
POA Week: Open Access & Copyright Seminar

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OPENUCT INITIATIVE
opening scholarship



ip unit
UNIVERSITY OF CAPE TOWN
INTELLECTUAL PROPERTY UNIT

<What is Open Access & why should we have it?>

“It’s not my job”

Research Contracts & Intellectual Property Services



Centre for
Innovation in
Learning and
Teaching



UCT LIBRARIES



Open Access: Unlocking Scientific Knowledge

Open Access (OA) is the free, unrestricted access via the internet to knowledge in the form of research outputs – so research is free to access and includes full re-use rights.

Making knowledge both free to access and free to use, re-use, and build upon is critical for international development. Science builds on itself and requires collaboration and the exchange of ideas, but individuals must be able to access and fully use this knowledge base in order to engage.

OPEN ACCESS is:
 Scientific research that is
DIGITAL,
 Free to **ACCESS &**
 Free to **USE**
 with minimal restrictions

Open Access is right for the World Bank. If you are a mission-driven organization, Open Access should be right for you.

— Carlos Rosal, Publisher for the World Bank

Nothing in the past has ever given Africa such an opportunity to share its knowledge

— Dr. Buhle Mbambo-Thata, Africa Section of the International Federation of Library Associations (IFLA)

Implementing Open Access

<p>“Gold” Open Access Journals</p> 	<p>Authors publish in Open Access journals, i.e. scholarly journals which are: peer-reviewed, free to access, and free to use</p>
<p>“Green” Open Access Repositories</p> 	<p>1) Authors publish in scholarly journal, AND 2) Deposit manuscript into an Open Access repository</p>
<p>Open Access Policies</p> 	<p>Mandate Open Access through:</p> <ul style="list-style-type: none"> - Organizational OA policies by funding agencies - National policies - Universities with institutional policies

Open Access Checklist for Development Organizations:

- Build a repository** of current and archived open research, reports, data
- Use Creative Commons (CC) licenses** instead of copyright © for research outputs
- Adopt an Open Access model for all publications**
- Develop and implement an Open Access policy** covering internally-produced & sponsored research
- Connect Open Access to the organizational mission**
- Help build awareness of Open Access** among researchers and other organizations
- Plan for and invest in OA at a programmatic level** to ensure adequate resources and staffing to develop, launch, and sustain OA publishing & initiatives

Why Open Access?

Development-focused arguments in support of Open Access



In *The Future We Want for All*, the “knowledge challenge” is described as one of the key challenges and opportunities to which the post-2015 UN development agenda should respond:

Limited access to knowledge hampers progress towards inclusive growth and employment creation, technological progress for sustainable development and health improvements. Greater knowledge sharing will be critical to induce the transformative changes needed to achieve food, nutrition and energy security in sustainable ways and to contain the threat of climate change.

- ✓ Public access to publicly-funded research
- ✓ Open Access accelerates the research & development cycle
- ✓ Access to knowledge as a human right
- ✓ Increased visibility for authors
- ✓ Increased uptake and usage of research sponsored by funding agencies
- ✓ Advances in technology support innovation – if research and data are openly licensed

If we want to accelerate the development of Africa, we must embrace Open Access.

If knowledge is the currency of our time, then Open Access is a redistribution mechanism.

— Russel Botman, Rector and Vice-Chancellor, Stellenbosch University

Open Access Resources

Reports, Books, Articles
 Clobridge, Abby. *Building a Digital Repository Program with Limited Resources*. London: Chandos Publishing, 2010. <http://bit.ly/cc-bdrpw>

Clobridge, Abby. “You Say You Want an OA Revolution?” March/April 2013 edition of *Online/Researcher*. <http://bit.ly/oa-revolution>

The Case for Interoperability for Open Access Repositories. Edited by Eloy Rodrigues and Abby Clobridge for the Confederation of Open Access Repositories (COAR), 2011. <http://bit.ly/coar-interoperability>

Suber, Peter. *Open Access*. Cambridge: MIT Press, 2012. <http://bit.ly/oa-book>

Open Access spurs innovation, generates jobs, and creates wealth.

— Máire Geoghegan-Quinn, European Commissioner for Research, Innovation and Science

- Organizations & Other Resources**
- African Journals Online (AJOL)
 - Confederation of Open Access Repositories (COAR)
 - Directory of Open Access Journals (DOAJ)
 - Directory of Open Access Books (DOAB)
 - EIFL Open Access Programme
 - INASP Strengthening Research and Knowledge Systems Programme
 - OpenAIRE
 - Public Knowledge Project (PKP)
 - Scholarly Publishing and Academic Resources Coalition (SPARC)
 - UNESCO Global Open Access Portal
 - OpenDOAR – Directory of OA Repositories
 - Registry of Open Access Repositories (ROAR)
 - Registry of Open Access Mandates (ROARMAP)
 - SHERPA/RoMEO Publisher copyright policies & self-archiving

Sources
 Quotes from Carlos Rosal, Russel Botman, and Máire Geoghegan-Quinn from Berlin 30 Conference, November 2012, Stellenbosch University. Quote from Buhle Mbambo-Thata in response to launch of UNESCO OA repository. <http://www3.unesco.org/Text/0318/Default.asp?ArticleId=262>

Examples of National and Research Funders’ OA & Related Policies

- Argentina (national policy)
- Australian Research Council
- Autism Speaks
- European Commission
- Food & Agriculture Organization (FAO)
- Higher Education Funding Council of England (HEFCE)
- Germany (national policy)
- International Development Research Centre (IDRC)
- Norwegian Research Council
- Spain (national policy)
- UK Department of International Development (DFID)
- United Nations Economic Commission for Africa (UNECA)
- United Nations Educational, Scientific, and Cultural Organization (UNESCO)
- White House Office of Science & Technology Policy (OSTP) [covers top US federal funding agencies]
- US National Institutes of Health (NIH)
- Wellcome Trust
- World Bank

<In a nutshell>

“OA is **free, online access** to **scholarly works** (e.g., research articles) with **full re-use rights.**”

“... to make this content **available** to **anyone anywhere** in the world.”



<In a nutshell: objectives>

- increase discoverability and visibility of scholarly output at UCT
- preserve, present and facilitate access to the institution's research and knowledge production;
- ensure the full participation of the UCT academy in global knowledge communities;
- contribute their academic resources to social and economic development;
- develop research capacity within the institution and region by sharing research knowledge and practices;
- manage the rising costs of library materials and access to scholarly knowledge;
- increase citations to and maximize the visibility of UCT scholarship.



If we want to accelerate the development of Africa, we must embrace Open Access.

If knowledge is the currency of our time, then Open Access is a redistribution mechanism.

-- Russel Botman, Rector and
Vice-Chancellor, Stellenbosch University

<In a nutshell: green and gold OA>



Gold OA: Publication in
Open Access Journals

Green OA: Publication
in Scholarly Journals &
manuscript deposited in
Open Access
(institutional) Repository

<Background>

In the past, reviewing, **publishing** and disseminating academic manuscripts was **expensive** - and the model that worked very well was that **professional publishers** handled this process.



But the **internet** combined with **ever-increasing subscription fees** started to challenge this model

<Background>

Also, think about it this way - isn't it absurd that while the **content is produced by academics** that are paid with **taxpayers' money**, yet taxpayers have to pay (again) to access the material?



<Background>

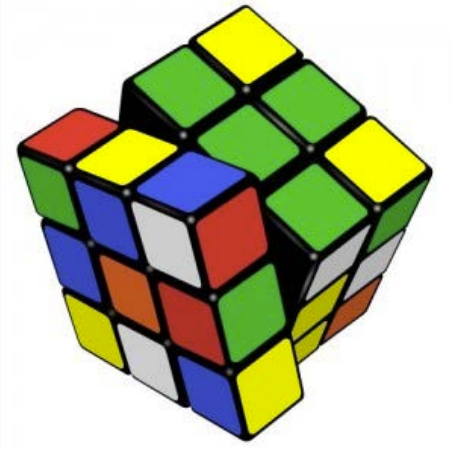
My own **research** was **hampered by content being hidden behind pay walls** - and the problem is much worse for other (South) African universities.



<Background>

So the current **model of publishing** appears to be somewhat **broken** and OA is an attempt to develop a **new model** that ensures **fair** and **broader distribution** of knowledge material.





The **problem** is that at least one of the two core components of OA (free access / **free re-use**) conflicts with how are **copyright laws** work

<A few words on copyright & © ownership>

“Copyright is the **exclusive right** in relation to work embodying intellectual content **to do or to authorize to do certain acts in relation to that work.**”



Protected works in SA

1. Literary, musical and artistic works;
2. Cinematograph films;
3. Sound recordings;
4. Broadcasts;
5. Computer programs





Exclusive (economic) rights (“*certain acts*”)

1. **reproduce**
2. **make adaptations**
3. broadcast
4. **distribute**
5. perform
6. display in public
7. cause a work to be transmitted in a diffusion service

Basic requirements for copyright protection



- **Originality**
- **Material form**
- **(Qualified person)**

no **registration** necessary

the **idea** itself is NOT protected



Duration of copyright protection in SA

✓ depending on the nature of work

✓ rule of thumb: end of the **year in which author dies + 50 years**,

or 50 years from end of the year in which work was made available to the public (cinematograph films, photographs)



Default & automatic **All Rights Reserved** situation

low: one usually has to ask for **permission** - and possibly **pay** - before (re-)using someone else's work

... and this is ***NOT OA***.



low: one usually has to ask for **permission** - and possibly **pay** - before (re-)using someone else's work and this is *NOT OA*.

<Ownership>

Author = owner

but in **employer-employee relationships**, the **employer** usually owns the copyright

Copyright can subsequently be **assigned to a third party**

<UCT IP Policy: key copyright provisions>

Sec 8.1: UCT holds copyright in, e.g.:

Multiple choice tests and examination answers
Syllabuses & Curricula
Computer software developed at UCT
UCT publications (Monday paper, websites etc)



Sec 8.2 & 8.3: UCT assigns copyright to author for, e.g.:

Scholarly publications

Art, music, films

Course materials (but UCT retains perpetual licence)

Student theses (subject to licence)

“UCT supports the publication of materials under Creative Commons licences to promote the sharing of knowledge and the creation of Open Educational Resources.”

(sec 9.2)

low: one usually has to ask for **permission** - and possibly **pay** - before (re-)using someone else's work

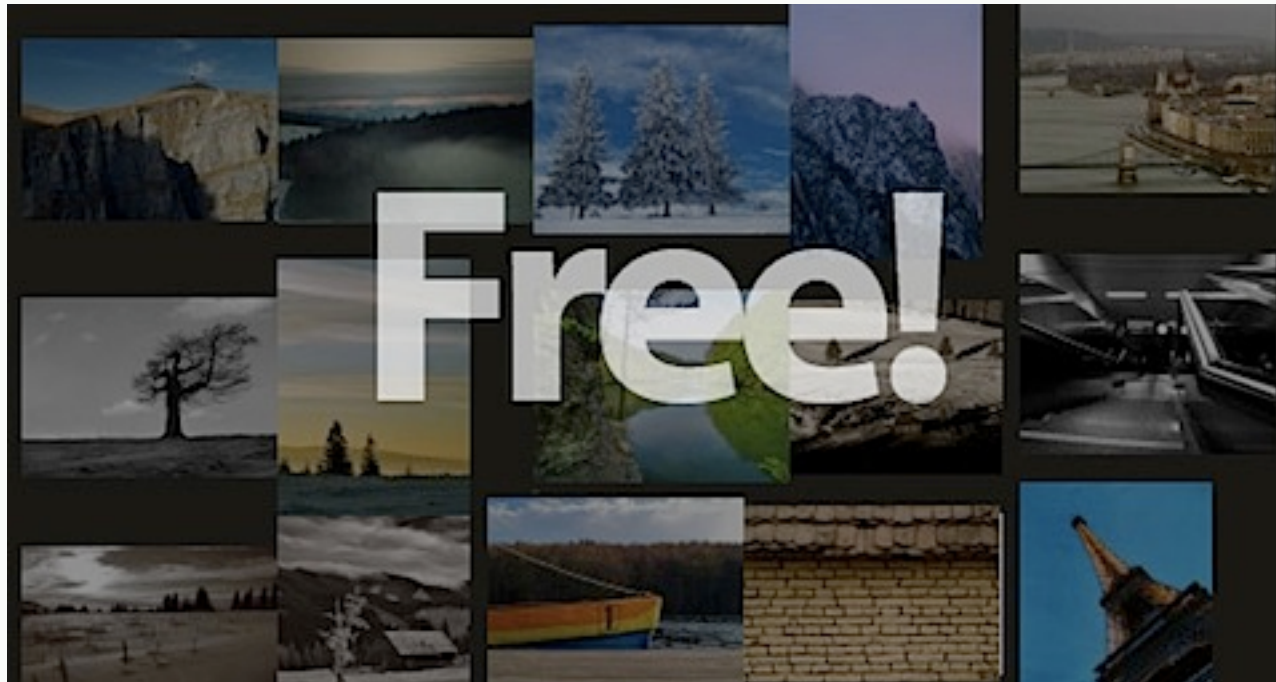
and this is ***NOT OA***

...however:

The public domain

Public domain works are those works whose use is not restricted by copyright

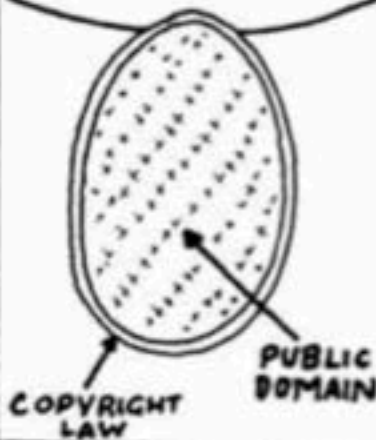
- **Copyright term expired**
- **Works that are not copyright protected** (eg official texts of a legislative, administrative or legal nature)



TRADITIONALLY, WE HAD A THIN LAYER OF INTELLECTUAL PROPERTY PROTECTION SURROUNDING A LARGE AND RICH PUBLIC DOMAIN.

NOW THE BALANCE BETWEEN WHAT IS AND ISN'T PROTECTED HAS BEEN UPSET. IS THE LAW ACTUALLY CRUSHING CREATIVITY?

IT DIDN'T COVER VERY MUCH, AND IT DIDN'T COVER IT FOR VERY LONG.



CRACK



Copyright exception and limitation

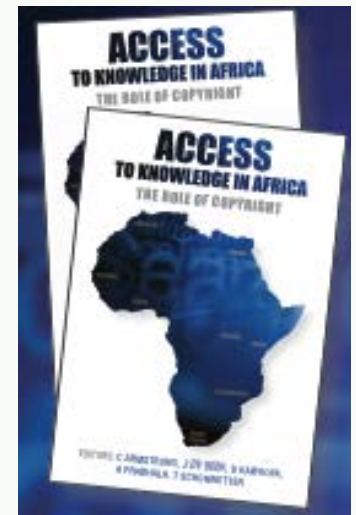
Copyright e&l **curtail the exclusive rights** assigned by copyright law to the copyright holder. They do this **to promote the public interest** and to respect users' legitimate interests in using copyright protected material in certain circumstances **without the permission of the rights holder.**

Relevant examples

- ✓ **Fair dealing** (study, research, private use)
- ✓ Exceptions for **educational purposes**
- ✓ Exceptions for **libraries and archives**
- ✓ **Quotations**
- ✓ Etc.



Copyright e & l could be a **key enabler for legal access** to & re-use of knowledge material...



However,

Often, the scope of **(educational) exceptions** and exceptions for **libraries and archives** is unclear, particular in the **digital environment.**”

”reasonable portion”

”no conflict with normal exploitation”

”not unreasonable prejudice the legitimate interests of the rights holder”

”no direct or indirect commercial advantage”

**<use OA material that is licensed under
a so-called open licence>**





A set of pre-formulated licences



CC

SOME RIGHTS RESERVED

More than **500 million CC licensed works** on the Internet



If you want to use CC licensed material created by others, just look out for a symbol like this:



Home • Copyright Policy

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www.creativecommons.org

The image shows a screenshot of the Creative Commons website homepage. At the top, there is a navigation bar with the Creative Commons logo and links for 'About', 'Licenses', 'Public Domain', 'Support CC', 'Projects', and 'News'. A search bar is also present. Below the navigation bar, there is a section for 'Get Creative Commons updates' with an email input field containing 'matti@example.com' and a 'Subscribe' button. The main content area features a large image of President Barack Obama at a meeting, with a text overlay that reads: 'OBAMA HIGHLIGHTS OPEN EDUCATION. In his address on open government at the United Nations, US President Barack Obama underscored the importance of open educational resources. Photo: White House / CC BY 3.0 US'. Below the image is a 'Learn more' button. To the right of the image, there is a caption: 'OER plays a central role in the US Open Government Partnership National Action Plan.' Below the main content area, there are three columns: 'Mission' (WHAT IS CREATIVE COMMONS?), 'License' (HOW CAN I LICENSE MY WORK?), and 'Explore' (LOOKING FOR CREATIVE WORKS?). Each column contains descriptive text and a button: 'Learn about CC', 'Choose a License', and 'Find CC-licensed works' respectively. At the bottom left, the URL 'creativecommons.org/weblog/entry/43817' is visible.

License Features

Your choices on this panel will update the other panels on this page.

Allow adaptations of your work to be shared?

Yes No



Yes, as long as others share alike

Allow commercial uses of your work?


Yes No

Selected License

Attribution 4.0 International

This is a Free Culture License!



Help others attribute you!

This part is optional, but filling it out will add machine-readable metadata to the suggested HTML!

Title of work

Attribute work to name

Attribute work to URL


Source work URL

More permissions URL

Format of work

License mark

Have a web page?



This work is licensed under a [Creative Commons Attribution 4.0 International License](#).

Copy this code to let your visitors know!

```
<a rel="license"
href="http://creativecommons.org/licenses/by/4.0/">
</a><br />This work is licensed under a <a rel="license"
href="http://creativecommons.org/licenses/by/4.0/">Creati
ve Commons Attribution 4.0 International License </a>
```

Normal Icon Compact Icon

Including: how to licence your own work under CC

<Finally: UCT's OA Policy>



UCT is **not an early adopter** - 200+ universities worldwide have OA mandates or policies

But there are **few universities in Africa**, and in SA only **UNISA** has an OA policy



<Open Access Policy: key provisions>

Sec 5.1:

Peer reviewed articles must be deposited into UCT's digital repository, unless publisher agreement contains restrictions ("*deposit or explain*")

UCT encourages employees and students to make **all forms of scholarship** available and to publish in peer reviewed OA journals

UCT discourages copyright to be assigned to publishers if publisher restricts sharing

Sec 5.2 & 5.5:

UCT Libraries responsible for institutional repository and for managing and implementing the OA policy

Sec 5.3:

Students shall upload final versions of **theses** to digital repository prior to graduation.



<Open Access Policy: issues>

Third party / sensitive / confidential material remains a problem
Discussions around pre-prints and post prints (who owns what)
Implementation workflows / guidelines are still to be developed
Academics don't deposit (payment of incentive)
UCT endeavours to provide funding support for APCs

No time frames for depositing yet

Good summaries of publisher contract terms can be found
here: <http://www.sherpa.ac.uk/romeo/search.php>

Be aware of so-called embargoes

Thank you!

my email address is:

tobias.schonwetter@uct.ac.za



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