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# Rights and Permissions in the Supply Chain: Untying the Knots for Institutional Repositories

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# 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

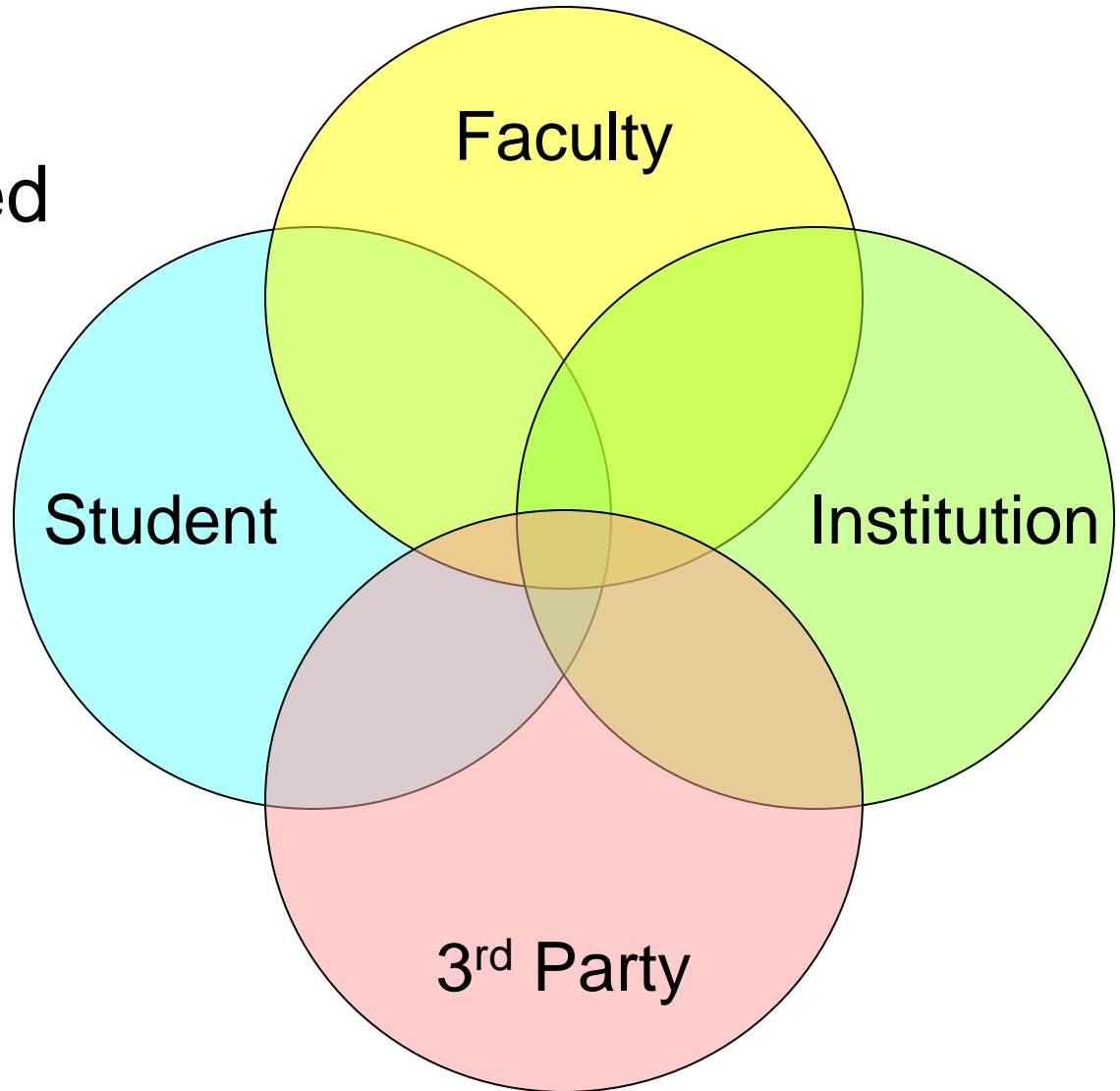


Stakeholders can play multiple roles  
Roles are changing

**NISO** workshop  
May 2005 – Denver, CO

# Rights holders

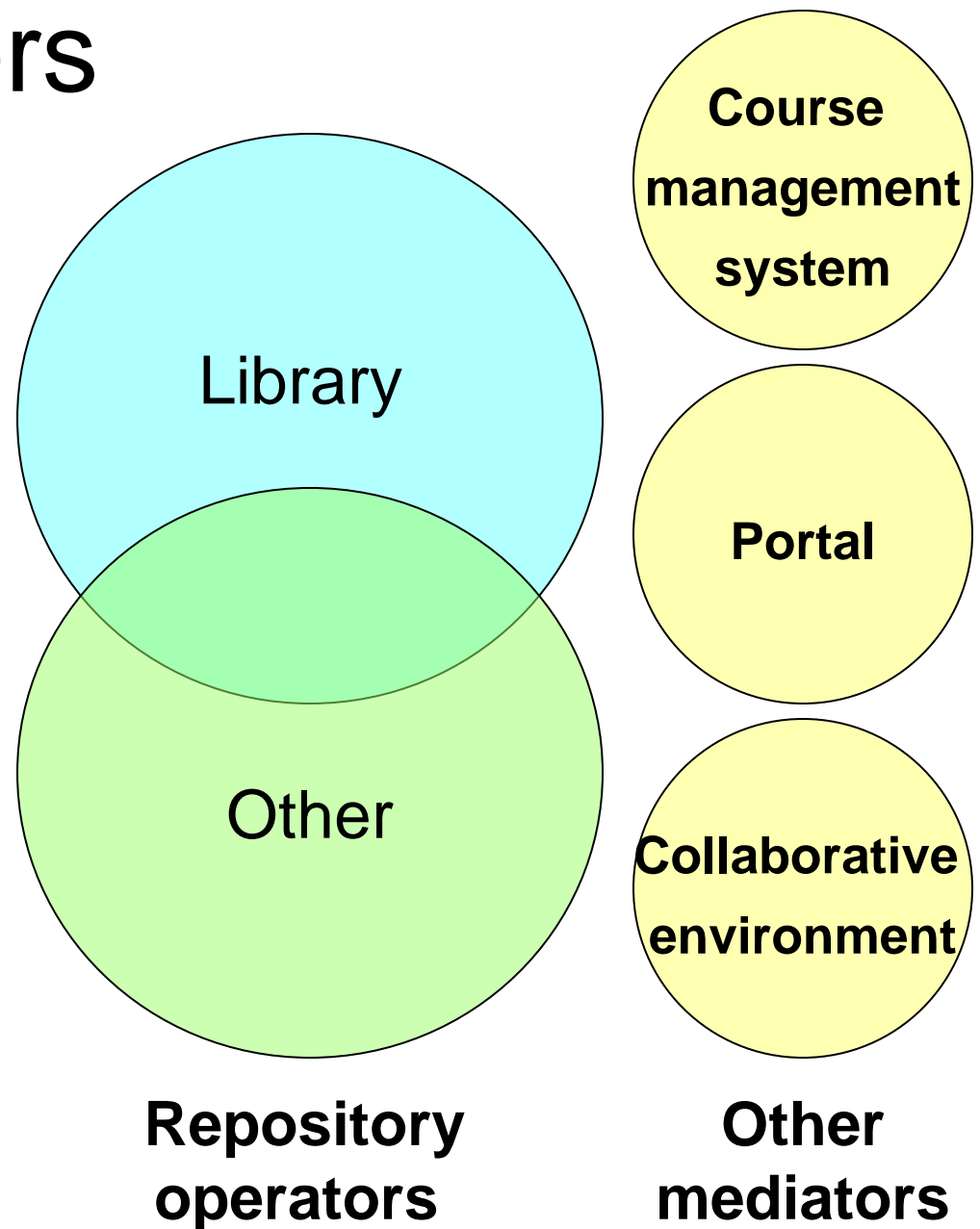
- Own the rights or are empowered to grant rights to others
- Have different philosophies, motivations, concerns, & priorities



# Rights mediators

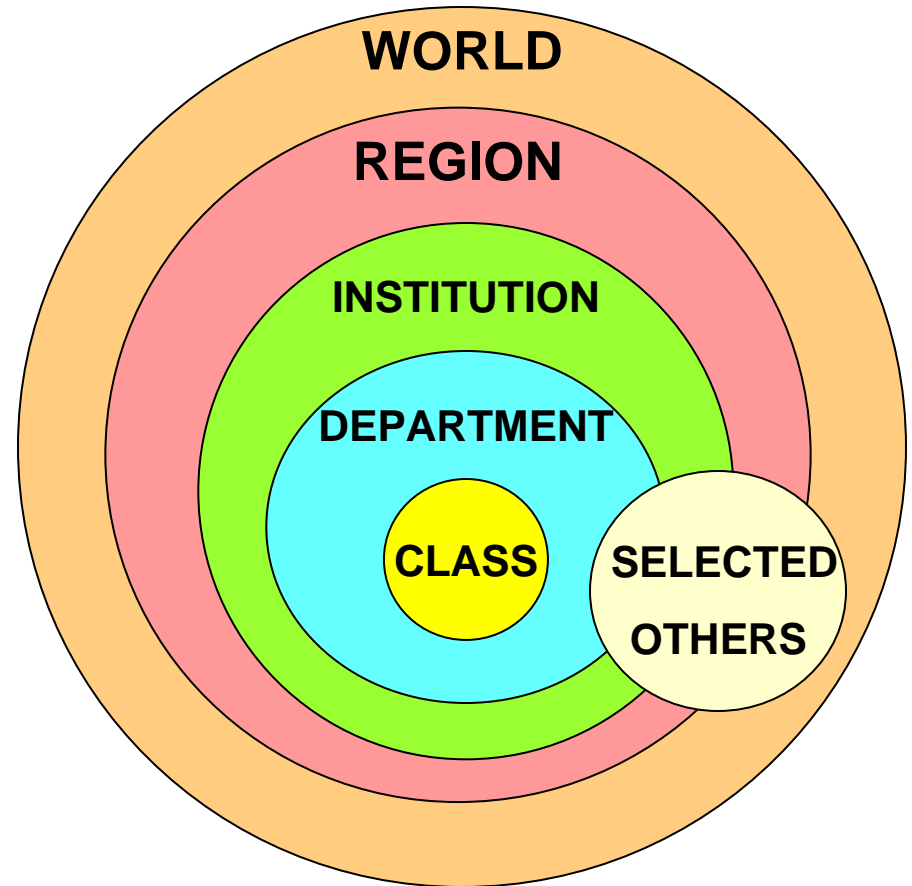
- Convey rights in compliance with the law & license terms set by rights holders

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

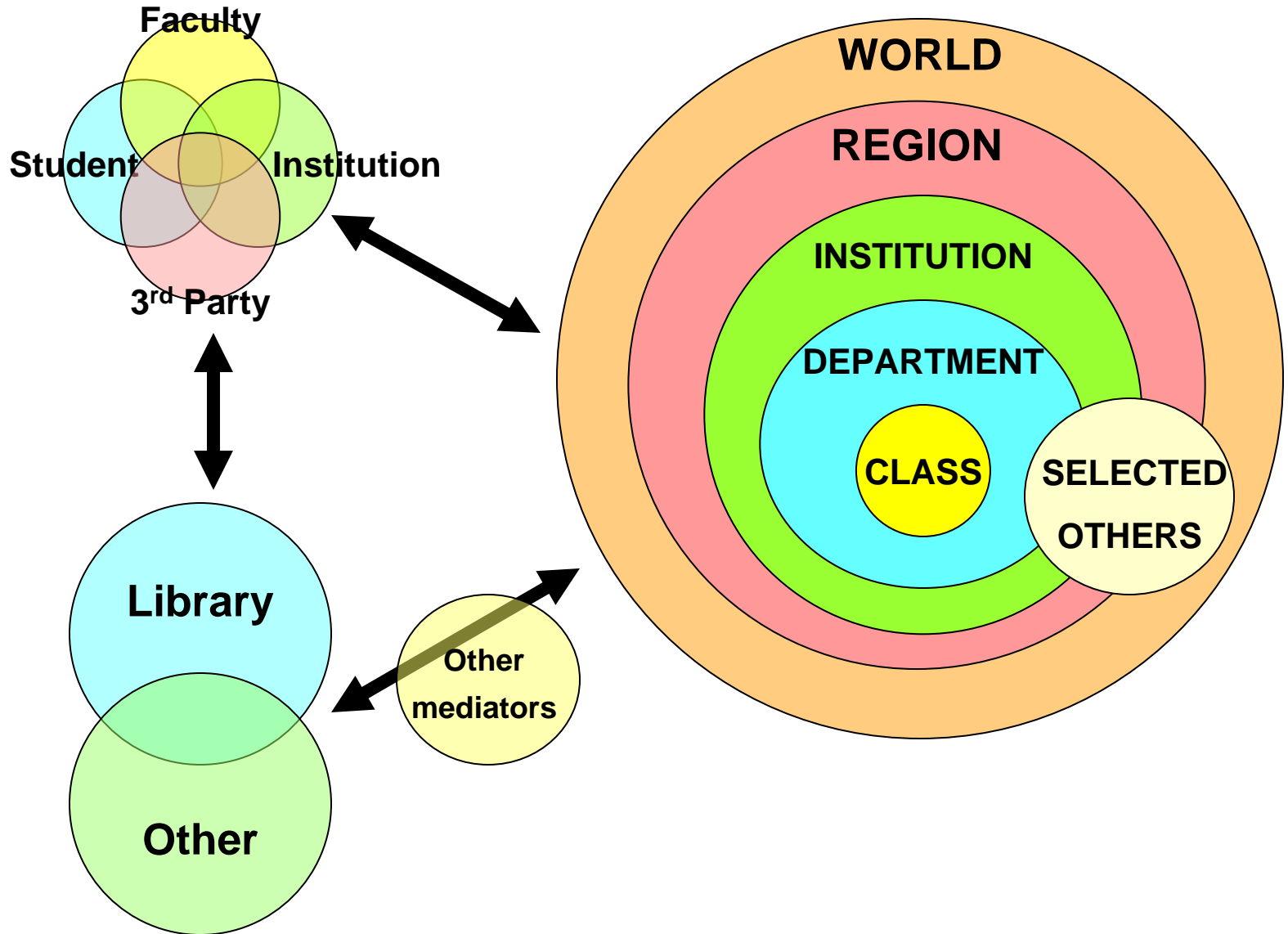


# Users

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



# The repository supply chain





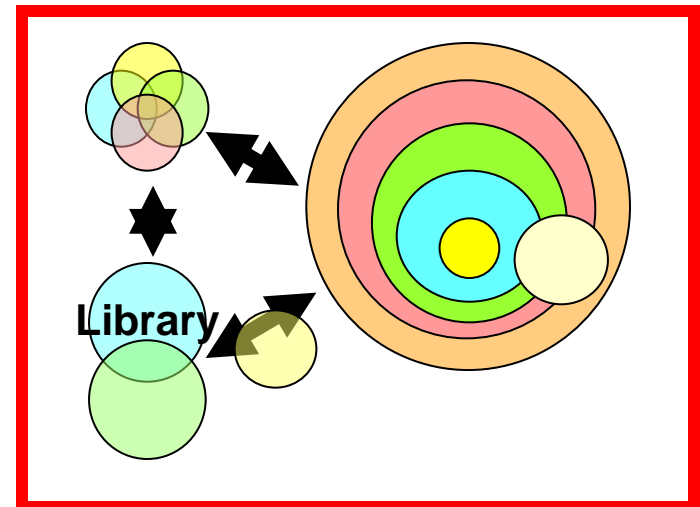
# The regulatory environment

- 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**

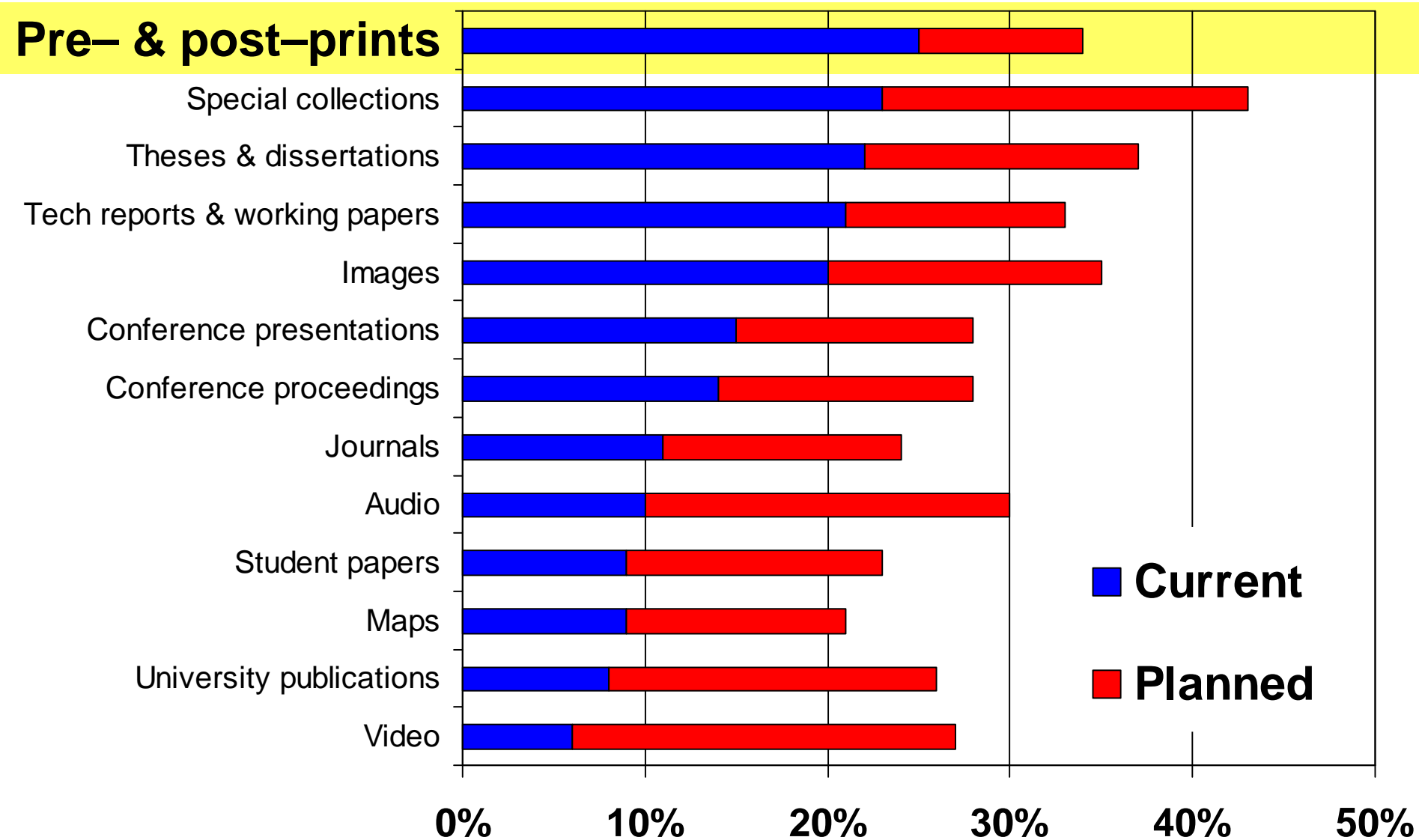
**A digital library  
of the community's  
cultural & intellectual life**



**Rights get more complicated**

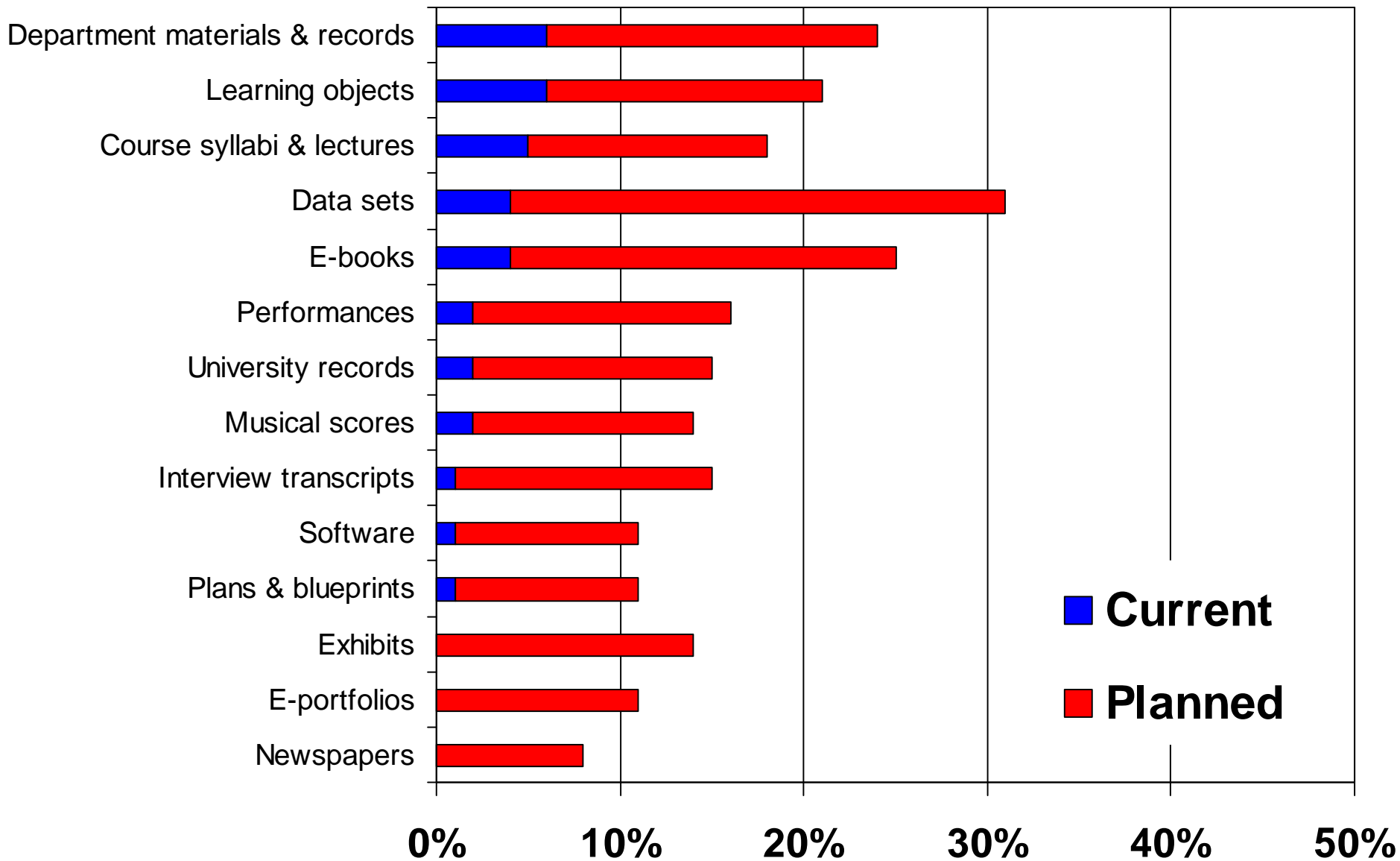
2005 CNI survey of 97 U.S. institutions

# 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

RIGHTS

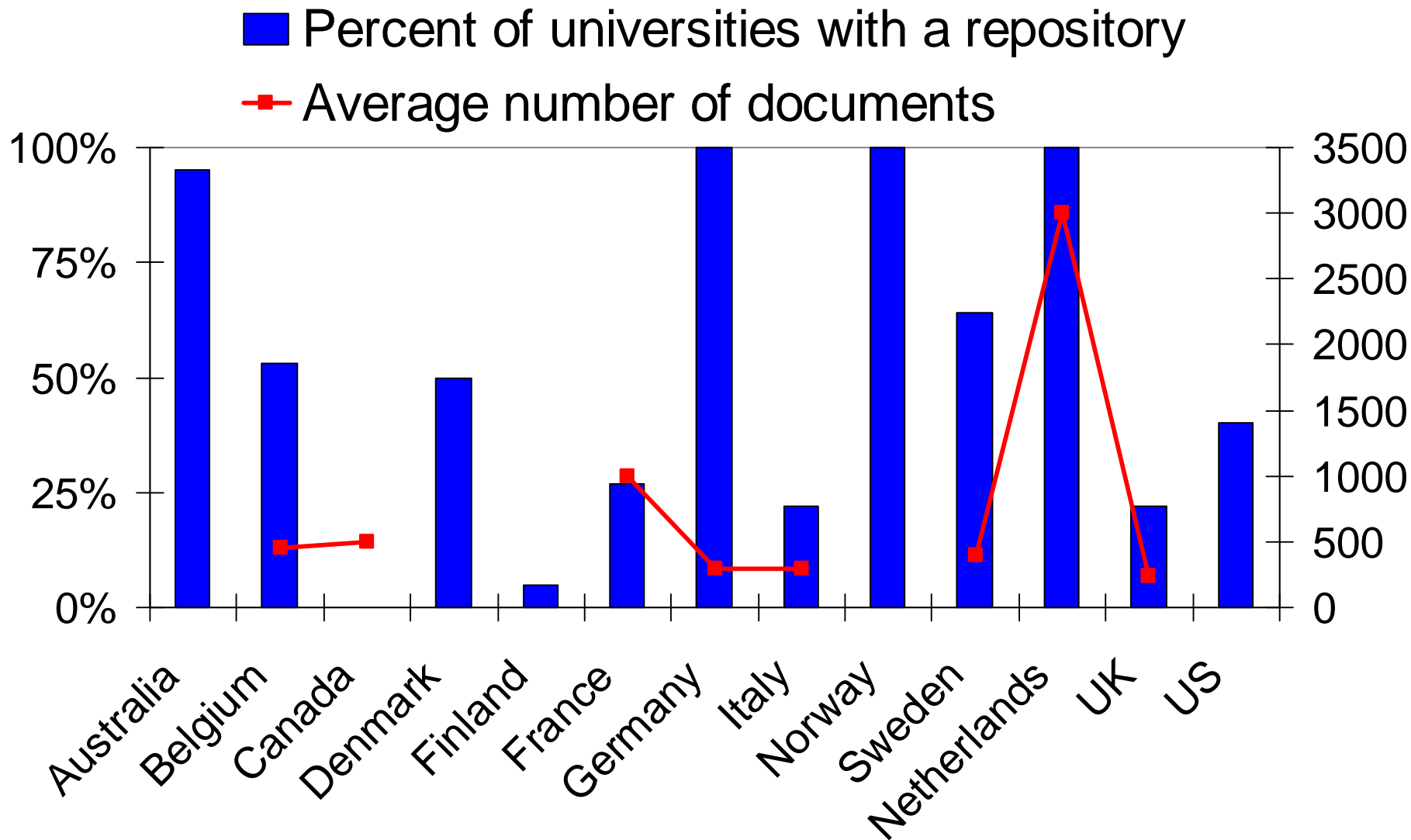
- Capture
- Organize
- Manage
- Steward
- Disseminate
- Preserve
- Interoperate





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?**

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

*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 3<sup>rd</sup> 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*

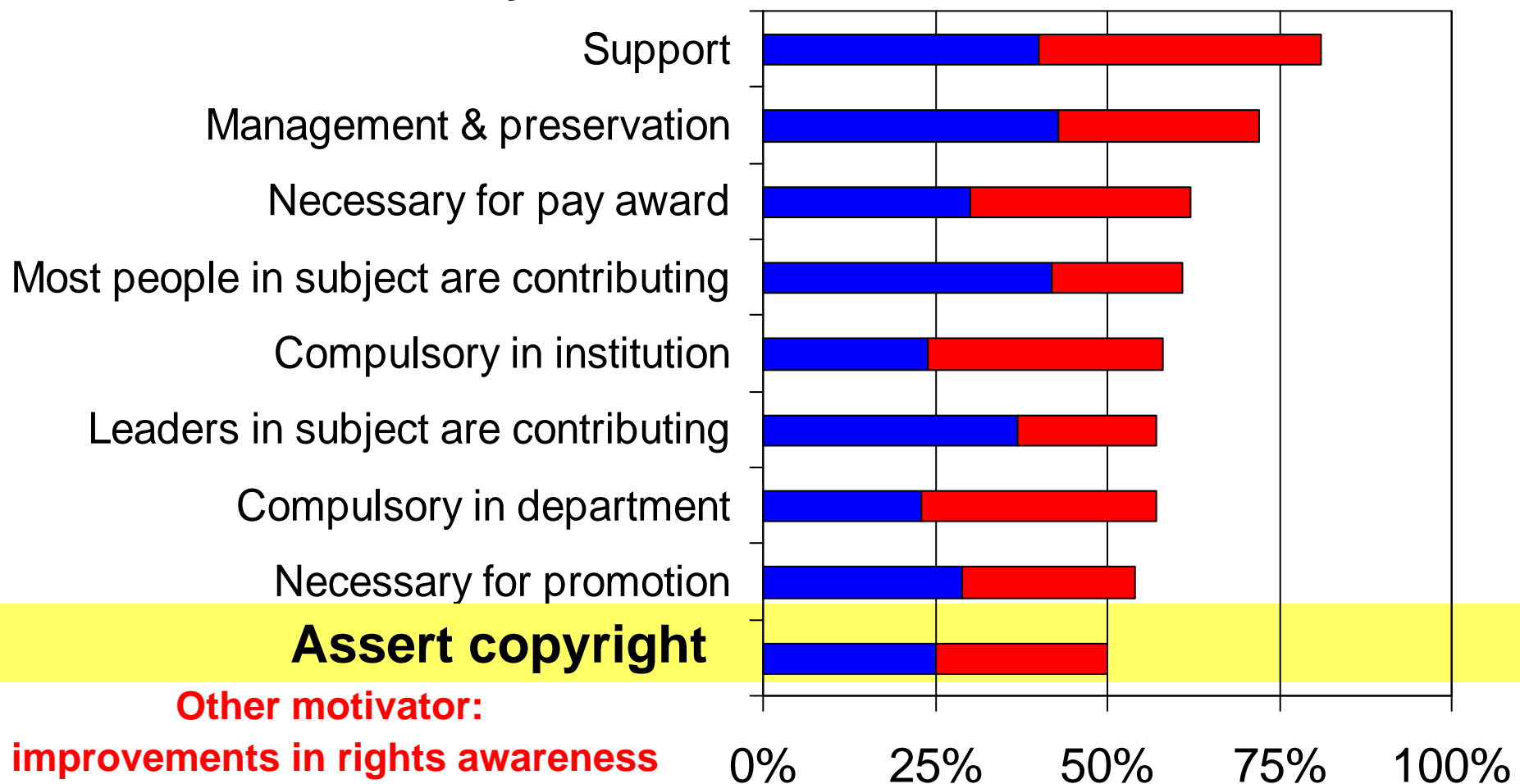




# Incentives

■ 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*





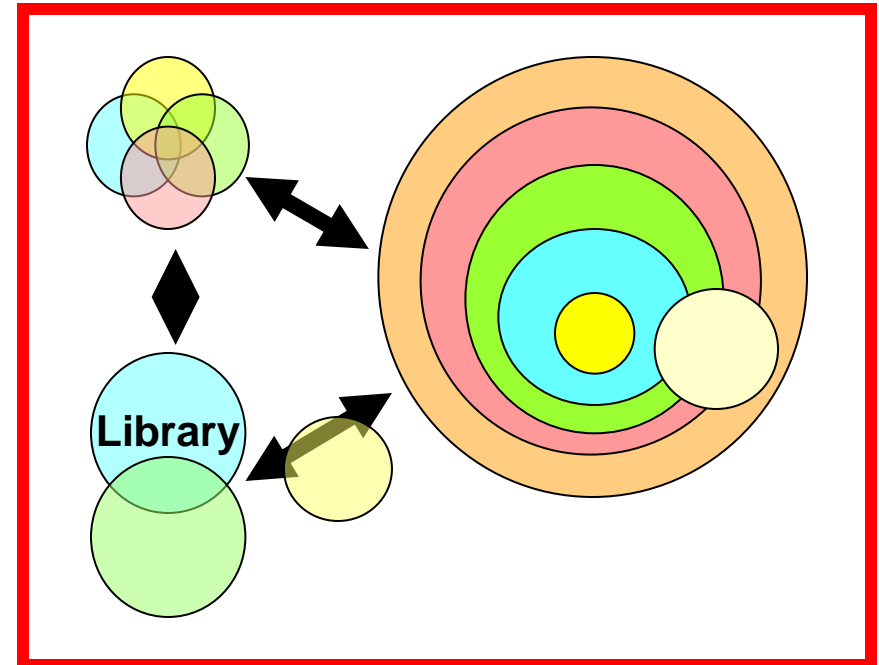
Rights management  
is the most significant  
repository policy issue  
& implementation  
challenge



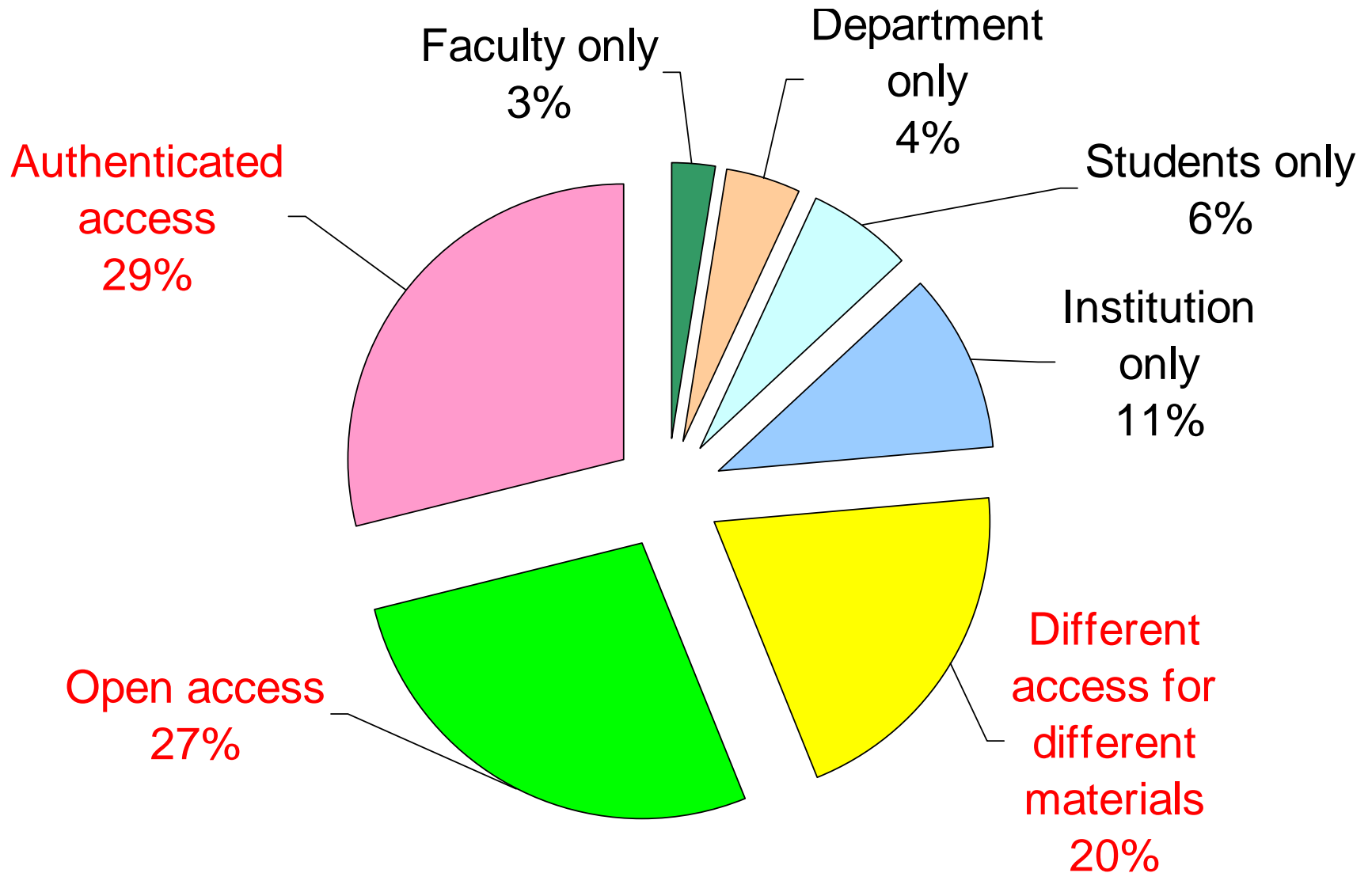
McCord, *IR: Enhancing Teaching, Learning, & Research*,  
EDUCAUSE, 2003

# Identifying solution requirements

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

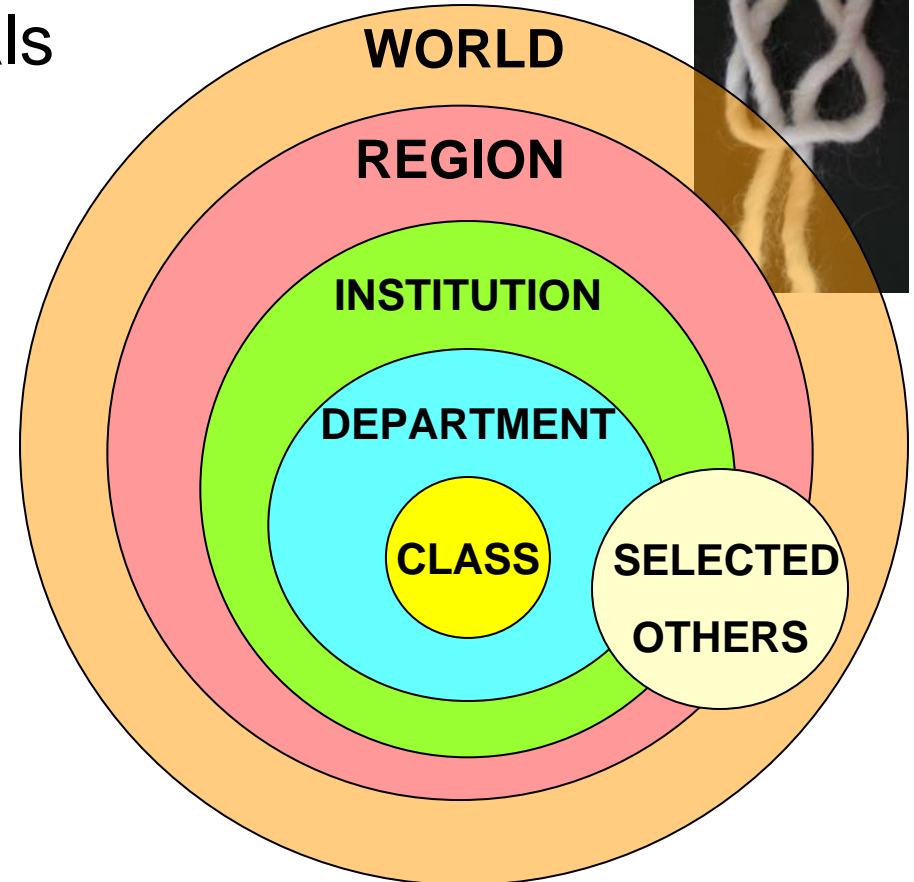


# Access to teaching materials



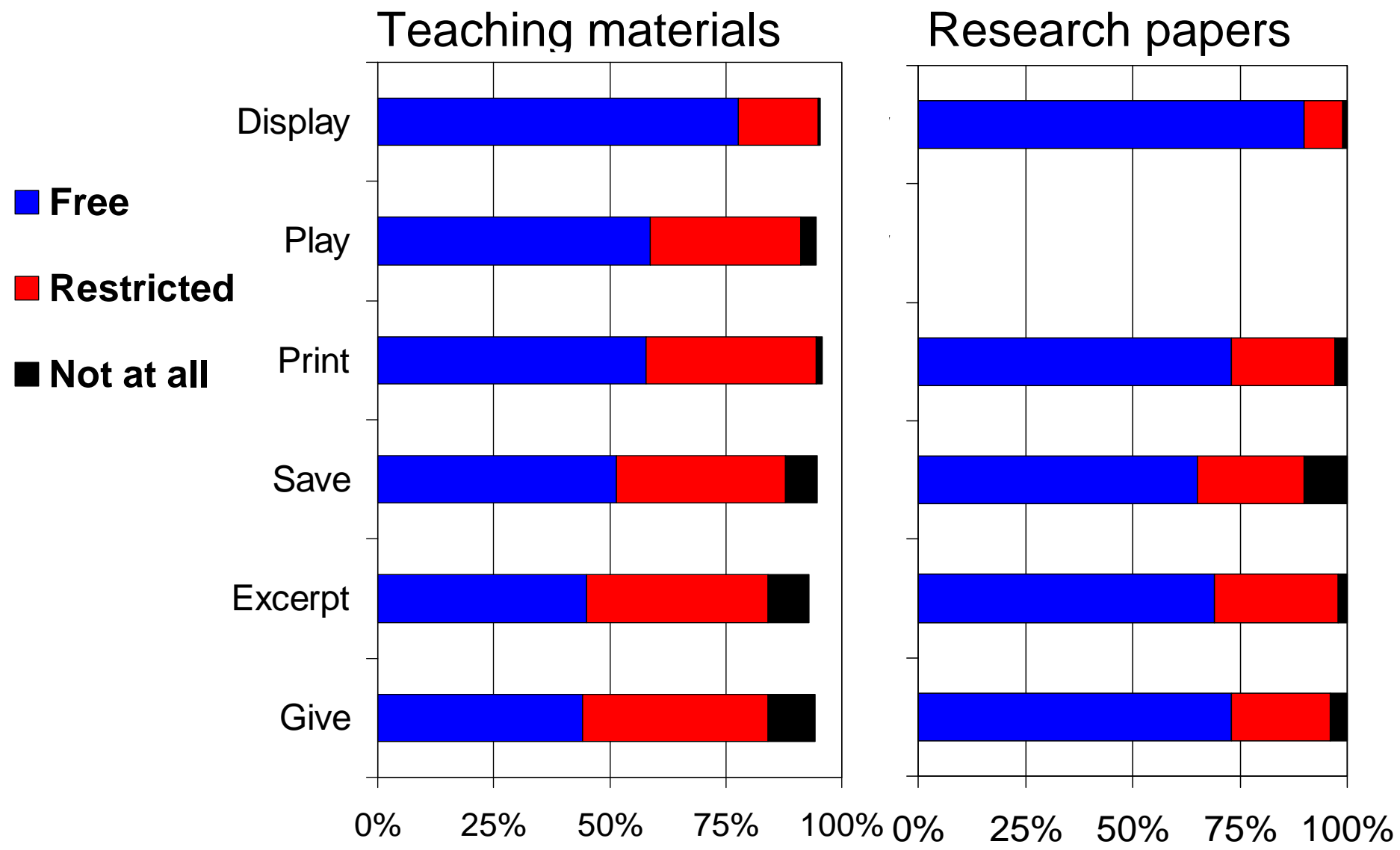
# Mismatch with faculty preferences

- 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



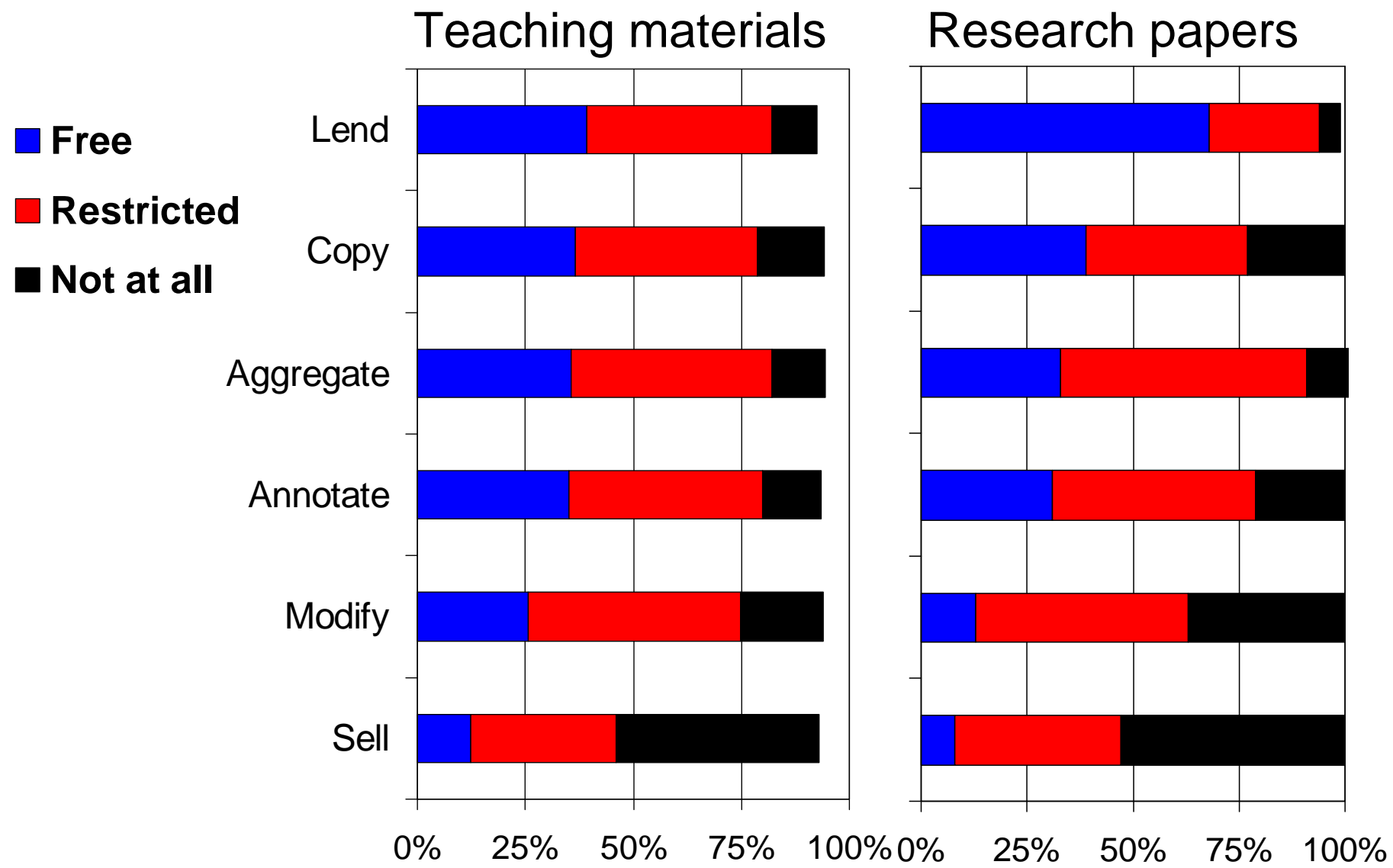


# Faculty restrictions on use



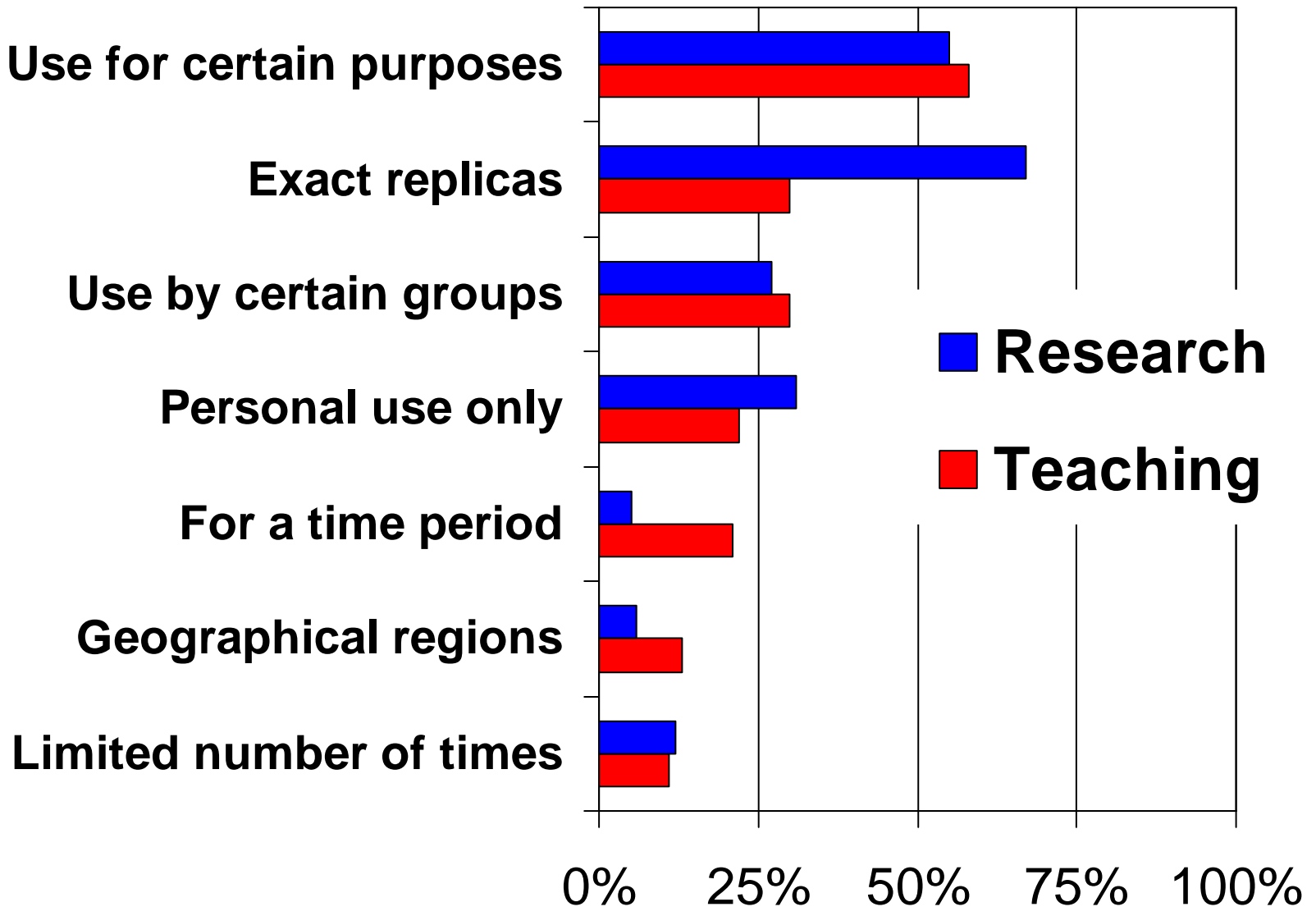


# Faculty restrictions on use



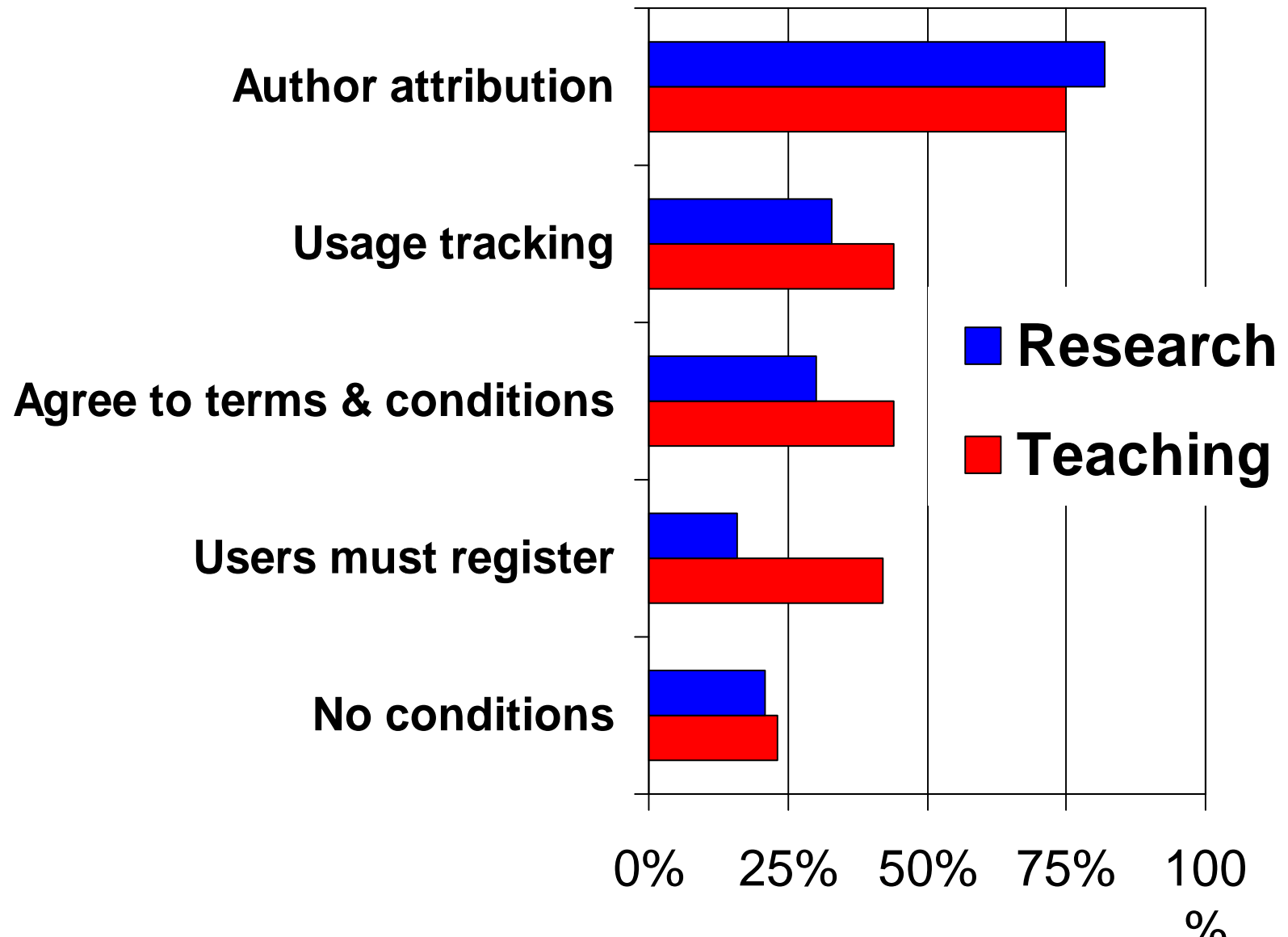


# Other restrictions





# 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

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

Sounds like  
Creative  
Commons  
Attribution  
Non-commercial  
No Derivatives  
license

RoMEO Studies




# Other issues & requirements

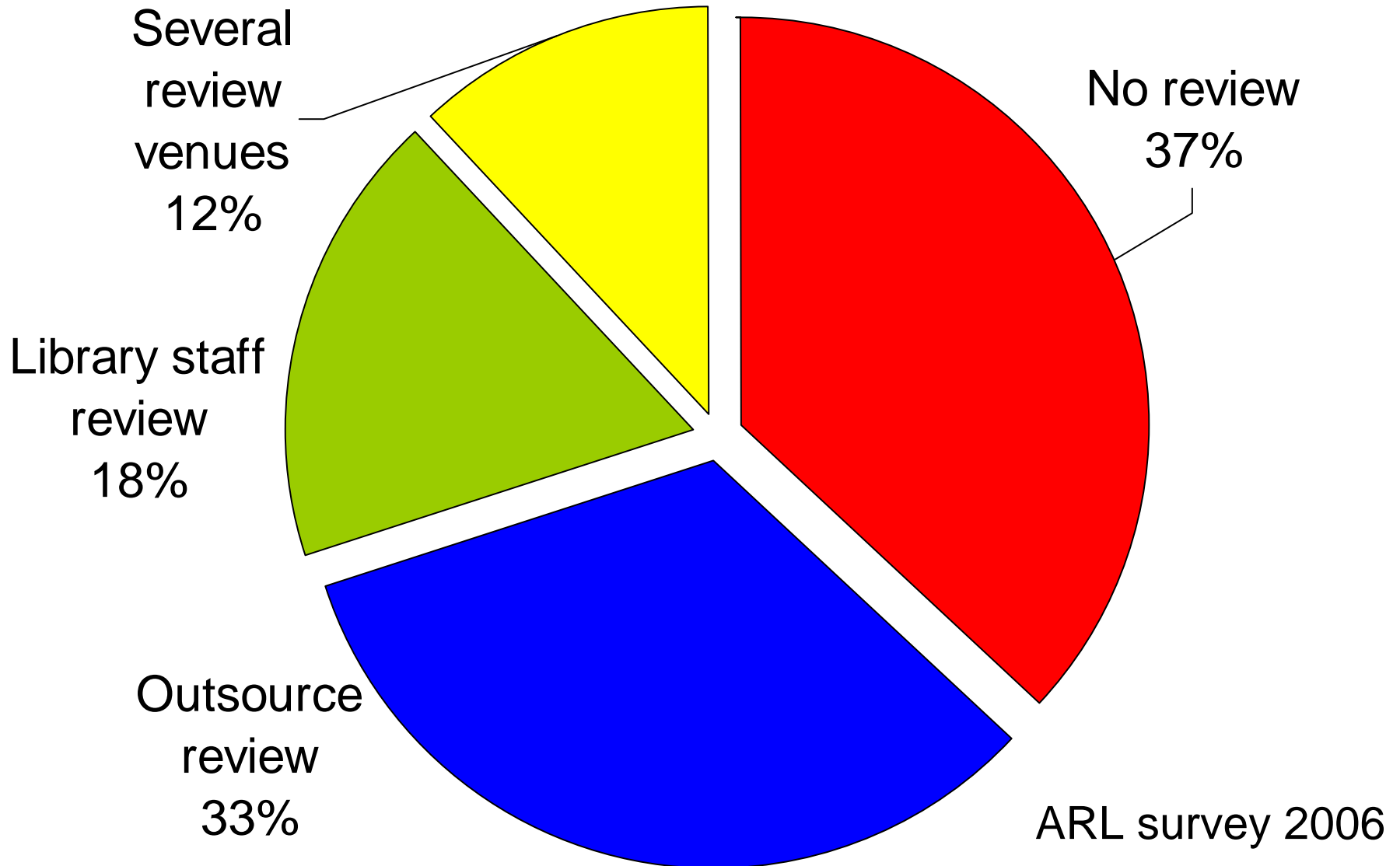
- **Capture human– & machine–readable rights**
  - Display rights to users
- **Apply appropriate permissions, not LCD**
  - Amend or inherit rights as content moves through the supply chain
- **Combine licenses & technologies**
  - Monitor & track usage
  - Don't invade privacy
- **Interoperate with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



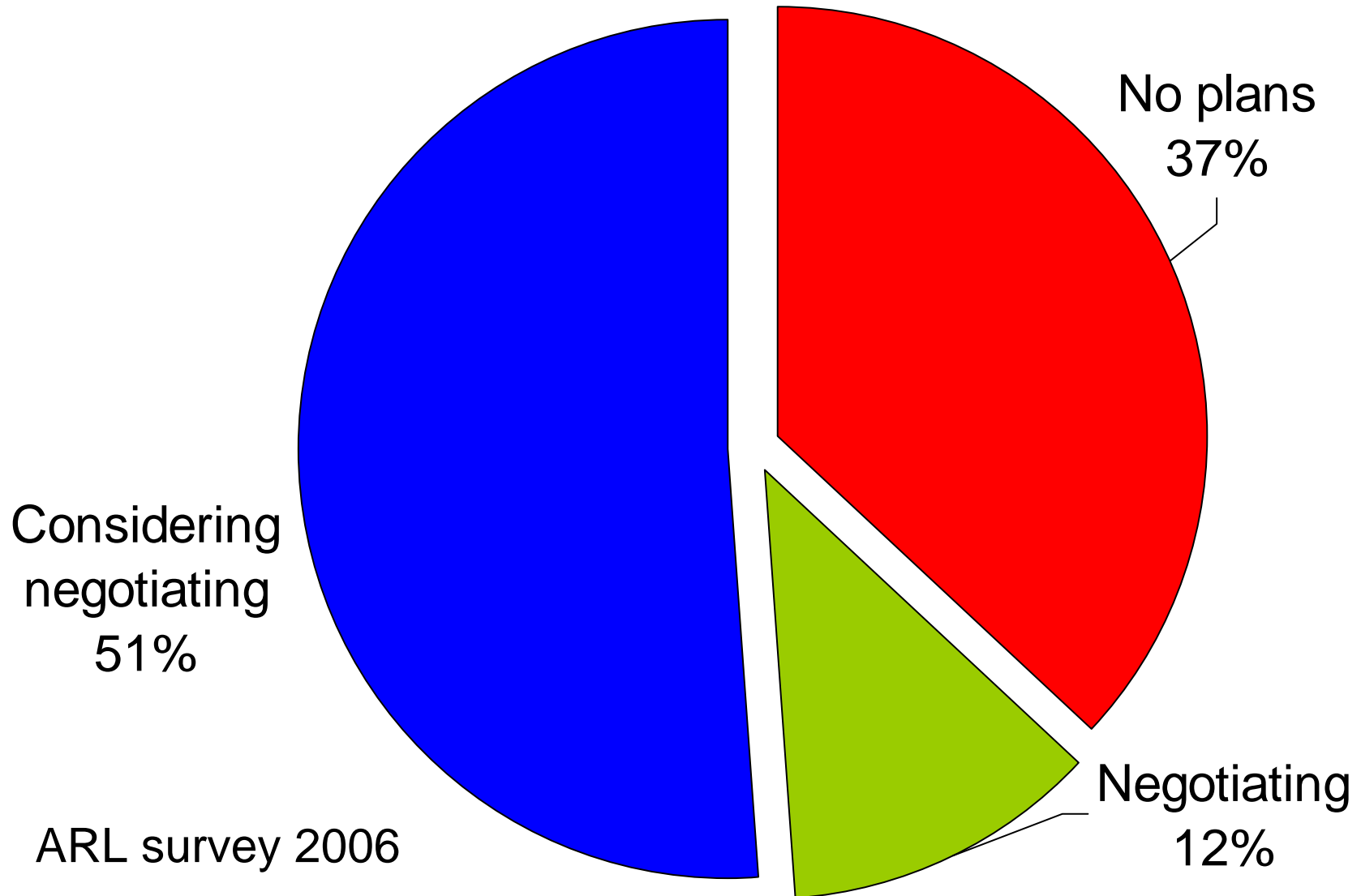
# Capture & compliance

- 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

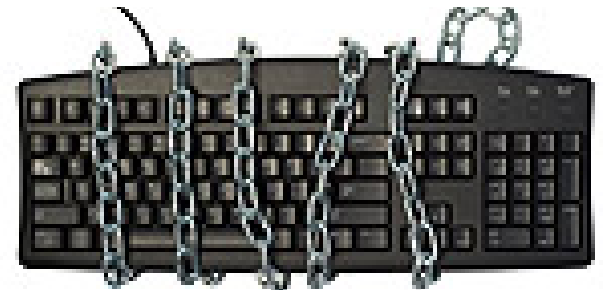




# DRM reality

- 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*

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- **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>

