

Open Access and Hidden Factors: interlibrary loan of open access documents may not be as simple as it seems

Lesliediana Jones

The George Washington University Law Library, USA

Abstract

The Open Access (OA) movement was conceived as a way for scholarship to become free and easily available. Interlibrary loan departments, relying upon this concept and meaning, have incorporated open access into how they fulfill the needs of their patrons. OA is seen as a way to save both time and money. However, it isn't enough to just add OA as a means of fulfillment without doing a critical analysis of whether or not that document is actually free and without restrictions on use. OA presents a new challenge to document delivery practitioners to establish guidelines in areas such as copyright and licensing just as they have done with print documents. These are among some of the factors that may not be obvious or are hidden when fulfilling requests with OA documents. However, as document delivery practitioners we must acknowledge and integrate them into the workflow.

Keywords

Interlibrary loan, document delivery, resource sharing, open access

Introduction

I, O.A. Doc¹

My full name is Open Access Document but I like to shorten it to OA or O.A. Doc. My reason for being is to be available for scholars and others free and without restrictions. So many of my brethren are stuck behind a paywall of some kind and are only available to a select population. It was at the Budapest Open Access Initiative (BOAI) meeting, held in Budapest, Hungary in 2001 that the conceptualization of me came to fruition (Budapest Open Access Initiative, 2002). The document that resulted from that meeting, published in 2002, formalized and defined the concept of "open access" as "free and unrestricted online availability" of the research of scientists and scholars in scholarly journals. Since that time the volume of documents like me have increased to the millions. According to the Open Access Directory – OA by the Numbers, as of 2016, the population of OA documents numbers to more than 2 million articles and over 9,000 journals (Open Access Directory, 2016). Thus, many of you have met me before and you may or may not have known it.

I am becoming more familiar and appearing more discoverable in the academic environment. Through access to the internet, I am being discovered by researchers, librarians and students at

¹ An homage to the notable economic essay, *I, Pencil: A genealogy*, written by Leonard E. Read (1958)

academic institutions all over the world. Certainly, you have met my brethren - scholarly works housed in subscription databases. Like my brethren, I can be a research report or article in a journal publication or something else.

Much of my discovery is being made by library staff who are using me to fulfill the research needs of its patrons. As Tina Baich indicated, often users are not aware of the vast amount of OA materials available online (Baich, 2015) . So, they turn to the library for their research needs when unable to find materials at their home library. What OA has provided for interlibrary loan departments (ILL),² who have long done traditional print document delivery and later use of other types of resources, is an additional online tool to fulfill patron needs. However, although I may be new to practitioners (presuming being more than 10 years old is considered new) I have many of the encumbrances that were attached to the traditional print and later e-resource documents.

That is what I want to address to interlibrary loan practitioners. It appears many of are looking at the concept of open access – free and unrestricted – as being applicable to all of OA documents. Just like humans, we are not all the same. Therefore, within this essay, I want to discuss some factors – copyright, licenses, versions of the document and ethical considerations - to consider when adopting the use of OA into the workflow. I use the term, “hidden factors”, to convey that it appears these factors have become lost in the concept of OA.

Incorporation of OA into the library framework

Briefly, let’s explore what role OA may play in the overall framework of the library. With so many of my kind in the academic environment, libraries have had to critically look at the role of OA in the way service is provided to the user. Essentially, there is nothing that libraries need to do to maintain the existence of open access. Libraries were not the foundation of the open access movement (Bailey Jr., 2007) .The BOAI document extended an invitation to entities, including libraries to be a part of “the task of removing the barriers to open access.” Subsequently, in 2003, another open access document was published, titled the Bethesda Statement on Open Access Publishing (Bethesda Statement on Open Access Publishing, 2003). That document set forth the following proposals on how libraries could assist in fostering the goals of OA.

1. Develop and support mechanisms to make the transition to open access publishing and to provide examples of these mechanisms to the community.
2. In our education and outreach activities, give high priority to teaching our users about the benefits of open access publishing and open access journals.
3. List and highlight open access journals in our catalogs and other relevant databases.

As with many conceptualization statements, the BOAI and Bethesda documents are broad in definition and goals but do not speak to the details and ramifications of implementations in fostering the OA movement. It is up to the individual libraries and the library community to create guidelines on implementation.

OA implementation is incorporated by libraries and the library community in a variety of ways. In the early months of the OA movement, the Scholarly Publishing and Academic Resources Coalition (SPARC) promoted the benefits of academic institutional repositories (Crow, 2002). In a position paper, published the same year as the Budapest document, it was proposed that libraries take the lead in establishing institutional repositories. It was posited that libraries had the expertise in document preparation, metadata creation, archiving, etc. which would make the research more accessible to the public (Crow, 2002). Some libraries have become the management arm of university institutional repositories to support faculty OA endeavors. To date, there are 653 research organizations (includes universities and other research institutions) that have implemented open access mandates or policies. (ROARMAP, n.d.) In many of those implementations, the library has one of the most integral roles in the administration of the OA process for the institution.³ In 2005, the thought was that libraries would not have complete responsibility for managing the policies, procedures, editorial, and technical aspects of an institutional repository (Schmidt & Pongracz, 2005). Today, the likelihood is far greater that it is the library that is the primary manager of the repository.

Reference, collection management and technical services are other areas of the library that can be affected by incorporation of OA documents into the framework. Some librarians see the incorporation of OA as a necessary part of reference education (Kassahun & Nsala, 2015). For some libraries the presence of OA documents has affected the way they are looking at collection management and the increasing costs of database subscriptions. Kristin Antelman posited that looking at the impact of OA for a library has the objective of determining maximum benefit with limited resources and fostering scholarly communication (Antelman, 2017). Once a library makes that collection management decision there becomes implications to the technical services department regarding processing procedures for OA documents. This is a topic not extensively discussed in the literature. Amy E. C. Koehler looks at the implications for technical services such as organization, cost and maintenance and notes that “more strain than normal” can be placed on that department (Koehler, 2006).

It is against the backdrop of these different implementations of OA into libraries that should influence considerations for an ILL department and its OA workflow. If ILL is part of a library

² Interlibrary loan will be the term used as synonymous with department called interlending, resource sharing, document delivery, etc. Document delivery is a subunit of the department

³ Examples of institutional repositories administered by libraries: GW ScholarSpace <https://scholarspace.library.gwu.edu/>; DSpace@MIT <https://dspace.mit.edu/handle/1721.1/26706>; Iowa Research Online <http://ir.uiowa.edu/>

that has embraced OA in these areas there should be an existing knowledgebase that can be tapped when considering addition of OA documents into the workflow. A knowledgebase consisting of leads to online resources to locate OA documents, knowledge of the different types of OA publishing schemas that affect it, if the library has licensed the document through a database. It is to this knowledgebase ILL practitioners should turn to develop policy and procedures for OA workflow.

Interlibrary loan and the OA workflow

When you, the ILL practitioner accesses me, you are doing so to deliver me a student, faculty or other types of user that need me for research or other purposes. You search for me online, find me and download and/or print me. Generally, you don't consider the need to pay for me or see a need to seek permissions to access and disseminate me. You do so quickly and then you don't think of me again. After all, I am OA, free and without encumbrances.

Is how you treat me that simple? That is the question, I am asking of you, ILL practitioner. You see, many assume they know what I am and never look any deeper than the surface. I ask it because I believe you are not looking at the non-obvious or hidden factors that may be attached and could determine whether you can disseminate me. You may not have determined that you may want to look to the collective knowledgebase within your library to build an analysis. So, over the next part of my essay, let's discuss the hidden or nonobvious factors to consider in your analysis.

Copyright and Licenses

Copyright and licensing are two hidden factors to consider. They are discussed together because with OA documents they could work in tandem within the same document. As you will see, this combination of factors to consider based on the source used to obtain the document. Copyright cost savings and the ability to meet patron needs quicker are generally the most prominent reasons given when interlibrary loan departments are asked why they use OA.⁴ Copyright as a part of the workflow is a familiar and long-standing factor in the world of interlibrary loan. Staff are aware that consideration of copyright is a necessary factor for all copies that are disseminated by the lending library and received by the borrowing library. Many academic libraries in the United States (U.S.) follow the copyright policies as set forth in the ALA-RUSA Interlibrary Loan Code of the United States (American Library Association, 2016). The code indicates that libraries are to comply with U.S copyright law and consider related guidelines such as the CONTU Guidelines.

⁴ I did an unscientific study for reasons by posting a question on the ILL-L listserv asking about the use of open access and reasons.

In compliance with this code, ILL department use various analyses such as whether the item has been requested in the last 5 years, how much of a book is being requested, or how many times an article has been requested as ways to determine if permission to disseminate must be sought. This analysis is a seamless part of the workflow. Copyright consideration is incorporated into ILL software, e.g. Atlas ILLiad and OCLC Worldshare, so consideration is done routinely and with little effort by staff. If permissions must be obtained, it can trigger, for the borrower, a request for permission to receive that copy which may or may not involve a monetary fee. Only after this analysis is applied is the document requested (or not requested) for the patron.

In the OA environment, copyright still exists and for some documents there can be a license that is attached which affects dissemination rights. Authors can elect to attach a Creative Commons or other type of license that provides certain rights separate from the rights under copyright. Does the staff apply that same analysis of copyright or something comparable to a document obtained through an OA source? In some instances, it appears that analysis is not applied. OA documents are perceived as totally incorporating the concept of “free.” Free from copyright and any other restrictions that will inhibit the ability to disseminate the document to the patron. The CARLI Resource Sharing Committee in its annual report indicates that “(w)ith OA materials, you can be confident that the copying and redistribution of the materials does not violate copyright law (CARLI Resource Sharing Committee, FY 2016, 2016).” This way of thinking about OA is shared by many library interlibrary loan departments.

Libraries may want to reconsider that broad statement of the application of copyright to OA material. It may not be enough to just locate the material and automatically assume because it is OA therefore there are no permission rights that must be sought. There are other factors to consider as to who may own the rights, what rights are owned and, in some cases, is there a license attached to the material which may restrict dissemination. Also, a close relation to this issue is the embargo. The key being to realize copyright and the right of dissemination can be separate factors of consideration within the same document.

To give an example let’s look at two publishers, Elsevier and MIT Press. Both are recognizable publishers in the academic journal environment. Elsevier provides information to authors in the Publishing for Editors - Copyright section which details the rights related to the publishing agreement with authors for open access articles (Elsevier, 2017). It details what the author has the right to do with that work and the rights of the publisher. Some of the rights of the author are to use the article for personal, non-commercial work and to disseminate it to “known research colleagues” for their personal use and share their work based on the end user license. Elsevier retains the right to “make or authorize commercial use” and possibly other rights based

on the license chosen. If the author has chosen an Elsevier end-user license the author does not have the right to “redistribute or republish the article (e.g. display in an institutional repository) (Elsevier, 2017).” Is the article restricted by a license? If it was obtained from the author does she have the right to provide the article? If my faculty member tells me it will be used for her book, should the department provide it? Am I obtaining it to add to the institutional repository that is maintained by the library? All become questions that may need to be answered.

A better, on point, example would be the author publication agreement for the journal, Open Mind, an open access journal published by MIT Press (MIT Press, n.d.). The agreement details authors rights such as the right to copy the article for teaching, use in a book which they author and self-archive. However, MIT Press retains the rights of dissemination including licensing for educational purposes, license any abstracts or quotes and licensing for document delivery. An OA analysis is more critical in this instance because it appears it is explicit that document delivery may not be allowed and possibly fair use may be a factor.

The two publishers used to illustrate the hidden factors of copyright and license just show two permutations of the issue. But, they show that just obtaining the article online and disseminating it to the user is not as straightforward as it seems. Practitioners will want to be cognizant of the issues involved when obtaining a document from a resource other than the publisher. In some cases, even obtaining it from the author may not be enough based on the needs of the user. This dictates the development of analysis guidelines analogous to and paralleling what is done regarding copyright. Which means putting mechanisms in place that look at factors such as how many times an article is provided, who has the rights of dissemination, is there a license attached and what does it allow. In addition, just like user education that has been employed with copyright similar user education may need to be developed for OA.

Version of Record

In the beginning, I introduced myself but I did not tell you which version of me was dictating this essay. This can be an important distinction when looking at OA documents. With so many documents being posted online in various stages of publication, it can be easy to mistakenly provide the incorrect document. OA documents can be online as a pre-print, post-print, and version of record. Bonnie Swoger defined a pre-print as the original version presented to the publisher, post-print as the version that has gone through the peer review process and the version of record as the published document (Swoger, 2013).

Sometimes, it is easy to determine if an article is the final version of record based on just the look of the document. If it is a posted word document on an author’s website, it is likely not the final version. Traditionally, an author should note on the pre-print and post-print versions

details identifying it as such. Some publishers require further that information regarding the version of record is noted. But, how well-versed is your staff in spotting that slickly published article as a pre-print. For most ILL practitioners, supplying the version of record is the preferable option. However, it is based on the situation as to which version should be supplied. It is crucial for some patrons such as those doing source and cite for law journals. This is the practice law school students on a journal, checking the citations of an article presented to be published. They need the exact version to which the author has cited. Based on the timing of the article, the author may have cited to the post-print, not the version of record.

Which version is provided also relates to the previous section on copyright and licensing. In the law school journal example, it must be determined who are the appropriate parties to contact to provide permission for inclusion in the publication – the author or the publisher. This could also be a factor if you are assisting a faculty member who is compiling research for a book.

Ethical Considerations

I, O.A. Doc, understand that finding documents online is sometimes only a Google search away. Type in a title, the paper appears, download and send. Quickly and efficiently the patron has what they need. The Interlibrary Loan Code for the United States indicates that it is an “obligation to obtain material to meet the informational needs of users when local resources do not meet those needs (American Library Association, 2016).” Though this is a tenet of the ILL environment, respecting and not violating the rights of others – patrons, authors, publishers and other interested parties - is essential (Posner, 2012). Which means ILL staff should consider the ethical implications when they use certain online sites to fulfill patron requests. Practitioners should consider not using sites that have obtained the documents through illegal means and/or in violation of the rights of an interested party such as the author or publisher. Ethical considerations may not seem like a hidden factor because it is likely a factor that isn’t readily thought about and explored when using OA in the workflow. So, what types of sites might fit into this factor?

In 2003, it was believed that open access would deter illegal file-sharing (Dufva, 2003). It didn’t take long for that belief to be rendered obsolete. In 2015, Carolyn Caffrey Gardner et al., did an examination of twitter users searching for papers using the hashtag #icanhazPDF to obtain paper that were inaccessible for a variety of reasons. She called this use “ethically dubious” and found that many of these users bypassed interlibrary loan to locate the papers (Gardner & Gardner, 2015) .

Illegal file sharing sites have not gone away and have gotten more sophisticated. In 2017, sites such as the academic social network, ResearchGate and the pirate copy site, Sci-Hub have been given the term “black open access (Bjork, 2017).” As a contrast to green and gold OA sites, which are legal, black OA sites have both ethical and/or legal issues. Sci-Hub downloads papers

without requesting consent from any rightsholder. It has been confirmed in a court of law that it continues to obtain and house documents that have been knowingly illegally obtained (Schiermeir, 2017). On the other hand, the academic social network, ResearchGate operates as a repository of papers submitted by authors to be accessed by others. Many libraries view it as viable source of OA articles to be promoted to its patrons and utilized by staff (CARLI Resource Sharing Committee, FY 2016, 2016).

Therefore, the question becomes whether the author has the rights to do so. That leads back to the factor of copyright/licensing analysis and the right of dissemination. Many authors may not know that their dissemination rights are limited. Therefore, it should be incumbent upon the ILL practitioner to follow the guidelines of fairness to interested parties. A consideration of ethics is not the foremost thought when practitioners are disseminating OA articles to their users.

Conclusion

I, O.A. Doc can see that I am becoming an integral part of the interlibrary loan workflow. That is a benefit to your patrons in that it is possible to have requests fulfilled quicker. It is a benefit to ILL and an enhancement to the services already provided, a teaching tool for both users and staff and a possible cost savings to the library. However, keep in mind that OA does not always mean free and unrestricted. Although, the fulfillment of patron requests is the ultimate goal you cannot lose sight of the tenets of librarianship. Therefore, it is suggested that with the incorporation of an additional fulfillment tool, the development of guidelines is key. These guidelines and best practices would parallel those already established for traditional interlibrary loan of print and material from subscription databases.

Works Cited

- American Library Association, 2016. *Interlibrary Loan Code for the United States*. [Online]
Available at: <http://www.ala.org/rusa/sites/ala.org.rusa/files/content/sections/stars/resources/ILL%20Code%20with%20Supplement.pdf>
[Accessed July 2017].
- Antelman, K., 2017. *Leveraging the growth of Open Access in library collection decision making*. Baltimore, MD., Association of College & Research Libraries.
- Baich, T., 2015. Open Access: help or hindrance to resource sharing?. *Interlending & Document Supply*, 43(2), pp. 68-75.
- Bailey Jr., C. W., 2007. Open Access and Libraries. *Collection Management*, 32(3/4), pp. 351-383.
- Bethesda Statement on Open Access Publishing, 2003. *Bethesda Statement on Open Access Publishing*. [Online]
Available at: <http://legacy.earlham.edu/~peters/fos/bethesda.htm>
[Accessed July 2017].
- Bjork, B.-C., 2017. Gold, green, and black open access. *Learned Publishing*, Volume 30, pp. 173-175.
- Budapest Open Access Initiative, 2002. *Budapest Open Access Initiative*. [Online]
Available at: <http://www.budapestopenaccessinitiative.org/>
[Accessed July 2017].
- CARLI Resource Sharing Committee, FY 2016, 2016. *Open Access and Interlibrary Loan*. [Online]
Available at: <https://www.carli.illinois.edu/products-services/i-share/circ/OpenAccessILL>
[Accessed July 2017].
- Crow, R., 2002. *The case for Institutional Repositories: A SPARC position paper*. [Online]
Available at: <http://sparc.arl.org/resources/papers-guides/the-case-for-institutional-repositories>
[Accessed July 2017].
- Crow, R., 2002. *The case for Institutional Repositories: A SPARC Position Paper*. [Online]
Available at: http://www.sparc.arl.org/sites/default/files/ir_final_release_102.pdf
[Accessed July 2017].
- Dufva, M., 2003. Open Access will deter illegal file-sharing. *Nature*, 6 November, p. 15.
- Elsevier, 2017. *Policies - Copyright*. [Online]
Available at: <https://www.elsevier.com/about/our-business/policies/copyright>
[Accessed August 2017].
- Gardner, C. C. & Gardner, G. J., 2015. *Bypassing Interlibrary Loan via Twitter: an exploration of #icanhazPDF requests*. Portland, ACRL.

Kassahun, K. & Nsala, C., 2015. *The awareness of academic librarians towards Open Access resources to support reference services: A case of private institutions of higher learning in Gaborone, Botswana*. Cape Town, South Africa, International Federation of Library Associations.

Koehler, A. E. C., 2006. Some Thoughts on the Meaning of Open Access for University Library Technical Services. *Serials Review*, 32(1), pp. 17-21.

MIT Press, n.d. *Publication Agreement*. [Online]
Available at:
http://www.mitpressjournals.org/userimages/ContentEditor/1455050236097/OPMI_author_agreement.pdf
[Accessed July 2017].

Open Access Directory, 2016. *OA by the numbers*. [Online]
Available at: http://oad.simmons.edu/oadwiki/OA_by_the_numbers
[Accessed July 2017].

Posner, B., 2012. The ethics of library resource sharing in the digital age. *Interlending & Document Supply*, 40(2), pp. 119-124.

ROARMAP, n.d. *Registry of Open Access Repository Mandates and Policies*. [Online]
Available at: http://roarmap.eprints.org/view/policymaker_type/research=5Forg.html
[Accessed July 2017].

Schiermeir, Q., 2017. *US Court grants Elsevier millions in damages from Sci-Hub*. [Online]
Available at: <https://www.nature.com/news/us-court-grants-elsevier-millions-in-damages-from-sci-hub-1.22196>
[Accessed August 2017].

Schmidt, K. D. & Pongracz, S. C. T. V., 2005. New Roles for a Changing Environment Implications of Open access for Libraries. *College & Research Libraries*, September, 66(5), pp. 407-416.

Swoger, B., 2013. *Understanding your rights: pre-print, post-print and publisher versions*. [Online]
Available at: <https://blogs.scientificamerican.com/information-culture/understanding-your-rights-pre-prints-post-prints-and-publisher-versions/>
[Accessed August 2017].