Write up! A Study of Copyright Information on Library-Published Journals

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INTRODUCTION Libraries have a mission to educate users about copyright, and library publishing staff are often involved in that work. This article investigates a concrete point of intersection between the two areas—copyright information on library-published journals. **METHODS** Journals published by members of the Library Publishing Coalition were examined for open access status, type and placement of copyright information, copyright ownership, and open licensing. **RESULTS** Journals in the sample were overwhelmingly (93%) open access. 80% presented copyright information of some kind, but only 30% of those included it at both the journal and the article level. 9% of the sample journals included two or more conflicting rights statements. A majority allow authors to retain copyright ownership. 38% of the journals use some form of open licensing (e.g. Creative Commons). **DISCUSSION** Three quarters of the journals studied did not consistently provide accurate, easily-accessible rights information, and numerous problems were found with the use of open licensing, including conflicting licenses, incomplete licenses, and licenses not appearing at the article level. **CONCLUSION** Recommendations include presenting full copyright and licensing information at both the journal and the article level, careful use of open licenses, and publicly-available author agreements.

External Data or Supplements:

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IMPLICATIONS FOR PRACTICE

1. Library publishing units can support the library's copyright education mission by providing accurate, easily-accessible rights information on the journals they publish.

2. Journals should provide copyright information at both the journal and the article level, and the information provided should accurately reflect the terms of the journal's author agreement.

3. When open licenses (e.g. Creative Commons) are used, they should be clearly indicated at the article level, and care should be taken that they aren't contradicted by other rights information on the journal site.

INTRODUCTION

Regular readers of this publication will not be surprised to learn that publishing programs in academic libraries are common and on their way to becoming commonplace. The most recent *Library Publishing Directory* lists 111 library publishers in North America alone and confirms that these programs tend to align with the professional strengths and values of librarianship—for example, by showing strong preferences for open access (OA) and for serving the publishing needs of their campus communities (Lippincott, 2014).

That libraries play a role in educating and advocating around copyright issues is similarly unsurprising. The Association of College and Research Libraries (ACRL) has included intellectual property rights and values in a list of professional principles, with the performance indicator, "The library respects intellectual property rights and advocates for balance between the interests of information users and rights holders through policy and educational programming" (ACRL, 2011). This often takes the form of consulting services, in addition to formal educational programming around copyright.

It is not uncommon for the same people to bear responsibility for publishing and copyright education, particularly in smaller libraries. This overlap was ably described in the introduction to the recent ACRL publication *Getting the Word Out: Academic Libraries and Scholarly Publishing*:

> Academic libraries are seeing a growing need for publishing support services, and as they develop these services, they are increasingly playing a role as publishing educators and advisors. As noted above, these services might take the nuts-and-bolts (or perhaps bits-and-bytes) approach of offering hosting and distribution architecture, perhaps through an institutional repository or an instance of publishing software. The services might also take the form of education about

and consultation on authors' publishing contracts, negotiating permissions for use of third-party materials in publication, or talking with graduate students and junior faculty about the best way to prepare their materials for publication. Such efforts have a range of institutional homes. In some cases, they are squarely aligned with library publishing efforts; in others, they might be attached to a scholarly communications office or the responsibility of a designated scholarly communications specialist librarian. In some places, education, advocacy, and consultation in regard to copyright and publishing are seen as such overwhelming needs that academic libraries have established dedicated copyright services offices to serve their campus communities (Bonn and Furlough, 2015, p. 10).

It seems fair to say that the overlap in competencies and constituencies ensures that, even in libraries with dedicated staff for publishing and for copyright, some degree of collaboration can be expected.

Motivation and author perspective

For reasons that will hopefully become apparent, by the results section, this paper begins to shift into first person and to veer into the realm of commentary. To help the reader understand the purpose and perspective behind this approach, which is somewhat unorthodox for a research article, I'd like to introduce myself as a member of the community being studied. As the Digital Publishing Librarian at the Ohio State University Libraries, I am responsible for a mid-sized library publishing program, which focuses mainly on open access scholarly journals. As an outgrowth of the institutional repository program, it exists to provide publishing services to the university community, while advancing open access publishing of scholarly content. The publishing program is housed in the Publishing and Repository Services department, which consists of two librarians and three staff members. While both librarians are heavily involved in education and consulting around scholarly communication issues, we are supported by the Libraries' Copyright Resources Center, which regularly consults on publishing projects and collaborates on educational programming that spans the two areas. We also form a part of the Libraries' research services program, headquartered in a new Research Commons, and partner regularly with OSU's Health Sciences Library and other units concerned with scholarly communications issues.[1]

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[1] Ohio State University's publishing program: https:go.osu.edu/librarypublishing. Knowledge Bank (institutional repository): http://kb.osu.edu. Copyright Resources Center: https://library.osu.edu/projects-initiatives/copyright-resources-center/. Research Commons: https://library.osu.edu/researchcommons/.

Research questions

We have established that library publishing staff are often responsible for, or at least involved in, copyright education efforts, but what happens when publishing activities and copyright education intersect on a practical level? How do libraries live out their copyright education mission through the publishing services they provide and the digital content they produce? This paper examines one such point of intersection: copyright statements on library-published journals. It attempts to answer two questions:

1. Are library-published journals providing accurate, easily-accessible rights information for the content they publish?
2. How often do library-published journals use Creative Commons (CC)[2] or another open licensing system?

LITERATURE REVIEW

Studying copyright information in digital libraries

The inspiration for this study came from a similar investigation of copyright statements on digital library collections (Schlosser, 2009), and many of the same issues are at play in the world of reformatted library materials, so it is worth beginning with a brief look at other investigations of, and recommendations for, copyright information in that area. Jean Dryden has published a series of works on the topic, including a study of how users deal with copyright (and "copyright-like") information presented in a digital collections environment (2012) and one on how archival repositories use copyright to control downstream uses of their content (2014). Eschenfelder and Agnew (2010) surveyed U.S. libraries, archives, and museums about the use of technological protection measures on digital cultural heritage materials, including copyright information.

In 2005, Coyle laid out the data elements that should appear in copyright information attached to digital objects in a library context. Primarily concerned with providing adequate information to users, she states that:

> It is a matter of good user service for the library to provide all available information relating to the copyright status of the work so that the determination [of copyright

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[2] Creative Commons (http://creativecommons.org/) provides a set of licenses that copyright holders can use to allow reuse of their content without permission.

status] can be made." In October of 2015, the Digital Public Library of America and Europeana released a set of joint white papers establishing international and interoperable rights statements for use in their networks and a technical framework to support them. According to the announcement, "The purpose of these rights statements is to provide end users of our platforms with easy to understand information on what they can and cannot do with digital items that they encounter via these platforms. Having standardized interoperable rights statements will also make it easier for application developers and other third parties to automatically identify items that can be re-used (Gore).

In journal publishing

There are few studies of copyright information in the context of journal publishing. Hoorn and van der Graaf (2006) surveyed authors in the UK and the Netherlands to determine their preferences in the copyright policy of open access journals. In the closest parallel, Couture (2009) looked at copyright information available to prospective authors of open access journals. The study found that copyright information was scarce and often confusing or difficult to locate, but that there was a strong tendency (50% of the sample) to require a transfer of copyright from the author to the journal/publisher.

Tools and guidance around copyright and journal publishing

The best-known tool related to rights management in journal publishing, SHERPA/ RoMEO,[3] exists to provide scholars and librarians with information about the copyright policies of scholarly publishers. For each publisher listed, it contains, "a summary of permissions that are normally given as part of each publisher's copyright transfer agreement." Information in the entries is based on "publisher's copyright transfer agreements, open access policies, and other publisher documents that are available online, along with personal communications with the publisher" (JISC, 2011).

There are a handful of guides, a surprising number of which don't mention copyright at all, for those publishing scholarly journals (particularly open access journals). For examples, see Shapiro (2005) and the Public Library of Science (2004). Others, such as "Open Access Publishing and Scholarly Societies: A Guide," stress the need for author agreements, but do not cover the need to provide users with copyright information (Velterop, 2005). *The Handbook of Journal Publishing* (Morris et al, 2013) includes a chapter titled "Copyright

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[3] http://www.sherpa.ac.uk/romeo/index.php

and Other Legal Aspects," which has the following to say about copyright information presented to readers:

> A journal should include a copyright notice, normally on its title verso page (or the electronic equivalent) though sometimes on the title page, masthead, or table of contents page...In addition, each individual article should carry its own copyright notice (i.e., "Copyright © [copyright owner] [year]") in both print and electronic formats; even when the publisher (or other journal owner) holds copyright in all articles, they will be accessed and quite possibly printed out individually. (p. 323)

In an effort to standardize information about the access condition of journal articles and to provide a machine-readable method to communicate the item's license details, the National Information Standards Organization (NISO) convened a group in 2013 to work on "Access and License Indicators." The group:

> Aimed to determine the optimal mechanisms to describe and transmit the right, if any, an arbitrary user has to access a specific article from any internet connection point. Recommendations include a means for distribution and aggregation of this metadata in machine-readable form (NISO, 2015).

In this publication, Royster (2015) raised questions about whether the group's membership was representative and its mandate sufficiently broad.

There are a number of organizations that provide standards and best practices for scholarly publishing in general and open access publishing in particular. The Committee on Publication Ethics, a worldwide membership organization founded in 1997, compared its own membership criteria with those of the Open Access Scholarly Publishers Association (OASPA), the Directory of Open Access Journals (DOAJ), and the World Association of Medical Editors (WAME), to create its *Principles of Transparency and Best Practice* document (COPE, 2014). Of the sixteen principles, one relates to rights information, stating that, "Copyright and licensing information shall be clearly described on the journal's Web site, and licensing terms shall be indicated on all published articles, both HTML and PDFs." The individual organizations may provide further guidance or may adhere to more rigorous membership criteria. DOAJ, for example, on its Information for Publishers page, includes a lengthy section on copyright, licensing, and publishing rights, and requires indexed journals to license their content for reuses beyond those allowed by fair use (DOAJ).

Library publishing

A comprehensive literature review of library publishing is outside the scope of this paper. Instead, I have included some milestones, recent publications, and current developments in the field.

Hahn's 2008 report for the Association of Research Libraries, "Research Library Publishing Services: New Options for University Publishing and New Roles for Libraries" was the starting point for the current generation of scholarship on library publishing. It provided the first overview of practice in the area, and identified trends—such as a preference for open access—that continue to emerge. This 10,000-foot view of the field was further developed in the final research report of an IMLS-funded project to explore the future of library-based publishing (Mullins et al, 2012).

More recently, the Milne Library at the State University of New York (SUNY) at Geneseo published the *Library Publishing Toolkit* (Brown, 2013), which offers examples of publishing of all kinds in a variety of library settings. In 2014, this journal (Davis-Kahl & Schlosser) and *Against the Grain* (Nardini) both dedicated special issues to the topic of library publishing. 2015 saw the publication of the ACRL volume quoted in the introduction (Bonn & Furlough), which includes pieces by well-respected voices in the field on topics related to why, how, and what libraries publish. Works on library publishing have also begun to appear in literature outside the field of library science, with a recent example being Busher and Kamotsky's 2015 article in *Learned Publishing*, consisting of four case studies of library-published journals.

The recently-formed Library Publishing Coalition (LPC) has emerged as a significant source of information about and for the community of library publishers. Its annual directory is the most comprehensive listing of library publishing programs available; for that reason, the 2014 volume (LPC) was used to generate the sample for this study. The LPC also organizes an annual Library Publishing Forum, presentations from which are made available online.[4]

Intersections between library publishing and copyright

Many of the publications cited in this section deal with copyright to some extent. The following are examples of the ways in which copyright appears in literature on library publishing. Kevin

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[4] The Library Publishing Coalition: http://www.librarypublishing.org/. Information about the Library Publishing Forum and recorded sessions are available through the LPC website.

Hawkins contributed a chapter to the ACRL volume (p. 113) on the development of publishing agreements at the University of Michigan that presents an unusually well-developed approach to rights management. The *Library Publishing Toolkit* contains 59 mentions of copyright and four sample author agreements, while a chapter by Li, Guiod, and Preate (p. 215) lists copyright consultations as a library contribution to a publishing partnership involving a faculty member, the university press, and information technology. In her *Against the Grain* article, Bonn reflects on the role of library copyright expertise in the publishing environment:

> Librarians are attentive to intellectual property laws and their implications, again fodder for cross-conversation with publishers about rights management that meets the needs of authors, publishers, and consumers. In the academic context this conversation can and should focus on how best to advance the production, distribution, and use of scholarship (2014, p. 22).

In his book, *Scholarly Communication Programs: Legal and Ethical Considerations* (2013), Isaac Gilman dedicates a chapter to the intersection of intellectual property and library publishing. He suggests that copyright is an area where library publishing can differentiate itself from traditional publishers - specifically in its approach to "protecting" copyright:

> For library publishers, protecting copyright means implementing policies and practices that: (a) guide authors' flexible yet legal use of others' intellectual property, (b) support authors' intellectual property rights, and (c) enable liberal use/reuse of authors' work by readers. If this strategy is pursued, library publishers should be able to demonstrate that a publishing model in which intellectual property is simultaneously respected while being openly shared is beneficial for the broader system of scholarly communication. (ch. 8)

As a whole, the library publishing literature referenced here suggests that copyright is a necessary competence for library publishing work, that the library has a copyright education mission, and that librarians involved in publishing are helping to fulfill that mission.

METHODS

Sample

The sample for this study consists of journals published by library publishing programs

listed in the 2015 *Library Publishing Directory*.[5] Because this project deals with copyright, which varies widely from country to country, the sample was limited to U.S. institutions. It was also limited to journals that are currently in publication, and that have published content within the last three years (2013 to the present). For programs with ten or fewer journals meeting the sample criteria, all journals were included. For programs with more than 10 journals meeting the sample criteria, a random sample of 10 was generated.[6] The definition of 'journal' used in identifying the sample was broad and was not limited to peer-reviewed publications. Titles with the word 'journal' in the name or public description where included, as were those included in a list of 'journals' on the program site, with the exception of publications that specified in their title or description a different format (e.g. book, proceedings, magazine, newsletter).[7]

The list of journals generated for any given program may differ from the journals counted for the directory for a variety of reasons, including new or ceased publications, or inclusion of publications not considered journals for the purpose of the directory entry. Because the directory lists only numbers and not titles, it was not possible to limit investigation to only the journals included in the directory entry. If a program did not list any journal publishing activities, however, no further investigation was undertaken.

Data sources

Since the object of the study was to determine what information is available to users, only publicly-accessible information was included. Many journals allow open submissions and include the copyright license in the submission step. This was not counted as openly available copyright information, because it is not visible to users or potential authors who

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[5] My own program's journals are included in the sample. I described this project to a colleague while it was in the early stages of data collection. Her response was, "Oh, no! Can I clean up my copyright statements before you look at them?" Since I didn't let her, it seemed only fair not to make any changes to the copyright information on my program's journals before scrutinizing them for this study.

[6] Four programs (University of South Florida, University of Pittsburgh, University of Michigan, and the California Digital Library) had more than 10 journals meeting the sample criteria. Since the purpose of the study was observation of practice across the field, I felt that investigating up to 60 journals by a single program would not be an effective use of time, and might skew the results towards practice within a single organization.

[7] Many journals I looked at were missing basic information required to determine whether or not they should even be included in the sample. Because the missing information had nothing to do with copyright, it fell outside of the scope of this paper to analyze. I did, however, reflect on this phenomenon on The Lib Pub blog: https://librarypublishing.wordpress.com/2015/04/15/dotting-is-and-crossing-ts/.

have not yet begun the submission process.

The journal website was always a primary source of information. In the case of open access journals, published content was also considered. In the case of delayed-access journals, only the most recent issue(s) that were openly available were considered. This was not a perfect simulation of the reader experience, because of the exclusion of subscription content, but it was the most feasible methodology given the web-based nature of the data gathering.

The staff of the publishing programs studied were not contacted, except in a few cases when a program listed journal publishing in the *Directory*, but no journals were located. In those cases, an email was sent to the primary contact, indicating that their program was included in a research project looking at the journals published by libraries listed in the *Library Publishing Directory*, and asking if they could indicate any journals published by their program.

Data gathered

For each journal, the following information was collected:

Bibliographic information: Program name and URL, Journal title and URL

Open access status of the journal: For the purpose of this article, OA was defined as immediate gratis (free) access to all journal content. A journal was considered OA if it was publishing in OA during the period of the study, regardless of the openness of its archives.

Whether rights information of some kind was present: This could be anything from a copyright statement to a Creative Commons license to a repository-level rights management statement, so long as it was accessible from the journal's website. Journals that included rights information sporadically (for example, on some articles but not others), or that provided contradictory or confusing information, were still counted as a yes on this question.

Where rights information was present: Breaking down the information by the location in which it was found was tricky because of the wide variance in type and placement of information. Presuming that the two most important use cases for this information are authors seeking to understand journal copyright policies and readers interested in the copyright and licensing status of the content they are reading, data collection focused on two variables:

- *Whether copyright information could be found at the journal level.* A 'yes' on this factor did not guarantee that the information would be easy to locate or to

decipher, merely that a determined user would likely be able to find something related to copyright on the journal's website.

- *Whether copyright information could be found at the article (content) level.* Many publishing platforms effectively have two 'article level' placement options: the page or file that contains the content of the article itself, and an item record or abstract page that contains bibliographic information and a link to the full text page/file. Because users frequently bypass the item page and move straight to the full text, and because they are most likely to have questions about the copyright status of a work once they have seen the content, data collection focused on copyright information available on the same page or file as the article content.

Open licensing: Whether an open license is in effect, and, if so, what kind.

Who owns the copyright in the content: This data was grouped into three categories:

- Author retains copyright, non-exclusive license to journal or publisher
- Author retains copyright, exclusive license to journal or publisher
- Copyright transferred to journal or publisher

Study period

Data collection began in November 2014 and ended July 2015.

RESULTS

Sample size and open access status

Applying the sample criteria resulted in a set of 385 journals from 83 library publishing programs. 358 (93%) were open access, 23 (6%) were subscription or delayed access. The remaining four could not be classified, because of problems accessing the journal's website or content.

Open access	358	93%
Subscription or delayed	23	6%
Unknown	4	1%

Table 1. Open Access status (n=385)

Rights information

308 (80%) of the journals presented rights information of some kind. 77 (20%) did not. Of those 308, 263 (85%) had copyright information at the journal level, 119 (39%) had copyright information at the content (article) level, and 92 (30%) had information in both places.

Present	308	80%
Not present	77	20%

Table 2. Presence of rights information (n=385)

Journal level	263	85%
Article level	119	39%
Journal and article levels	92	30%

Table 3: Location of rights information (n=308)

Open licensing

Of the 385 journals, 145 (38%) indicated at any level that an open license was in effect. 144 of those were Creative Commons licenses; the remaining journal described its license as "Open Source CopyLeft." Of the Creative Commons licenses, the most common were the Attribution license (CC BY), which was used by 66 journals (46%) and the Attribution-NonCommercial-NoDerivatives license (CC BY-NC-ND), used by 32 (22%). In 12 cases, the journal either offered a choice of multiple Creative Commons licenses, or it was unclear which license was being used.

Not present	240	62%
Present	145	38%

Table 4. Presence of open licenses (n=385)

CC BY[8]	66	46%
CC BY-NC-ND	32	22%
CC BY-NC	20	14%
CC (unclear or multiple)	12	8%
CC BY-NC-SA	11	8%
CC BY-SA	3	2%
Open Source Copyleft	1	1%

Table 5. Type of open license (n=145)

Copyright ownership

285 of the 385 journals (74%) included a copyright ownership statement at any level or indicated in some other way who holds the copyright to the journal content. Of those 285, 24 had statements that were unclear or were contradicted by other copyright information on the site. 72 journals (19%) included no information about copyright ownership.

Ownership statement present	261	68%
Ownership statement present but unclear or conflicting	24	6%
Ownership statement not present	72	19%

Table 6. Copyright ownership (n=385)

Of the 261 journals that presented (intelligible, non-conflicting) copyright ownership information, 166 (64%) indicated that the authors retain copyright ownership of their work. Within that group, by far the most common scenario[8] (163 journals) was a nonexclusive license from the author to the journal conveying the rights needed for publication. In 95 journals, the copyright information - either at the journal or the article level - indicated that authors transfer copyright, either to the repository, the journal, or the publisher. In a very small number of cases, either the authors agreed to an exclusive license to publish (1 journal), or it was unclear what type of license was being used (2 journals).

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[8] Explanation of Creative Commons license abbreviations: BY=attribution, NC=noncommercial, ND=no derivatives, SA=sharealike. For further details, see http://creativecommons.org/licenses/.

Author retains, nonexclusive license to journal or publisher	163	62%
Transfer of ownership to journal or publisher	95	36%
Author retains, license unclear	2	1%
Author retains, exclusive license to journal or publisher	1	>1%

Table 7. Type of ownership stated (n=261)

Conflicting information

While it was not originally my intention to track the number of journals with conflicting rights information, it quickly became apparent that this was going to be an important data point. I have counted a journal as presenting conflicting information when it included two or more incompatible rights statements or licenses. The most common scenarios for this kind of conflict were:

- The journal-level copyright information indicated that authors retain copyright to their work, but articles included a copyright statement attributing copyright ownership to the journal or the publisher.

- Different Creative Commons licenses were listed in different places on the journal site. For example, the journal-level rights information stated that all journal content is licensed under CC BY-NC-ND, but the articles included a CC BY license.

- A Creative Commons license was listed in one location (usually at the journal level), while another location (usually the article content) included only a copyright statement. This was not necessarily a conflict - even with a Creative Commons license, someone still owns the underlying copyright. However, a reader is likely to assume that an unaccompanied copyright statement means "all rights reserved." If the journal content is actually "some rights reserved," failing to indicate that alongside the statement is problematic. If not actually incompatible, this scenario is certainly misleading.

Conflicting information was present in 34 journals (9%), with 2 of those journals actually presenting three different incompatible statements.

DISCUSSION

Limitations of the data set

Normally, a section on the limitations of the study is presented towards the end of the article, as the metaphorical grain of salt with which to reflect upon what was just read. In this case, however, the limitations of the data set are striking, and so integral to the results of the study, that it is necessary to understand them to have a meaningful discussion.

The sample

It was more difficult than expected to identify publications meeting my sample criteria, because there is such a huge variety of content available. As library publishers, we publish journals, we distribute journals that others publish, and we disseminate back issues of ceased journals. We host newsletters, scholarly websites, and new-model and hybrid publications. We are involved in a confusing landscape of publications and deciding what to count as a current scholarly journal published by the library was a constant exercise in judgment. Many of the decisions came down to the language used on the journal site, so one rolling-wall, subscription-access journal may have been included, while another was excluded, while the only real difference between them was the way the purpose of the site was described. (For example, a site labeled as a "collection" or an "archive" of back issues of a journal published elsewhere was likely to be excluded.)

Because not all library publishers have a single list of the journals they publish, it was also difficult at times to locate all possible candidate publications. This was especially common in cases where journals were published through the repository. If there was not a specific access point for journals, I was left to browse the list of communities and collections and attempt to identify relevant publications.

Unreliable data

Looking at the data in the results section, you might assume (for example) that 95 of the journals had author agreements involving a transfer of copyright. After all, I just told you that 95 publications indicated that someone other than the author owns the copyright in the content, and that could only come about through a transfer. However, given how often journals presented conflicting information, it's safe to say that rights statements on journal websites are not always accurate. In many of those 95 cases, a determination was made based on a copyright statement on article PDFs. Since many journals do not make their author agreements public, it is impossible to say how often practice and public communications are in conflict, and caution should be used in drawing conclusions from the available data.

Is the data too messy?

It may have been possible to narrow the sample and data points until a consistent and reliable data set emerged. For example, I could have chosen to examine only publications with the word 'journal' in the title, for which the library is named as the publisher, that make their author agreement public, and that do not contain any confusing or contradictory information. Doing so would have allowed me to draw much firmer conclusions about the journals in the sample, but the sample would have been vanishingly small, and conclusions based on it not worth your time. Because the purpose of this study was general observation rather than rigorous statistical analysis, I have based my discussion and conclusions on the less-than-ideal data set that resulted from my original methodology. The numbers can still give an indication of general trends, and the very messiness of the data is, at times, illuminating.

We seem to have a problem

The good news...

80% of the journals in the sample included some sort of rights information on their websites, and 38% were using an open license. Creative Commons licenses are beneficial to users, but their application also indicates that we are talking with our partners (usually faculty at our institutions) about copyright, licensing, and the benefits of re-use. Anecdotally, many library publishers would prefer to use open licenses more than they do. The obstacle is sensitivity to the preferences and needs of their partners, who are often uncomfortable with the idea of even limited re-use of the content. Even when the eventual decision is to stay with an 'all rights reserved' practice, however, the process of making the decision can be educational.

...and the bad news

20% of the sample included no rights information at all, and of the ones that did, 70% failed to provide consistent rights information at both the journal and the article level. That means that a total of 76% of the sample journals failed, in one way or another, to provide easily-accessible rights information for the content they publish. As far as providing accurate rights information, I can confidently say that 9% of the journals - the ones with contradictory information - did not. Based on trends in the data and familiarity with the typical practices of library publishers (discussed below in the conclusion), I would hazard a guess that some of the remaining 91% are also presenting rights information that is not an accurate representation of the rights situation at play in their journals.

Journal-level information was found in a huge variety of locations and formats, which varied

widely in accessibility. Some publications included a copyright statement on the homepage or on the standard page footer for the site, and some had a special section of their 'About' or 'Information for Authors' pages dedicated to rights information. Others required users to wade through unrelated information or to visit pages with unrelated titles to locate it. With regards to format, some journals stuck with a simple copyright statement - the name of the copyright holder and occasionally a date. Others presented their readers with a lengthy, legalistic author agreement. Often practice varied widely even between publications from a single library, indicating that rights information is being added to journals on an ad-hoc basis.

The not-so-open license

Using Creative Commons licenses - or, rather, using them well - turns out to be challenging for library-published journals. Most journals using Creative Commons were doing so without raising any red flags. Problems occurred often enough, however, that they're worth examining. They tended to fall into some general categories.

Dueling licenses

As described above, it was not uncommon for a journal to have one Creative Commons license in the journal-level information and another at the article level, without any clear indication of which license applies to the content. One example:

- Journal-level copyright statement: "All articles published in [journal title] are open-access articles, published and distributed under the terms of the Creative Commons Attribution 3.0 License, which permits reproduction, distribution, [derivatives] and commercial use, provided the original work is properly cited and authors and publisher is properly identified."
- Article-level statement: "Articles in this publication of [journal name] may be reproduced if 1)Used for research and educational purposes only, 2) Full citation (author, title, [journal name], [publisher], Vol. #, Issue #) accompanies each article, 3) No fee or charge is assessed to the user. All articles published in the [journal name] are open-access articles, published and distributed under the terms of the Creative Commons AttributionNonCommercial-NoDerivs 3.0 United States License." (This is also an example of "confusing text," as described below.)

It is possible to have multiple licenses at play in the context of a single journal - there may be one license that applies to the journal website and another to the articles, or authors may

choose among licenses for their work. When that is the case, however, the responsibility lies with the journal to make it clear to the user what license applies to what content.

Incomplete licenses

A Creative Commons license needs to include certain elements in order to be valid and useful. The CC website suggests focusing on "Author, License, Machine-Readability."[9] In other words, a license should state the name of the person granting the license (the copyright holder), should include the name of the license and a link to the full license text, and be machine-readable (usually via copying code for the license from the CC website). Even setting aside the issue of machine-readability (which is part of a much larger discussion about the discoverability of library-published content), license information on journals in the sample sometimes failed the test. Examples included omitting the license name or link (i.e. "CC [author name] 2015"), or using license text (verbatim or paraphrased) without mentioning Creative Commons. It was also not uncommon for CC licenses to appear on articles without a named rights holder, leaving users who want to exceed the terms of the license with no idea whom to contact for permission.

Missing licenses

Of the 134 journals that used CC licenses, more than half (85) failed to indicate it at the article level. Some of those presented no rights information of any kind on the article, while some presented contradictory information. Many users find their way to open access scholarly articles directly from search engines, bypassing the journal website, and even users who start at the journal level are unlikely to go looking for an open license that isn't indicated on the article itself. An open license that does not appear at the content level is significantly less useful than one that does.

Confusing text

Sometimes open licenses were accompanied by an explanation of the license or a similar statement about how the journal content may be used. This isn't inherently problematic, but it is easy in this context to include inaccurate or misleading information. The most egregious example was a page with a CC BY-NC-ND license that also advised users of the need to contact the copyright holder before any type of re-publication - a contradiction of

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[9] https://wiki.creativecommons.org/wiki/Marking_your_work_with_a_CC_license#Author.2C_License.2C_Machine-readability

the terms of the license. The statement reads:

> As per the Creative Commons Attribution-NoDerivs 3.0 Unported License, you may use portions of the articles published herein with proper attribution as published in [journal name]. As [journal name] does not retain the copyright to the author's original work, anyone interested in republishing or altering the original work in any way must contact the author or indicated right holder directly for permission.

CONCLUSION

Why is this so hard?

Given the amount of copyright expertise available to library publishing programs, why do we struggle to consistently provide accurate, useful copyright information on our publications? There are a number of factors that may contribute to the problem.

Staffing

Most library publishing programs operate on a shoestring. According to the Directory, many programs have less than one full-time equivalent staff member, and we have already established that library publishing staff may be involved in a range of other activities related to scholarly communications. Programs with lean staffing must choose carefully where to place their resources, and providing copyright information to users may not rise to the top of the priority list. Missing author agreements can have legal ramifications; missing copyright statements are a more subtle kind of problem.

Misconceptions

There are some widespread misconceptions about copyright in the realm of scholarly journal publishing, like the idea that the journal automatically owns the rights to anything it publishes. Many journals operate for years without author agreements of any kind, while cheerfully garnishing their publication with copyright statements claiming ownership of the content.[10] Authors and readers often share this assumption, and even librarians have been known to subscribe to it. Publishing without written agreements can result in a range

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[10] This sort of discrepancy is not limited to library publishing. For examples of erroneous copyright ownership statement on articles from commercial publishers, see Royster (2015).

of negative consequences, not limited to the inaccurate copyright information that is often given to readers and authors. Any change in publisher or format – for example, digitizing a back run of a print journal and making it available online – is complicated by the lack of written contracts with the authors and can require complex calculations of risks and benefits and a willingness on the part of the journal or the publisher to take on liability. Journals operating on a 'handshake' basis are also vulnerable to requests for changes to or removal of published content. An author who has been criticized for an article or no longer wants her name associated with a particular topic would have a strong legal basis for requesting its removal from the journal in the absence of a formal agreement to publish.

Standards and tools

In the absence of documented standards or best practices, many library publishers may not know how to put together accurate and user-friendly copyright information for the journals they publish. The most commonly-used platforms (Open Journal Systems and Bepress) provide spaces for copyright information at the journal level, and, to some extent, at the article level, but such information is never required.[11]

Lack of control

Library publishing often takes the form of a partnership between library staff and journal editors, where the library provides the infrastructure and the editors provide the final content for publication.[12] Working collaboratively with faculty or scholarly societies to produce a journal has a number of benefits, but it can also result in libraries publishing content over which they have little direct control. This is especially common with article files, which are often created by the editor(s) and delivered to the library in their final form.

Recommendations

How can we do better? Ideally, practice in this area would be guided by community-driven

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[11] You may notice that "make the software require it" does not appear in the list of recommendations below. While it is tempting to bake this sort of activity into the tools we use, it reduces the flexibility of our software platforms and, over time, their utility. While I would be happy to see improvements in how publishing platforms handle rights information, I believe that community best practices are the crucial step for improvement in this area.

[12] This is an assumption based on practice at my own institution and my familiarity with how library publishing works in a number of other programs, as well as a plausible explanation for a common pattern of conflicting information present in sample journals.

best practices, but in the meantime, here are some suggestions.

Include information about copyright ownership and any applicable licenses at both the journal and the article level. The information should be consistent; it should be an accurate reflection of the terms of the author agreement, and it should be in language that is intelligible to users.

Use Creative Commons and other licensing schemes with care. Done correctly, they are enormously beneficial to users. Done poorly, they are likely to result in confusion and inefficiency. Some rules of thumb:

- Include enough information so that the user can identify the specific license being used and a path to learn more (such as a URL pointing to the full text of the license).
- Include copyright ownership information alongside the license.
- Make sure the license is visible to users in the places they are likely to look. The beginning or end of the full text of an article is a good bet.
- Make sure the other copyright information on your site does not contradict the terms of the license(s) you are using. If you want to include text about the license itself, check it against the license and official descriptions, or have someone with copyright expertise review it for inaccuracies or misleading statements.

Make author agreements available. Posting the agreement on the journal site is helpful to prospective authors, who may take a journal's copyright practice into account when deciding where to publish. In cases where the journal deviates from standard practice in the field (for example, by requiring a full copyright transfer, or applying an extremely permissive license for reuse), providing the agreement up front can avoid a 'gotcha' moment, when authors who are already in the pipeline realize what they have signed up for. The agreements can also help readers answer tricky questions about permissions and can serve as a resource for other journals. Making them public is not uncommon, so if your legal or administrative staff are unsure about sharing these types of documents openly, you can most likely find examples of peer institutions who do so.

Make rights information machine-readable. Recording whether the copyright information on sample journals was machine-readable was not part of the study design, so I can't say with any accuracy how often we are providing machine-readable rights data. My impressions of this area, however, combined with the patchy state of even human-readable copyright information on many journals, are that this type of good practice is not yet common in

our field. Given the growing importance of structured data in libraries and in publishing, I would suggest that any library publishing program looking to improve its public copyright information include machine-readability as a desideratum. Given our reliance on Creative Commons licensing and on publishing platforms (such as DSpace and OJS) that allow us to capture these licenses in a structured way, most programs should at least be able to take baby steps in this direction. Future research in this area could examine the uses of this kind of information that are likely to appeal to libraries, along with the available functionality, and the current state of practice.

Final thoughts on the data

The messy and at times unsatisfying data gathered for this study does provide some insight into the world of library publishing, even beyond the topic of copyright information. One of the most difficult questions I faced when putting together the sample was whether a journal was "published" by the library. I once tried to pin down an acquisitions librarian on whether a particular piece of content was officially part of the library's collection. I was investigating the fate of born-digital scholarship at the university, and how it might make its way into the stewardship of the library. After a certain point, she became impatient with my hair-splitting, and said, "It doesn't matter what we call it. What matters is that our patrons have access to the scholarship that they need." The same ethos exists in mission-driven library publishing. We don't necessarily care who is the publisher of record or whether the resulting content is a 'journal' or a 'magazine' or a 'faculty website.' We don't lose interest in content when it no longer brings in revenue. (Or, as is often the case, when it never did in the first place.) We want to connect scholarship with the people who can benefit from it, and the result is a wide spectrum of publication types, sometimes ambiguously labeled. This freewheeling, service-oriented approach has an important role to play in the world of scholarly publishing. The challenge for our community at this point is to identify places where more standardization is needed and where greater consistency will benefit us, our partners, and our users. I nominate copyright information as one of those places. It is a clear point of intersection between our role as publishers and our role as copyright educators, and one where good practice is well within our capabilities. Let's make it happen!

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