

# Open Access & Copyright

Denise Troll Covey

Principal Librarian for Special Projects

Carnegie Mellon

Presentation to Carnegie Mellon graduate students in SCS

January 25, 2010



# What is open access?

- Free online access, e.g., to journal articles
  - *Gratis OA*: free as in beer
    - Free of price barriers, but not © or licensing restrictions
  - *Libre OA*: free as in beer + free as in speech
    - Free of price barriers + some permission barriers
- Contrast with toll access
  - Pay for access, e.g., subscription
  - Restrictions on use from © or contract



# Libre OA

- ... free availability on the public internet, permitting any users to **read**, **download**, **copy**, **distribute**, **print**, **search**, or **link** to the full texts of these articles, **crawl** them for indexing, **pass** them as data to software, or **use** them for any other lawful purpose, without financial, legal, or technical barriers other than those inseparable from gaining access to the internet ....

– Budapest Open Access Initiative, 2002





# Copyright

- “To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries.”
  - *U.S. Constitution, 1790*
  - Economic model of incentive to create
- Copy, distribute, create derivatives, perform, display
  - Rights can be transferred individually or bundled
  - Transfer can be exclusive or non-exclusive

# © content, owner, terms

- © applies to *creative* work in “fixed form”
  - Facts and ideas cannot be copyrighted
  - Registration or © symbol not required for © protection
    - Registration required to sue for © infringement
- Original © owner is creator, unless “work for hire”
  - Academic exception to work for hire
- Current © term
  - Published work: author’s life + 70 years
  - Unpublished work: 120 years



# History and tension

- Traditionally journal publishers required exclusive transfer of all © to them in exchange for distribution
  - Incentive for authors = recognition for contribution
    - *No royalties for journal articles*
    - Sometimes pay page-fees to get published
  - Incentive for publisher = © = \$\$ from toll access
- For-profit publishers appeared when academic presses could not handle the volume of articles
  - By-product of promotion and tenure reward system



# Moral hazard

- Consumption of a good by consumers insulated from the good's cost creates high demand and hyper-inflated prices

Example library subscriptions:

\$25,910 *Journal of Comparative Neurology*

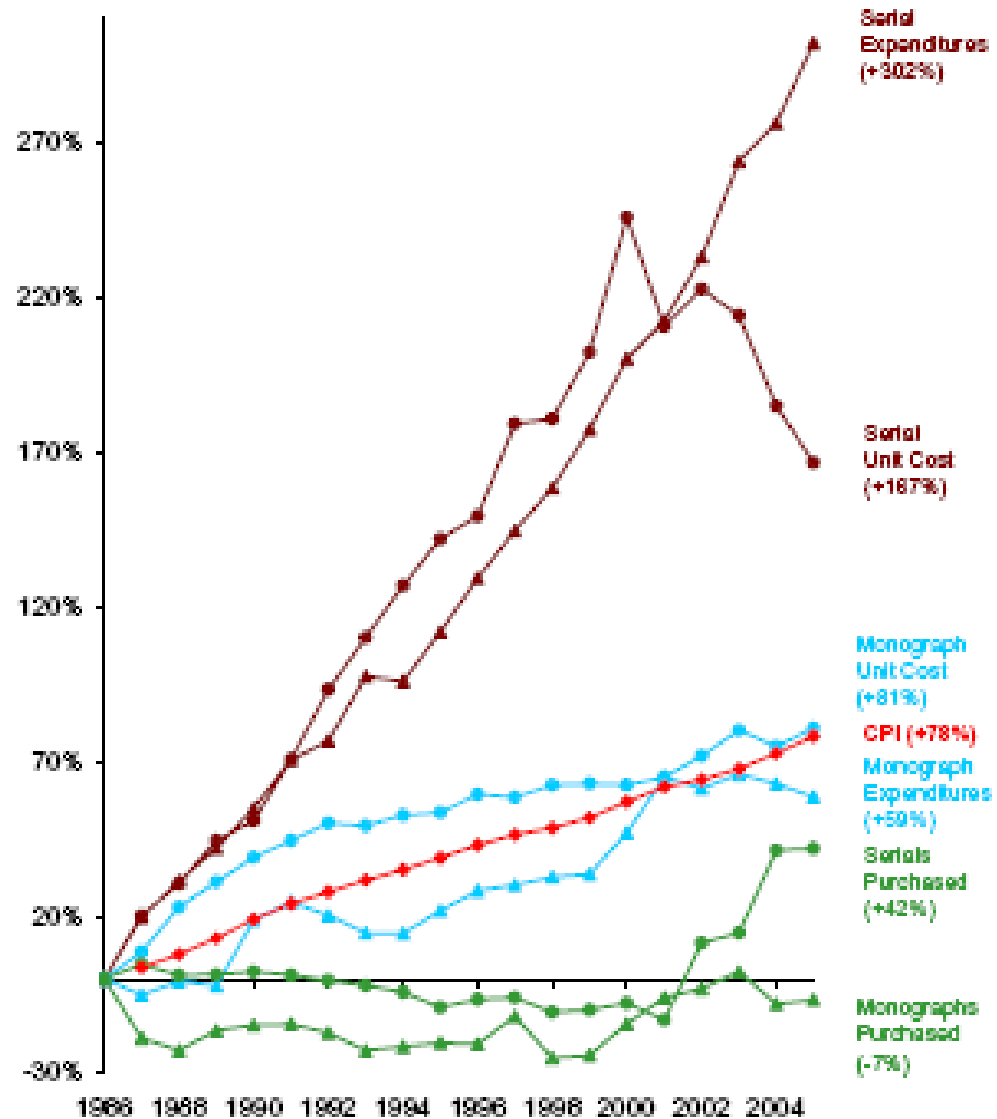
\$17,969 *Tetrahedron* (\$39,739 if bundled)

\$ 3,490 average chemistry journal

# Crisis in Scholarly Communication

- Journal prices are forcing cancellations, robbing book budgets, and reducing access to information at a time when digital technology enables distribution to be less expensive and more efficient

Graph 2  
Monograph and Serial Expenditures  
in ARL Libraries, 1986-2005\*



Source: ARL Statistics 2004-05, Association of Research Libraries, Washington, D.C.  
\*Includes electronic resources from 1999-2000 onward.

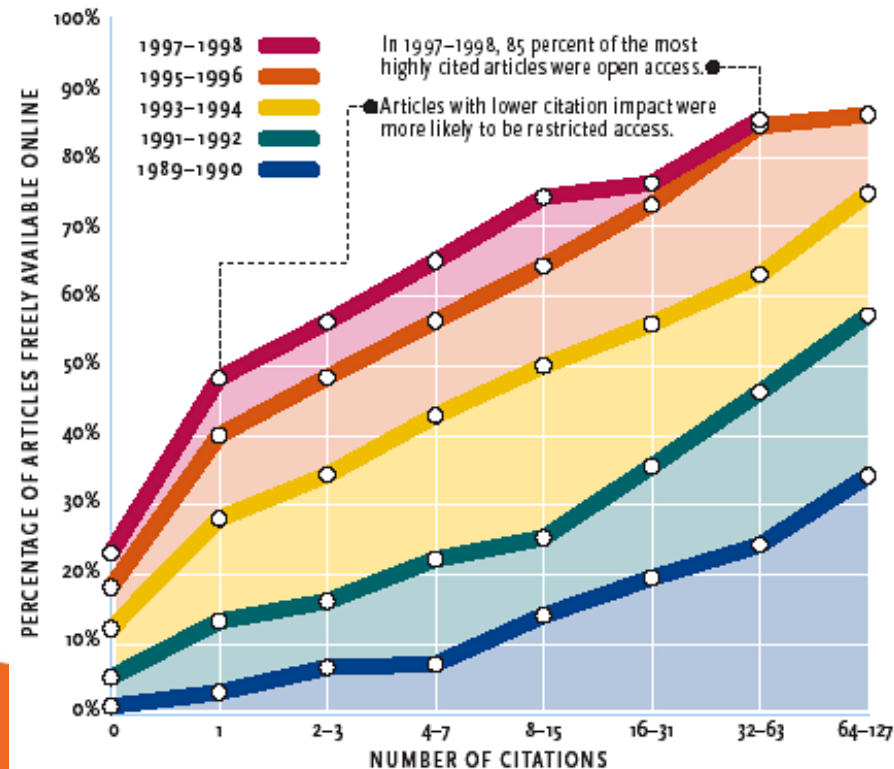


# Ripple effects

- Libraries that used to spend 50% of their acquisitions budget on books now spend < 25%
  - Still cannot afford to subscribe to all the journals
  - Subsidize interlibrary loan (ILL)
    - Publishers lobbying to stop ILL
- University presses, dependant on library purchases, cannot afford to publish many books
  - Scholars who depend on publishing to advance their careers are now in danger of perishing

# Response: open-access movement

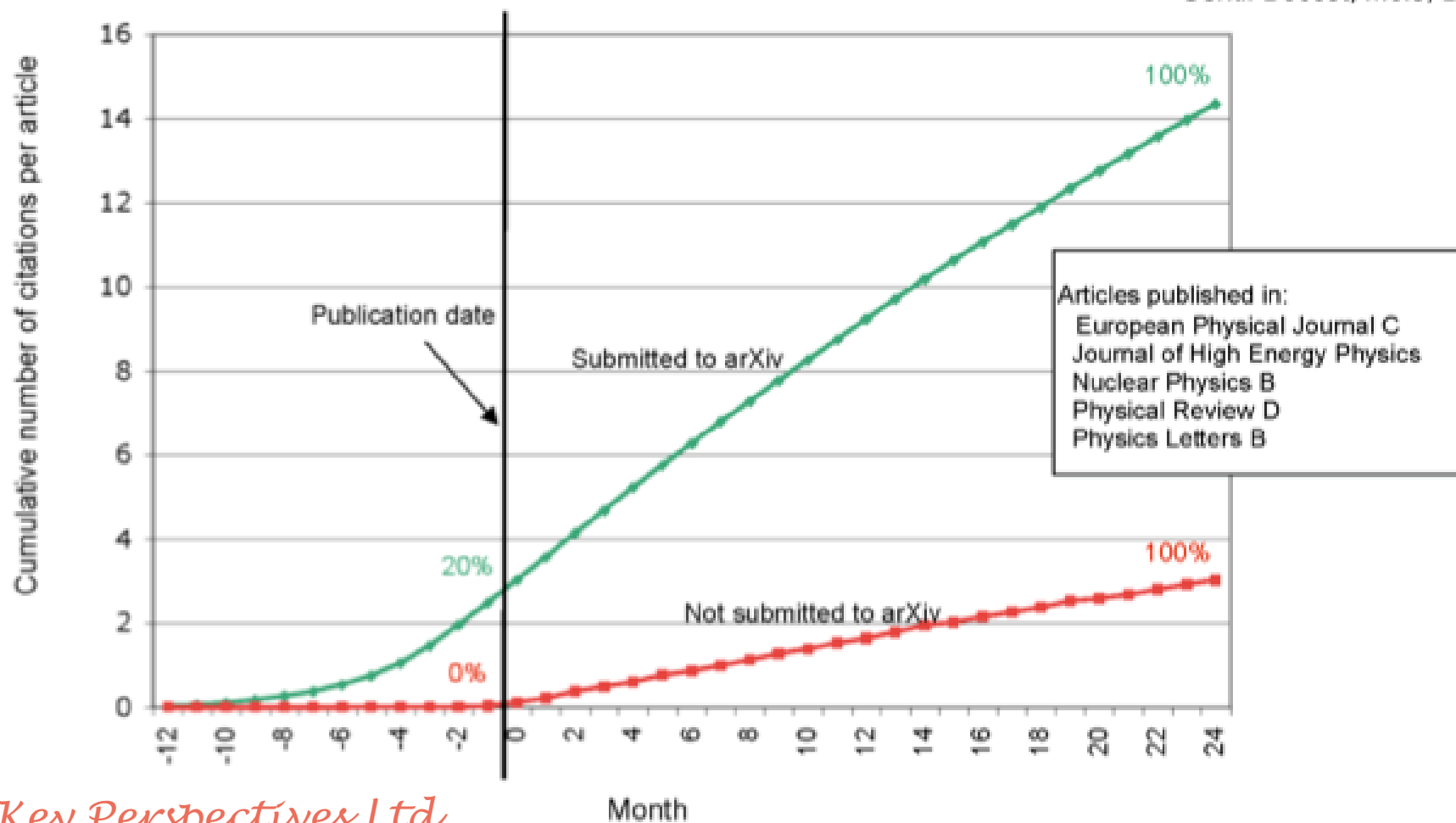
- Broader dissemination of your work
- Greater / easier access to the work of others
- Increased use and citation
  - Varies by discipline
- Enhanced, accelerated research and innovation
- Free public access to knowledge



# The early bird

arxiv:0906.5418

Gentil-Beccot, Mele, Brooks



# How make your work OA?

- **Green OA: repositories**

- Retain the rights necessary to **self-archive** the work on a website or institutional or disciplinary repository

- **Gold OA: journals**

- Publish in an open-access journal
- Publish in a hybrid journal and pay publication fee for immediate open access





# Green OA

- Many publishers prohibit OA and reject author attempts to negotiate retention of necessary rights
  - Refuse to publish work without full © transfer
- 63% of publishers allow open access
  - <http://www.sherpa.ac.uk/romeo/>
  - Conditions and restrictions apply – versions, venues, embargoes and maintenance

# Green OA versions

- Pre-print
  - Original Manuscript
  - Submitted Manuscript
- Post-print – *preferred by OA movement*
  - Accepted Manuscript (after peer review)
  - Version of Record (publisher PDF)

# Green OA venues

- Personal or departmental website
- Institutional repository (IR)
  - e.g., Carnegie Mellon's Research Showcase
- Disciplinary repository
  - e.g., arXiv.org, PubMed Central, SSRN
- Different conditions and restrictions can apply per venue ....

# Restrictions on version per venue

	Original or Submitted Manuscript		Accepted Manuscript		Version of record	
	Pubs	Titles	Pubs	Titles	Pubs	Titles
Allowed on website	43%	83%	65%	90%	25%	17%
Allowed in IR	38%	75%	54%	80%	20%	14%
Prohibited on website	48%	14%	33%	9%	56%	75%
Prohibited in IR	52%	22%	44%	20%	61%	79%

Journals in which Carnegie Mellon faculty publish

Total publishers = 282

Total titles = 2,833





# Green OA embargoes

- Typically 12 to 24 months after publication
- Can be different for website and repository
- Can be different for different journal titles published by the same publisher



# Green OA maintenance

- Original or Submitted Manuscript
  - Allowed after acceptance for peer review
  - Allowed, but must be removed after acceptance for publication
  - Allowed, but must be removed after publication
  - Allowed on website but must remove during peer review
  - Allowed on website after publication
  - Allowed on website, prohibited in IR
  - Allowed in IR, prohibited on website
  - Allowed in IR, but must be removed when submitted for publication
- Accepted Manuscript
  - Allowed after publication
  - Allowed after embargo
  - Allowed on website after publication; allowed in IR after embargo
  - Allowed on website after publication; prohibited in IR
  - Allowed on website after acceptance for publication; prohibited in IR
  - Allowed on website after embargo; prohibited in IR
  - Allowed in IR, prohibited on website
  - Allowed in IR after embargo; prohibited on website

# Example: ACM

- Can archive pre-print
  - Original or Submitted Manuscript
- Can archive author's post-print
  - Accepted Manuscript
- Cannot archive publisher PDF
  - Version of Record

# ACM conditions

- On author's or employer's website or funder's mandated repository only
- On a non-profit server
- Pre-prints can be deposited on public repositories as long as accompanied by ACM © notice
- Post-prints can only be deposited in public repositories with explicit permission of publisher

# ACM conditions

- Publisher © and source must be acknowledged
- Must link to publisher version with statement that this is the definitive version and DOI
- Must state that version is the author's version

© ACM, YYYY. This is the author's version of the work.  
It is posted here by permission of ACM for your personal use.  
Not for redistribution. The definitive version was published  
in PUBLICATION, {VOL#, ISS#, (DATE)}  
<http://doi.acm.org/10.1145/nnnnnnn.nnnnnn>



# ACM rights retained by original © owner

- If author is original © owner
  - Right to **reuse** any portion of the work, without fee, in future works provided that the ACM citation and notice of © are included
  - Right to **revise** the work
- If organization is original © owner (work for hire):
  - Right to **distribute** copies within the organization
  - Posting OA requires explicit permission from ACM

# Carnegie Mellon Faculty Senate Resolution

November 13, 2007

<https://www.cmu.edu/faculty-senate/minutes/minutes-nov-07.html>



# Faculty Senate strongly encourages

- Carnegie Mellon faculty to
  - Know their publishing rights
  - Retain the right to self-archive their work
  - Self-archive and provide open access to their work in keeping with publisher open-access policies





# Faculty Senate strongly encourages

- Office of Legal Counsel and the Libraries to
  - Continue the Authors' Rights and Wrongs program to help faculty understand the issues
- Computing Services and the Libraries to
  - Provide tools to help faculty retain the necessary rights and self-archive their work



# OA tools provided by the University Libraries



# Scholar's © addendum engine

- Generates a PDF form that you can attach to a journal publisher's © transfer agreement to ensure that you retain certain rights
- Options include
  - Immediate access
  - Delayed access
  - Access and re-use rights

Hosted for Creative Commons





# Research Showcase

- Carnegie Mellon's OA repository
  - <http://repository.cmu.edu/>
- Open access to faculty, staff and grad student
  - Journal articles, technical reports, working papers, conference papers and presentations
  - Coming soon: dissertations and theses
- Search, browse, download, print, tell a friend



# Research Showcase

- Authors get
  - Open access to their work
  - Their work indexed by Google, Yahoo, etc.
  - Professional maintenance (backup, refresh, migration)
  - Monthly statistics on downloads per item
  - Can showcase work in Selected Works gallery




# Research Showcase

Carnegie Mellon

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## Browse Research and Scholarship

- [Research unit, center, or department](#)
- [SelectedWorks Gallery](#)
- [Journals and peer-reviewed series](#)

The repository is a service of the Carnegie Mellon University libraries. Research and scholarly output included here has been selected and deposited by the individual university departments and centers on campus. Research Showcase is currently under construction. Please [email us](#) with questions or suggestions.

### At a Glance

#### Top 10 Downloads

All time

#### Recent Additions

20 most recent additions

### Paper of the Day

#### Huddle: Automatically Generating Interfaces for Systems of Multiple Connected Appliances

Jeffrey Nichols, Brandon Rothrock, *et al.*



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## Submit Your Research

Most research can be submitted electronically. Click on a link below to submit your research. Some publications do not allow authors to submit directly. In these cases, you will be provided with a mail form to contact the appropriate administrator for further instruction.

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- [Department of Chemical Engineering](#)
- [Department of Engineering and Public Policy](#)

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### College of Humanities and Social Sciences

- [Department of Statistics](#)
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Type or paste your message to the administrators of *Institute for Software Research* below, then click Send.

**From:** troll@andrew.cmu.edu

**Subject:**

**Body:**

Deposit in Research Showcase is currently mediated by the University Libraries





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[Lorrie F Cranor](#)

Associate Professor of Computer Science and of Engineering & Public Policy

[Visit Site](#)



[Carole A. George](#)

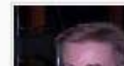
Human Factors Res

[Visit Site](#)

Deposit in Selected Works is currently unmediated



[Missy Harvey](#)



[Barbara Johnstone](#)



# My Selected Works page

Selected Works of Denise Troll Covey

Carnegie Mellon


Author Home


Browse Subjects

Browse Article Types


Series Home

## Articles

 PDF **Self-Archiving Journal Articles: A Case Study of Faculty Practice and Missed Opportunity**, *portal: Libraries and the Academy* (2009)

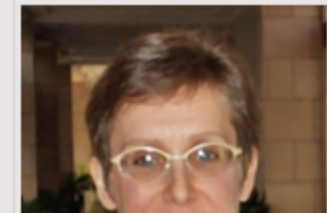
 PDF **Using Data to Persuade: State Your Case and** *and Management Journal* (2005)

 PDF **The Need to Improve Remote Access to Onli** *Gap between Commercial Vendor and Acad* *Libraries and the Academy* (2003)

 PDF **Copyright Permission: Turning to Dust or Digital**, *International Journal of the Book* (2003)

 PDF **Academic Library Assessment: New Duties and Dilemmas**, *New Library World* (2002)

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Can organize Selected Works by material type or subject

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### Denise Troll Covey

*Carnegie Mellon University*

- Principal Librarian for Special Projects

[Contact Information](#)

# Selected Works → Research Showcase

- If you create a Selected Works page and want to have the deposited work available in Research Showcase, notify Katie Behrman, [kbehrman@andrew.cmu.edu](mailto:kbehrman@andrew.cmu.edu)

**Dissertations and theses**

# Dissertations and theses

- Departments control creation and approval
- After approval, these works are submitted to the University Libraries – traditionally in print
  - Reviewed
  - Sent for binding
  - Sent to UMI ProQuest for entry into Dissertation Abstracts
- CIT is getting ready to announce a move to digital alternatives for the college



# Issues for discussion

- What department processes need to change to support electronic submission?
- Are faculty willing to review an electronic copy?
- Does the department want to keep a paper copy?
- Should the signature sheet continue to be paper? Should it be digitized? Who should retain it?
- Should work continue to be sent to UMI ProQuest?
- Should certain formats be designated and required to ensure long-term preservation?
- Should inclusion of multimedia be allowed?

# OA issues for discussion

- Should we allow embargoes?
  - Research Showcase supports embargoes
- How deal with journal publishers that threaten not to publish articles based on dissertations available open access?
- What about dissertations previously published as technical reports available open access?



# Important event

- Graduate students, and more importantly their advisors, need to be aware of the issues of publishing online, and need to carefully consider their options to best disseminate their work

## SCHOLARLY COMMUNICATIONS FORUM programs for Carnegie Mellon faculty & graduate students

### PROMISES AND PERILS OF ELECTRONIC THESES AND DISSERTATIONS

Expanding the reach of graduate work online

Shawn Martin  
University of Pennsylvania

Monday, Feb. 15  
4:30-6 pm  
Posner Center  
Carnegie Mellon University

Webcast + series archive  
[search.library.cmu.edu](http://search.library.cmu.edu)



The possibilities of putting graduate research online are endless. Now from the comfort of their dorm rooms, students can market themselves for jobs, receive solicitations from publishers interested in their ideas, and increase the profile of themselves and their departments.

Nonetheless, they also lose much of the control they once had over print publications, open themselves up to possible plagiarism from rivals, and may actually be jeopardizing their chances for future tenure and promotion.

The University of Pennsylvania recently created an option for graduate students to submit their dissertations in an open access website, ScholarlyCommons, and many of these challenges have come to the fore.

Graduate students, and more importantly their advisors, need to be made aware of the issues of publishing online, and need to carefully consider their options to best disseminate their work.

Shawn Martin is Scholarly Communication Librarian at the Van Pelt Library of the University of Pennsylvania. He has a BA in history from Ohio State University and an MA in history from the College of William and Mary. He has worked for several years in digital libraries including the Digital Library Project at the Colonial Williamsburg Foundation, the Ohio Memory Project at the Ohio Historical Society, and, most recently, the Text Creation Partnership at the University of Michigan. Shawn is also active in several library and scholarly associations and serves as the Executive Director of the American Association for History and Computing.

sponsored by the Office of Legal Counsel & the University Libraries

Carnegie Mellon  
UNIVERSITY LIBRARIES

SCHOLARLY COMMUNICATIONS FORUM records and continues  
the AUTHORS RIGHTS AND WRONGS SERIES (2007-08)



# Dissertations, theses and ©

- You own the © to your dissertation or thesis
  - Registration is not necessary
    - Unless you want to sue someone for © infringement
    - UMI ProQuest will register your © for a fee or you can register it at <http://www.copyright.gov/register/>
- BUT, if you are not the © owner of work you want to include in your dissertation or thesis (e.g., tables, charts), you need permission from the © owner
  - Work created by others
  - *Work you created but transferred the © to publisher*

# Seeking © permission

- Be aware that the author of the work you want to use might not be the current © owner
- If you are the author, locate your publishing agreement to see if you retained re-use rights
  - If not did not, you need permission from the publisher
- Seek permission early to avoid publication delays
- Get permission in writing
  - UMI Proquest requires copies of all permissions

# For more information

- “Copyright Law and Graduate Research”
  - <http://www.umi.com/en-US/products/dissertations/copyright/>
- “Copyright Issues Related to the Publication of Dissertations”
  - Contact your department’s liaison librarian

Back to OA ...





# Status of OA movement

- **Green OA – repositories**

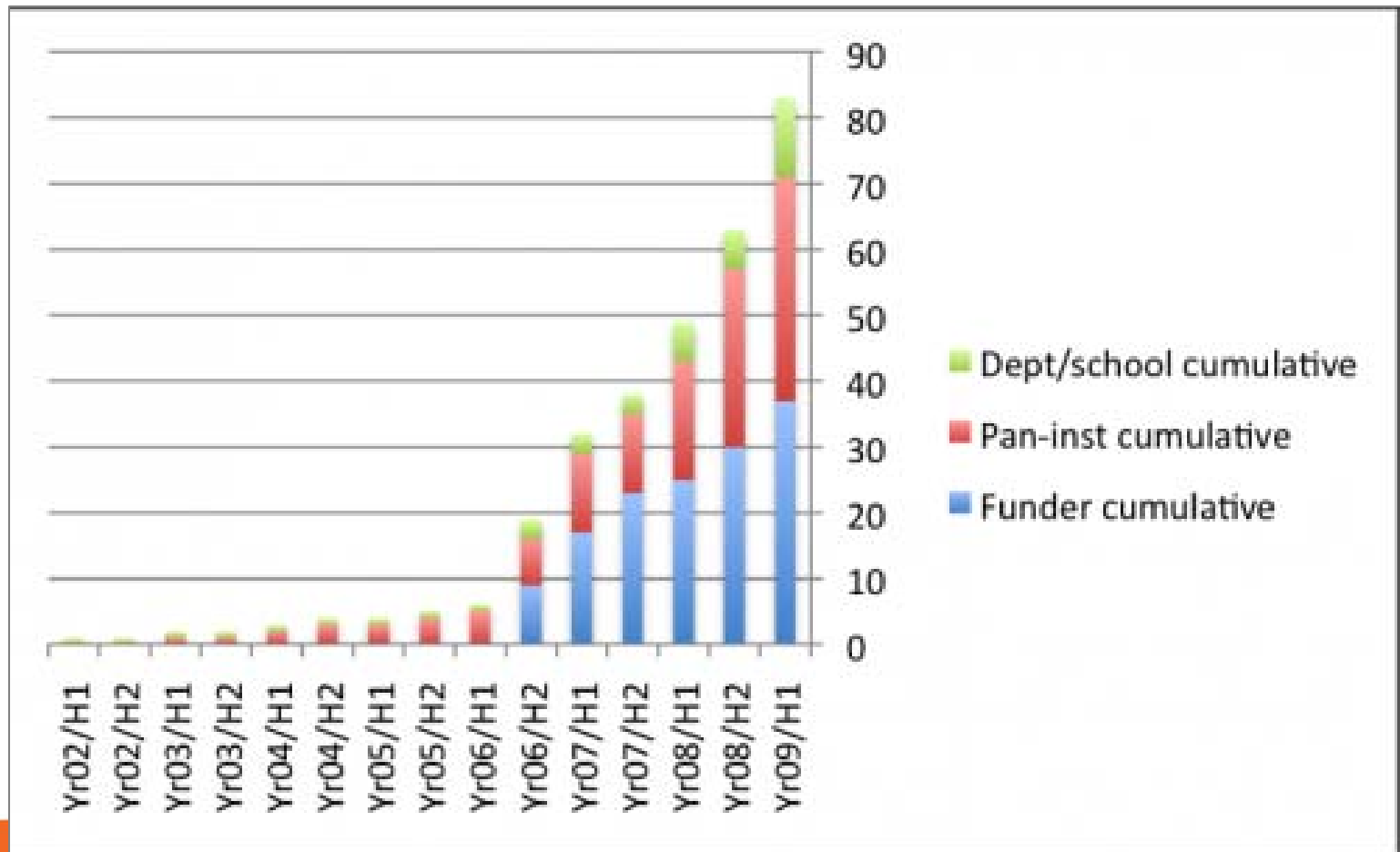
- Growing number of repositories and OA materials
- Slow **voluntary** uptake by researchers
- Adoption of institutional and governmental **mandates**

- **Gold OA – journals**

- Growing number of OA and hybrid journals
- Concern about **prestige** of OA journals
- Concern about paying **publication fees**



# Global adoption rate for green OA mandates



# NIH open access policy

- Ensures that the public has access to the published results of NIH funded research
- Requires scientists to submit Accepted Manuscripts that arise from NIH funds to PubMed Central *upon acceptance for publication*
- Requires that these papers are accessible to the public in PubMed Central no later than *12 months after publication*



# How to comply with NIH policy

- Determine applicability
  - Does the NIH Public Access Policy apply to your paper?
- Address copyright
  - Ensure your publishing agreement allows the paper to be posted to PubMed Central in accordance with NIH Policy
- Submit paper
  - Submit papers to PubMed Central and approve public release
- Include PMCID in citations
  - At the end of citation in applications, reports and articles





# Submitting work to PubMed Central

## Submission Methods

There are four methods to ensure that an [applicable paper](#) is submitted to PubMed Central (PMC) in compliance with the NIH Public Access Policy. Authors may use whichever method is most appropriate for them and consistent with their publishing agreement. Click on the method in the table for details.

	<a href="#">Method A</a> Journal deposits final published articles in PubMed Central without author involvement	<a href="#">Method B</a> Author asks publisher to deposit specific final published article in PMC	<a href="#">Method C</a> Author deposits final peer-reviewed manuscript in PMC via the NIHMS	<a href="#">Method D</a> Author completes submission of final peer-reviewed manuscript deposited by publisher in the NIHMS
<b>Version of Paper Submitted</b>	Final Published Article	Final Published Article	Final Peer-Reviewed Manuscript	Final Peer-Reviewed Manuscript
<b>Task 1: Who starts the deposit process?</b>	Publisher	Publisher	Author or designee, via NIHMS	Publisher
<b>Task 2: Who approves paper for processing?</b>	Publisher	Publisher	Author, via NIHMS	Author, via NIHMS
<b>Task 3: Who approves paper for Pub Med Central display?</b>	Publisher	Publisher	Author, via NIHMS	Author, via NIHMS



# Other federal activity

- Federal Research Public Access Act (FRPAA)
  - Would make OA mandatory for all peer-reviewed articles documenting research funded by all federal agencies investing  $\geq$ \$100 million in research annually
- Office of Science and Technology Policy
  - Call for public comment on federal OA policy
    - Implementation (Dec. 10 to 20)
    - Features and Technology (Dec. 21 to Dec 31)
    - Management (Jan. 1 to Jan. 7)





# Biggest obstacles to open access

- Publisher resistance to changing their business model and fear of journal cancellations
- Faculty and institutional ignorance, indifference and inertia

What are Carnegie Mellon  
faculty doing?



# J articles self-archived on websites

- Overall, 34% faculty self-archived 32% articles cited on websites
- In SCS, 67% faculty self-archived 55% articles cited on websites

College	Articles		Faculty	
	Total	OA	Total	OA
CFA	200	17%	184	3%
CIT	4,713	24%	179	30%
H&SS	2,419	40%	148	34%
Heinz	380	26%	54	17%
MCS	3,414	41%	158	31%
SCS	2,340	55%	205	67%
Tepper	1,415	16%	90	46%
TOTAL	14,881	32%	1,018	34%

Study conducted 2007-2008



# Alignment with publisher policy

- Alignment, not compliance ...
  - No way to distinguish author versions
  - No way to determine if embargo was respected
- Alignment assessed based on whether policy
  - Allowed OA
  - Prohibited, allowed or required self-archiving the publisher PDF after publication

Study conducted 2007-2008



# Alignment with publisher policy

- Overall, 38% of the OA articles were not aligned with policy
- In SCS, 31% of the OA articles were not aligned with policy

College	Policy unknown	Aligned w policy	Not aligned
CFA	15%	24%	58%
CIT	7%	56%	35%
H&SS	8%	21%	63%
Heinz	19%	29%	45%
MCS	5%	65%	29%
SCS	8%	53%	31%
Tepper	13%	67%	18%
TOTAL	8%	50%	38%

1,830 OA articles not aligned with policy

Not shown: 4% where policy was unclear





# Lack of alignment

- Overall, 73% of the unaligned OA articles were publisher PDFs prohibited by publisher policy

College	OA prohibited	Pub PDF required	Pub PDF prohibited
CFA			100%
CIT	25%	14%	61%
H&SS	9%	1%	90%
Heinz	22%	2%	76%
MCS	47%		53%
SCS	5%	25%	70%
Tepper	7%		93%
TOTAL	18%	9%	73%
Articles	329	165	1,336





# SCS unaligned articles

- 5% policy prohibited OA
- 70% policy prohibited publisher PDF
- 25% policy required publisher PDF after publication
  - Many SCS faculty share work early in life cycle
  - Unlikely to self-archive work twice

# Copyright infringement

- Lack of compliance with publisher open-access policy constitutes © infringement
- Carnegie Mellon faculty infringing © to their own work are not unique



# No sanctions

- Public conscience has not been shocked
- Publishers care, but response has been political
- Academy doesn't see it as serious breach of standards
  - Efforts to get faculty to retain rights or to license rights to institution, but won't interfere with faculty autonomy
  - If faculty infringe ©, institution is not responsible (DMCA)
- Faculty who knowingly infringe © to their own work assume no harm to institution, reputation, recognition or reward



# Why no sanctions?

- The nature of research
  - Funded, conducted and published for public good
    - Revenue from © is not the incentive to create
    - Researchers are not paid by publishers
  - Researcher rewards are not proportional to sales
  - Growing belief among researchers that – as currently cast – © is inappropriate for research





# Why no sanctions?

- The nature of the situation
  - Publishers need researcher submissions
  - Publishers need to mask the fact that
    - They do not speak for researchers
    - Their interests (restricted access and \$\$\$) do not serve researcher interests (broad dissemination and recognition)
  - Punitive sanctions could backfire

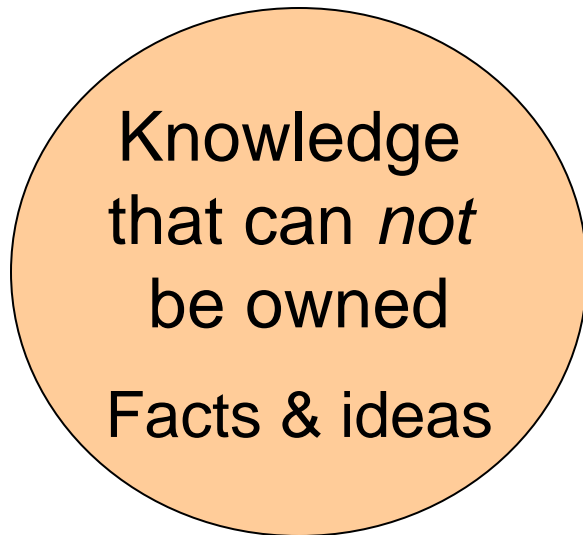
Let's take a step back ....



# Epistemic regime

## ACADEMY

Cognitive property (CP)

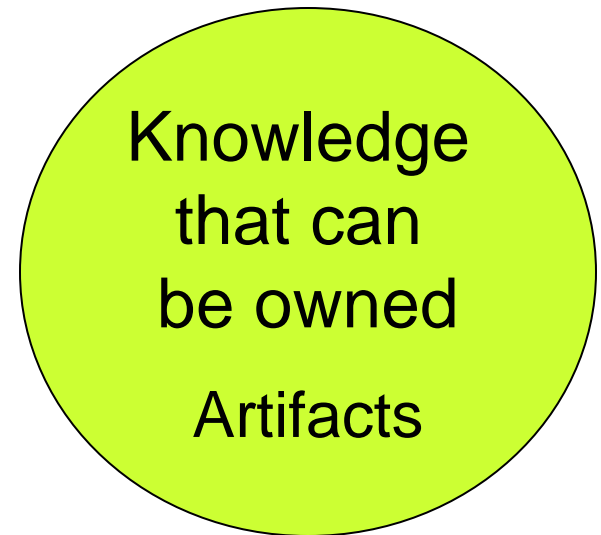


Gift economy

Monopoly of competence

## LAW

Intellectual property (IP)



Market economy

Monopoly of copyright

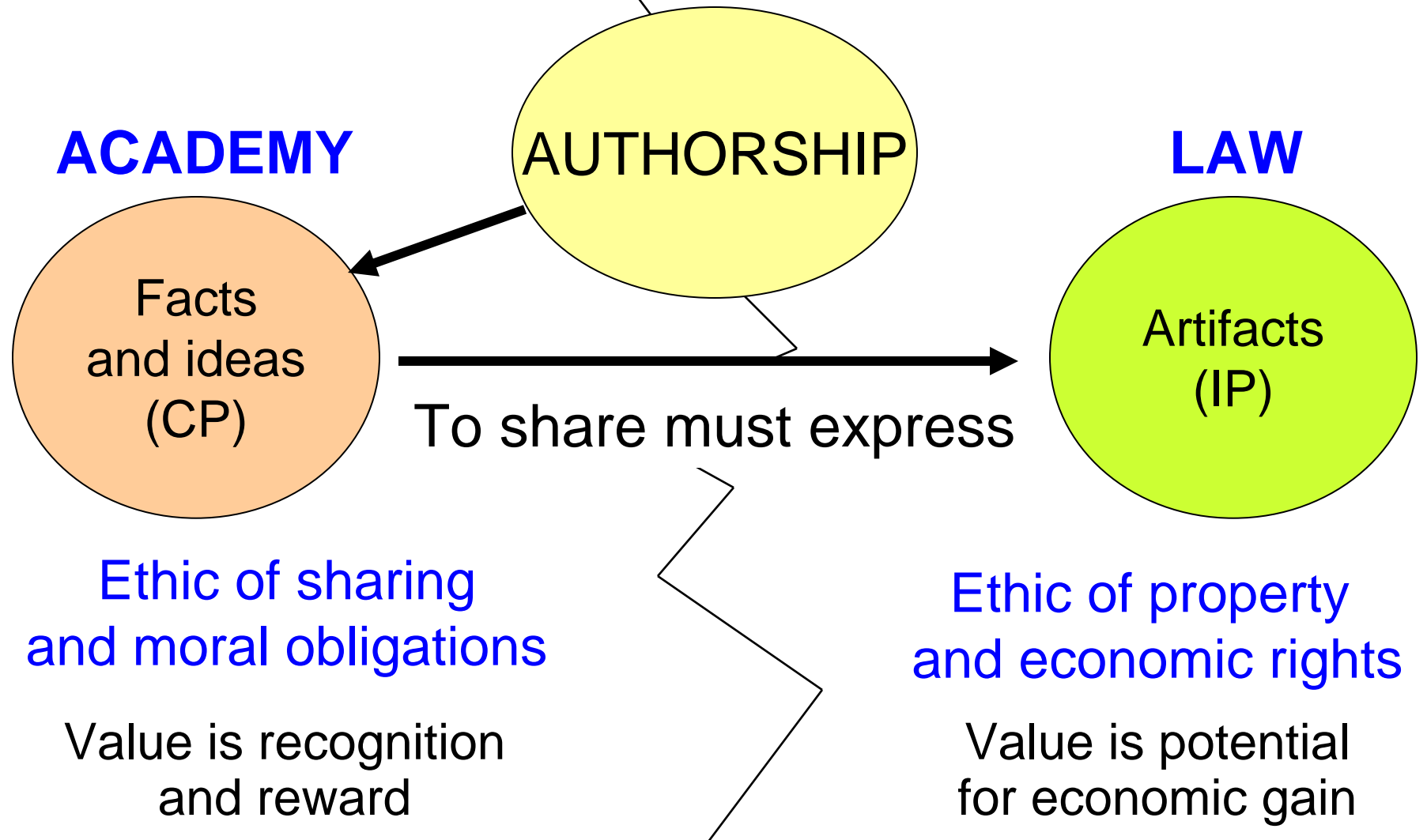
# Financing

- Higher education, private foundations and government agencies fund the **gift economy**
  - Enables researchers to give journal articles as gifts (royalty free)
- Revenue from sales funds the **market economy**
  - Some for-profit publishers make huge profits, e.g., Elsevier Science





# Boundary object





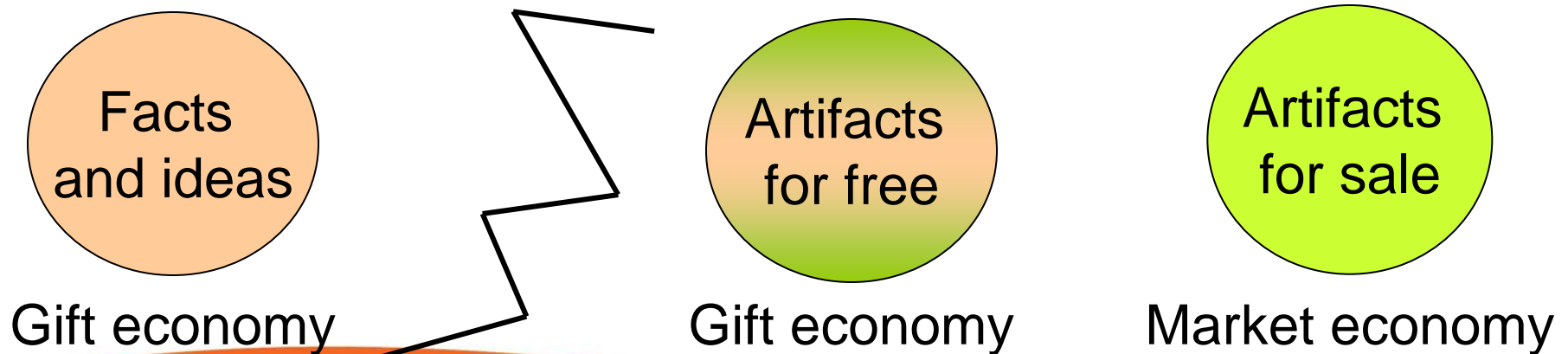
# Researchers have a hybrid ethic

- Want academic exception and © ownership
  - Honor and propriety (CP / gift economy)
  - Academic freedom and control (IP / market economy)
- Resist loss of honor, propriety, autonomy, control
  - Efforts to help them manage copyright
  - Policies requiring retention or granting of rights
- Transfer copyright to publisher
  - Don't negotiate or even read © transfer agreement
  - Retaining © < important than recognition and reward



# Border dispute

- Boundary objects can deploy the norms of one economy in another, creating a border dispute
- **Open access is a border dispute**
  - The gift economy operating in market space
  - Subversive, confrontational and competitive





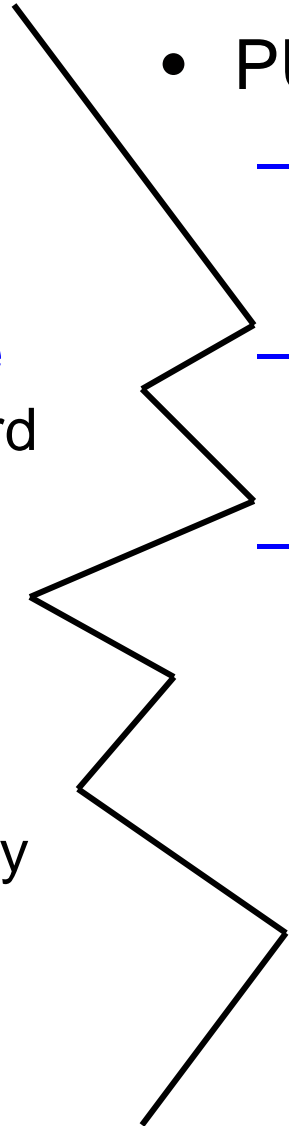
# Tension in the epistemic regime

- RESEARCHERS

- Intention = transfer © for broad distribution
- Foreseen consequence = recognition and reward
- (Un)foreseen harmful consequence = publishers holding gifts hostage for ransom increasingly few can pay

- PUBLISHERS

- Intention = acquire © to distribute and earn \$\$
- Foreseen consequence = \$\$
- (Un)foreseen harmful consequence = authors stipulating terms for © transfer or rescuing hostages without negotiation





# Academy bears some responsibility

- Assess value based on volume of work and prestige of publication venue
- Tolerate faculty mismanagement of ©
- Enabled the moral hazard
- Faculty compete with the library for institutional resources



# What University Libraries is doing

- Working to change the rules and faculty behavior
  - Spearheaded Faculty Senate OA resolution
  - Conduct research
  - Organize the Scholarly Communications Forum
    - <http://www.cmu.edu/scholarly-communications/scholarlycommforum/>
  - Lobby, e.g., NIH mandate, FRPAA, OSTP
  - Provide tools and support
    - <http://www.cmu.edu/scholarly-communications/index.html>

# Gap between opportunity & practice

	Articles & policies			OA articles & policies			GAP	
	Total	OA Yes	OA No	Total OA	OA Yes	OA No		
Carnegie Mellon	14,881	77%	12%	4,816	85%	7%	7,374	64%
SCS	2,340	87%	2%	1,286	90%	2%	871	43%
CS	833	93%	1%	485	96%	1%	307	40%
ETC	4	0%	0%	0				
HCI	295	89%	1%	112	87%	0%	167	63%
ISR	265	76%	2%	126	78%	1%	104	51%
LTI	120	84%	1%	66	83%	2%	46	46%
ML	139	92%	4%	72	90%	6%	63	49%
RI	684	83%	4%	425	90%	3%	184	33%



# OA is about changing the rules

- To return control of scholarly communication to the scholars who will stop the harm “our present course inflicts on research, health care, the environment, public safety, and every aspect of life which depends on research.”

Peter Suber, “Knowledge as a Public Good,”  
*SPARC Open Access Newsletter*, November 2009.





# OA advocates

- Challenge publisher authority – *rebellion*
- Challenge economic model of © – *heresy*
  - © law focuses on royalty-producing content
  - Journal articles are royalty-free content
- Draw attention to failures
  - Publisher failure to serve researcher interests
  - Policy failure to incentivize research / promote public good





# Publisher response: compromise

- Many conditionally allow OA
  - Policy details suggest OA support is disingenuous
  - Attempt to subjugate self-archiving authors as niche community under auspices of publishers
    - Must maintain the illusion that they speak for researchers and serve researcher interests
- Some deposit NIH-funded articles in PMC
  - After intense lobbying to prevent the OA mandate



# Publisher response: attack

- No peer review without them
- No crisis in dissemination or access
- Government mandates infringe publisher © and censor science
- OA threatens the integrity of science, jobs and national security

In 2007 scientific publishers hired a public relations pitbull to spin the media and avoid engaging OA advocates in intellectual debate



# Publisher response: lobby

- **For** the Fair Copyright in Research Works Act (H.R. 801)
  - Revoke the NIH OA mandate
  - Disallow any similar federal mandate
- **Against** the Federal Research Public Access Act (S. 1372)
  - Mandate OA for all research funded by federal agencies investing  $\geq$ \$100 million in research



# Publisher comments to OSTP

- The usual push-back (e.g., infringe their ©)
- Government funds research, not publication
- Publishers fund publication
- Publishers should be paid if the government mandates OA to federally funded research

Researchers see publication as the final step in the research process.



# Paying for OA

- No one denies that there are publication costs
  - Issues are how to finance them and end price gouging
- Alternative business models
  - Author pays
  - University subsidizes
  - Funder subsidizes
  - Institutional membership
  - Community pays
  - Hybrid business model
  - Consortium business model

*Compact for OA Publishing Equity*  
Cornell, Dartmouth, Harvard, MIT and UC Berkeley  
<http://www.oacompact.org/>

# My position

- Alignment with publisher policy is good enough
- Full compliance is likely impossible
- Full compliance disrespects faculty time and disciplinary culture



# My position: exercise and foster

- Civil disobedience

- In a democracy, when conscience and law clash we are **morally justified, if not duty bound, to follow our conscience**, not wait for the law to change

Henry David Thoreau,  
*On the Duty of Civil Disobedience*, 1849

- Moral courage

- When opposed and when success entails risk, act to preserve the values of **honesty, fairness, respect, responsibility and compassion**

*Moral Courage, a White Paper*,  
R. Kidder and M. Bracy, 2001





What you can do ...





# Know and exercise your rights

- **Open access movement** – assert and protect your interests in © transfer to publishers
  - *Gratis* OA – Free of charge, not free of © restrictions
- **Creative Commons licenses** – signal what rights you grant to users and what rights you reserve
  - *Libre* OA – Free of charge + free of some © restrictions



# Encourage graduate students

- To make their work available OA
  - In alignment, if not compliance, with publisher policy
- To adopt an OA resolution





# Encourage department / university

- Adopt an OA mandate
- Value peer-reviewed OA journals the same as traditional journals
- Subsidize publication fees in OA journals
- Use new metrics to measure quality
  - Immediacy index, cited half-life, h-index, usage factor

# Engage in the OA debate

- Support the Federal Research Public Access Act
- Oppose the Fair Copyright in Research Works Act
- Participate in discussion on OSTP blog
- Promote copyright reform
  - Rebut the notion that publishers speak for researchers and serve researcher interests





# We, the people,

- “cannot sit on the sidelines, as if the market forces can be trusted to operate for the public good. We need to get engaged, to mix it up, and to win back the public’s rightful domain. When I say ‘we,’ I mean we the people, we who created the Constitution .... We must open access to our cultural heritage. How? By rewriting the rules of the game, by subordinating private interests to the public good, and by taking inspiration from the early republic in order to create a Digital Republic of Learning.”

Robert Darnton, Harvard



Thank you for this opportunity

troll@andrew.cmu.edu

