

Academic Authors and Copyright: Recent Developments in Scholarly Communication

University of Maryland, College Park
October 21, 2010

Michael W. Carroll
Professor of Law
American University, Washington College of Law



Information Environmentalism



Scholarly Communication

- Changes in the physical environment require action to respond to a new **THREAT.**

Scholarly Communication

- Changes in the information environment require action to respond to a new OPPORTUNITY.

Scholarly Communication

➤ So, who's in charge?

Scholarly Communication

- Authors are in charge, under the law.
- Since 1710, copyright has been an author's right.

Scholarly Communication

➤ Copyright Basics

- Copyright applies to works of authorship
- Copyright is limited to the author's choice of expression but does not cover ideas or facts.
 - E.g., experimental data not copyrighted, but an original selection or arrangement of data would be.
- The work can range from full-length books to individual figures, charts, or other units.

Scholarly Communication

➤ Copyright Basics

- Copyright is automatic.
- At the moment article is written, federal law showers down exclusive rights upon author(s)
 - Reproduce a work in copies
 - Distribute copies
 - Prepare derivative works
 - Publicly perform
 - Publicly display

Scholarly Communication

➤ Copyright Basics

- Copyright covers any work that is “substantially similar”
- Partial borrowing or adaptations also fall within copyright
 - Exception: Borrowing small amounts, e.g., short quotes, not covered.

Scholarly Communication

➤ Copyright Basics

- Copyright is transferable
- Copyright owner can give permission or non-exclusive license very informally. Verbal permission or even implied from conduct.
- To transfer some or all of the exclusive rights, author(s) must do so in writing and sign it.

Scholarly Communication

➤ Copyright Basics

- Copyright is transferable
- Let's look at the environment created by routine copyright transfers in scholarly articles and related literature.

Scholarly Communication

➤ Copyright Basics

- Fair Use allows a range of uses

- If you are borrowing ideas, facts, or very small amounts of expression, that is not covered.

- Borrowing the author's expression – sending copies to the class, republishing figures, showing film clips in class – is covered.

- But, fair use permits use of the expression without the copyright owner's permission if the factors favor the use.

Scholarly Communication

➤ Copyright Basics

- Fair Use allows a range of uses
- Nature and purpose of the use
 - Commercial/Non-commercial?
 - Transformative – changing context or expression?
- Nature of the work
- Amount and substantiality borrowed
- Effect on the copyright owner's market
 - Look at aggregate effects
 - Consider plausibility of market for licenses

Scholarly Communication

➤ Copyright Basics

- Fair Use allows a range of uses
- Some publishers failing to exercise fair use rights.
 - Do you need to get a license to use two lines from a pop song at the beginning of a book chapter?
 - No! It may not even be covered, and if it is, that's a fair use.
 - (Nature and purpose are to make a point, even if commercially, and no plausible harm to the songwriter's market.)

Scholarly Communication

- Are the terms of the trade fair?
- No.

Scholarly Communication

- ❑ Researchers write for impact, not for money.
- ❑ Need a publisher to have impact.
- ❑ The publisher's brand name becomes a symbol of impact.
- ❑ Author trades her copyright for a share in the publisher's trademark.



AMERICAN CHEMICAL SOCIETY COPYRIGHT STATUS FORM

Please submit form to appropriate Editor's Office.

Name of ACS Publication: _____

Author(s):

_____ MS No.

Ms Title:

_____ Received

This manuscript will be considered with the understanding you have submitted it on an exclusive basis. You will be notified of a decision as soon as possible.

Print or
Type
Author's
Name and
Address

[THIS FORM MAY
BE REPRODUCED]

COPYRIGHT TRANSFER

The undersigned, with the consent of all authors, hereby transfers, to the extent that there is copyright to be transferred, the exclusive copyright interest in the above cited manuscript, including the published version in any format (subsequently called the "work"), to the **American Chemical Society** subject to the following (If the manuscript is not accepted by ACS or withdrawn prior to acceptance by ACS, this transfer will be null and void.):



Trusted archives for scholarship

Login Help Contact Us

SEARCH BROWSE ABOUT PARTICIPATE RESOURCES MyJSTOR

Update on the Current Status of the JSTOR System

This is the first page of the item you requested.

+ Show full citation

Note: This article is a review of another work, such as a book, film, musical composition, etc. The original work is not included in the purchase of this review.

888 Sixteenth Century Journal XXXII/3 (2001)

original sin, the bondage of the will, and predestination as unbiblical, irrational, and derogatory to God's goodness. Reason was a divine spark that both allowed and required that humans strive for perfection (perfectibilism). Opponents would not unfairly tar Arminius with the Coornhert brush.

Coornhert never formally left the Catholic Church, although he stopped attending mass. No matter how encrusted with corruption, the Catholic Church remained the only church with divine attestation. All other churches were sects since they could offer no proof of God's call. As a Spiritualist, he favored minimalism in both doctrine and ceremony, though he conceded that many needed some ritual to support their faith. Coornhert accepted sola scriptura, but limited the range of human understanding. If there was obscurity or confusion about an issue, it was best to simply drop it: "Know or let go."

Coornhert's disagreement with Justus Lipsius made clear that the Church was not the only threat to freedom of conscience. Lipsius would require the State to maintain a single faith, whichever happened to be predominant. Lipsius's own spiritualistic views (he associated with the Family of Love) led him to abandon the entire external realm to the state. In Coornhert and Lipsius, Spiritualism produced diametrically opposed prescriptions on the role of the state. Luther's "Two Kingdoms" theology had suffered a similar fate in Lutheran hands.

Want the full article?

Login to access JSTOR, or check our access options. You may have access for free through an institution.

Publisher Sales Service

Purchase this article from the publisher

for \$10.00 USD.

Enter your token or email if you've already purchased this article.

You must have a subscription to view the full text of this article.
To subscribe to BioOne, go [here](#).

Member Institutions:

Your IP Address is: 96.245.188.27

If you believe your institution should already have access to BioOne, please check with the appropriate institution administrator so that he or she may use the feedback form [here](#).

Member Individuals:

If your institution has been assigned a username and password to access BioOne content, please use the login form on the right to retrieve this article and other available content. For assistance, please contact helpdesk@allenpress.com.

To remain logged in, your browser must allow cookies. Use this link to [check](#).

User Name:

Password:

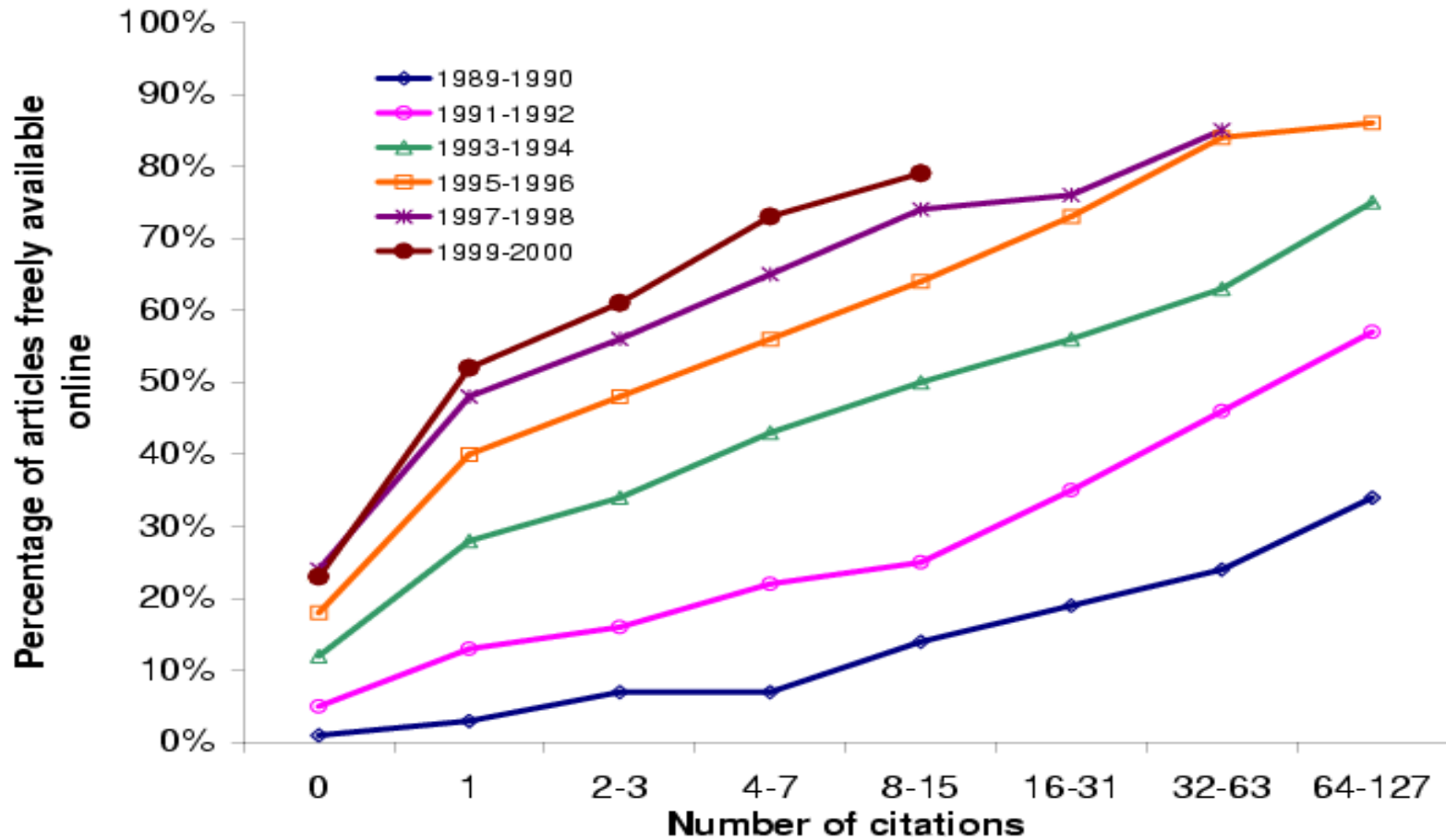
top ▲

Um, what about the Internet?

Scholarly Communication

- ❑ Five Audiences that Open Access serves
 - ❑ Serendipitous readers
 - ❑ Under-resourced readers
 - ❑ Interdisciplinary readers
 - ❑ International readers
 - ❑ Machine readers

Open access increases impact



Funding OA: Journals (1)

- Fee based OA journals
 - Widely assumed to be the only kind, but actually the minority model
- No fee OA journals
 - Many different models, little-studied

[Home](#)[About PLoS](#)[Open Access](#)[PLoS Journals](#)[Support PLoS](#)[News & Events](#)[Posters & Media](#)[Search](#)

Publication Fees for PLoS Journals

To provide open access, PLoS journals use a business model in which our expenses — including those of peer review, of journal production, and of online hosting and archiving — are recovered in part by charging a publication fee to the authors or research sponsors for each article they publish. Authors who are affiliated with one of our [Institutional Members](#) are eligible for a discount on this fee.

We offer a complete or partial fee waiver for authors who do not have funds to cover publication fees. Editors and reviewers have no access to author payment information, and hence inability to pay will not influence the decision to publish a paper. Our 2007-2008 prices are as follows:

PLoS JOURNALS

[PLoS Journals](#)[Publication Fees](#)[Open Access License](#)[Media Inquiries](#)[PLoS in Print](#)[Creative Uses](#)

Thank you and your staff so much for making the publication

Funding OA: Journals (3)

- No-fee journals

- Direct or indirect institutional subsidies

- From universities, labs, research centers, libraries, hospitals, museums, learned societies, foundations, govt agencies

- Advertising, auxiliary services, membership dues, endowments, or reprints

- A print or premium edition

- A separate line of non-OA publications

Philosophers' Imprint

Edited by philosophers
Published by librarians
Free to readers of the Web

- HOME
- ABOUT
- CONTENTS
- BROWSE
- SEARCH
- SUBSCRIBE

Product of the Scholarly Publishing Office of the University of Michigan
Library and DLXS.
For more information please contact spo-help@umich.edu.

“Green” Open Access

- Retain the rights to post author's final version online
 - Many publication agreements already grant authors this right. Please use it!
- Change the deal. Amend the publication agreement
 - Authors can answer the publisher's form with their own.
 - <http://www.uic.edu/depts/lib/projects/scholcomm/uicinitiatives.shtml>

Growth of Institutional OA

- **National Institutes of Health – PubMed Central**
 - Grant requirement to submit author's final manuscript not later than 12 months after publication.
- **University Permission to Archive**
 - Began outside the U.S. Within U.S., Harvard first to make OA the default.
 - Faculty authors give university right to host author's manuscript in institutional repository.
 - Growing momentum.

Growth of Institutional OA

- Will White House order NIH policy extended to all agencies?
- Federal Research Public Access Act
 - Bill to require funding agencies with budgets over \$100 million to require OA for articles arising from funding.

Assignment

- Check your copyright agreements, and put your existing work online.

Assignment

- Where publisher's agreement prohibits open access, negotiate!
 - Authors' addenda can help.
 - <http://sciencecommons.org/projects/publishing/>

Assignment

- Consider the access policy of journals when submitting.

Assignment

➤ Act institutionally.

- Can this University develop a university license?
- Members of scholarly societies. What are YOUR journals' policies on open access?

Assignment

- Check your copyright agreements, and put your existing work online when legal.
- Consider the access policy of journals when submitting.
- Where publisher's agreement prohibits open access, negotiate!
- Act institutionally.
 - Can UMd develop a university license?
 - Members of scholarly societies. What are the journals' policies on open access?

Faculty Copyrights

➤ Questions?