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# Open Access, Creative Commons and Copyright

## Navigating the Issues

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Althea Wheeler  
Copyright Strategy Manager  
204-474-7277  
althea.wheeler@umanitoba.ca  
201 Allen Building

- [um.copyright@umanitoba.ca](mailto:um.copyright@umanitoba.ca)
- <http://umanitoba.ca/copyright>

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# What is Copyright?

- Copyright = right to copy, control over circumstances in which a work can be reproduced. Part of the intellectual property (IP) family
- Copyright infringement = violation of creator's copyright, unlawful use of a copyrighted work, potential consequences
- Only a copyright owner can determine when a work may be licenced (a limited right to reproduce) or assigned (copyright is given to another person/organization)



# What can be protected by copyright?





# Who owns copyright?

- Typically the creator (writer, photographer, painter, composer, etc.)
- Can be an employer in some circumstances.
- Copyright can be assigned (given) to others such as a publisher, organization or person
  - Copyright is frequently assigned under commercial publication agreements
- Copyright, like other forms of property, is inheritable
- Students will generally own the copyright in their theses
- [UM Intellectual Property policy](#)



# What are moral rights?

- The reputational (non-economic) aspect of copyright
- Creators have the right to:
  - Attribution (a name, pseudonym or anonymity)
  - Association (contexts in which the work may be used)
  - Integrity (non-modification of a work)



# How does copyright feature in academic publishing?

- Academics need to publish works
- Traditional commercial academic publishers request an assignment of copyright to publish
- The author publishes, but loses control of the copyright over their work
- Frequently little to no compensation
- Increased cost to academic libraries that then purchase the scholarly work now owned by the publisher





# Author dissatisfaction

- Cannot disseminate works freely (embargos, restrictions on sharing copies of author's own work)
- Cannot reuse own work without permission from publisher
- Only compensation often the privilege of being published
- Can ask to reserve rights; publisher may or may not agree



# Library Challenges

- Increased consolidation of scholarly publishing industry
- Increasing cost of subscriptions to scholarly journals
- Limited library budgets



# A way to address these challenges?

## Open access

- “Open access to knowledge is a generic term used for knowledge resources made available in the public domain for public access or public consumption at large scale, without any hindrance of subscription fee or access charges.” (UNESCO, 2015)



# Open Access History

- First OA repository arXiv.org – 1991
- Early 2000s:
  - PubMed Central, BioMed Central launched - 2000
  - Open Journal System Software released - 2001
  - Creative Commons Licences released - 2002
  - Budapest OA Initiative - 2002
  - Berlin Declaration - 2003
  - Bethesda Statement - 2003
- Mid 2000s:
  - Open DOAR (Directory of Open Repositories) - 2006
  - First celebration of Open Access Week – 2007



# BBB Declarations

- *The public good they make possible is the world-wide electronic distribution of the peer-reviewed journal literature and completely free and unrestricted access to it by all scientists, scholars, teachers, students, and other curious minds. Removing access barriers to this literature will accelerate research, enrich education, share the learning of the rich with the poor and the poor with the rich, make this literature as useful as it can be, and lay the foundation for uniting humanity in a common intellectual conversation and quest for knowledge. – [Budapest OA Initiative](#) (2002)*
  - *We define open access as a comprehensive source of human knowledge and cultural heritage that has been approved by the scientific community. ... In order to realize the vision of a global and accessible representation of knowledge, the future Web has to be sustainable, interactive, and transparent. Content and software tools must be openly accessible and compatible. - [Berlin Declaration](#) (2003)*
  - *Electronic publication of research results offers the opportunity and the obligation to share research results, ideas and discoveries freely with the scientific community and the public. – [Bethesda Statement](#) (2003)*
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## Types of OA

- Gold OA
  - For journals
- Green OA
  - For repositories/self archiving
- Diamond/Platinum OA
  - OA journals that do not charge readers or contributors

## OA Permissions

- Gratis OA
  - No price barriers
- Libre OA
  - No price barriers, some re-use rights included



# OA Models

## Hybrid OA

- OA articles included in fee-based journals subject to an article processing charge paid by the author

## Delayed OA

- Articles will be freely available after a specified period (frequently between 6 months to 2 years)

## Short-term OA

- Articles are available freely for a specified period (frequently between 6 months to a year), and thereafter subject to a subscription fee.

## Selected OA

- Free access only to select content

## Partial OA

- Free access to certain kinds of content (research vs. review), with other content subscription only



# Why publish OA?

- Increased opportunities for:
  - Visibility
  - Accessibility
  - Citations
  - Altmetrics (metrics showing examples of online engagement)
  - Collaborations
  - Comment and review





# Things to consider with OA publishing?

- Article Processing Charges
  - Charged to the author → may come from research grant money, or a supporting institution
  - More large international publishers making a foray into OA
    - May charge APCs for publication in journals that are traditionally seen as more prestigious
    - Use of DRM to lock down publications
  - Authors may be charged to publish in addition to journal subscribers paying a subscription fee for access to the article in Delayed or Short-Term OA
  - Does OA lead us back to copyright → See [Michael Geist](#)



# Things to consider cont.

- Entry of predatory journals into the Gold OA market
  - Promise quick publishing, charge an APC, but not a reputable journal
- How to avoid predatory journals?
  - Look for journals that belong to the Open Access Scholarly Publishers Association ([OASPA](#)) or the Directory of Open Access Journals ([DOAJ](#))
    - These sources review and attempt to only admit high quality, peer-reviewed journals to their membership/directory



# Publishing in a non-OA journal

- Consider trying to retain your copyright and only grant the publisher the publishing rights
- This would mean that as an author you could retain rights such as reuse, modification, or the ability to share your work
- Use the SPARC model agreement and the [SPARC Author's Addendum](#) tool while negotiating with publishers to retain rights



## Non-OA journal but still interested in self-archiving?

- Use the [SHERPA/RoMEO](#) tool to review whether publishers allow pre, post or published versions of articles to be self-archived
- Consider publishing with a journal that allows you the Green OA options that you require
- The tool can also be used to
  - Review publishers copyright rules (categorized by colour to indicate author rights retained)
  - Determine which publishers comply with different funding agencies' OA conditions
- [SHERPA/JULIET](#) can also be used to determine research funder's OA policies



# OA and University Policy

- Can search the [Registry of Open Access Repository Mandates and Policies](#) (ROARMAP)
- Open Scholarship Policy Observatory at University of Victoria [lists](#) Canadian institutions with OA Statements or Policies



# University Mandates

- Harvard University's Faculty of Arts and Sciences voted to adopt an [OA Policy](#) giving Harvard the irrevocable right to OA distribution of their scholarly articles for non-commercial purposes
- This [model](#) has become a template for other universities
- 12 Canadian Universities have Open Access Policies in some or all faculties (some library only)
- Some Universities help encourage Open Access policies and initiatives by making Open Access publishing part of tenure determinations



# UM OA Initiatives

- MSpace for theses and other student publications
- Open Journal Systems
- Full member of Scholarly Publishing and Academic Resources Coalition (SPARC)
- Supporter of the Public Knowledge Project (PKP)



# Tri-Agency OA Policy

- Tri-Agency Open Access Policy
  - Natural Sciences and Engineering Research Council (NSERC), Social Sciences and Humanities Research Council (SSHRC) and Canadian Institutes of Health Research (CIHR) mandate open access to research they fund
- [Tri-Agency Open Access Policy on Publications:](#)
  - Grant recipients must ensure that peer-reviewed journal publications are freely accessible within 12 months of publication
  - 2 potential routes:
    - Deposit the final, peer-reviewed manuscript in an institutional/disciplinary repository
    - Publish the research in a journal offering immediate OA, or OA on its website within 12 months.





# Tri-Agency Policy Cont.

- Routes are not mutually exclusive
- Up to the author to determine whether publication/archive agreements allow them to retain copyright, and to determine if a APC will be charged (eligible expense for grant funds)
- Recommends depositing article in accessible online repository even if article is available on a journal's website
- An Open Data policy is being developed



# Do you give up copyright under OA?

- Not necessarily → retaining copyright and OA publishing are not mutually exclusive
- Example: students agree to make their theses freely and openly available on MSpace, but retain copyright (right to republish, reuse their thesis, etc.)
- OA can assist authors in retaining copyright → ability to publish without assigning (granting) copyright to a commercial publisher
- Offers new opportunities for sharing and allowing others to build on OA works through open licences



# Open Licences

- Allow creators to share their works and permit reuse on certain terms based on the terms of a licence that applies to all users

Examples:

- **Copyleft** → allows works to be made freely available for modification; modified versions must also be freely available
- **GNU General Public Licence** → free software licence for using, studying, copying and modifying computer software
- **Open Content License** → allows free use/distribution (mostly with technical documentation and software manuals)
- **Creative Commons** → scholarly communications open licence standard, frequently used or required by OA publishers



# Creative Commons Licences

- 5 types of licences + a public domain “all rights granted” option
- Can use the Creative Commons tool to determine which licence to apply
- Once applied, the Creative Commons licence is irrevocable

## 4 considerations

- Attribution
- Share Alike
- Derivatives
- Commercial/Non-Commercial

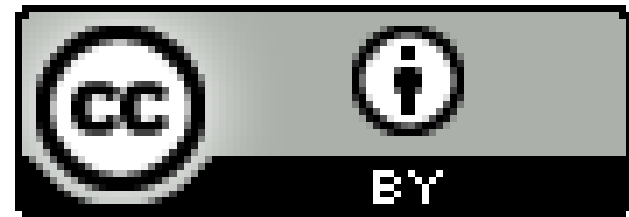
Note that Creative Commons Licences do not waive moral rights

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# Attribution

CC BY



- The most liberal licence (other than “all rights granted”)
- Only restriction on future users is that they must provide attribution to the creator
- Otherwise, a work with this licence can be distributed, remixed, tweaked, built upon, and used commercially
- All Creative Commons licences except public domain minimally require attribution



# Attribution ShareAlike

CC BY-SA

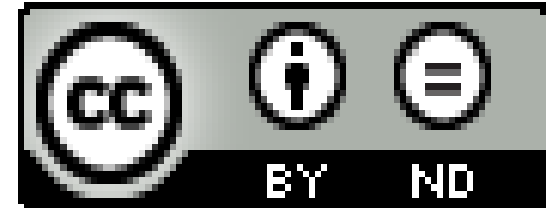


- Similar to a copyleft licence
- In addition to the restriction that any use of the work must have attribution to the creator, if the work is remixed, tweaked, or built upon in a new work (even if commercial), the new work must also be licenced under the same terms
- Wikipedia uses this licence; if you are using Wikipedia content, you likely should be using this same licence on your work



# Attribution-No Derivs

CC BY-ND

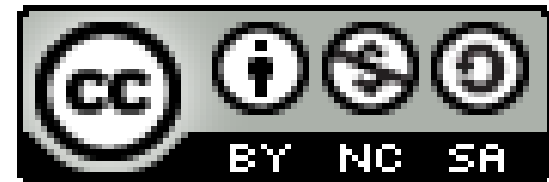


- This licence permits all kinds of distribution provided there is attribution to the creator
- And that there are no changes or modifications to the original work.



# Attribution-NonCommercial-Sharealike

CC BY-NC-SA



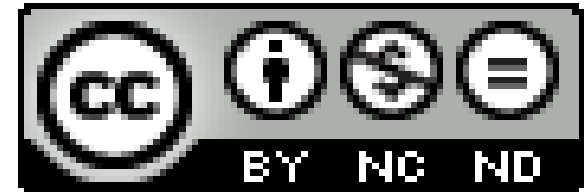
- Allows works to be remixed, tweaked and built upon non-commercially, as long as credit is given
- And new creations are licenced under identical terms





# Attribution-NonCommercial-No Derivs

CC BY-NC-ND



- The most restrictive licence
- The work can be downloaded and shared provided there is attribution
- Works under this licence cannot be changed in anyway or used commercially



# “No Rights Reserved”

CC0



- Waives all copyright interest and places the work completely in the public domain without any restrictions
- No process to make a work public domain in Canadian legislation, but an attempt to waive copyright and related rights to the greatest extent possible
- Not to be used with works that are in the public domain by operation of law



# Which licence to use?

- Different OA publishers will have different licensing requirements
  - A CC licence will not inevitably be necessary, but some publishers may mandate it
  - Author's obligation to choose a licence and publisher that meets needs
- [OASPA](#) strongly encourages the use of CC-BY licences as the most compatible with the concept of OA
- However, in some situations CC-BY is not going to be appropriate
  - Example: Art history publications (can get permission for use of 3<sup>rd</sup> party content in the article, but unlikely to be able to approve derivatives/remixing?)
- Some OA publications will charge a APC to allow use of a more restrictive CC licence



# CC and Fair Dealing

- Fair dealing is the *Copyright Act* exemption allowing the use of short excerpts of copyright protected content for specified purposes (education, research, private study)
- Commonly used when creating course content
- A CC licence may not be appropriate for using fair dealing content
  - No control over content distribution or copy numbers with CC licence → may not be fair
  - Creators still have moral rights and may not approve of your use or other use
  - If the CC licence allows derivatives it implicitly says that modification is okay → also a potential moral rights violation
- Get permission to include 3<sup>rd</sup> party non-CC content



# General OA and CC resources

- [Directory of Open Access Journals](#)
- [OpenDOAR](#)
- [SHERPA/RoMEO](#)
- [SHERPA/JULIET](#)
- [SPARC](#)
- [OASPA](#)
- [HowOpenIsIt?](#) – PLOS
- [ROARMAP](#)
- [Creative Commons](#)



- Any questions?



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