 2009-10 FRPAA)

Summary

- Copyright laws are not keeping pace with technology
- Scholarly publishers are trying to hold onto a 19th century model
- Currently Elsevier is ‘reaching out’
- Watch this space

Questions?

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