

## open access: nothing much new (or very little, anyway)

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### Abstract

Open Access has been around for many years. The only new developments of pressing interest are primarily related to UK university and research management bureaucracies. It is unlikely that the laws of copyright – which protect academic and other authors in various ways – will disappear, and certainly not overnight. Commercial publishers will find a business model that sustains them, and experimentation in novel forms of information dissemination will continue. Current rights in intellectual property are of course subject to critique and change, but internet access to information has not and will not suddenly dissolve the basic economics of information production and consumption.

**Keywords** open access; publishing; copyright

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**I**t is *of course* important to get on board with the latest, and be up to date with the new. It is even important *of course* to anticipate change, and get ahead of the game. Being behind the curve is nowhere to be, *of course*. Hence the flurry of meetings, papers, day-long (even two-day) workshops, open fora, seminars, roundtables, briefings, draft procedures, proposed mechanisms, information sources, blogs and posts, publicity, news stories and general twitter-storms of interest in – ‘Open Access’ (OA).

However, it might just be a good idea to step back (600 years, if necessary) and get a grip on this. It might also be a good idea to turn on a cold shower and get under it. The reason for this counter-move is political in the broad sense. While there may not (or perhaps may) be conspiracies ‘out there’, there are certainly vested interests at work, and most probably unholy alliances and strange bedfellows. But people, such as ourselves in political science, are ‘coming from’ different places, because they are located differently. They have different ambitions,

perceptions and reactions. It is *not* 'one world', and we are *not* 'all in it together'. The UK is not – as was hyped – going to lead the world in an OA crusade.

Sometimes, like Christopher Columbus, you can get lucky by sailing in the wrong direction. But it does not happen often, and – given the two-years or so since the publication of the 'Finch Report' (Working Group on Expanding Access, 2012) – we can afford a backward glance and then consider the way forward, which, in the case of the UK, is something of a U-turn. We in global political science now have the benefit of hindsight, and would do well to get an overview. But where do we start?

Even to mention the (now dreaded) words 'Finch Report' is to contextualise Open Access to *very particular* aspects of UK politics, *very particular* ministerial (and other) projects, and *very particular* responses and ramifications. The overview analysis below argues that there are, possibly, opportunities and significant changes arising through Open Access for the world at large, but that threats (to various more or less valuable interests and practices, particularly in academia) are so far confined to the UK (and indeed possibly to some sections and sectors of it), and rather unlikely to leak out elsewhere. If you are a UK-based academic, you should be on your guard, even if you are also pro-OA – and on your charger. If you are otherwise or elsewhere, chill out and put it on the backburner. The world is always changing.

## **IN THE BEGINNING ...**

Instead of starting with Project Gutenberg, let's start with the guy himself and his press. This is the model of self-publication in the machine-age, that is, say what you want, get a medium, get it out there. Maybe you make money if you want, but anyway you have incurred some costs, if only your time, opportunity costs,

*'It might also be a good idea to turn on a cold shower and get under it'.*

and maybe some overheads (you have to eat and live, after all). Since then 'we' (now mostly the whole world population) have been living in various zones of legal and other authoritative modes of restriction on 'speech', but also various protections of authorship rights and intellectual property. The latter of course may be disregarded by you; if you don't care who uses your work for whatever purpose, then no one else does, either. Where there is 'free speech', there is 'free publication', in the sense that you can say what you like in a medium you can afford (even 'Jesus saves' on the street corner costs somebody something), provided that you stay within the criminal law and don't incur civil liabilities (or pose a security threat).

Posting anything on the internet isn't really any different, provided you can get a digital device and some server-space, and others can find your words, pictures, songs, verses, videos, animations and the like. It's easy to say that your materials are 'freely' accessed, and of course your readers and viewers may not be paying-per-view, but they have their own costs and overheads associated with enjoying your labours. You could ask them for donations, if you wanted; this is surprisingly effective (and also works for 'Jesus saves' on the street corner). If you care about the use, re-use and attribution of authorship to your work, don't worry. It's still yours, because you've tacitly asserted your rights (as they may be locally defined), and if you want to get a lawyer to chase infringers and miscreants, then that's just fine if you pay their bill, so 'good night and good luck'.

However, if you want to cover your costs and maybe make a profit, then you can set up a shop (of some sort), find paying customers, and attempt to collect the

money safe from banditry. You can try to do all this yourself, or use your capital (or day-job) to hire others to help. (And you'll need an accountant and lots of time to do paperwork.) But don't worry, there are any number of publishers – and publisher-type outfits – who are there to help, quite freely, but probably not 'for free', that is, *gratis*. And they will probably want to stay in business by making more money than you do.

So let's be clear. If you want to self-publish and self-market, with or without payment or profit, then go right ahead. However, if you want to get some help with producing and marketing your work, then it is there to be had. If you can get good help for nothing, then great! But famously you get what you pay for, and your only redress if you don't like a *gratis* service is moral suasion and going elsewhere. However, if you sign a contract with a publisher (even religious ones, as a rule, miracles being past their sell-by dates), then there will be rights and duties on either side. You can judge the terms, and then sign or not, maybe go elsewhere, or revert to self-publication and see how you do. You may or may not like any given publisher's terms, personnel, business model, tax arrangements, location, work practices or balance sheet. But there are lots to choose from.

Publishers are not all the same, and you can always get an agent (for a cut) and see how you do 'out there' on the market as an author. Academic work is no exception. Anyone who thinks that universities, their employees and products are in a 'zone of exception' away from commercial relations should look again. Learned societies, charitable foundations and the like – the same applies. Many governments in recent years have created 'hived off' agencies which make things (e.g., maps), publish things (e.g., guidebooks), and do things (e.g., maintain roads and run railway stations), and these are 'outfits' which, shall we say, operate in

*'If you want to self-publish and self-market, with or without payment or profit, then go right ahead'.*

something like a profit-and-loss environment and reporting structure, even sometimes to taxpayer-shareholders. I mention this because the word 'taxpayer' arises in the discussion below, and there are considerable anti-commercial sentiments in (what remains of) the public sector and academia generally (however it is organised). Being anti-commercial is fine, maybe noble; but being in a zone of illusion is dangerous. I find it intriguing that the previously commonplace and banal concept 'price' has – in propaganda-speak – suddenly become a 'paywall'.

## WHAT IS THE 'OPEN' IN OPEN ACCESS?

The overview above has sketched out a very broad picture of where 'we' (globally) are, and has left aside any instant critique or defence relating to the various interesting boundary lines involved: public/private, academic/commercial, production/consumption, author/reader, *gratis*/priced and the like. Continuing the binary theme, I contend that OA as a political project has two very broad strands:

- An anarchist/libertarian argument for freedom to access and use 'information' independent of authorial property rights, particularly as licensed to publishers; this 'free' access is made visible in various internet repository arrangements where there is no charge per view or restriction on use.
- A public accountability argument relating to academic research and taxpayer funding for universities and the like, but

also to taxpayer funding of libraries which make major subscription payments to publishers, particularly for research journals.

There is no reason why these political projects cannot exist (or co-exist) most anywhere. However, in relation to the second strand, there are *very particular* circumstances that many UK-based academics see as a major change, and some perceive as a threat or inversely as an opportunity. Hence it is important to realise that the situation of academics – and their perceptions as well as those of their managers and policy-setters – will vary, and outside the UK will very likely be at variance with UK fears and hopes.

The first – anarchist/libertarian – project arises as out-of-copyright materials are made accessible *gratis* for those with internet connections, hardware, software, skills and interests. It is of course an interesting question how this productive activity is funded, who is paying, and where this enterprise is headed. Your ‘free’ access will probably be subject to advertising pop-ups, commercial information aggregation and no doubt security surveillance of certain kinds, legal, constitutional or otherwise. It is important to note, however, that there is a something of an illusion at work here – perhaps ‘the illusion of the epoch’, as Marx and Engels put it – that the internet is a ‘realm of freedom’ where you get what you want as a consumer for nothing, but then leave aside the more difficult questions – often deliberately obscured – as to who is paying for the services and products involved in the first place.

The second – public accountability/taxpayer funding – is somewhat more complicated and less easily generalisable. But it relies on even more powerful ideological sloganising (rather than just an illusion that the internet tells us that goods and services are produced for free and consumed for free – which as a reality even

Marx and Engels thought was some way off). Amidst the commissioned reports, ministerial statements, press releases, consultative documents, parliamentary testimony and the like, I discern the following three contentions:

1. Information should be freely available.
2. Publishers make too much profit.
3. Taxpayers should not pay twice.

Politicians can be forgiven (well perhaps, anyway it’s their job) for sloganising with sound-bytes and half-truths, headline-grabbers and crowd-pleasers, crypto-principles and claims that do not stand up to scrutiny and reason. However, academics – and their manager and paymasters – possibly have less excuse. I take these three slogans in turn:

### **SLOGAN 1. INFORMATION SHOULD BE FREELY AVAILABLE**

Information (whatever that is) is sometimes available *gratis* (e.g., ‘Jesus saves’, free newspapers, flysheets, advertising ‘alerts’ etc.), but – as explained at the outset – there are costs associated with its production. Cost of production, of course, is not a sure guide to value – whether of exchange or use (another nod to Marx). Nonetheless goods and services may arrive ‘freely’, but their production is anything but. The perception that production happens ‘freely’ is related to the illusion of the internet, mentioned above. Often debates in this area evolve into ‘geeky’, alphabetical disputations on licensing issues (CC-BY-NC-ND) and ‘Creative Commons’ use and abuse, aspiration and enforcement. While undoubtedly interesting and germane, this kind of discussion turns on accepting OA premises in the first place, and buying into the idea that content-producers just make things and ‘put them up’ for nothing, and that’s that.

## **SLOGAN 2. PUBLISHERS MAKE TOO MUCH PROFIT**

Excessive profit and tax avoidance are both in the news, the latter on a rather firmer legal and political basis than the former, but even so, there are issues. Quite how much profit is excessive, though, is hard to determine against even political criteria. Most parties defend commercial success as essential to national interests in the first instance, or at least economic success is acknowledged as a hugely important residual. Market regulation works – as well as it does – against the tendency of markets to monopoly, so, in so far as ‘excessive’ profits arise from an unwarranted monopoly, then we know what to do (or say we do). Otherwise profits ‘go to town’ unless and until competitors challenge this position and consumers get a better deal (or that’s the theory, anyway). Starbucks was not allowed to monopolise espresso coffee, and competitors arose. McDonald’s never monopolised hamburgers – so end of story.

So where are the excessive profits in publishing, and who has an unwarranted monopoly? Academic journal publishers have proliferated journals, and publishers themselves have proliferated. Global markets for research journals have expanded even more. Possibly there is a problem with monopoly here, but it is only one that academic ‘journal ranking’ creates (and for which certain publishers are doubtless grateful). But then academics have only themselves to blame.

Journal publishing is an international industry, and many of its product-providers work for them for nothing (or nearly nothing), for example, authors, reviewers, editors (who might get expenses), and the like. We academics could demand payment and withdraw our labour if payment were not forthcoming. We could put the publishers out of business (or that sector of their business, anyway), and do all the production work ourselves! Well, fine, though it will be a lot of extra work for no pay at all. As with any competitive,

*‘So where are the excessive profits in publishing, and who has an unwarranted monopoly?’*

commercial and commoditised set of arrangements, there is a huge amount of room for negotiation and ‘wiggling’ in all directions, particularly push-pull. That is what markets (more or less) allow. But then we are back to the difficulties and hazards of self-publishing.

What is largely missing from this situation so far is consumer-resistance, for example, from those who manage library budgets and simply pay up what publishers ask. Thus they fail to negotiate (or fail to negotiate hard enough) with suppliers to get a better deal. Suppliers understand this language; that is what sales departments do. But – to my knowledge – not that many librarians, individually or collectively, ring them up and threaten to cancel. Instead, they go back to university and similar institutional managers with cuts and cancellations. There are of course notable exceptions to this, and some good results, including joint action to get economies of scale (and clout). But anecdotally I am also told that within academic institutions the monitoring of duplicate and inefficient subscription patterns can leave much to be desired. Academics may of course be fairly happy with this, given that they want secure (if diminishing) supplies, or demand trade-off cuts elsewhere from others – or possibly engage in income generation through entrepreneurial activities (which takes us into other areas).

Perhaps the major international journal publishers are exemplars of greedy capitalist indifference to human needs and talents, and perhaps they should be taken down for that reason. But then if that is the project, I would respectfully

suggest starting elsewhere (maybe arms dealers?).

### **SLOGAN 3. TAXPAYERS SHOULD NOT PAY TWICE**

Taxpayers paying once or twice is the easiest illogicality to dispose of. Many citizens are not taxpayers. Many taxpayers pay for things they will *never* have access to, *gratis* or otherwise (e.g., nuclear weapons, defence installations, security agencies etc.). Many taxpayers pay for things that they might use, but never do (e.g., railways, airports, motorways etc.). Many taxpayers pay *again* for things they have paid for once already (e.g., railway journeys, national monument visits, road and bridge tolls etc.). Many taxpayers pay *further taxes* to use things that they have already been taxed for (e.g., airport usage taxes per flight). It is of course interesting – if tedious – to unpick the connections between, say, UK taxation, university funding, academic teaching/research, journal subscriptions, research grants and the like. But let's simply leave that aside as a conundrum.

### **BACK IN THE UK**

Here is where the *very particular* mix of UK threats and opportunities kicks in. UK research, done by academics at universities (and the like), is regularly assessed for 'quality', and the relevant agency has announced plans to require OA (in some form or other) as a condition of eligibility for peer-review of a 'published' item. This is hugely significant to UK-based academics and to their career-concerns (and to the similar concerns of their research managers). It is of zero concern to those outside this system.

There are other national university systems of research quality assessment operating in other countries, where so far the kind of stringency announced initially

in the UK isn't really taking off. It might, but it isn't. In any case, the UK agency involved is backpedalling somewhat from its original position (and hence the political ambitions involved seem to be moderating, i.e., the minister has moved on). Possibly someone noticed that a blanket-restriction on what can be submitted for quality-assessment would diminish – rather than enhance – the reputation of the whole exercise within and outside the UK. If you are not surveying a sample of all 'published' research, but only a rather arbitrarily filtered slice of it, then the comprehensiveness of the whole exercise is cast into doubt.

Moreover the UK research councils have announced a policy that OA (in some form) would be required in the 'outputs' of the research projects that they fund (and the funds are largely derived from public sources). And some private or charitable funders have for some time had similar requirements. Thus UK researchers can be hit both ways, via research quality assessment, and via conditions attached to grants that affect how and where their work is disseminated.

Were the publishers upset by these moves? Oddly not. A requirement that articles from UK-based (or prospective UK-based) authors will only go into a journal, only to go out again *gratis*, seems to work against their subscription model. Why should university or other librarians pay a subscription for research information that anyone anywhere (academic, taxpayer or otherwise) can access *gratis* (given appropriate equipment and human capital)? Actually many publishers have had OA in place for years, and contractually it was always a potential, anyway. If you license your work for a publisher to exploit (and protect), and they produce the intellectual product (at a cost to them), then if you want out of the deal, and wish to make the product available *gratis* to the world, make the publisher an offer. Or if you don't like their price to buy

the rights back, complain and say you'll go elsewhere next time. Or don't sign in the first place. If your funder requires OA in this way, then make sure you get it funded *by them* in your grant. And complain if they renege by cutting your budget. It may not be nice, but that's how it works.

Publishers were rather unworried because – in general – UK authors and income are significant, but not determining for their business models. They sell journals all over the world, including a number of all-OA ones now. These all-OA journals do not have a free-production/free-consumption business model – no one does. For an OA journal (so-called) someone pays production costs (usually the author), so that you the consumer can access the content *gratis*. Moreover, publishers have responded to the OA-threat (really a publicity threat, rather than an economic threat) by making all kinds of content free-to-view – old content, special content, ancillary content, database content – and they are constantly working on pricing, packages and global sales. Free offers/limited period, buy-one-get-one-free, whatever. And – for those who have followed this logic closely – since funded OA has come in the UK, publishers have had an opportunity to collect twice for the same work! Journal cancellations are not cascading in because of OA in the UK; payments by authors, funders and universities (via the funding agency) are flowing into publishers' coffers as well. Maybe this is unstable and unsustainable, but then so is everything (or nearly everything) in a competitive market situation. However, so far

OA has produced a situation that benefits publishers, who are doing better than ever.

## **A SPECTRE IS HAUNTING ACADEMIA**

In sum, what is threatening and shocking is not OA, even in the UK. What is threatening and shocking is the reaction in UK-academia to a plausible-sounding – but really not very important – ministerial 'initiative'. Too many people in the UK were far too willing to jump on board a bureaucratically piloted ship, for the sheer joy of being on such an exciting cruise, advertised with such exciting slogans. However, two years on, even the proponents – both bureaucratic and overtly political – have turned the ship around somewhat, and in any case the party-streamers have wilted. More people in the UK should have kept their feet on the ground, and stood their ground, painful as it might have been at the time. The authoritarians have backed off, but probably not because they encountered that much resistance. Probably they are finding other areas of interest ... so watch out, UK academics!

What is particular about the UK is the interlocking system of public university funding (and nearly all universities are 'in the system'), and its susceptibility to ministerial initiatives and bureaucratic control by fiat. Sadly, complicity, gullibility and misplaced enthusiasm are probably everywhere. That is the spectre haunting global academia – not OA.

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