

Controversial Issues in the Context of Open Access

By Ralf Schimmer, Max Planck Digital Library

Where there is smoke, there is fire. If this cliché contains some truth, the dense smoke (the frequency and tone of the current debate on Open Access) must conceal a fire that is burning quite fiercely. The discussions and arguments on this topic are intense and bitter, not only in Germany. The typical munitions from the arsenal of political lobbying are deployed more and more openly: one expert opinion on the tail of another, one position statement quickly followed by the next. A competition of appeals, resolutions, declarations and petitions can be observed.

In the Open Access debate, there is a collision between the interests of large and powerful collective actors: the academic world, the publishing industry, the public, and the community. An institutional structure that for a long time had seemed to have found a stable balance that satisfied everyone has been put out of kilter for good through the breathtaking speed at which the Internet has developed, progressive digitalisation, and the huge changes in academic communication. As a result, issues which in the past were rarely of public concern and which were usually negotiated only in specialist circles have become the topic of wide-ranging public debate.

When it comes to access to knowledge, scientists and scholars aim at maximum dissemination, and emphasise the new possibilities

offered by the Internet with regard to immediacy, affordability and superiority. Nowadays, from the academic point of view, the dissemination of research results looks something like this: most research worldwide is carried out at publicly funded institutions, primarily universities. The results of publicly funded research are mostly passed on free of charge to publishers, where they are prepared for publication. The publishers organise and finance what is known as the peer review process as the central quality-assurance instrument. This depends on the collaboration (which is as a rule unpaid) of publicly funded scientists and scholars. At the end of the publication process, publicly funded libraries have to buy back publicly funded research results, which have been quality assured by publicly funded scientists and scholars acting as reviewers, in the form of constantly increasing rates of subscription to journals. Looking at the process like this, it would appear that the taxpayer is shelling out at a number of stages along the way. This in turn leads to talk about the privatisation of public funds. The cost argument, however, is by no means the only one adduced by academics. According to them, there are not just financial, but also legal and technical barriers that make the publication of academic research results in the Internet age far from being as efficient and sustainable as they would wish or think possible.

If one considers the various academic disciplines, one will see that there is no uniform attitude, indeed not even an unambiguous attitude, towards Open Access. The preconditions and cultures, as well as the possibilities and requirements in different academic fields are too distinct from one another to allow us to speak of a coherent academic standpoint. There are substantial differences between the natural sciences and the humanities, but also between the individual natural sciences or even sub-divisions thereof. Even so, there is generally a growing interest in the theme of Open Access. What unites academia in all this is the feeling of living in what may be a revolutionary period in which more and more paths for further improvement of the effectiveness of research are opening up. This suggests that academics' discomfort with the traditional publishing system and its current allocation of resources will increase.

This situation seems quite different from the point of view of commercial information providers. Publishers argue that it is part of their remit and their culture-historical achievement to contribute to the dissemination of knowledge. Many publishers see themselves explicitly as partners of academia, highlighting their massive investment in academic quality assurance and in electronic distribution platforms, and

stressing the fact that never before has so much content been available to scientists and scholars as today. Publishers counter the complaints of academics about qualitative restriction by pointing to vast quantitative growth in the form of constantly increasing contents and user numbers. They underscore their competence and experience in ensuring the quality and integrity of the content of articles, warning against underestimating the costs and organisational demands of electronic publication and distribution processes, and insisting that there is no alternative to the current subscription model. They counter the brave new world promised by the Internet with warnings about the danger of loss of quality in academic communication. In the eyes of publishers, Open Access threatens not just the academic journal as a cultural good, but also substantial investments in information infrastructures, jobs, and ultimately a whole industry. Optimum access to knowledge, according to the publishers, will continue to lie in the goods and services offered by commercial information providers.

The points of view are no less diametrically opposed when it comes to copyright and the question of what and whose interests this is supposed to protect. For artists who live by their creativity, the significance of copyright is not the same as it is for academics whose

livelihoods are guaranteed by their salaried positions and whose main interest as a rule lies in their academic results being accessible to as broad a public as possible. In particular, many scientists and scholars see that they are surrendering extensive rights to the publishers in their publishing contracts. They are of the opinion that copyright, at least where it has an effect on science or scholarship, ultimately serves the interests not of the author, but above all of the publishing industry. Not only many academics, but also other institutions and organisations with a public remit, such as public-service broadcasters, schools, cultural institutions and consumer protection organisations, see the restriction of rights in the digital media more and more as a problem. With increasing vehemence, many are demanding a simple and unambiguous right of use, which for example would allow authors, after a defined embargo period, to make their own work available on their own homepages or on an institutional document server for non-commercial use.

The publishers also invoke the authors in this regard, because they see themselves as the guardians of authors' interests. Copyright is a necessary legal framework that creates legal security and without it, commercial activity would be impossible. It takes the interests of both authors and publishers into account.

Without the exploitation rights defined in copyright law, there would be no safeguard for publishers' investment and thus the framework which supports the whole publishing system would simply not exist. For this reason, the publishing side has hitherto vehemently opposed the demands for generous rights of exploitation for the authors, and any legislation initiatives to this effect.

Apart from academia and publishers, the Open Access debate is increasingly extending to other institutions with a public remit, in particular a cultural public remit. For some, Open Access represents the possibility of updating their remit and opening up new fields of activity for themselves. The declared aim is always to make publicly funded knowledge available to the public quickly and free of charge (or at least, affordably). For libraries, the theme of Open Access is thus vital, as they are the ones suffering particularly from having to pay the increasing costs of academic publications while their budgets stagnate, and they therefore see no solution but to cancel subscriptions. This has a negative effect for library users, and of course is not in the publishers' interests either. Admittedly, some libraries also feel that resolutely implemented Open Access would inevitably lead to structural and administrative changes in universities and other

academic institutions, and thus to a change in their importance and responsibilities.

In recent years, university publishing houses of German universities have witnessed a mini-renaissance in that they have been newly founded or restructured with the remit of online publishing under Open Access conditions. In this process, they are developing innovative approaches, both technically and in the field of business models. In the schools sector, in the public-service media, in the Standing Conference of State Ministers of Education and Cultural Affairs, in consumer protection, and in many other sectors with a cultural sphere of activity, there is a hope of better access to information and a minimisation of thresholds and barriers.

Another area of discussion, albeit one that is not a focus of attention, is free access to information held by public authorities and similar publicly funded bodies. The demand for Open Access seems to many to be incomplete while information not subject to data-protection constraints, such as geographical, geological or climatological data held by ministries or planning and environmental authorities, is also not made freely available to the public and therefore to research. In archives, museums and other cultural heritage institutions, the debate on Open Access will doubtlessly intensify.

This article is intended to cast some light on the controversies that exist in connection with Open Access. It has shown that the fracture lines that currently exist, in particular between academia and the publishing houses, are not negligible. But at the same time, it would be wrong to paint a simple black-and-white picture. Neither of the camps is monolithic, and both show pioneering spirit and a readiness to innovate on the one hand and defensive tendencies and obstinacy on the other. 'When the wind of change blows,' says a Chinese proverb, 'some build walls and the others windmills.' At the moment, both walls and windmills are being built on both sides. But there is certainly room for hope that one day the consensus will be broad enough to build windmills together, or — to be coherent with the current potentials — entire wind-farms.