Article

Open or ajar?: openness within the neoliberal academy

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Abstract: The terms 'open' and 'openness' are widely used across the current higher education environment particularly in the areas of repository services and scholarly communications. Open-access licensing and open-source licensing are two prevalent manifestations of open culture within higher education research environments. As theoretical ideals, open-licensing models aim at openness and academic freedom. But operating as they do within the context of global neoliberalism, to what extent are these models constructed by, sustained by, and co-opted by neoliberalism?

In this paper, we interrogate the use of open-licensing within scholarly communications and within the larger societal context of neoliberalism. Through synthesis of various sources, we will examine how open access licensing models have been constrained by neoliberal or otherwise corporate agendas, how open access and open scholarship have been reframed within discourses of compliance, how open-source software models and software are co-opted by politico-economic forces [1], and how the language of 'openness' is widely misused in higher education and repository services circles to drive agendas that run counter to actually increasing openness. We will finish by suggesting ways to resist this trend and use open-licensing models to resist neoliberal agendas in open scholarship.

Keywords: openness under neoliberalism; open-access licensing in capitalism; the politics of open-licensing

1.   Introduction

The terms 'open' and 'openness' are widely used in the current Higher Education environment particularly in areas around repository services and scholarly communications. Despite widespread discussions using these terms, there's little discussion of the meaning of 'open' and 'openness'. Indeed, "openness appears to be a term with multiple understandings and no fixed definition. It is cited by governments, startups and organisations as integral to their 'philosophy', often without further explanation of the term" [2] whilst retaining proximity to sensibilities of virtue and social good. This fluidity has created an abundance of space for confusion, mistakes, and misrepresentations. In a similar vein to Sam Moore's [3] work on defining the term 'the commons', we examine the use of the word 'open' in the Higher Education context, and to problematise its common usage in the neoliberal academy. To what extent is what we shall call 'the open agenda' constructed by, sustained by, and co-opted by neoliberalism?

Throughout this paper, we are using a concise definition of neoliberalism where it is

"understood as a political project to embed market-based logic into all social relations. In other words, it makes people think, and act, as if they are themselves capital" [4].

It is important to note that although neoliberal capitalism is a globalised system, we are explicitly referencing our experiences of its dynamic in relation to discourses of openness in the context of the United Kingdom (UK) and thus do not intend to universalise, nor talk over other experiences that may exist. Given the UK's relatively early adoption of national-level mandates and policies related to open access for research, scholarship, and open data during a rapid expansion of the marketisation of Higher Education, we believe that there are valuable lessons for the wider community to be drawn from our experiences.

The open agenda in the UK has been focused upon scholarly publishing and research outputs. There are of course other manifestations of open in the academy such as with open data and open educational resources, but we are going to restrict our discussion to open licensing for research and software. We posit that there are tensions here between the conflicting uses of and political intentions driving this openness. We explore some of these tensions and raise questions about the political potential and reality of openness in the context of the neoliberalised academy.

2. The open agenda in higher education

We start from the premise that any view of the academy as somehow outside or beyond neoliberal capitalism is, at best, a misguided romance. As Bill Readings notes,

"the university as an institution is becoming more and more corporate, that information is not primarily referential (information about something outside the university); instead, information is a unit of value within the system and serves to procure advancement within the university." [5]

This points directly to the commodification of information—increasingly including scholarship and research—even when it is surrounded by a rhetoric of openness.

In 2019, UK universities operate as commercial entities and there are research articles, media columns, and social media discussions regularly highlighting the problems that commercialisation brings to the academy. UK universities have been transformed through government policy and funding streams, and now compete in markets for students. This market competition extends to league tables and the prestige economy of journals and other sites where outputs are used for status, esteem, and authority. All these activities serve neoliberal capitalism and thus all the scholarship and research produced through the commercial university are directly funded by, produced under, and servicing the needs of neoliberal capitalist social relations.

For some, openness is seen as a mode of resistance to the issues propagated by the rise of neoliberal capitalism in the academy [6] and a tool for social justice [7]. However, the proliferation of 'open'

discourses over the last few decades, has introduced other political perspectives, including those advocating for neoliberal reforms of the academy [4]. Largely due to the influence of policy implemented in support of the latter, this has produced a significant increase in the discourse of openness and the use of open licenses. Open access licensing for research and scholarly communications and open-source licensing for software and source code are common manifestations of open culture within the academy.

Prior to its demise, the Higher Education Funding Council for England (Hefce) implemented policies that mandated some form of open access to a proportion of scholarly outputs. Research Councils United Kingdom (RCUK, now United Kingdom Research and Innovation (UKRI)) and other funders have also implemented policies for open access to all work produced as a result of funded research. These interventions pushed the narrative of openness in scholarly communications from the fringes and into the mainstream of academic culture in the UK. The majority of UK HEIs have gone on to implement local open access policies for their own context to ensure compliance with the requirements of the various national policies.

Following the publication of the Finch Report [8], RCUK revised their Policy on Open Access and Supporting Guidance [9]. This revision provided cohesive open access policies around outputs produced from their funds. From April 2016, research produced in lieu of Research Council funding also become subject to open access policy. With this, Hefce aimed to further the open agenda by mandating that outputs for submission to the Research Excellence Framework 2021 need to be open access with specific requirements.[1]

In 2017, shortly before the Office for Students took over its role, Hefce [10] was starting to shift its vocabulary beyond open access towards "open research", open scholarship, and other researcher-level open practices. This dovetailed with research funders implementing increasingly demanding research data management policies in response to a range of concerns around data integrity, the 'reproducibility crisis', and enhancing the utility of research data to optimise its inherent value. Indeed, the EPSRC have a strict policy framework around open data that includes sanctions for failing to comply including "in an extreme case, the removal of eligibility for EPSRC funding" [11]. Supplementing the formal policies are documents such as the Concordat on Open Research Data [12]. Collectively, these interventions of policy and recommendations have nudged academia, a sector infamous for its glacial approach to change, towards an open agenda that has been discussed for some years.

These interventions significantly developed the discourse and practices around open access to research in the UK and openness more broadly. The efficacy of open access policies is demonstrable with Research England [13] claiming that that in excess of 80% of in-scope research outputs meet the requirements of the REF 2021 open access policy. Furthermore, Piwowar et al. [14] have shown that open access literature, as a proportion of the total, "has been growing steadily over the last 20 years, driven particularly by growth in Gold and Hybrid". This success for open access can be seen to be a springboard for the political expansion of a neoliberalised open agenda.

Similarly, open licensing has been used for software in education to specify permissions around distribution, access, attribution, editing, and redistribution of source code. Open-source licenses like the Apache License 2.0, the GNU General Public License 3.0, the MIT License, and the Mozilla Public License 2.0 are used for library systems, for institutional repositories and research management systems, and for custom software built to perform specific research tasks in the science and digital humanities.

However, certainly in the UK, the approach to open-source has been pursued in a piecemeal fashion. Unlike with open access, there are no national policies or requirements on open-source in Higher Education and UK academic libraries still tend to favour proprietary licensed software over open-source software: Marshall Breeding's library technology guide of library management system implementations in UK academic libraries, for example, shows over 90% of institutions have proprietary library management systems [15]. Tendering processes are implicitly biased towards proprietary licensed systems and against open-source solutions because of tendering processes' measures of 'reliability' and 'support' which favour the support mechanisms of private-sector companies over those of communities of volunteers. Interestingly, in the few cases where open-source software is used in libraries, it's primarily to facilitate open access. Widely used institutional repositories like EPrints, DSpace, and Haplo Repository, and publishing platforms like Open Journal Systems and Janeway have tended towards open-source. However proprietary software solutions are increasingly popular in this space, and private, profit-driven companies such as Elsevier are entering a lucrative market by acquiring infrastructure and services such as SSRN and PURE.

There's an interesting parallel between open access and open-source licensing and the movement towards neoliberalised forms. Earlier models of open access were influenced by free and open-source software cultures. Both have to some extent transformed into commercialised forms—"the initial goal of the Open Source Initiative has, to a large extent, succeeded in creating for free software a more mainstream and commercially viable form" [16]—and yet both retain some measure of the political ideals of freedom from which they developed.

3.   The meaning of 'openness'

For a working definition of 'open', we can look to official guidance. The Budapest Open Access Initiative declaration [17], the Bethesda Statement [18], and the Berlin Declaration [19] all contain specific definitions of open access which commonly share requirements for specific licensing needs. The Open Definition 2.1 [20] similarly focuses on open licensing of content and those rules which licenses apply to content to specify what can and cannot be done with a work or piece of content. The Open Definition states that, at a minimum, works must be either public domain or openly licensed, they must be provided as a whole and downloadable via the internet, they must be machine readable, and they must be provided in an open format.

We can also look to the various policies and mandates for open access which use the term 'open' with a range of variant yet specific meanings. For example, RCUK's open access policy requires no restriction on non-commercial re-use including non-commercial text-mining and data-mining. The REF 2021 policy on open access, by contrast, has no licensing requirements: instead they "expect any reader with internet access to be able [...] to read the output, to download it, and to search electronically within it, all freely and without charge" [10].

Such definitions are insufficient as the adjective "free" fails to distinguish between its associations with liberty and freedom and other uses referring to a lack of cost. Conflating the concept of openness with the ability to simply access a work can have reductive cultural effects as open access is a diverse practice with disparate politics. We therefore need to consider what 'open' is trying to offer its communities of producers and users to better understand its meaning.

We can also look to the origins of open-source licensing for a definition of 'open'. The Free (Libre) Open-Source Software (FLOSS) movement is often held up as a beacon of open practices with liberal software licenses used to disseminate products and services that allow individuals to access the internet and to use technology in ways that encourage greater autonomy. Their processes allow transparency and accountability and allow for the efficient re-use and redistribution of code.

This optimistic account oversimplifies FLOSS' history. 'Free software' was a term coined by Richard Stallman[2] [21] and strongly emphasises freedom and personal and political autonomy neatly captured in the aphorism "free as in speech not free as in beer". The term 'open-source' on the other hand was popularised by Eric Raymond, a libertarian developer, who sought to deliberately delineate his conception from Stallman's political conception of 'free software' [4]. This distinction has significantly shaped the political approach of developers to their production and dissemination of code either with a social and freedom-oriented approach or via more libertarian and self-interested routes. Viewed against this history, the 'open' in open-source serves to move the philosophy away from the emphasis on autonomy in Stallman's original conception and towards an emphasis on the market and ties to existing models of copyright with a political stance more akin to libertarianism and cyberlibertarianism.

We can see that:

> "FL/OSS occupies a space in public imagination where emergent forms of collaboration supported by ICTs question the efficiency of traditional forms of organization. The relationships between the old and the new, the ingrained and the radical, take many forms and are expressed in differing terms"[22].

Indeed, some "hacker cultures do not seem to be the object of capitalism's co-optation or absorption. Rather, they seem to have a constitutive role in the evolution of digital capitalism" [23].

This use of 'open' therefore positions 'open' within the marketplace and the context of capitalism. The most commonly used licenses for open access licensing, the Creative Commons licenses, similarly tie the word 'open' to a capitalist framework. Moore [3] discusses how Creative Commons

and their suite of licenses do not aim to change the norms of property ownership and property relations but merely to designate how proprietary works can be used:

> "Creative Commons reinforces a private and individualist understanding of intellectual property, and the social hierarchies this entails, especially the association of published scholarship with private property that can be used as currency for individual career progression within the university."

Lawrence Lessig, one of the founders of Creative Commons, specifically links Creative Commons licenses with liberal individualism and private property relations by analogy to the free market and the market's relationship with the state:

> "Despite its influence in scholarly publishing, Creative Commons' understanding of the 'commons' lacks any real meaning as a commons. Not only is CC-licensed work not common property, unlike movements that reject copyright in favour of the public domain, common- or non-ownership, it also says nothing about the ways in which the creative work was brought into being: the labour involved, the profits taken and the governance of such efforts" [3].

Open access and open scholarship have been reframed by national policies within discourses of compliance which further undermine the link to the political root of liberation in 'openness'. The discourse of compliance around open access creates a number of problems for the liberatory politics espoused by many advocates for openness. The idea of 'compliance' creates a binary of open access that is either compliant or non-compliant and, as Moore [2] notes, the range of publishing cultures across various disciplines means that the creation of this binary is deeply exclusionary. In this regard and at this juncture, some appear to miss some of the nuance surrounding operationalism in the neoliberal academy [24]. The narrative of compliance / non-compliance in relation to library practices stems directly from the deployment of mandates in relation to open access and thus situates the library as part of the disciplinary mechanisms of the neoliberal university. Scholarly communications workers can be seen to be pitched against the researchers that they are historically and dynamically working with to support their adoption of open scholarly practices. We posit that openness cannot be meaningfully implemented from top-down without significantly shifting the politics of the discourse away from those of freedom.

4. Openwashing

There are other, more direct abuses of openness present within the discourse. Openwashing is one example that is particularly present in the context of the UK's open access and information landscape. The term 'openwashing' was coined in 2009 by Michelle Thorne [25] meaning "to spin a product or company as open, although it is not." Openwashing was introducing into the educational technology context by Audrey Watters [26] with a more specific definition which

grounds 'openness' in the political realities of 21st Century capitalism: "having an appearance of open-source and open-licensing for marketing purposes, while continuing proprietary practices".

In the sector of information and knowledge production, some publishers openwash by making proprietary content accessible ahead of publication or by arbitrarily distributing digital copies of published Versions of Record to authors that are for personal use. Indeed, Hefce's omission of licensing commitments for 'compliance' with its 'open access' policy for REF2021 can also be understood as a form of openwashing through the attenuation open access's definition.

In 2018, Nick Poole, the Chief Executive Officer of Cilip, "the leading professional body for librarians, information specialists and knowledge managers" [27] in the UK, was interviewed for the 'Librarians with Lives' podcast [28]. During the interview, Poole stated that "I'm absolutely clear that an open framework for our sector is the most compatible with our ethics, fundamentally." Poole also said that "one of the watch words of my career certainly for last kind of 15 or 20 years has been 'open'" [28]. To many library and information workers, this apparent commitment to openness was very welcome from Cilip's CEO. However, prior to the 'Librarians with Lives' interview, Poole had previously stated that he "[i]n general [...] prefers to promote software based on functionality, compliance, total cost of ownership etc. rather than licensing model" [29].

There is a tension of neoliberal prioritisation between these statements and in the overall openwashing within Cilip demonstrated by these statements. Facet Publishing, "the commercial publishing and bookselling arm of CILIP" [30] has published no titles as open access nor does it offer any open licensing options for its authors instead requiring the legacy workflow of copyright transfer to the publisher and offering only a very limited pre-print support for self-archiving in repositories [31]. Poole also claims that 'openwash' "is a term [he] coined a while ago" [28]. In lieu of any evidence to support this claim, Poole appears to be erasing the labour of multiple women with well-established definitions of openwashing and claims the term as his creation.

Poole states that "the systems of ownership of knowledge and authority" have been "disrupted" [28]. The discourse around "disruption", particularly in relation to technology and education, understands disruption as a capitalist intervention that endeavours to develop new markets and opportunities for derivation of profit through "innovation" [32]. Poole's assertion that the historic practices and ownership of information and knowledge have been fundamentally altered is absurd: there has been no structural change to the legislation around copyright and associated property rights. The claim that library and information workers "are on a journey to understanding what a post-disruption, open framework for doing what we do looks like" [28] seems, at best, naïve, and at worst, duplicitous.

Library systems vendors also practice openwashing to co-opt the language of openness. Many library systems make a virtue in their marketing materials of being 'open', 'breaking down silos', or 'empowering libraries' in order to appeal to principles of openness. Innovative Interfaces Inc., for example, used to call their vision for libraries the "Open Library Experience (OLX)" [33] and said that "With Sierra [their library services platform product], the library is OPEN." [34]. Sierra is not an

open-source licensed product and Innovative's documentation on its products is not open access. These terms are used to mislead and these products are not open in any meaningful sense of the term.

The contradictory meanings of openness create institutional structures for 'openness' that retain the power dynamics of legacy scholarly communications processes. The examples of openwashing across openness, publishing and software cited above contribute to a disorientation of 'openness' as a term. This disorientation limits the capacity for openness in the production and management of information and knowledge to deliver social, political, and economic challenges to the hegemony of neoliberal capitalism.

5. The efficacy of a neoliberal appropriation of openness

The broader movement of openness has suffered the effects of the diffusion of the meaning of 'openness'. Confusion around the use of 'open' and 'openness' contributes to fear and doubt about open access and open-source. The positive narrative of openness has been forgotten in the race for compliance with bureaucratic systems of fulfilling criteria alien to dominant historic scholarly communications practices. The absence of this positive narrative carries with it a swing in political intention towards sustaining social relations in support of the neoliberal status quo rather than challenging and subverting them.

The use of openness for the purposes of entrenching the power dynamics of capitalist social relations into a broader model of marketised governance should be a concern for public services, public goods, and the commons. It presupposes information as a commodity [35] and, for library and information workers, raises a range of ethical concerns around stratification and barriers to access and re-use of information.

As discussed above, the use of Creative Commons licences is not a neutral aspect of openness. Mandating any open license brings into tension the ethics of the individual and the communities of practice with the organs of power in the form of both employers and research funders. If the liberty and liberation offered by open access to literature facilitated through free and open-source software comes at the expense of a *choice* to engender openness, the power dynamics in the means of the production of this new open landscape curtail the scale of openness' freedom.

This is not a call to reject the use of Creative Commons licenses, far from it, but rather to extract the obfuscated politics and assumptions that belie mandating their use. Deviations from consent and deliberate choices to practice openness damage the philosophies of freedom from which they are borne.

The implementation of the Harvard open-access licence was consented to by the academic community at Harvard [CITATION], and as such offers and interesting comparator to funder mandates. The development of the UK-SCL open access policy framework [CITATION] offers a

similar opportunity for academics to choose to engage with the adoption of open licensing at scale rather than having this enforced on them through funders, national, or institutional policymakers. [expand this.]

6.   Alternate modes of openness for radical practice

Recognising the genealogies and multiple lineages of openness [2] helps us to understand the tensions that exist across open praxis. Neoliberalism's appropriation of scholarly communication [35] and research output management serves to curtail the radical potential of openness to challenge existing political norms. As Stuart Lawson [4] notes

> "to progress a commons-based approach to scholarly communication, attention should focus instead on a plurality of localised grassroots initiatives rooted in particular communities."

What then are the alternatives to the neoliberalised senses of 'open' that drive the open agenda in the current Higher Education sector?

Following Moore's [3] work on redefining 'the commons', we suggest that open can be better understood as a practice rather than a specific attribute of a work, piece of content, or piece of source code. Moore's vision of the commons sees it as "not just a series of 'isolated objects' but [...] a practice focused on the relationships involved in various forms of production" not focused on the resource itself. The commons is a situated practice of care, community engagement, and collective struggles of resistance and action. Less important are the specific licenses applied to materials and more important are the collaboration and support for each other's work and the acts of care between researchers and practitioners engaged in knowledge production.

Alexandra Samuel [36] similarly discusses a political model for open-source software that embraces the social requirements of its structure at a grassroots level for "self-reliance: a long-standing, decentralized campaign that disseminated complex technical skills to a wide range of would-be self-helpers." This facilitation of a decentralised, DIY approach to software and technology allows very different opportunities for openness. Helen Hester [37] writes that "[n]etworked communication technologies [...] have made it increasingly difficult to continue stockpiling knowledge in exclusionary ways" and that 'gender hackers' offer "a further point of crossover with the ethos of the Creative Commons" in their use and re-use of tools to develop "a platform for free and open source medicine" [37].

In our model, 'openness' is a social practice rather than a series of requirements for proprietary licensing within existing models of copyright. By focusing on the output, the existing definitions of openness used in national and local policies are open to co-optation by neoliberal forces through processes like openwashing and commodification. We propose to label not the output but the process of knowledge production as open. We seek to escape the language of 'mandates' and

'compliance and non-compliance' around the openness of research outputs by refocusing discussion on the communities, the relationships, the care relations, and the collective struggles of open processes in Higher Education.

Our emphasis on process and practice consciously pushes back against neoliberal marketisation in the academy and emphasises the community in the politics of openness. As Arendt [38], politics "lies between [people] and is established as relationships". Failing to acknowledge this leads to "a despotism of massive proportions in which the abyss separating the rulers from the ruled would so gigantic that any sort of rebellion would no longer be possible, not to mention any form of control of the rulers by the ruled" [38].

7.   Conclusion

We argue that openness should be displaced from the exclusivity of the output and instead oriented towards the communities of practice involved in knowledge production. Orienting openness towards community efforts and challenging the corporate domination of the open agenda will greatly benefit discussion of the politics of open practices in Higher Education. If openness is not founded on principles of freedom and the politics of liberation, it limits its efficacy to sustaining the status quo and closes the door on better alternative politics of knowledge production and digital infrastructures.

Endnotes

[1] The open access policy for REF 2021 does not meet the conventional open access definitions as per the Budapest Open Access Initiative agreement. No open licence is required, the Version of Record does not have to be open access, and embargo periods are permitted, but in-scope outputs must be deposited to a compliant repository within a stated period of time. See paragraphs 223-255 of the Guide on submissions: http://ref.ac.uk/publications/guidance-on-submissions-201901/

[2] Richard Stallman is a known abuser [39] and our citing him is in not intended to whitewash his abusive behaviour and abusive influence over FLOSS communities. We recognise the hypocrisies in citing someone with philosophical notions of freedom and liberty who uses their power to abuse, but Stallman is an influential founding figure in the world of free software.

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