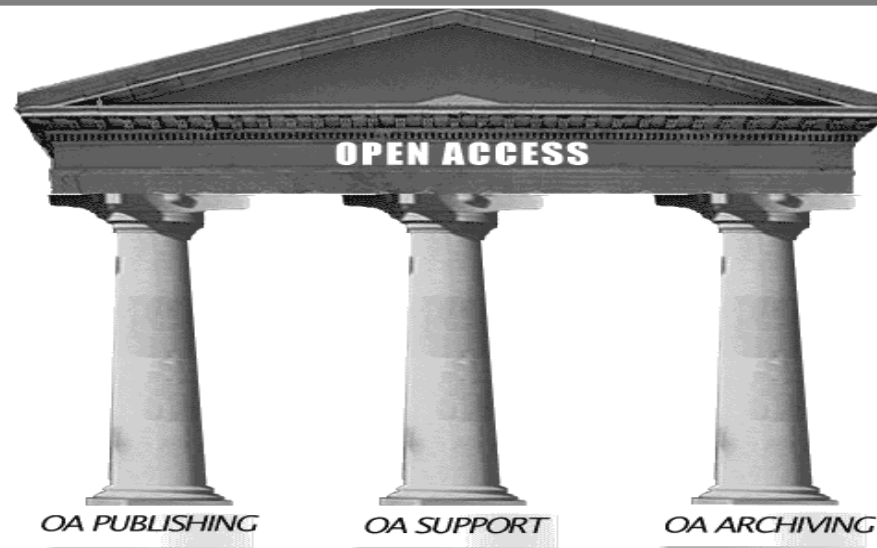


Copyright: Future for scientific authors

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„Opening up access to content and data can radically increase access and reuse, bridge gaps, improve transparency and thus foster innovation and increase societal welfare.”

Open Knowledge Foundation, okcon.org/about

„A high level of protection of intellectual property, will foster substantial investment in creativity and innovation, and lead in turn to growth and increased competitiveness.”

EU-Directive Copyright in the Information Society

- **What is, why is and how works copyright ?**
 - Exclusive rights and moral rights
 - as incentives to create
 - and to secure participation in proceeds from exploitation

- **In practise:**
 - Transfer of use rights
 - here: to the publisher
 - in general: comprehensively

(world-wide; duration of copyright, all use rights)

■ Traditionally: Shift of perspective

- From author to publisher
- Legal protection of publishers against competitors
- Protection of publisher only indirectly benefits authors

■ Internet: Author-publisher – from symbiosis to conflict

- Possibility and need for own publication
- Possibility and desire to cost-free access
- At the same time: Journal-crisis and increase in production cost and subscription fees

Legal (1): *de lege lata*

■ § 38 I German Copyright Act:

- As regards contributions to periodicals . . .
- „the author retains the right to reproduce and distribute the work beginning one year after it has been initially published“
- but only if the parties have not otherwise agreed upon
- in practice, however, the rule

■ Consequence:

- Rights in general with publisher even beyond one year
- unless publisher voluntarily agrees to no or shorter delay

Legal (2): *de lege ferenda*

■ **Wishfull thinking:**

- Duty to offer for first publication via open access (*Pflüger/Ertmann*)
- Contrary to freedom of science and research (Art. 5 III GG)

■ **More realistically:**

- Make § 38 I German Copyright Act mandatory (*Hansen*)
- Initially discussed, but probably not retained in „3rd basket“
(Copyright reform 2011)

Contractual solutions



■ „Thumb screws“: Regulations on grants:

- Awarding grants subject to the condition of OA-publishing

■ Contracts between authors and publishers:

- Golden Road: initial OA-publication
- Green Road: Self-archiving

(mostly time-shifted, possibly simultaneously with initial publication)

■ Creative Commons (CC):

- „some rights reserved“
- simple „surface“
- Built upon complex legal and technical basis



■ and similar licenses:

- E.g., Digital Peer Publishing License (DPPL) of DIPP, www.dipp.nrw.de
- modular; different versions
- Advantage: specially tailored to scientific publishing
- Disadvantage: incompatibilities amongst different licenses and versions

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