

THE DESIRABILITY OF OPEN ACCESS AS A MEANS OF PUBLICATION AND DISSEMINATION OF INFORMATION: TIME TO RECAST THE RELATIONSHIP BETWEEN COMMERCIAL PUBLISHERS AND AUTHORS?

NIKOS KOUTRAS*

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I INTRODUCTION

Intellectual property law directly and indirectly affects the rights and obligations of individuals, families, enterprises and small groups of people. In addition, it supports citizens' creative endeavours. The core defining feature of the digital age is ongoing technological growth, which brings about new types of property with regard to the creative and intellectual endeavours of authors or creators, composers and artists. For instance, anyone who has Internet access can become a creator and publisher by creating a YouTube video or uploading a post on Facebook. This enables authors or creators to reach larger audiences, as the information 'travels' faster and thus can be widely disseminated. Evidently, authors' and publishers' interests are associated with these creations; therefore, the relationships between creative actors, publishers and intellectual property regimes in the digital age need to be re-examined.

In this paper, it is argued that since the modes of publishing and content have changed in the digital age, older copyright laws cannot protect authors' creativity or publishers' commercial rights. Open access can be an effective response to the challenges generated by ongoing technological developments.

* PhD candidate, Macquarie Law School.

To comprehend the desirability of open access as an instrument of the publication and distribution of information, it is necessary to analyse the background of the contemporary debate. Thus, in this paper, I analyse the interconnections between commercial publishers' interests and authors' interests, and I argue that open access can benefit both. The two aspects of my argument address: i) the necessity of protecting commercial publishers' interests in the changed world of digital publishing and the Internet; and ii) the possibility of reconfiguring the relationship between commercial publishers and authors. I argue that in the context of continuous technological growth, open access—as an alternative instrument for the protection of intellectual property—can facilitate modern or digital publishing, and can be beneficial for both commercial publishers and authors.

Contemporary copyright laws are not equipped to deal with the changed realities of digital publishing. Arguably, digital publishing makes it easier for anyone to publish, but as commercial publishing is still useful, it needs to be protected. However, the relationship between commercial publishers and academics needs to change. Authors, especially in academia, are the producers of knowledge. Although commercial publishers are 'gatekeepers' of these standards, under contemporary laws they receive almost all of the profits. Thus, while they rely on academics' expertise, they do not pay appropriately for the expertise. At the same time, academia needs the professional gatekeepers of standards—a function that is performed well by commercial publishers.

This paper is divided into four sections that discuss the following issues. The first section discusses the theoretical background of intellectual property rights (IPRs) through definitions and relevant theories. The second section discusses the ethics of publication, including major ethical principles of publishing and factors that promote ethical attitudes or cause problems for the interplay between authors' and publishers' competing interests. The third section considers the status of the relationship between authors and publishers in the digital age. For instance, is this relationship beneficial for both? Can it be beneficial on equal terms? If yes, what are the necessary conditions for the equal protection of authors' and publishers' interests? The last section introduces the concept of open access as a new mode of publishing to regulate authors' and publishers' interests. It is proposed as a means to benefit this relationship in the digital age.

II THE CONCEPT OF INTELLECTUAL PROPERTY RIGHTS

There is extensive theoretical literature about the conceptualisation of IPRs. As a starting point, Locke's views about intellectual property should be considered, as they demonstrate a moral theory that justifies that the right to property is aligned with creative, value-producing labour. However, Locke's theory equally justifies IPRs as property rights. It should be emphasised that Locke's theory acknowledges that IPRs are fundamentally the same as property rights in all sorts of aspects. These entitlements to goods stem from the combination of productive and creative efforts by individuals that result in the creation, acquisition, transformation and use of goods.¹ Based on these reasons, Locke recognises that copyright is property. It should be noted that the key moral notion in Locke's 'Two Treatises of Civil Government' is that the concept of property comes from the fact that individuals have to create appropriate values for a prosperous human life.² Locke's theory provides the necessary moral justification of IPRs, which will be used later in this paper to argue for an ethics of publication.

Moving on to modern scholars, according to Duffy, the primary justification for IPRs is extensively associated with utilitarian theory.³ In addition, he claims that the basic economic logic for granting IPRs in innovations has shown that these rights provide incentives or rewards for the substantial investment needed to produce the intellectual property disclosed in the creative endeavour. That is, these rights play a significant role for authors or creators in terms of support and, more importantly, as a form of inspiration. According to Duffy, the rewards for creators must be balanced with the interests of commercial publishers.

Menell, another noted author, similarly argues that intellectual property constitutes the product of original thought, which is generally characterised as non-physical property. It is evident that many thinkers accept that IPRs constitute critical incentives for creation. An example that illustrates this can be

¹ Stephanie A Bell, John F Henry and L Randall Wray, 'A Chartalist Critique of John Locke's Theory of Property, Accumulation, and Money: Or, Is It Moral to Trade Your Nuts for Gold?' (2004) 62 *Review of Social Economy* 51.

² John Locke, *Two Treatises of Civil Government* (Book Jungle, 2007).

³ John F Duffy, 'Rethinking the Prospect Theory of Patents' (2004) 71 *The University of Chicago Law Review* 439.

seen in the biopharmaceutical industry. Drug research and growth lead to the discovery of tomorrow's life-changing and life-saving medicines. Biopharmaceutical intellectual property protections provide incentives that encourage relevant research and growth. Moreover, such intellectual property protections help biopharmaceutical companies secure resources for future investments in research, giving hope to patients who await tomorrow's innovative medicines.⁴ In addition, there are proponents who argue that IPRs are always changing, and technological evolution has enhanced the need for change.⁵ For example, such instances of change can be seen in relation to digitised products. Property rights in such products are complex for several reasons: a) the nature of these products is ambiguous; b) error-free and cheap digital copying separates content and medium economically; c) the Internet's high monitoring potential; and d) network effects of some information products.⁶ In the context of the argument in this paper, Merges's ideas show that IPRs have a future, as they are one way of creating mutual respect between authors and publishers.⁷ Since the relationship between authors and publishers is important for innovations to continue, there is also a need for mutual respect between them, which in turn forms a moral basis for IPRs.

The economic and cultural importance of copyright regulations is rapidly increasing. As a result, the fortunes of many businesses now rely heavily on IPRs, and a growing percentage of the legal profession specialises in intellectual property disputes. Fisher shows that the economic and cultural importance of copyright regulations is, or should be, supported by appropriate legal regulation. This is because most business is conducted with the help of IPRs. Moreover, with the continuous growth of technology and, more specifically, through digital technology (such as digital platforms and social media), the significance of IPRs is gradually increasing. Technological advances influence publishing and scholarly communication and affect the interplay between basic stakeholders (publishers and authors). In the academic world, the publication of scientific works constitutes the primary channel or pathway for

⁴ Lara J Glasgow, 'Stretching the Limits of Intellectual Property Rights: Has the Pharmaceutical Industry Gone Too Far?' (2002) 41 *IDEA: Journal of Law and Technology* 227.

⁵ Graham Dutfield, *Intellectual Property Rights and the Life Science Industries: Past, Present and Future* (World Scientific, 2009).

⁶ Rolf AE Mueller, 'The Evolution of Intellectual Property Rights for Digital Information Products—Impact on Agroindustry' (2003) 331 <<http://www.agric-econ.uni-kiel.de/Abteilungen/II/PDFs/efitao3.pdf>>.

⁷ Robert P Merges, *Justifying Intellectual Property* (Harvard University Press, 2011).

disseminating and sharing scientific research and knowledge.⁸ It is used as the example in the next section to explore the ethical principles upon which the relationship between authors and publishers should be based. I argue that these principles should be in accordance with the ethical process of publication.

Moreover, academic standards need to be maintained, and both academia and commercial publishers should share this responsibility. However, in the digital age, when anyone can publish, the problem has become one of agreeing on the standards and finding ways of enforcing such standards. Nevertheless, efforts have been made in this regard, as illustrated by the existence of a large amount of bibliographical resources with regard to publication ethics. Many organisations are also engaged in creating and implementing guidelines relating to the enforcement of these standards. One such organisation is the Committee on Publication Ethics (COPE), which plays a fundamental role in regulating relations between authors and publishers. In addition, it endeavours to define best practices in the ethics of scholarly publishing and to assist authors, editorial board members, journal owners and publishers to achieve this. The code of conduct released by this organisation promotes the setting of standards.⁹

Notwithstanding these efforts to set standards, academic misconduct occurs. This might be due to many factors, such as ineffective study habits, ineffective time management skills, psychological factors and ignorance, or because one is not aware of the boundaries.¹⁰ However, it should be mentioned that there is pressure on authors and they are urged to create manuscripts on a

⁸ Michael Wallace and Peter Siersema, 'Ethics in Publication' (2015) 47 *Endoscopy* 575.

⁹ The first guidelines of COPE were developed after a discussion at its meeting in April 1999 and were published as 'Guidelines on Good Publication Practice' in its 1999 annual report. In 2004, a code of conduct for editors was drafted in accordance with previous guidelines and underwent wide consultation with COPE, editors and publishers. This code of conduct focuses on editors and sets out standards of good editorial conduct. Acknowledging the crucial role of publishers and journal owners in supporting and promoting ethical practices, COPE also released a code of conduct for journal publishers.

¹⁰ Ineffective study habits: when there are superficial reading practices, last-minute studying, when students are not familiar with effective and legitimate strategies and attempt dishonest ones; ineffective time management skills: for instance, when assignments are left to the last minute or students cannot handle multiple large course tasks simultaneously, or even when some students maintain high commitments to extracurricular activities; psychological factors: procrastination because students may harbour unrealistic expectations of themselves; for instance, they need to appear more knowledgeable than they feel they are; and ignorance or lack of awareness of boundaries: when there is a lack of clarity about what the regulations are or why some practices are not acceptable. See Paul R Vowell and Jieming Chen, 'Predicting Academic Misconduct: A Comparative Test of Four Sociological Explanations' 74 (2004) 2 *Sociological Inquiry* 226-49.

regular basis, and they often write multiple review articles or book chapters on the same topic of their expertise.¹¹ At the same time, many organisations and bodies, including COPE and the Council of Science Editors (CSE), seek to address these issues of scientific misconduct and academic integrity. The CSE and its editorial policy committee anticipate motivating everyone engaged with journal publishing to support integrity in scientific journal publishing. In the context of its operational responsibilities, the CSE released a white paper as the basis for designing and improving effective policies to achieve such scientific integrity. The first white paper was published in 2006 and updated in 2009. Its last update was in 2012. A substantial part of the last revisions included publication planning and ethical conduct of sponsors, and it highlighted the significance of the moral aspect of publishing. Another main topic in the white paper regarded the roles and responsibilities of authors and publishers, thereby proving that their relationship is the core element of the publishing process.

Another initiative that illustrates the importance of scientific integrity is the agreement to support scientific integrity that was released by some universities in the UK. These universities adopted a concordat to support such integrity. This concordat sets out four commitments that provide assurances to government, the public and the international community. These commitments are: a) provision for better coordination of existing approaches to research integrity; b) more effective communication of outcomes to ensure that the highest standards of rigour and integrity continue to underpin the research undertaken by universities in the UK; c) encouragement for greater transparency and accountability at both the institutional and sector levels; and d) incentives for reflection on modern practices to identify where improvements can be made. This concordat highlights the importance of research integrity and depicts critical features that should be considered on behalf of scientists, and it simultaneously provides guidelines with long-term prospects for publishers with regard to profits if these guidelines are attached to the publishing policy. Further, this concordat shows that there are numerous potential benefits, both for authors and publishers, if they follow its commitments. That is, this concordat can be considered the basis for a beneficial agreement between authors and publishers.

¹¹ Wilfried Decoo, *Crisis on Campus: Confronting Academic Misconduct* (MIT Press, 2002).

As a result of ongoing technological evolution in the digital age, there are more opportunities to publish scientific manuscripts in open access journals, apart from traditional journals. Nevertheless, there are authors who claim that scientific journals have a primary place in securing research integrity, as published manuscripts are the most visible documentation of research.¹² Further, the ability to search the Internet for ‘big data’ provides powerful tools to compare new manuscripts with articles that have already been published. The issue is whether online and open access publishing can co-exist with the rigorous standards of research previously maintained by conventional publishers.

III PUBLISHERS’ RESPONSE IN TERMS OF OPEN ACCESS

Arguably, the nature of publishing has changed since the introduction of the Internet, as anyone can produce creative work and become the owner of IPRs. Therefore, thoughts, innovations and intellectual endeavours from a dissimilar class of content—the class of digital archives and digital publishing through open access—can be supported. Creators’ or authors’ rights are undergoing a revolution in conjunction with such means of publishing; thus, data can be more easily shared and disseminated. Open access has created an alternative means of publishing, and this has underpinned many publishers’ initiatives.

Although open access publishing first emerged as a new publishing model that many regarded as simply an experiment, today it is a mainstream approach for communicating scientific developments. In an otherwise highly competitive publishing market, open access publishers find it useful to be open and frank about their business models, experiences and plans for the future.¹³ Specifically, during 2007 and 2008, two different groups of open access publishers—professional publishing organisations and independent (scientist/scholar) publishers—began discussing the possibility of creating a more formal association to represent the interests of open access publishers. When the two groups became aware of one another, they decided to work together to create

¹² Ana Marusic, Vedran Katavic and Matko Marusic, ‘Role of Editors and Journals in Detecting and Preventing Scientific Misconduct: Strengths, Weaknesses, Opportunities, and Threats’ (2007) 26 *Medicine and Law* 545.

¹³ John Willinsky, ‘Scholarly Associations and the Economic Viability of Open Access Publishing’ (2005) 1 *Open Journal Systems Demonstration Journal* <<http://journals.sfu.ca/present/index.php/demjournal/article/view/6>>.

an umbrella association that would support the entire spectrum of open access journal publishers. They recognised the value of bringing the community together to develop appropriate business models, tools and standards to support open access journals.

The aforementioned initiatives led to the formation of the Open Access Scholarly Publishers Association (OASPA). The OASPA is a trade association that was established in 2008 to represent the interests of open access journals and book publishers worldwide in all scientific, technical and scholarly disciplines. Its mission is to disseminate knowledge by sharing information, setting standards, providing assistance and education, and promoting innovation. The OASPA blog is designed to serve as a critical forum for communicating crucial issues in relation to open access publishing, and it frequently presents posts from guest authors.¹⁴ In addition, other publishers are adopting open access publishing to sustain their market share. Therefore, the next section discusses the open access movement, relevant publishing options for authors stemming from open access (green and gold open access) and the policy of open access by commercial publishers such as Emerald and Springer. This will show that open access constitutes an alternative means of publishing that caters to the interests of both authors and commercial publishers, and it should therefore be considered during agreements.

A *Open access as a means of publishing: Conceptualisation and offered publishing pathways*

A sub-issue that becomes apparent in the literature and should be considered is open access as a long-term precept. A renowned scholar in this area is Willinsky, who argues that 2003 signalled a breakthrough in scholarly publishing via the genesis of the open access movement. Willinsky claims that there have been significant shifts in relation to modern publishing enterprises since 2004. In particular, he argues that '[T]he major corporate publishers of academic journals ... had to blink in the midst of all the attention being paid to "free" journals and access to knowledge ... In May 2004, Reed Elsevier, the largest of them ... changed its policies on its authors' rights...'.¹⁵

¹⁴ Follow et al., *Open Access Scholarly Publishers Association, OASPA* (2009) <<http://www.slideshare.net/OASPA>>.

¹⁵ John Willinsky, *The Access Principle: The Case for Open Access to Research and Scholarship* (MIT

In another essay, Willinsky claims that '[E]lectronic journals offer readers a particular ease of access. They can readily work across different journals, find exactly where certain ideas are being discussed, or move readily from citation to source'.¹⁶ Moreover, with regard to the importance and contribution of e-journals in terms of sharing information, access and further dissemination, the Research Information Network's (RIN's)¹⁷ report should be examined, which is affiliated with a two-year project concerning the description and assessment of the usage, value and effect of e-journals by researchers in universities and research institutes in the UK.¹⁸ The report argues that publishers recently began to support online access to manuscripts in scholarly journals, and that researchers have welcomed enhanced and easy access to unprecedented numbers of journals. Thus, it is clear that open access instantly affected several policies and generated significant shifts in the context of intellectual protection for existing publishing companies. Hence, these new circumstances that stem from e-journals raise the question of whether this new mode of open access publishing will be endorsed on behalf of the publishing press 'family'. That is, how can open access best be embraced by the printing press industry? A response to this question comes from several e-journals that have print version characteristics and can replace print. Further, these journals are available from the vendor's site or directly from the publisher's site. Most importantly, in academic and research libraries, this type of journal is rapidly increasing.¹⁹

Press, 1st ed, 2009).

¹⁶ John Willinsky, 'The Nine Flavours of Open Access Scholarly Publishing' (2003) 49 *Journal of Postgraduate Medicine* 263.

¹⁷ The RIN was set up in the UK as a result of a Follett Review of libraries in the late 1990s. Its operations began in 2005; it is supported by a consortium of UK sponsors: the four Higher Education funding bodies, the three National Libraries and the seven Research Councils. In addition, its mission is to lead and coordinate new developments in the collaborative provision of research information for the benefit of researchers in the UK. The key role of the RIN is to provide the strategic leadership required to establish a national framework for research information provision, and to generate effective and sustainable arrangements for meeting the information needs of the research community. For further details, see David J Brown and Richar Boulderstone, *The Impact of Electronic Publishing: The Future for Publishers and Librarians* (Walter de Gruyter, 2008).

¹⁸ David Nicholas et al., 'E-Journals: Their Use, Value and Impact' (Final 2, Research Information Network and CIBER Group, 2011).

¹⁹ Christine Burden et al., 'E-Journals at the British Library: From Selection to Access' (2001) 21 *Information Services & Use* 117; Kate Silton, 'Best Practices for Increasing Ejournal Usage' (2014) 40 *Serials Review* 158.

Another sub-issue with regard to open access pathways for authors relates to the types of access that may be granted. Some of these pathways are: green, gold and platinum open access. In accordance with green open access, authors or researchers can deposit a version of their published work into a subject-based repository or institutional repository. With gold open access, researchers can publish in an open access journal where the publisher of a scholarly journal provides free online access to the full content of the journal.²⁰ With platinum open access, which is not very well known, the costs of scholarly publishing are met by donations and freely supplied editorial work.²¹ This issue is also addressed below in relation to Emerald publishing group and its open access policy.

Another interesting sub-issue of open access literature relates to the alternative form of licensing and its importance. Creative Commons is a non-profit organisation in the United States (US) devoted to expanding the range of creative works available for others to build upon and share legally. The organisation has released several copyright licenses, known as Creative Commons licenses, free of charge to the public. However, these licenses allow creators to communicate which rights they reserve and which rights they waive for the benefit of recipients or other creators.

A noteworthy scholar in this field is Lessig, who is a founder of Creative Commons and considers that the licenses tend to be a dominant and increasingly restrictive permission culture, which he describes as '[a] culture in which creators get to create only with the permission of the powerful, or of creator from the past'.²² Additionally, Lessig argues that the current culture is dominated by traditional content distributors who want to maintain and strengthen their monopolies in cultural creations, such as popular music and popular movies. However, Creative Commons can provide alternatives to these restrictions. This raises the question of how this type of licensing can co-exist with the current copyright regime. Further, a brief discussion on the concept of

²⁰ Business models for this form of open access vary. However, in some cases, the publisher (Emerald publishing group) charges the author's institution or funding body an article processing charge (APC). See also Matthew Cockerill, 'Business models in open access publishing' in Neil Jacobs (eds), *Open Access: Key strategic, technical and economic aspects* (Elsevier, 2006) 89.

²¹ Peter Suber, *Open Access* (MIT Press, 2012); David Stuart, *Open Access and the Humanities: Contexts, Controversies and the Future* (Cambridge University Press, 2014).

²² Lawrence Lessig, *Free Culture: The Nature and Future of Creativity* (Penguin Books, 2005).

open access is followed by an examination of the publishing practices of two publishing groups.

B *Emerald publishing group and open access*

According to Emerald's leaflet, the definition of open access is aligned with the Budapest Open Access Initiative (BOAI), which was implemented on 14 January 2002. This initiative constitutes a public statement of principles relating to open access to research literature, and it clarifies Emerald's willingness to adopt open access publishing for its journal titles. By adopting these principles, Emerald signifies its endorsement of open access. Further, Emerald explains its open access approach in the leaflet. Specifically, Emerald's objective is to secure the widest possible distribution of research and future innovation in scholarly communication. Most importantly, it is argued that through the open access approach, Emerald seeks to respond particularly to the needs of researchers in the disciplines served. In a recent interview, the Publishing Director of Emerald, Tony Roche, argued that Emerald's approach to open access and its efforts to work closely with academia serve to balance the requirements and rights of authors, funders and policy-makers with the sustainability and growth of titles. Emerald currently offers the three known pathways for open access: green, gold and platinum.

However, an issue emerged in 2013 concerning Emerald and its green open access policy. In particular, when the Research Councils UK (RCUK) announced its new open access policy, it sparked considerable controversy, not least because the policy required researchers to choose gold over green. The controversy was such that, before 2013, the House of Lords' Science and Technology Committee launched an inquiry into the implementation of the policy, and the subsequent report was highly critical of RCUK.²³ As a result of the critiques, RCUK published two declarations. Among other things, green open access has been restored as a viable substitute to gold open access.

²³ Richard Poynder, 'Open and Shut? Open Access: Emerald's Green Starts to Fade?' <<http://poynder.blogspot.com.au/2013/06/open-access-emeralds-green-starts-to.html>>.

However, at the same time, RCUK increased the permissible maximum prohibition before papers can be self-archived from 12 to 24 months. As a result, open access supporters are arguing that this will simply motivate publishers who did not have a specific prohibition to implement one, and those that did have one to prolong it.

C *Springer constricts regulations with regard to self-archiving*

In May 2013, Kingsley, the Executive Officer of the Australian Open Access Support Group (AOASG), identified a number of publishers that have recently shifted their self-archiving or 'green' open access policies. One of those named by Kingsley was Springer, which had changed its policy prior to May 2013. Springer had formerly insisted that where a funder required a paper to be deposited in a central repository, this could only be accomplished after one year of prohibition; however, it permitted authors to post their works in institutional repositories immediately. In accordance with the new policy, the one-year prohibition has been expanded to cover papers published in institutional repositories as well. Kingsley noted that this policy alteration was probably a result of the new UK open access policy established by RCUK on 1 April 2013.

Further, it is worth noting journalist Richard Poynder's interview with Eric Merkel-Sobotta concerning policy alterations regarding self-archiving on behalf of the Springer publishing group.²⁴ First, Merkel-Sobotta clarified that the shifts were made to make the policy as simple and consistent as possible. As a result, the same prohibition regulations now apply regardless of whether the deposit is voluntary or mandatory, and regardless of whether the article is deposited in a funder repository or an institutionally managed repository. This statement clarifies that even though there were self-archiving policy shifts, the prohibition period still exists in the context of journals' stability. This stems from the introduction of the new open access policy from RCUK.

It is worthwhile comparing the conception of open access by others with that of Springer and the way open access is conceptualised by this publishing company. Some scholars claim that open access is free online access to peer-reviewed research. Researchers in Greece, for instance, currently do not have

²⁴ Ibid.

this type of access, as access to peer-reviewed research is provided mainly within subscriptions to databases and journals. To date, initiatives have focused on providing online (open) access to theses and dissertations, with some success.²⁵ The issue of open access is a matter of intense debate throughout scholarly communities around the world. For example, open access repositories are being developed in Greek academic institutions, and they seek to adjust their own status and efficiency in the context of scholarly communication.²⁶ At the same time, open access has already been adopted on behalf of several institutions around the world and forms a substantial part of their policy concerning the sharing of information. Therefore, the question is whether open access is a principle that distinguishes the digital age with regard to publishing that supports scholarly communication. This issue is discussed, and my stand is justified, below.

IV JUSTIFICATIONS FOR OPEN ACCESS PUBLISHING

In opposition to the strengthening of intellectual property regimes worldwide, open source software, the access to medicines, the open access movement, the development of Creative Commons licenses and the European Orphan Works directive are strong signs of a possible turn towards a more balanced approach to intellectual property issues. In this context, access to information can be seen as a crucial factor for knowledge economies of the future and can be fortified if, *inter alia*, open access repositories are given a fair chance of both survival and development. The information revolution has given the open access movement the best chance it will receive. Thus, increased information accessibility safeguards human rights for the future of developing and developed countries. However, this requires careful consideration of the norms and forms endorsed as part of governmental policies regarding an effective governance framework for open access repositories.

Proser, a noted scholar in this field, argues that open access can provide a future for scholarly communication.²⁷ He claims that '[w]e currently have an

²⁵ Elisavet Chantavaridou, 'Open Access and Institutional Repositories in Greece: Progress so Far' (2009) 25 *OCLC Systems & Services: International Digital Library Perspectives* 47.

²⁶ Nikos Koutras and Maria Bottis, 'Institutional Repositories of Open Access: A Paradigm of Innovation and Changing in Educational Politics' (2013) 106 *Procedia—Social and Behavioral Sciences* 1499.

²⁷ David Proser, 'Institutional Repositories and Open Access: The Future of Scholarly Communication' in *Open Access to Scientific and Technical Information: State of the Art and Future*

aggregated system for scholarly publishing whereby the journal fulfils four different and specific functions in one package: registration; certification (peer review); awareness (communications); and archiving. These four functions have currently been packaged together in an aggregated system ... The new technologies, notably the Internet, provide an opportunity for unlocking that system and looking at new ways in which we can fulfil those functions' (168). Therefore, open access can be used as an instrument for social justice to broaden social cohesion. In addition, Proser states that authors can provide open access in two ways: self-archiving journal articles in an open access repository or publishing in an open access journal. Thus, open access as a means of information distribution is imperative in conjunction with scholarly communication.²⁸

Kingsley similarly states five reasons why open access is a beneficial means of publishing, and she simultaneously subverts five relevant myths.²⁹ The first myth advocates that open access journals are not peer-reviewed. However, the majority of open access journals mirror the greater part of subscription journals. Notwithstanding this, Kingsley argues that there are, of course, several open access journals that are not peer-reviewed, although this does not differentiate them from many subscription journals that are also not peer-reviewed. Additionally, she states that regardless of the existence of the peer review process, it is up to researchers to determine whether the journal to which they are going to submit a work or manuscript suits their needs.

According to the second myth, all open access journals charge publication fees. However, Kingsley states that many open access journals do not charge publication fees. For instance, the large number of open access journals published by Australian universities are fully open access, and there are no publication fees. Nonetheless, Kingsley adds that some open access journals charge publication fees, although the cost is usually lower than expected. To further support this statement, she quotes that the average fee for articles was

Trends: ICSTI/INIST/INSERM Seminar, 23–24 January 2003, Paris, France (IOS Press, 2003) 167.

²⁸ There is a website (www.sherpa.ac.uk/romeo/) that shares information about which publishers allow a version of a work to be made accessible, as well as the conditions for such publication. This illustrates the efforts made on behalf of several commercial publishers with regard to the concept of open access.

²⁹ Danny Kingsley, *Busting the Top Five Myths about Open Access Publishing* (2013) *The Conversation* <<http://theconversation.com/busting-the-top-five-myths-about-open-access-publishing-14792>>.

US\$906. Several subscription publishers today offer an option to publish a specific article as open access via a subscription journal. These 'hybrid' journals are costly for the sector, as they charge libraries for subscriptions to the journal, but individual authors also pay a fee to publish as open access within that journal.³⁰

The third myth declares that the author has to choose between esteem and sharing, but Kingsley argues that this is incorrect for two reasons. First, several open access journals are highly esteemed, such as the multidisciplinary open access journal PLOSE ONE, which was established in 2007 and, by 2010, was the world's largest journal. Second, researchers can publish in their preferred journal and then place a copy of it in an open access repository.

The fourth myth states that open access is fine for second-rate work but not first-rate work. According to Kingsley, this myth is quite odd. By making the work widely available, more people can see it, and citations rise proportionally. Therefore, the benefits of open access are many and varied. Moreover, Kingsley argues that recently published research shows that high-quality work profits from being published in open access journals.

Finally, the fifth myth states that post-print violates copyright. However, Kingsley states that most publishers give permission for a version of the work to be made open access. Further, as additional support to her statement, Kingsley states that it is critical when depositing a work in a repository to realise that there are different versions of the work. The version that is sent to a journal or conference for review is called the submitted version or pre-print, whereas the accepted version or post-print is the final peer-reviewed version of the work sent to the publisher. This is the best version to make open access viable. Notwithstanding this, the majority of publishers do not permit published versions to be made available; this is an issue that must be considered further.

V CONCLUSION

Our needs for distributing information and communicating research findings have shifted dramatically due to constant technological growth and the rapid expansion of the Internet. One of the distinctive responses to such

³⁰ Peter Suber, *Creating an Intellectual Commons through Open Access* (MIT Press, 2006) <<http://dash.harvard.edu/handle/1/4552055>>.

technological developments is the concept of 'open access', primarily for digital publishing. There is a need for copyright laws to co-exist in the light of new publishing procedures. This paper has argued that open access publishing is an effective outcome that can balance the interests of creators and publishers in the context of technological developments and new digital platforms. Thus, it follows that current copyright regimes should be reformed, and commercial publishers' printing policies should change accordingly.