Publisher Support for Self-Archiving: Laudatory or Predatory?

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Publisher Support for Self-Archiving: Laudatory or Predatory?

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Keywords: open access, self-archiving, repositories, public access mandates, Association of American Publishers

Topic: Digital library policy

1. Introduction

Most publishers with self-archiving policies in the SHERPA RoMEO database allow authors to deposit their articles in a repository or post them to a website – supporting the green route to open access. Nevertheless, the Association of American Publishers (AAP) enthusiastically endorsed legislation proposed and defeated twice in the United States to prohibit federal agencies from mandating repository deposits of articles reporting on research they funded. The AAP also endorsed the Finch Report issued in the United Kingdom. The Report denigrated repository deposits and elevated open access publishing – the gold route to open access – as the preferred path to expand public access. Given that the green route is more affordable than the gold route (Houghton et al 2009), that the green route exceeds the gold route in growth rate and proportion of articles available open access (Gargouri et al 2012), and that mandates increase repository deposits (Van Noorden 2013, Poynder May 2012), these are puzzling tactics for publishers professing to support self-archiving.

Despite conspicuous progress in providing open access to scholarly articles,¹ there is a steady, unsettling undercurrent stirred by traditional publishers that could undermine the green route to open access. This article examines data and discourse to better understand publisher perspectives on self-archiving and, based on this understanding, urges action from open access advocates.

2. Data Analysis

Two datasets were mined from the live SHERPA RoMEO database of publisher self-archiving policies and intermittent captures of the database by the Internet Archive Wayback Machine.² Policy statistics and conditions were analyzed.

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¹ In August 2013, SHERPA RoMEO statistics indicated 70% of publishers support self-archiving. The Directory of Open Access Repositories had over 2,200 entries. The Registry of Open Access Repositories Mandatory Archiving Policies listed 409 mandates. The Directory of Open Access Journals listed 9,707 open access journals.

2.1. Overall Trend

Analysis of SHERPA RoMEO statistics pages from April 2004 to June 2013 reveals the trend in publisher support for self-archiving journal articles. The statistics derive from the colour codes assigned to policies based on the article version allowed to be self-archived immediately (Jenkins et al 2007):

- Green – un-refereed pre-prints and peer-reviewed post-prints (author final manuscripts or the published version/PDF)
- Blue – only peer-reviewed post-prints
- Yellow – only un-refereed pre-prints
- White – self-archiving not formally supported

Overall support for self-archiving (green + blue + yellow) peaked at 79% fall 2006. Thereafter, overall support declined to a low of 61% by fall 2009; then slowly increased to 70% by summer 2013. However, full support for self-archiving (green) peaked in 2005 at 52%, then slowly declined, hovering around 28% since 2011. See figure 1.

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2.2. Changing Levels of Support

A dataset of 709 publisher policies was created from SHERPA RoMEO browse pages to study changes in support for self-archiving. The findings should concern open access advocates.

The change in overall support for self-archiving (figure 1) is not strictly the result of new policies entering the SHERPA RoMEO database. From February 2004 to July 2013, the colour code of 19% (134) of the policies in the dataset changed. Some changed multiple times, for a total of 170 changes. See table 1. No level of support for self-archiving is stable. For-profit publishers appear more likely to change than non-profit publishers.

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3 The policies appeared in the database between February 2004 and February 2010.
Table 1. The initial colour code and change behavior of for-profit and non-profit publishers.
Not shown: 24 unidentified publishers.

<table>
<thead>
<tr>
<th>Code</th>
<th>Version</th>
<th>Total</th>
<th>Changed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Green</td>
<td>Pre-print and post-print</td>
<td>47</td>
<td>8</td>
</tr>
<tr>
<td>Blue</td>
<td>Only post-print</td>
<td>36</td>
<td>15</td>
</tr>
<tr>
<td>Yellow</td>
<td>Only pre-print</td>
<td>21</td>
<td>5</td>
</tr>
<tr>
<td>White</td>
<td>No self-archiving</td>
<td>80</td>
<td>21</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td>184</td>
<td>49</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Code</th>
<th>Version</th>
<th>Total</th>
<th>Changed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Green</td>
<td>Pre-print and post-print</td>
<td>127</td>
<td>14</td>
</tr>
<tr>
<td>Blue</td>
<td>Only post-print</td>
<td>133</td>
<td>18</td>
</tr>
<tr>
<td>Yellow</td>
<td>Only pre-print</td>
<td>37</td>
<td>10</td>
</tr>
<tr>
<td>White</td>
<td>No self-archiving</td>
<td>204</td>
<td>41</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td>501</td>
<td>83</td>
</tr>
</tbody>
</table>

By July 2013, most (62%) of the publishers that changed colour code had increased support for self-archiving. Publishers that initially prohibited self-archiving account for most (67%) of the increased support. Half (50%) of the publishers that initially allowed self-archiving had decreased support, often by imposing an embargo to delay self-archiving. See table 2.

Table 2. The start and end (July 2013) colour code of publishers that changed.
Shaded areas indicate decreased support.

FOR-PROFIT PUBLISHERS

<table>
<thead>
<tr>
<th>Code</th>
<th>Start green</th>
<th>Start blue</th>
<th>Start yellow</th>
<th>Start white</th>
<th>End Total</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Pre-print or post-print</td>
<td>Post-print only</td>
<td>Pre-print only</td>
<td>No self-archiving</td>
<td></td>
</tr>
<tr>
<td>End green</td>
<td>2</td>
<td>7</td>
<td>2</td>
<td>6</td>
<td>17</td>
</tr>
<tr>
<td>End blue</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>7</td>
<td>9</td>
</tr>
<tr>
<td>End yellow</td>
<td>5</td>
<td>3</td>
<td>2</td>
<td>8</td>
<td>12</td>
</tr>
<tr>
<td>End white</td>
<td>5</td>
<td>5</td>
<td>1</td>
<td>7</td>
<td>12</td>
</tr>
<tr>
<td><strong>Start Total</strong></td>
<td>8</td>
<td>15</td>
<td>5</td>
<td>21</td>
<td>49</td>
</tr>
</tbody>
</table>

NON-PROFIT PUBLISHERS

<table>
<thead>
<tr>
<th>Code</th>
<th>Start green</th>
<th>Start blue</th>
<th>Start yellow</th>
<th>Start white</th>
<th>End Total</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Pre-print or post-print</td>
<td>Post-print only</td>
<td>Pre-print only</td>
<td>No self-archiving</td>
<td></td>
</tr>
<tr>
<td>End green</td>
<td>4</td>
<td>8</td>
<td>7</td>
<td>11</td>
<td>30</td>
</tr>
<tr>
<td>End blue</td>
<td>4</td>
<td>2</td>
<td>2</td>
<td>16</td>
<td>22</td>
</tr>
<tr>
<td>End yellow</td>
<td>3</td>
<td>2</td>
<td>7</td>
<td>7</td>
<td>12</td>
</tr>
<tr>
<td>End white</td>
<td>3</td>
<td>8</td>
<td>1</td>
<td>7</td>
<td>19</td>
</tr>
<tr>
<td><strong>Start Total</strong></td>
<td>14</td>
<td>18</td>
<td>10</td>
<td>41</td>
<td>83</td>
</tr>
</tbody>
</table>
Based on when policies entered the dataset, more early policies changed colour code and changed more often than recent policies, suggesting that newer policies could be more stable than older policies. See figure 2.

However, the timing of changes in support for self-archiving raises doubts about the stability of newer policies. See figure 3. Most changes occurred within two years of the policy entering the dataset or, for publishers that changed multiple times, the previous colour code change. Increases in support appear to occur more quickly than decreases, but both for-profit and non-profit publishers changed their level of support three, four, even five or more years later.

The distribution and direction of changes over time vary by publisher type. See figure 4. Peak years of change correlate with significant legislative developments in the U.S. discussed later in this article. With rare exception change activity for both publisher types conveys a mixed message, with increases and decreases in support occurring each year. The changes impacted 10,837 journal titles. The vast majority (90%) were published by for-profit publishers.
2.3. Changing Conditions

By November 2005, SHERPA RoMEO had defined the terms *conditions* and *restrictions* to accommodate developments in publisher policies.\(^4\) Conditions do not deter self-archiving. Restrictions do.\(^5\) The definitions have not changed, but how the terms are applied has changed.\(^6\) For this reason and because authors ultimately decide what deters self-archiving, the analysis here refers to all policy details as conditions.

To examine the conditions, a dataset of 26 popular publisher policies was created.\(^7\) Compared to the publishers in the larger dataset analyzed above, popular publisher support for self-archiving is far more unstable: 50% changed their colour code. Popular publishers changed more often and more rapidly. Their changes account for 71% (7,745) of the titles impacted in the analysis above. Popular for-profit publishers (35% of the dataset) are the most volatile and influential: 78% changed their level of support for self-archiving; they published 95% of the titles affected by popular publisher changes.

When the policies entered the dataset, 73% supported self-archiving. By July 2013, 92% supported self-archiving. However, the analysis here is based on the total number of policies in the dataset each year because even publishers that do not support self-archiving imposed conditions, primarily to address mandates, which operate independently of the SHERPA RoMEO colour codes.

Conditions in early popular publisher policies indicate efforts to remain relevant, and to control the published version and, to a lesser extent, the pre-print version. See figure 5. Over time, more publishers adopted these conditions and the proliferation of repositories complicated and compelled location designations.\(^8\)

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\(^4\) See [http://www.sherpa.ac.uk/romeo/definitions.php](http://www.sherpa.ac.uk/romeo/definitions.php). The date stated for when these terms were introduced was captured by the Internet Archive Wayback Machine.

\(^5\) Where something can be self-archived is a condition. When something can be self-archived is a restriction (Jenkins et al 2007: 127).

\(^6\) For example, the requirement that self-archived pre-prints must be removed upon publication was considered a restriction in January 2005, but a condition in August 2006.

\(^7\) The selected publishers were those with which Carnegie Mellon University faculty most frequently published, based on data from a 2007-08 study (Troll Covey 2009).

\(^8\) The number of open access repositories more than doubled from 2006 to 2013. See [http://tinyurl.com/4zs7cg](http://tinyurl.com/4zs7cg).
Few popular publisher policies mentioned repositories, embargoes, or paid open access options until 2007, when the U.S. National Institutes of Health mandated repository deposits. Thereafter, most popular publisher policies reflected these developments. See figure 6.

Publishers impose embargoes on self-archiving purportedly to avoid cancelled subscriptions and recoup costs. However, the convergence of embargoes and paid open access options suggests not cost recovery, but a new revenue stream. Publishers that delay self-archiving can charge a fee for immediate open access in a hybrid journal. Lengthening the embargo for mandated repository deposits beyond what the mandate allows or imposing different conditions if a mandate applies can channel authors into this new revenue stream. Changes in policy details show popular publishers struggling with what the embargo should be for different disciplines, versions, and locations, and how to manage repository deposits, respond to mandates, and monetize open access. The struggle complicated policy conditions.

Table 3 provides an accurate but misleading overview of policy conditions in July 2013. Though 56% of the popular for-profit publishers allow immediate self-archiving of the author’s final manuscript, four out of the five – all of which offer a paid open access option – impose severely restrictive conditions. One prohibits deposits in institutional repositories. One embargoes all repository deposits. One allows immediate deposit in an institutional repository, but embargoes deposits in other repositories. One allows immediate deposit in an institutional repository if deposit is not mandated, but imposes an

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9 Some publishers have extended their embargo to be non-compliant with the 2012 Research Councils UK (RCUK) public access policy, forcing authors to comply by paying for open access (Poynder 17 June and 25 June 2013).
embargo if deposit is mandated; compliance with a mandate requires an agreement between the publisher and the repository.

Table 3. Overview of popular publisher policies July 2013.

<table>
<thead>
<tr>
<th>Publisher type</th>
<th>Offer paid open access option</th>
<th>Allow immediate self-archiving</th>
<th>Embargo all self-archiving</th>
</tr>
</thead>
<tbody>
<tr>
<td>For-profit</td>
<td>89%</td>
<td>56%</td>
<td>44%</td>
</tr>
<tr>
<td>Non-profit</td>
<td>53%</td>
<td>76%</td>
<td>24%</td>
</tr>
</tbody>
</table>

In comparison, conditions imposed by non-profit publishers that allow immediate self-archiving and offer a paid open access option focus on what may be done with the published version. Two allow the published version to be posted to a website, but allow deposit of only the author’s final manuscript in a repository. One allows the published version to be posted to a website immediately, but embargoes repository deposits of the published version. One allows the published version to be deposited in an institutional repository, but not a shared repository. One will consider repository deposits on a case-by-case basis.

2.4. Summary and Observations

Publishers are free to change their level of support for self-archiving and they do, sometimes many years later. Policies that appear stable could change in the future. For-profit publisher policies are more volatile and impactful than non-profit publisher policies. For-profit policies appear designed to thwart the green route to open access and incentivize the alternative: paid open access publishing.

Granted, some authors don’t care about publisher policies (Antelman 2006). Funder mandates will make them care, but inconsistent, confusing, and burdensome publisher policies can be a barrier to self-archiving (Salo 2008). According to Danny Kingsley, depositors today must know the publisher’s policy, the details of library licensing agreements that address author rights, the details of applicable mandates, and whether the publisher requires and has an agreement with the repository (2013). Given the complexity, institutions will be forced to invest resources in mediating compliance – or withdraw their support for mandates.

3. Rhetorical Analysis

Publisher policies are snapshots of their position in an ongoing public debate and market evolution. Studying the rhetoric of the Association of American Publishers (AAP) can help open access advocates understand and respond to the AAP’s position.

Rhetoric is the art of using language to persuade. Rhetorical arguments deploy carefully selected strategies targeted for a particular audience in particular circumstances, in this case stakeholders and policymakers pushing for mandated repository deposits. The effects of any rhetorical strategy can potentially be undone by another rhetorical strategy.

\[\text{10}\] Includes a scholarly society publisher that prohibits voluntary self-archiving, but allows mandated repository deposits after an embargo.
3.1. Premises

The PSP Bulletin published by the Professional Scholarly Publishers division of the AAP reveals what the AAP values and what it accepts as facts, truths, and presumptions about open access. These provide the premises of the AAP’s rhetorical arguments.

The AAP values (1) the traditional subscription business model (2) that maintains quality through peer-review (3) and is financially compensated (4) through copyright transfer. Over time, the AAP marshaled facts, truths, and presumptions to protect these values and to respond to threats and opportunities perceived in the environment. Table 4 shows the unfolding of the AAP’s position on the green and gold routes to open access. By 2007, the AAP’s position was clear: open access publishing is an opportunity; self-archiving is a threat. ‘The truth’ is that advocates of public access mandates want ‘something for nothing … claiming not to need to pay the tailor for making the suit because they provided the starting fabric’ (Spring 2007: 2).

In response to perceived threats, the AAP launched multiple public relations campaigns designed to control the debate over public access and the path to it.¹¹ When the AAP’s strategies failed, it adopted new ones.

3.2. Arguments

The analysis presented here is based on the rhetoric of the AAP’s campaigns from 2006 to July 2013 documented in the PSP Bulletin, AAP press releases, and letters and comments sent to the U.S. government. (See the Appendix.) The rhetorical strategies were identified using The New Rhetoric (Perelman and Obrecht-Tyteca 1969). The analysis treats the strategies separately, but they form an interactive whole. Throughout the discussion, the term ‘public access mandate’ means a federal requirement that federally funded research articles be deposited in an open access repository.

The AAP’s initial strategies to oppose public access mandates were:

- **Association of concepts**, which brings elements together to force them to be evaluated by means of one another. The AAP equated public access with government censorship and traditional publishing with peer review, inferring that public access was bad, traditional publishing was good, and by extension, open access publishing means no peer review.

- **Pragmatic argument**, which can be cast in terms of action and consequences or means and ends. The Bulletin took the means-ends approach: attacks on copyright transfer and the repository agenda intend to destroy traditional publishing. But AAP’s legislative lobbying took the action-consequences approach: federal mandates will have harmful unintended consequences. For the argument to succeed, the full weight of the consequences must be transferred to the cause. Other causes and consequences must be suppressed.

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¹¹ AAP campaigns included the Outreach Campaign in 2003, the Edelman public relations campaign in 2004, the Dezenhall Resources reputation management campaign in 2007, and the Weinreich public policy campaign in 2011.
Table 4: The AAP’s position on the gold and green routes to open access.
References are to the *PSP Bulletin*.

<table>
<thead>
<tr>
<th>Year</th>
<th>Gold route</th>
<th>Green route</th>
<th>Legislative mandates</th>
</tr>
</thead>
<tbody>
<tr>
<td>2002</td>
<td>Author-side pays business models will mix financial and scientific criteria in accepting articles for publication (Winter 2002).</td>
<td>No copyright transfer will be a problem (Winter 2002).</td>
<td></td>
</tr>
<tr>
<td>2003</td>
<td>Self-archiving is more likely to transform scholarly publishing than hybrid or fully open access journals (Fall 2003).</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2004</td>
<td>Open access publishing business models are a return to a pre-1665 Elizabethan and Papal model of patron-supported research (Winter 2004).</td>
<td>Government mandates are unfair (Spring 2004). The proposed National institutes of Health (NIH) public access policy will have potential harmful unintended consequences (Fall 2004).</td>
<td>The NIH public access mandate was proposed in U.S. Congress.</td>
</tr>
<tr>
<td>2005</td>
<td>Funding bodies willing to pay author-side fees want to undermine costly subscriptions (Fall/Winter 2005)</td>
<td>Mandates limit publisher rights and flexibility (Fall/Winter 2005).</td>
<td>The proposed NIH mandate was amended to a voluntary policy and became law.</td>
</tr>
<tr>
<td>2006</td>
<td>Survey results reveal a significant shift in practice: publishers are increasingly adopting open access publishing, primarily hybrid journals funded by author-side fees (Summer 2006).</td>
<td>Attacks on copyright transfer aim to destroy publishers of costly journals; mandates should compensate publishers (Fall 2006).</td>
<td>The Federal Research Public Access Act (FRPAA) was introduced and languished in Congress. It would have required most federal agencies to mandate repository deposits.</td>
</tr>
<tr>
<td>2007</td>
<td>Open access publishing could prevent authors from publishing because they cannot afford the fees. Funding agencies willing to pay for dissemination as part of the research process are a new source of revenue (Spring 2007).</td>
<td>Self-archiving could destroy the subscription system. Institutional repositories aim to overthrow that system. Government mandates pose a real threat. Many self-archiving mandates will appear within six months. Policymakers must be persuaded that not compensating publishers will unintentionally damage science and compromise the public trust. Open access advocates don’t want the public and policymakers to know the truth (Spring 2007).</td>
<td>The NIH mandate was reintroduced and became law.</td>
</tr>
</tbody>
</table>
In response, open access advocates severed the AAP’s misleading associations and described the problems in the scholarly publishing system (other causes) and the benefits of public access mandates (other consequences). The AAP’s attempt to intimidate and obfuscate backfired in 2007 when leaked campaign details were published in *Nature* (Giles 2007). Exposed as massaging the media rather than engaging in intellectual debate, the AAP dropped argument from association and added new strategies:

- **Pragmatic argument** (action-consequences). Public access mandates will harm peer review and thus undermine the quality of science. They will prevent authors from freely choosing where to publish or prevent them from publishing because they cannot pay the fee. The AAP gradually dropped these pragmatic arguments as more publishers adopted author-side-pays business models. In 2012, having identified authors and funders as new paying customers, the AAP encouraged the government to allow researchers to fund immediate open access to sustain publishing and researcher choice.

- **Argument of incompatibility**, a form of quasi-logical argument that forces a choice. Government intervention is incompatible with a well-functioning publishing system and with fiscal responsibility. Choose government intervention and the system will falter, taxpayer money will be wasted. Avoid government intervention and the system will thrive, taxpayer money will be saved. Government intervention is unwarranted, unnecessary, inappropriate, ill considered, and wasteful.

- **Argument of direction**, which asks the question ‘What are you driving at?’ and makes a step and later developments interdependent, insinuating that the progression is inevitable. The AAP answered the question with a cascade of harmful consequences: Public access mandates undermine copyright. By undermining copyright, public access mandates harm the publishing industry. Harming the publishing industry harms the economy. The public interest is best served by sustaining an industry that contributes significantly to the economy.

In response, open access advocates attempted to remove the incompatibility and change the direction by providing evidence that scholarly publishing is dysfunctional and public access mandates have beneficial consequences. The success of the NIH mandate demonstrated that government intervention was affordable and warranted to achieve these benefits. Nevertheless, legislators refused to choose, repeatedly allowing proposed public access mandates to languish in Congress. Meanwhile, publishers broadly adopted embargoes to prevent the incompatibility that most concerned them from arising. Delaying repository deposits could sustain traditional publishing.

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12 The rekeyed leaked documents are available at [http://www.sunclipse.org/?p=284](http://www.sunclipse.org/?p=284). The Partnership in Research Integrity in Science and Medicine (PRISM), based on these strategies, failed when AAP members publicly announced their lack of support for it (Suber October 2007).

13 Public access mandates divert research funds, squander federal employee time, and require taxpayers to subsidize the acquisition of articles by foreign competitors that currently purchase the materials. Imposing unnecessary and duplicative costs (because scholarly publishing is working well), and a potentially unsustainable recurring burden on taxpayers will harm the economy.

14 With an embargo insufficient for publishers to recoup costs, self-archiving mandates create direct competition, undermine subscriptions, and remove incentives for publishers to invest.

15 The FRPAA was re-Introduced in 2009, 2010, and 2012.
Beginning in 2010, the AAP adopted additional strategies:

- **Dissociation of concepts**, which attempts to change the basis of argument by changing the conceptual data. Author manuscripts and publications containing them are created in separate acts. Publications, created by publishers that receive no federal funding, provide an independent analysis and interpretation of results funded by grants. Mandates that do not compensate publishers are therefore unfair, an intellectual eminent domain takeover of private sector property. If the assumed link between un-refereed and peer-reviewed articles is severed, author-submitted manuscripts supported by federal funding (pre-prints) are irrelevant in determinations dealing with the peer-reviewed (post-print) version.

The dissociation of concepts attempts to accomplish what the analogy in the *Bulletin* asserted Spring 2007. Not requiring the customer to pay the publisher for the publication because he provided the raw material is analogous to not requiring the customer to pay the tailor for the suit because he provided the fabric. As the bolt of fabric is to the finished suit, the author’s submitted manuscript is to the publication. Analogy is a rhetorical argument to establish the structure of reality. It yokes unlike things together to assert similar relationships among two sets of terms. It is suspect as a means of proof because it offers a simplified, imaginative view that masks differences.

- **Argument of identification**, a technique of quasi-logical argument that aims to influence and intervene in the probable use of a term in a way that preserves the contextual system of thought. Apparently uneasy about the persuasiveness of their dissociation of concepts, in 2011, the Research Works Act (RWA) defined a private sector work as any version of an article intended to be published and to which a publisher has entered into an arrangement to make a value-added contribution. The definition in effect transferred copyright to publishers at the point of article submission.

The RWA was a public relations nightmare for the AAP, triggering a boycott of the for-profit publisher that championed it. The bill’s sponsors promptly withdrew it.

The AAP continued to dissociate author pre-prints and peer-reviewed post-prints. In 2012, the AAP made the so-called mistaken assumption that publications arise from federal funding a threshold matter in its desire and ability to cooperate with the U.S. government to expand public access. For the AAP, an acceptable public access mandate must not interfere with copyright transfer or allow public access without copyright owner authorization. Publishers must be free to choose business models and they must be compensated, either by imposing an embargo that enables them to recoup costs from traditional subscription publishing or by author-side-pays open access publishing.

In 2013, the AAP strongly opposed the Fair Access to Science and Technology Research Act (FASTR), which would require most federal agencies to mandate repository deposits and re-use rights to articles arising from federal funding. It strongly supported the Office of Science and Technology Policy (OSTP)

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16 The Research Works Act (RWA) was initially introduced in 2008. It languished in Congress without fanfare.
19 FASTR is pending.
self-archiving mandate, likely because of concessions not included in FASTR$^{20}$ and because an executive directive will be easier to rescind than legislation. The OSTP mandate encourages but does not require re-use rights, recognizes publisher contributions, provides a mechanism for them to lengthen embargoes, and provides an opportunity to leverage their infrastructure to take control of open access under the guise of public-private partnership.

According to rumor, the OSTP has accepted the AAP’s partnership proposal – the ClearingHouse for the Open Research of the United States (CHORUS) – as the best way to support science, the economy, and the publishing industry. CHORUS documentation makes no mention of the open data mandate included in the OSTP directive.

### 3.3. Summary and Observations

The rhetoric of the AAP’s legislative lobbying is clever, arbitrary, manipulative, and effective with those unfamiliar with the benefits of open access and the problems in scholarly publishing. The AAP’s embrace of the OSTP mandate is disingenuous. Many publishers – particularly for-profit publishers – want to preserve their traditional subscription revenue stream and to exploit the new revenue stream from author-side-pays open access publishing. They have no respect for authors or their copyrights, feel entitled to copyright transfer, and want to license re-use rights, including computational analysis.

To paraphrase Clifford Lynch’s prediction in private conversation with the author years ago, ‘publishers will allow authors to self-archive if most of them don’t, but not if most of them do.’ Federal mandates will ensure that most of them do. Stevan Harnad recently remarked on evidence that supports Lynch’s prediction: ‘authors may self-archive without embargo if they wish, but not if they must’ (June 2013).

### 4. Call to Action

Open access advocates should prepare. The AAP’s plans to deal with librarians, policymakers, and the media include threats, manipulation, and compressed news cycles. Librarians are becoming irrelevant; the library disintermediated. Advocates’ demands of policymakers will expand as issues become better known, but policymakers can be moved by publisher ‘passion and expertise.’ ‘Facts are helpful but emotion is compelling.’ The media need no proof, have no accountability, face no repercussions. ‘Act fast.’ ‘State the industry position.’ The open access debate – the ‘smoldering crisis’ – must be controlled (PSP Bulletin Winter 2013: 10).

Advocates must thwart publisher efforts to turn open access into an additional revenue stream. We must persuade stakeholders and policymakers that enforced mandatory repository deposits and re-use rights are required to transition to open access publishing as the model for maximizing the return on investment in research. Embargoes and hybrid journals are permissible only as transparent transition strategies to solve the problems in scholarly publishing.

Advocates must also address related problems in academic culture. The reward system must change to incentivize open access and hold authors responsible for the consequences of their publishing choices. If for-profit publishers control public access, it will cost more and be less functional than if the research community controls it.

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$^{20}$ For a comparison of FASTR and the OSTP mandate, see [http://works.bepress.com/denise_troll_covey/73/](http://works.bepress.com/denise_troll_covey/73/).
References


http://www.nature.com/news/open-access-the-true-cost-of-science-publishing-1.12676

**Appendix: Sources for Rhetorical Analysis**


