

Rights and Permissions in the Supply Chain:

Untying the Knots for Institutional Repositories



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ALA – June 2006 – New Orleans, LA



Rights & permissions

- **Rights** are granted by law
 - Copyright is right to reproduce, distribute, perform & display publicly, & make derivatives
 - Exceptions & limitations for libraries
 - Fair use / dealing exception for the public
- **Permissions** are granted by rights holders
 - Permissions specify rights, e.g., display, print, save
 - Restrictions & conditions may apply, e.g., use with attribution, use by certain groups, use for certain purposes, use for a limited period of time



Roles in the supply chain

- Rights holders
- Rights mediators
- Users
- Rights creators & enforcers
- Rights definers & interpreters

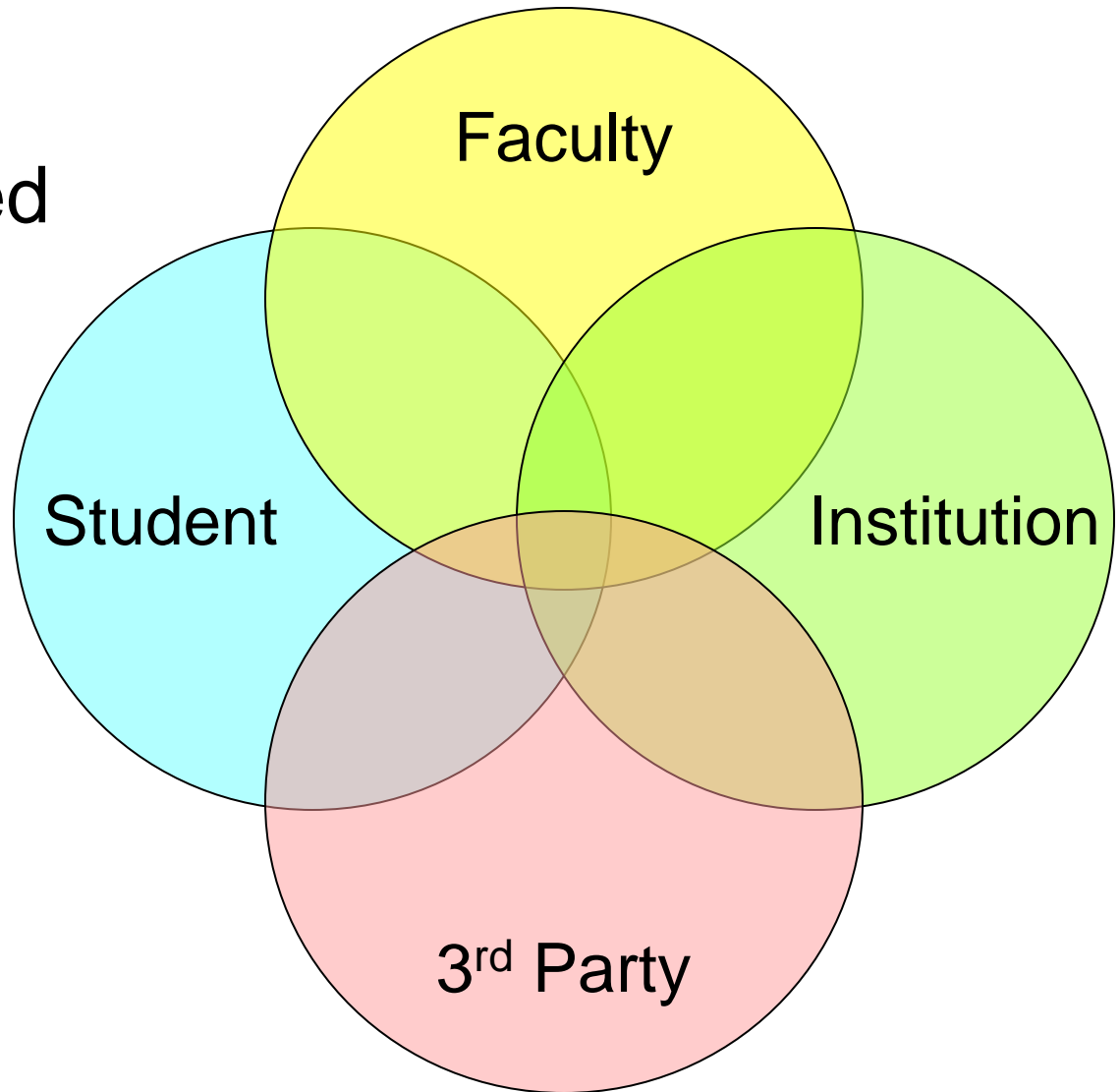


Stakeholders can play multiple roles
Roles are changing

NISO workshop
May 2005 – Denver, CO

Rights holders

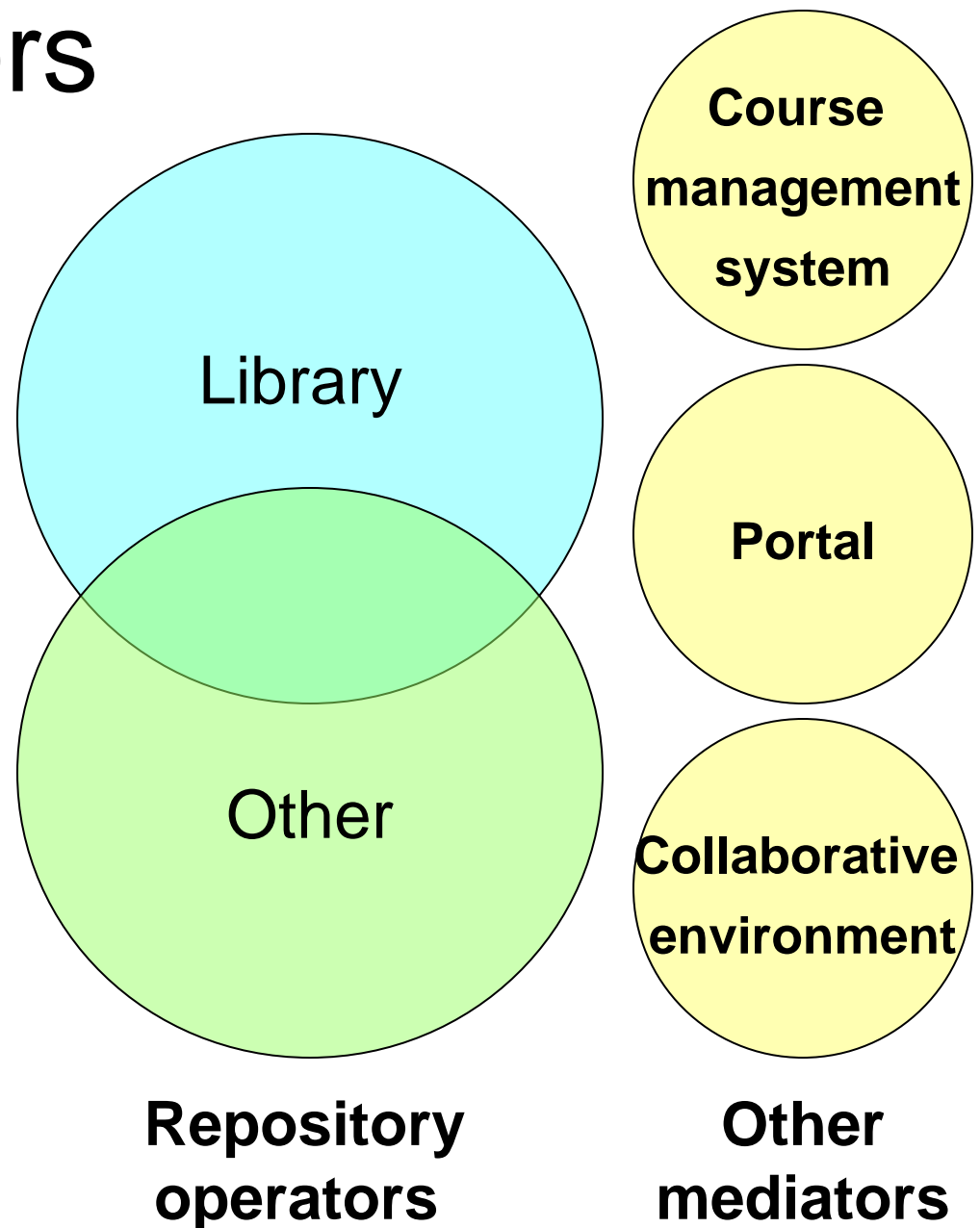
- Own the rights or are empowered to grant rights to others
- Have different philosophies, motivations, concerns, & priorities



Rights mediators

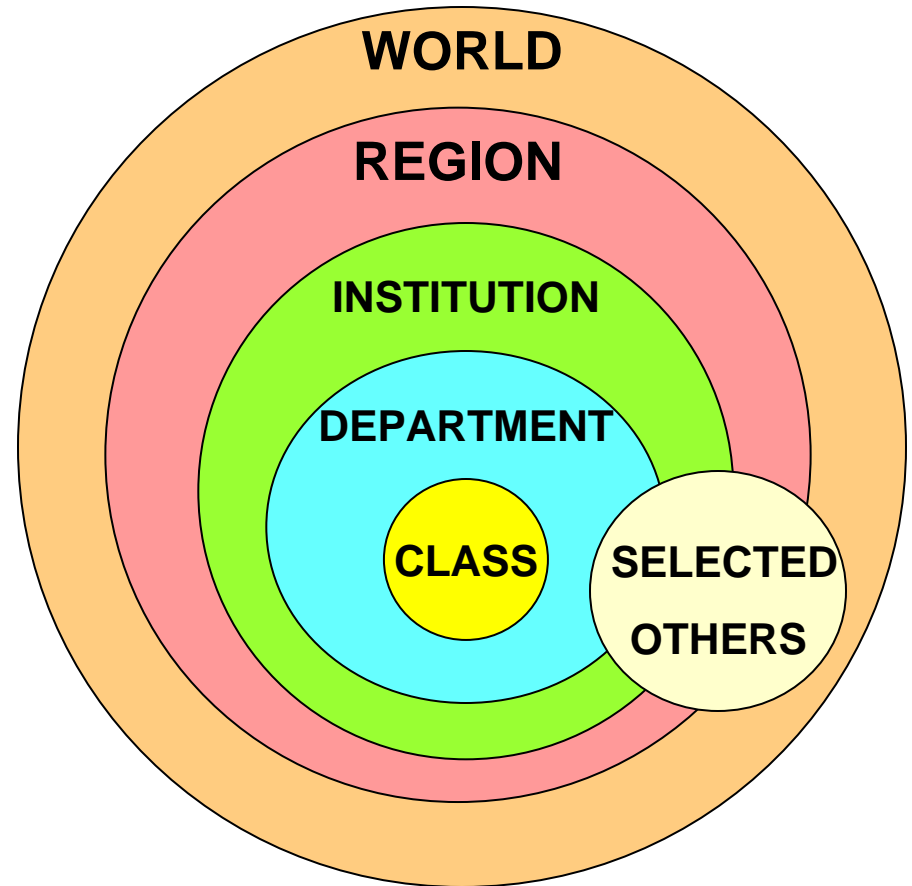
- Convey rights in compliance with the law & license terms set by rights holders

In the United States, the library is responsible for 80% of IR operations (2005 CNI survey)

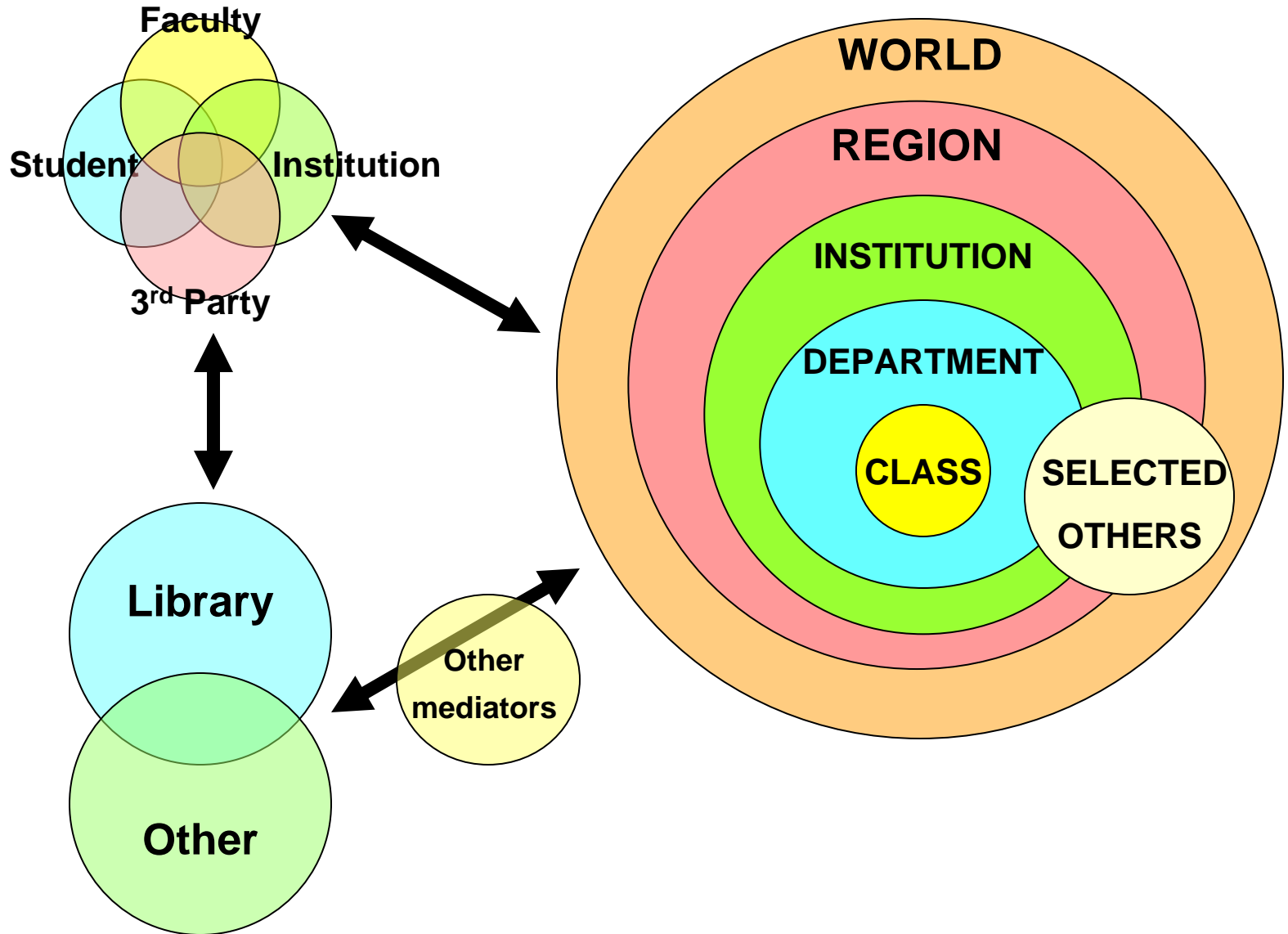


Users

- Exercise rights granted (or not) to them
- Attempt (or not) to interpret rights



The repository supply chain



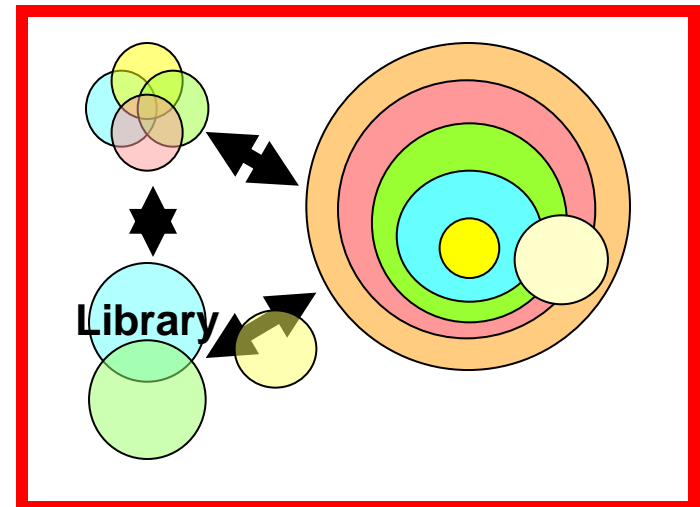
The regulatory environment

- Rights creators & enforcers
 - Create rights & compel obedience
- Rights definers & interpreters
 - Explain the meaning & significance of rights

- Laws
 - Copyright
 - Licenses
- Policies
 - Intellectual property
 - Authentication
 - Access control
 - Privacy & confidentiality
 - Self-archiving

Libraries must uphold

- The law
 - Secure right to copy, distribute & preserve content
 - Deposit license between © holder & institution
 - Protect distribution & use of content
 - Distribution license between © holder & user
- Institutional policies
- Professional ethics



Knots

- Defining the repository
- Concerns about copyright
- Identifying solution requirements
- Rhetoric of rights management





Defining the repository

- 1994: Self–archive published work (Stevan Harnad)
 - Maximize impact via free access
- 2002: Re–shape scholarly publishing (Raym Crow)
 - Address affordability problem & regain control
- 2003: Advance, support, & legitimize new forms of scholarly communication (Cliff Lynch)
 - Preserve & provide access to institution’s assets



Continuum

- What purpose(s) does the repository serve?
- What content does it contain?



**An open-access
collection of work
published by faculty**

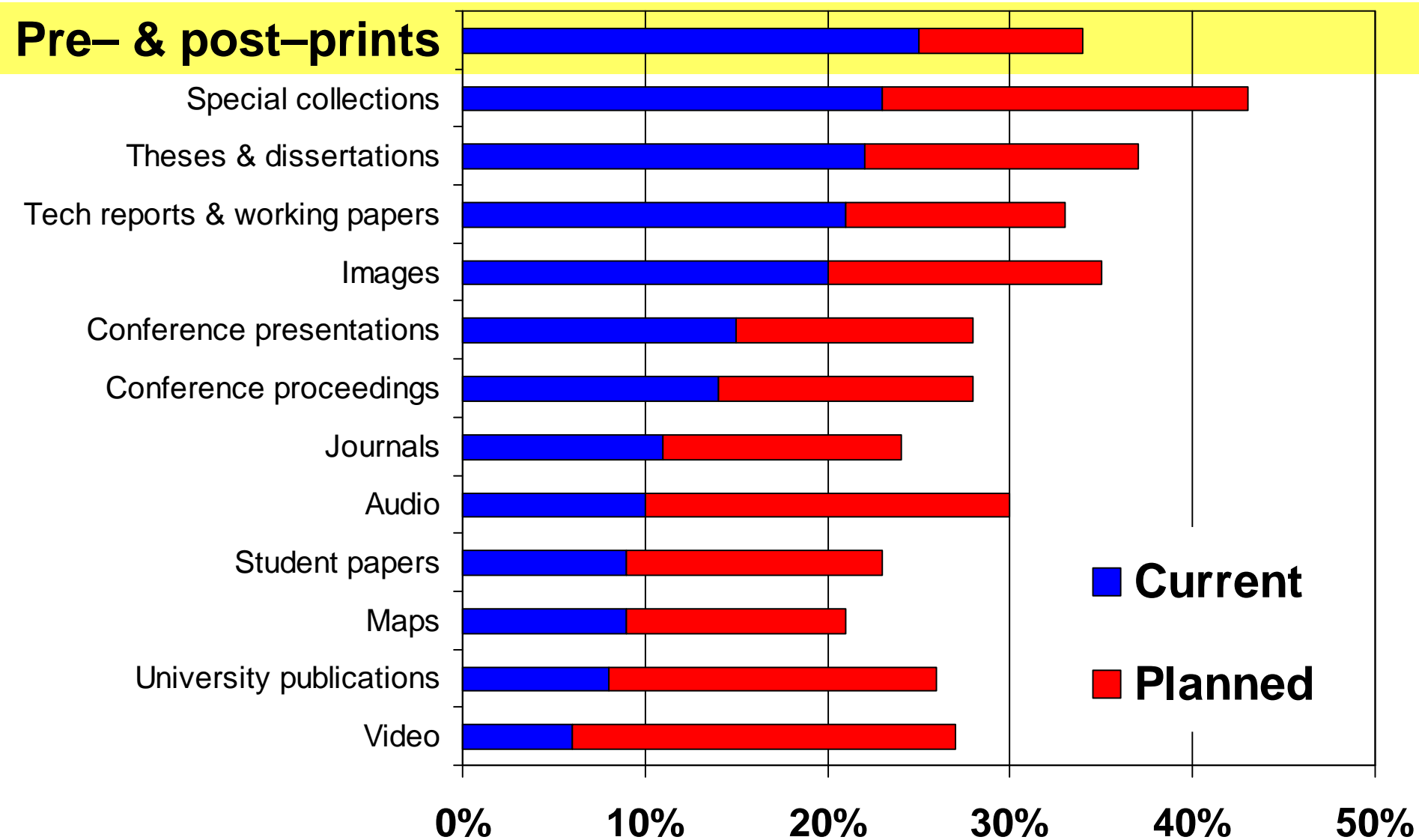
**A digital library
of the community's
cultural & intellectual life**



Rights get more complicated

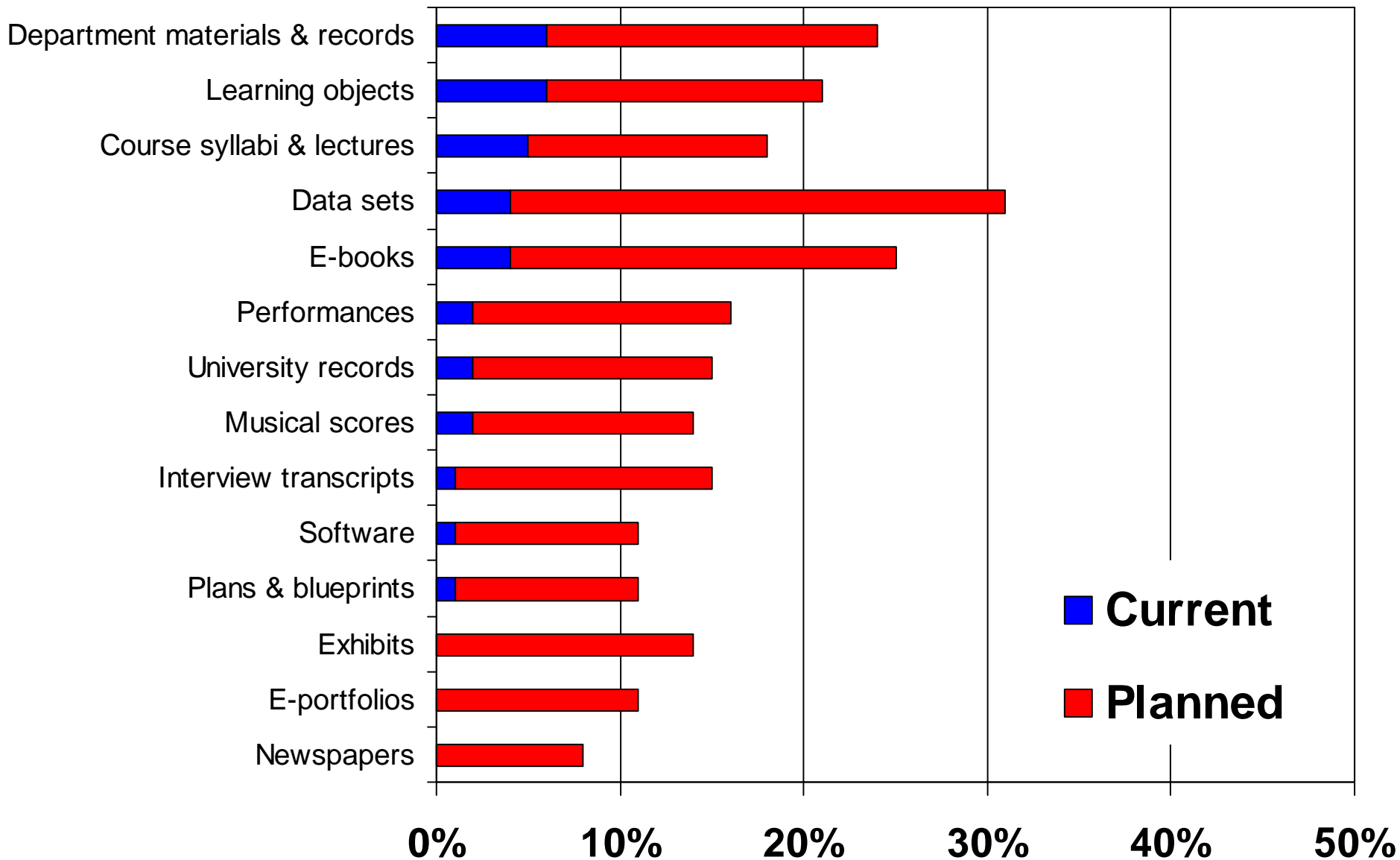
2005 CNI survey of 97 U.S. institutions

Repository content types



2005 CNI survey of 97 U.S. institutions

Repository content types





Repository as digital library

- Rationale(s)

- Preserve & leverage assets
 - Increase impact (OA)
 - Showcase quality
 - Centralize & introduce efficiencies in stewardship
 - Encourage collaboration
 - Rescue
- Facilitate change in scholarly publishing
- Support faculty practices

- Services

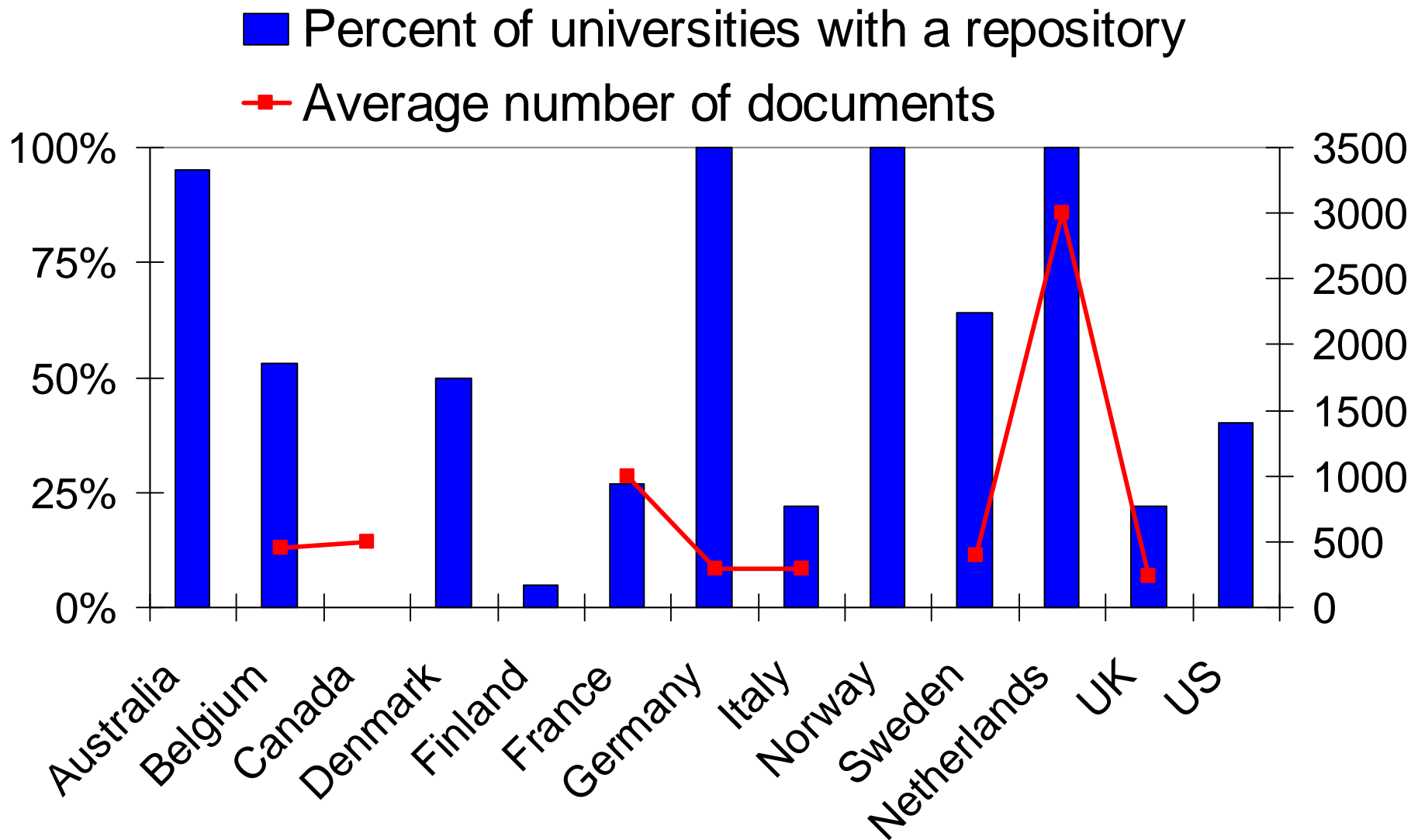
- Capture
- Organize
- Manage
- Steward
- Disseminate
- Preserve
- Interoperate

RIGHTS



2005 CNI, JISC & SURF surveys

Volume of repository content





Current status: little content

- 2004: survey of 45 repositories
 - Average 1250 items; median 290 items
- 2005: survey of 97 U.S. institutions
 - 25% archive (9% plan to archive) pre- & post-prints
 - No comparable data
- 2006: 400 OA repositories
 - 50% average 40 items; 25% are empty
 - At least 50% of contents are NOT full text

93% of journals allow self-archiving
Takes little time to self-archive





Why so few contributions?

- 2005: Rochester IMLS research
 - Mismatch of vocabulary, incentives, & workflows
 - **Copyright concerns**
- 2006: UK rights & rewards study
 - Only 16% prefer institutional repository
 - Awareness & workings of repository systems
 - Lack of time, reward or incentive
 - Institutional policies
 - Attitudes of peers
 - **Copyright concerns**





Copyright as barrier to contribution

- **Who owns the copyright?**

	Teaching materials	Research papers
Academics own	13%	61%
Institution owns	26%	7%
Don't know	55%	32%

*Rights & Rewards
in Blended IRs
January 2006*

*RoMEO
Studies 1
2003*

- **What about archival & other materials?**



Faculty copyright concerns

- Teaching materials

- Will their work be safe & attributed to them?
- Can they deposit work with 3rd party content?
- Who & how will people be able to use their work?

Rights & Rewards, January 2006

- Research materials

- 32% concerned won't get published if self-archive
- 30% concerned self-archiving will break agreements
- 10% ignore agreements & self-archive

RoMEO Studies 1, 2003

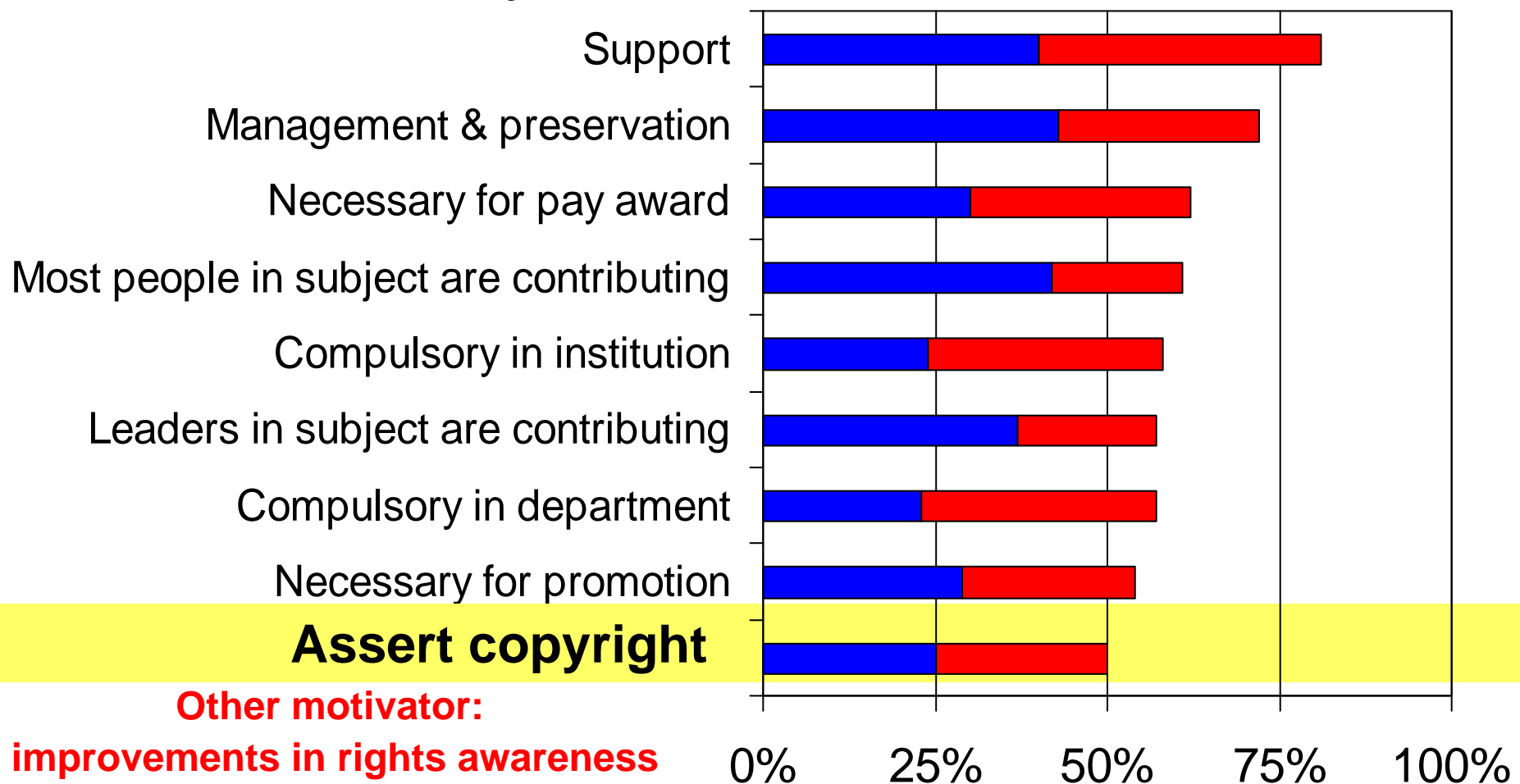




Incentives

■ Likely to contribute to repository

■ Much more likely to contribute





Copyright as barrier to use

- Faculty are more likely to use than to contribute to a repository, but if they use repository content
 - 40% are unclear about their right to use or modify
 - 30% had difficulty locating copyright information

Rights & Rewards, January 2006

58% self-archive research papers
88% use open-access research papers

RoMEO Studies 2 & 3





Copyright as management issue

- **Hard copyright problems for repository managers**
 - Authors are ignorant of copyright & wary of depositing
 - 3rd party content, learning objects, & images

Linking UK Repositories, June 5, 2006

- **Some faculty don't ...**
 - Know if they own or transferred copyright
 - Understand, read, keep or carefully file agreements
 - Care what the agreements say
 - Have the time or confidence to negotiate
 - Understand the value of open access

Preliminary results Carnegie Mellon study 2006



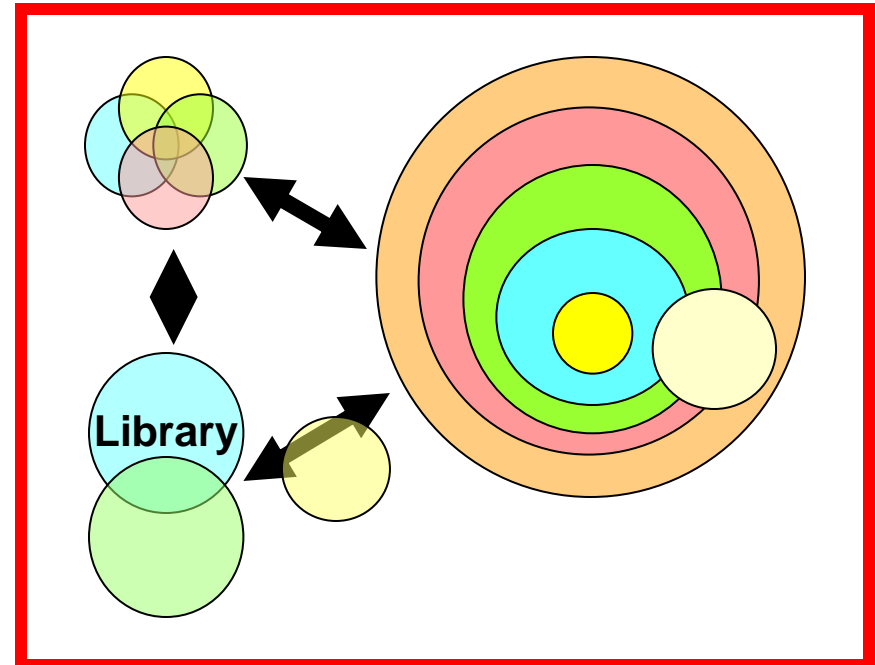
Rights management
is the most significant
repository policy issue
& implementation
challenge



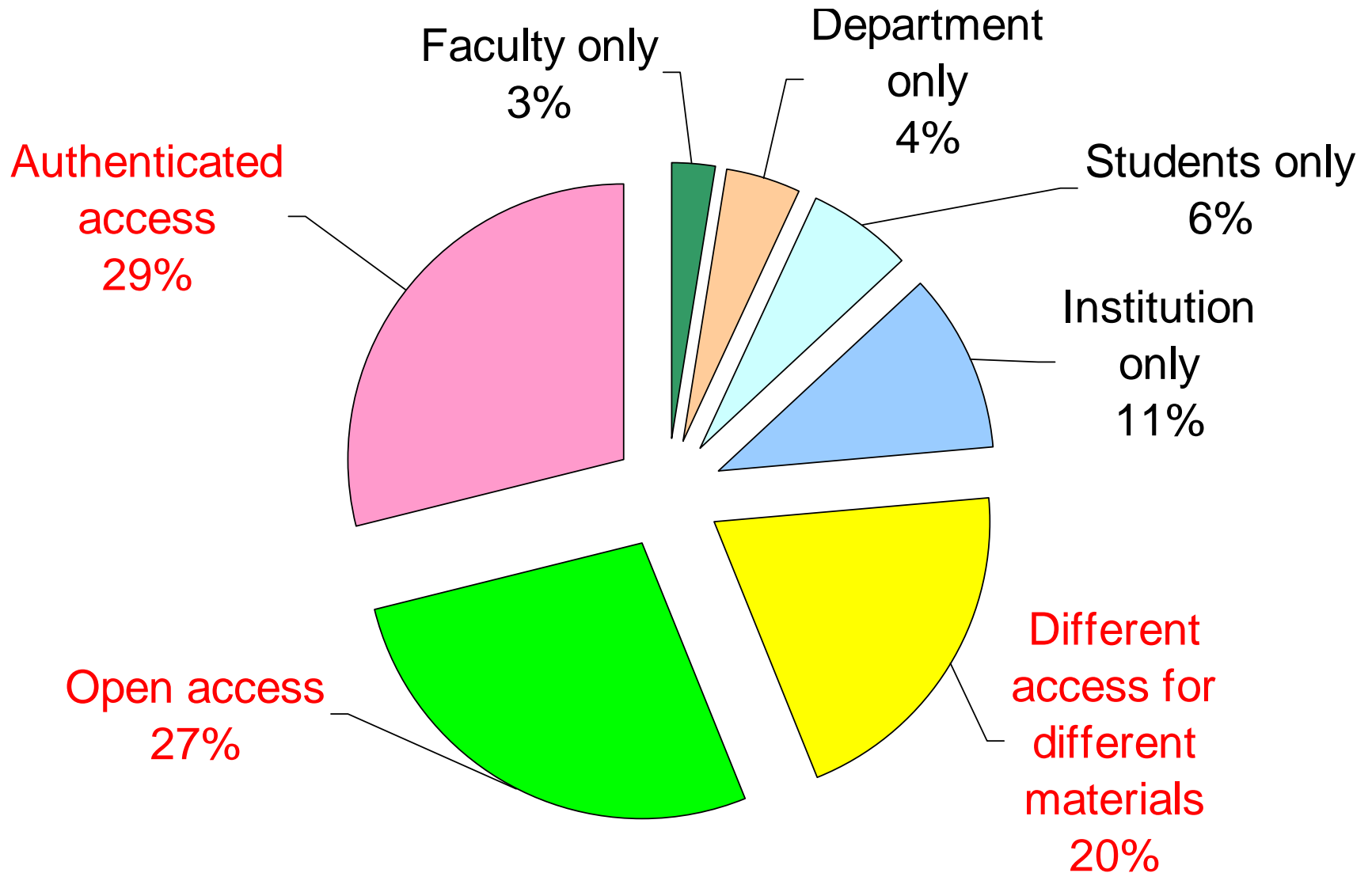
McCord, *IR: Enhancing Teaching, Learning, & Research*,
EDUCAUSE, 2003

Identifying solution requirements

- Rights to be managed
 - Rights holders requirements
 - Rights mediators requirements
 - User requirements
- Other issues

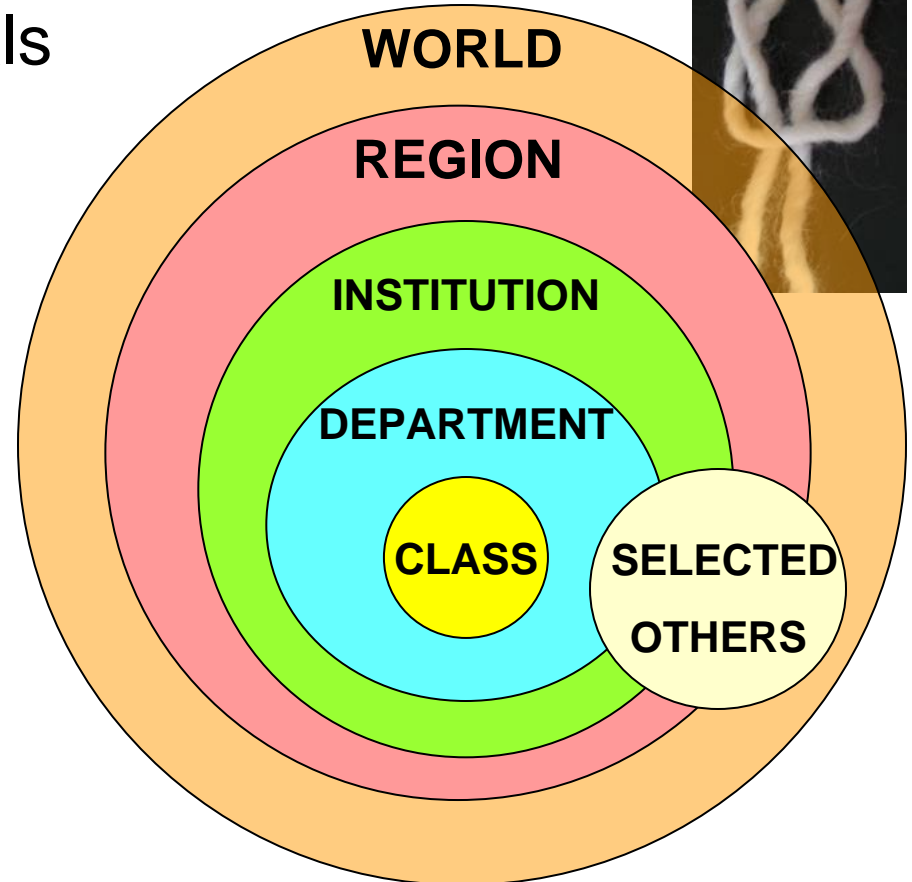


Access to teaching materials



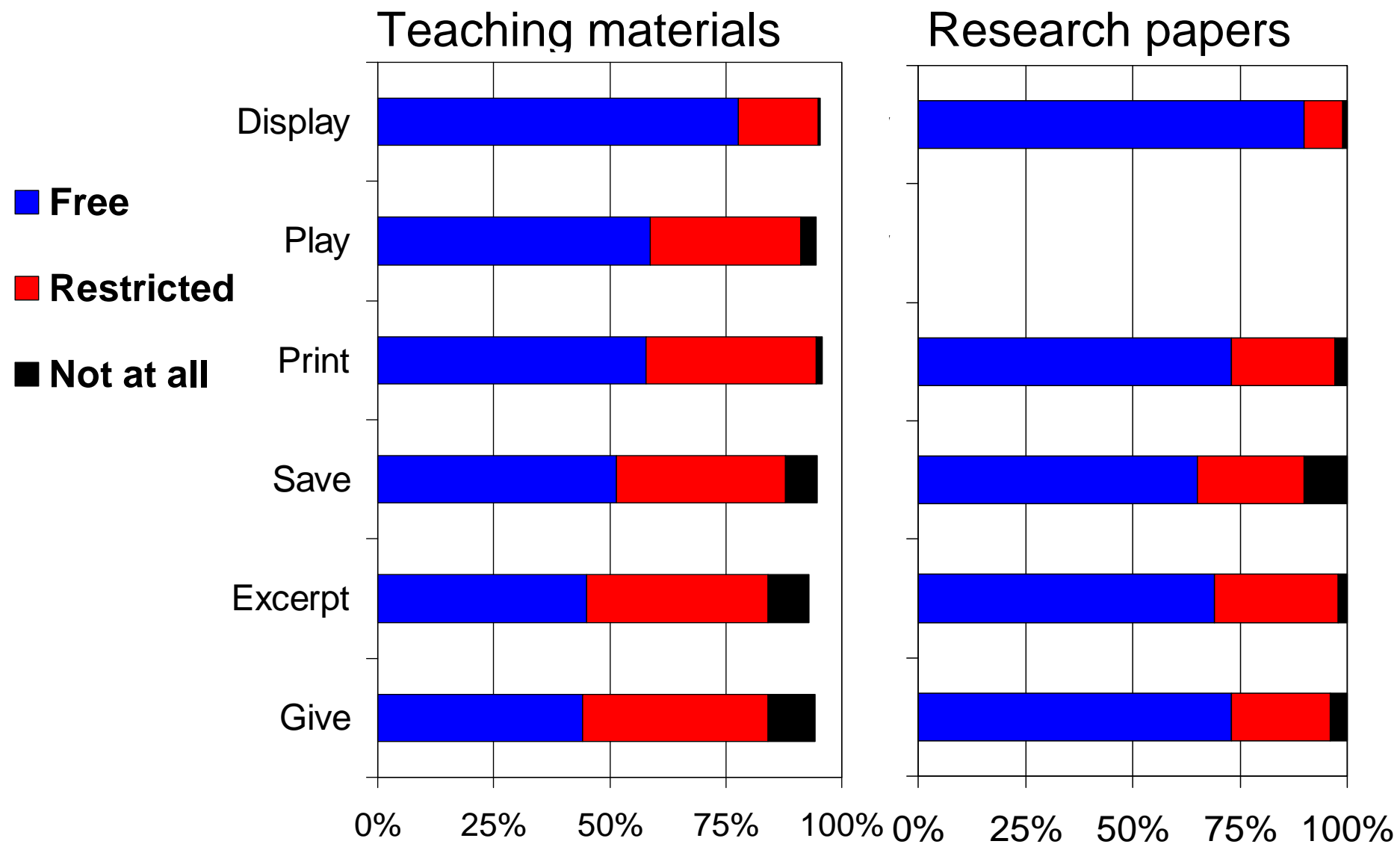
Mismatch with faculty preferences

- Most repositories are open access
 - Only 27% would allow open access to their teaching materials
- Some repositories have access control
 - Mapped to groups
 - 20% want different access for different teaching materials



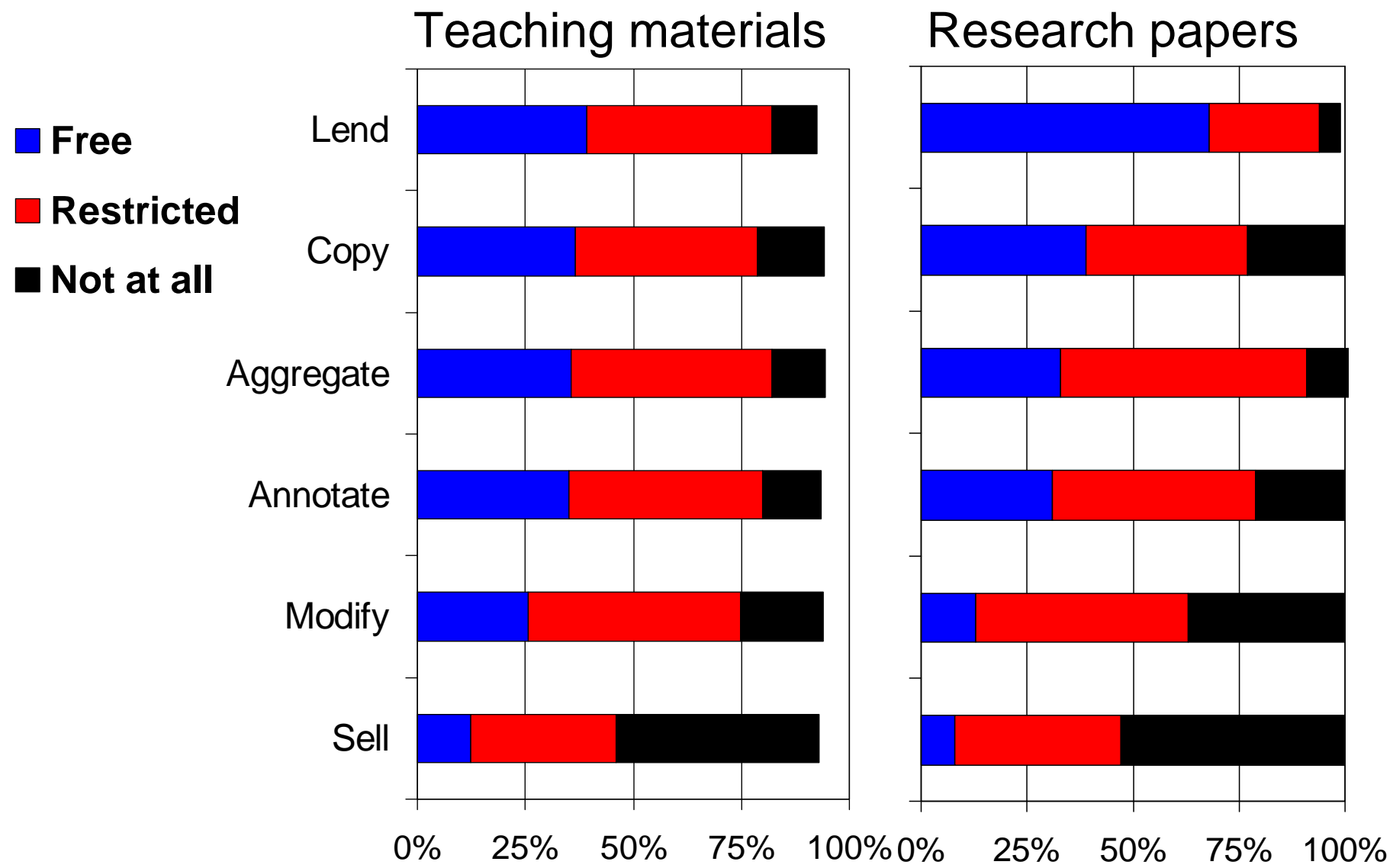


Faculty restrictions on use



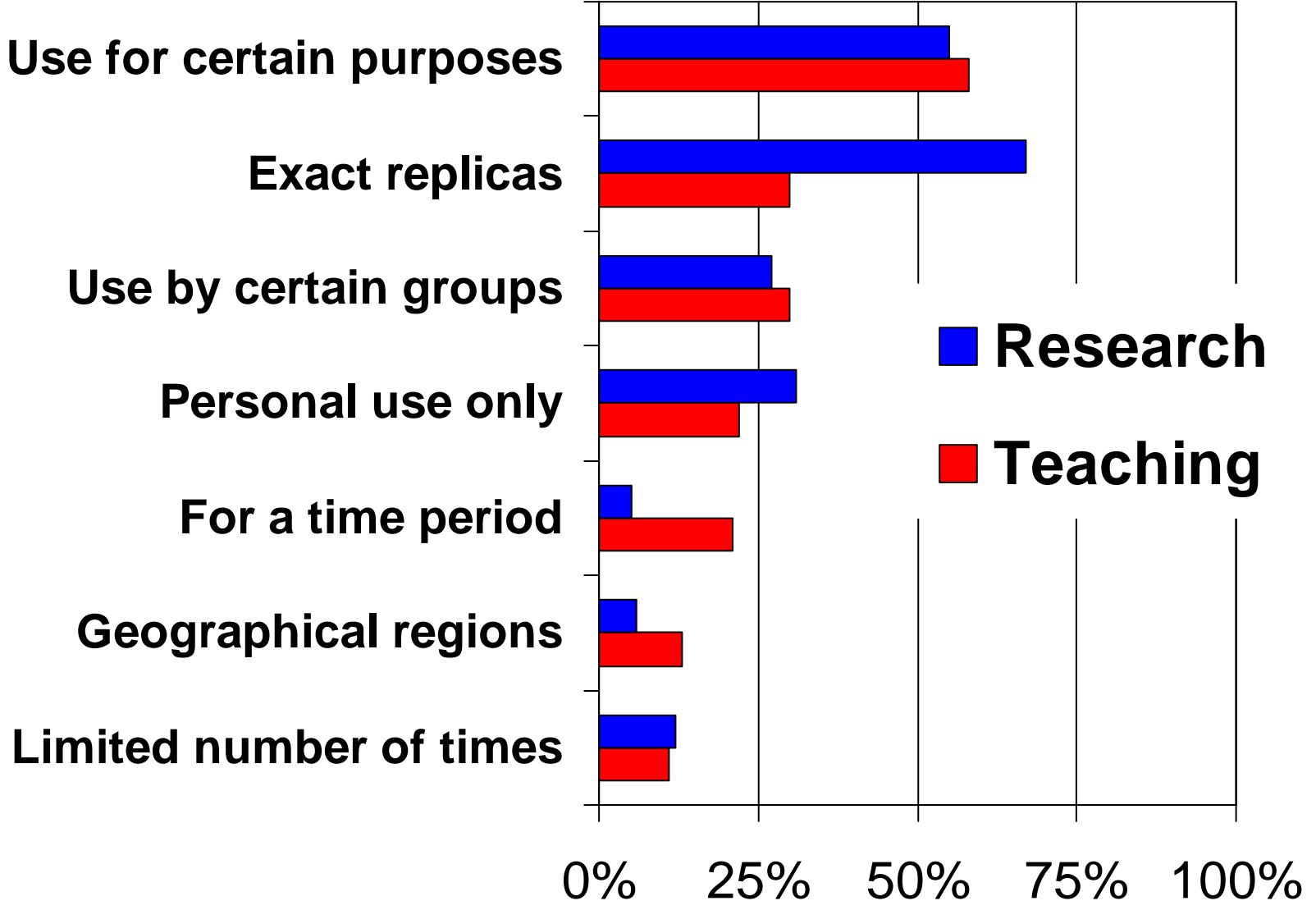


Faculty restrictions on use



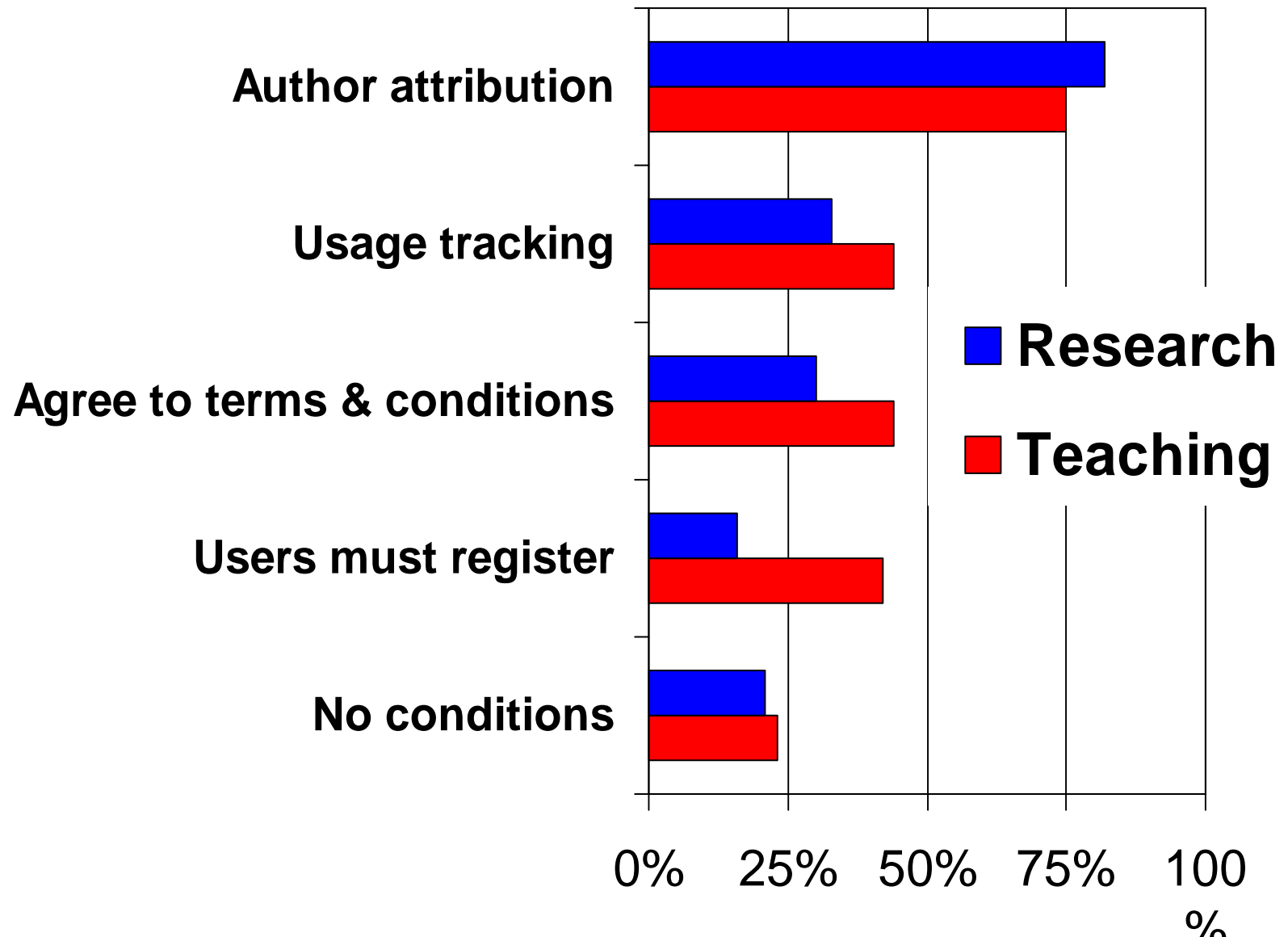


Other restrictions





Other conditions



Rights holders requirements

- Attribution
- Ability to
 - Assign different rights to different users
 - Manage rights inherited from multiple sources as content is aggregated, repurposed, redistributed
- Unique identifiers for content
- Usage tracking & reporting
- Security & interoperability
- [Compensation]



Rights mediators requirements

- Same as rights holders PLUS
- Branding
- Legally defensible, [machine actionable], persistent, standardized rights expression
- Ability to
 - Convey rights to users
 - [Control] who can do what, how, when, & where
- Ambiguity to enable negotiation



User requirements

- Seamless access
- Display of rights granted
- Right to
 - Copy for personal use
 - Excerpt
 - Annotate for personal use
 - Aggregate & disaggregate
 - Share with colleagues
 - Apply accessibility technology

With the exception of sharing & excerpting research material, < 50% of faculty would allow unrestricted copying, excerpting, annotating, aggregating or sharing

Rights requirements for research

AUTHORS require	USERS require
PERMISSIONS	
Display	Display
Give	Give (optional)
Print	Print
Excerpt	Excerpt
Save	Save
Aggregate (opt)	Aggregate (opt)
RESTRICTIONS	
Exact replicas	Exact replicas
For certain purposes (opt)	For certain purposes (opt)
CONDITIONS	
Attribution	Attribution

Sounds like
Creative
Commons
Attribution
Non-commercial
No Derivatives
license

RoMEO Studies




Other issues & requirements

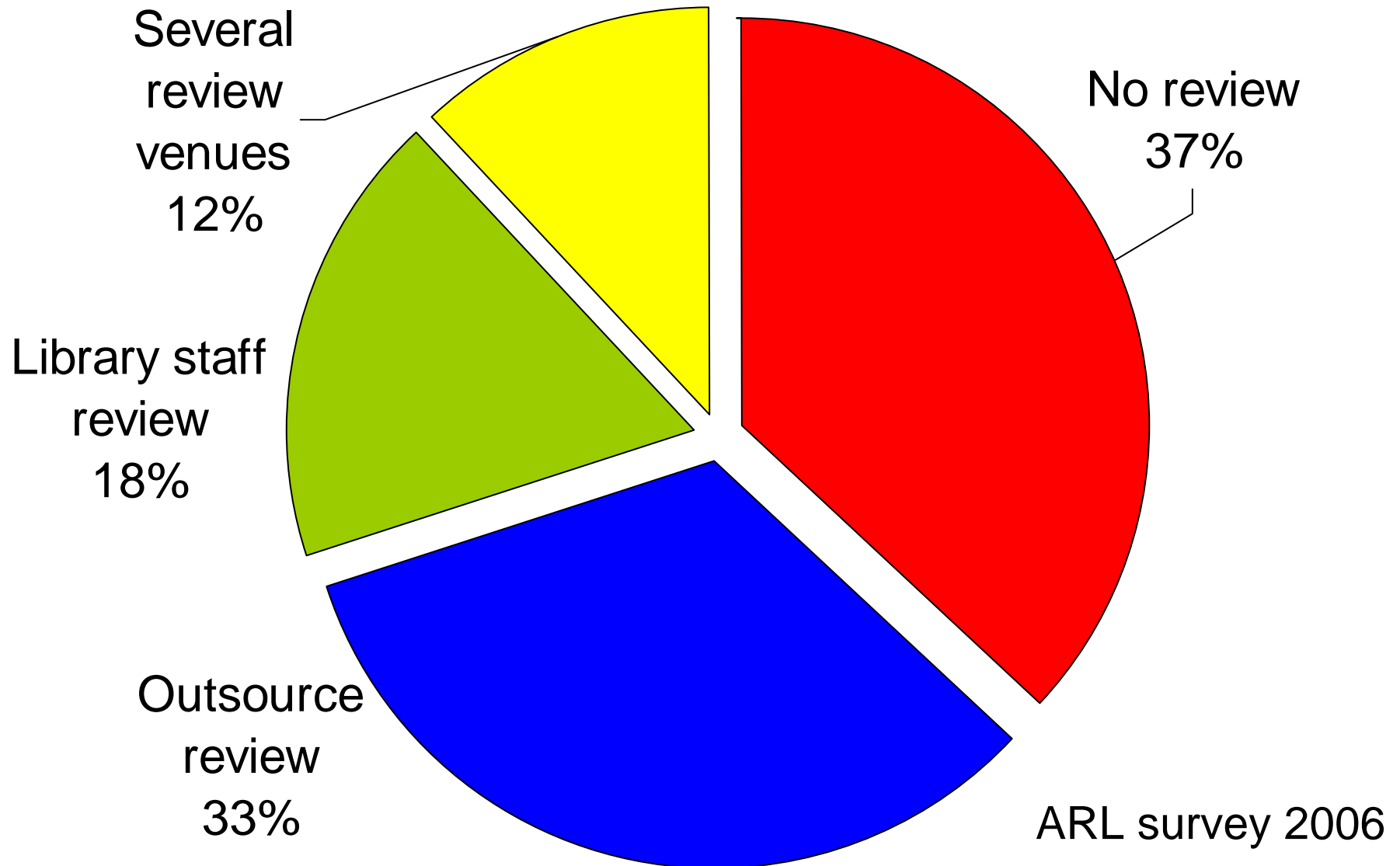
- **Capture human– & machine–readable rights**
 - Display rights to users
- **Apply appropriate permissions, not LCD**
 - Amend or inherit rights as content moves through the supply chain
- **Combine licenses & technologies**
 - Monitor & track usage
 - Don't invade privacy
- **Interoperate with other systems**



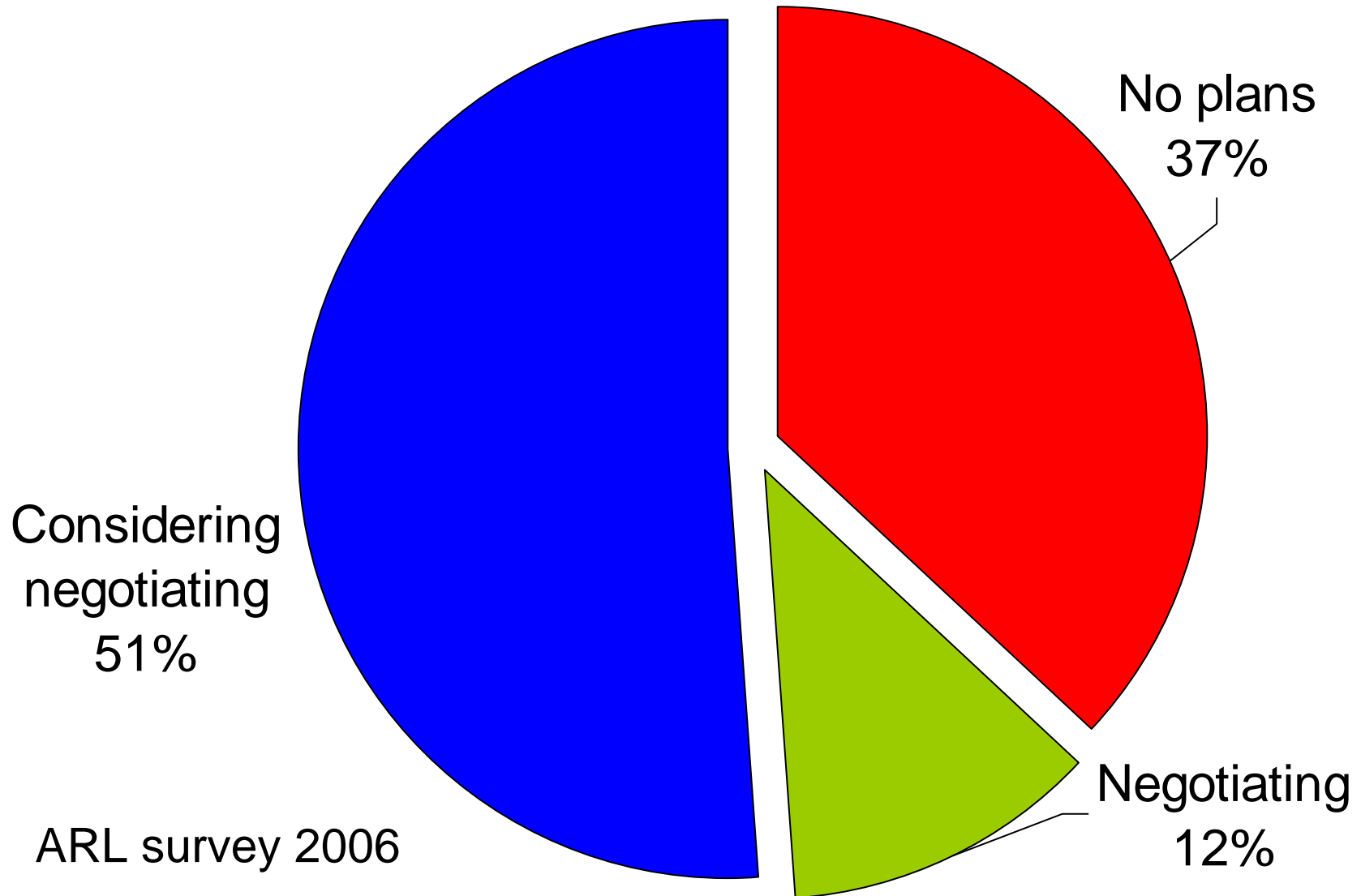
Capture & compliance

- Copyright metadata – Karen Coyle, Sharon Farb
 - Rights holders, dates, contacts, etc.
- Rights granted
 - Restrictions & conditions, e.g., 
- Rights compliance
 - Click-through licenses for users & contributors?
 - Verification of rights holders?
 - Faculty can self-archive without having the right
 - Some don't keep or can't find transfer agreements

Reviewing for rights compliance



Negotiating with publishers





Integrate rights with DL workflow

- Digitize – identify right to make a copy
- Package – capture metadata & bundle with content
- Submit – content & metadata bundle
- Provide access – compliant with copyright & license
- Archive & restore – content & metadata bundle





Interoperability

Bridge implementation strategies

1. Assign rights to user groups
2. Attach rights to digital objects / packages
 - Required if content leaves controlled local network
3. Other
 - Rights expression languages & enforcement technologies
 - Business rules
 - Licenses



To succeed

- Content must move through the supply chain with the efficiency required to
 - Populate & sustain the repository
 - Attract & retain users
- Rights must be expressed & managed at an unprecedented level of granularity & flexibility
 - All users who have access to a resource need not have the same rights to use the resource



“Digital Rights Management” (DRM)

- Does *not* manage rights
- Technologically enforces or tries to enforce restrictions on use throughout the supply chain

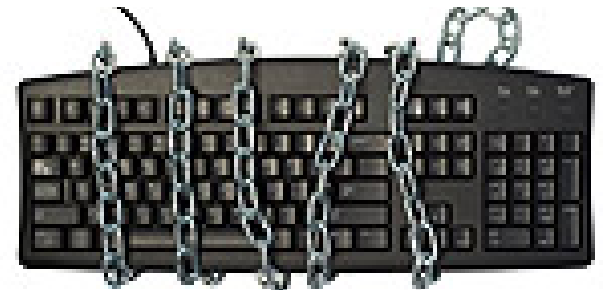




DRM reality

- Technology gives rights holders complete control
 - Rights are denied unless explicitly granted
 - Interferes with discoverability of copyrighted works
 - Applies inappropriate permissions (LCD)
 - Can invade privacy & prohibit or deter preservation, fair or innovative use, & access to the public domain
- Doesn't work very well
 - Consumers don't like it
 - Hackers defeat it

DMCA gives DRM force of law





Genuine Rights Management

- **Devise way to accomplish constitutional rights**
 - Rights documentation
 - Can't solve the retrospective lack of documentation, but “badly needed going forward”
 - Access & identity management technologies
 - Security Interview with Cliff Lynch, *EDUCAUSE Review*

- **Manage rights with copyright law & licensing**
 - Libraries record & display rights
 - Karen Coyle, Symposium on Copyright at a Crossroads



Rhetoric of rights management

- The term “digital rights management” is tainted
 - We need a new vocabulary to talk about managing rights in higher education

Cliff Lynch comments at meeting
on mass digitization projects,
April 2006, Chicago, IL

- DRM arguments are based on an assumed structure of reality: commercialization & piracy



Establish a new structure of reality

- Awareness of rights & their significance (S. Res. 438)
- Awareness of non-commercial content & use (§ 108)
- **Rights holders, mediators & users can assert their rights**
 - Enable use, including © exceptions & limitations, while respecting rights holders' rights (§ 108)
 - Rights are granted unless explicitly denied
- Value added based on rights, e.g., CC search

Thank you!

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Slides & bibliography available:

<http://www.library.cmu.edu/People/troll/TrollWebSite.html>

