

THE APPLICATION OF THE ZWOLLE PRINCIPLES TO OPEN ACCESS REPOSITORY AND JOURNAL CONTENT

1. Introduction.

1.1 The Zwolle Principles were formulated to assist in the implementation of scholarship friendly copyright practices. There is nothing in the wording of the Zwolle Principles to prevent their application to the open access model. The Principles do not touch upon appropriate business models but are designed to be generic.

1.2 This paper explores the application of the Principles to the open access model, without entering into the question of whether the model is desirable or feasible. Open access repositories and journals are a reality and their copyright policies should be considered in the interests of maintaining scholarship of high quality.

1.3 The Zwolle approach of “clear allocation of rights that balance the interests of all stakeholders” is as important for open access content as it is for purchased content. For some open access content the only stakeholders may be the author and the repository owner, for other content a publisher and/or an employer may also be a stakeholder. For all open access content the reader will be a stakeholder, and for some content the taxpayer or society at large may have an interest.

1.4 The copyright legislation in force will affect the way in which stakeholder interests and responsibilities are implemented in each country. For example US authors have no legal right to have their name on their work, although attribution is accepted as good practice.

2. The author’s interests and responsibilities.

2.1 The author has the right to determine the conditions under which her or his work is made available on open access. Choosing to deposit a copy of a work in a repository or publish in an open access journal implies that an author is willing to accept a generous allocation of rights to the reader, but it does not imply that the author may not wish to reserve some rights to herself or himself or to another stakeholder, such as a publisher or the author’s employer.

2.2 The most important rights the author may wish to protect are the moral rights of attribution and integrity of content. The web-sites of repositories and open access journals should make clear to users of the content the importance of these rights. In addition the author may wish to reserve the right to approve commercial re-use of her or his work, or to specify which version of a document (e.g. a pre-print or a post-print) should be used for multiple copying for classroom use.

2.3 The author's interests can be communicated to the reader through the use of a licence such as Creative Commons or through a copyright statement the reader would have to click to accept. Such procedures should be designed to be short, easy to read, and quick to access and/or accept.

3. The site-owner's interests and responsibilities.

3.1 The owner or manager of an open access web-site, such as a repository or an open access journal, will need to ensure that the interests of authors are covered through the use of licences or copyright statements, to ensure that permission has been granted to host the content on the web-site, and to ensure that the owner or manager will not be legally liable if the content proves to be defamatory, libellous or otherwise unlawful.

3.2 Permission to host on an open access site will be important for content which is also published commercially – such as a post-print of a journal article – and for content which contains material owned by others, such as may happen in an electronic teaching package. Web-site owners and managers cannot assume that the licence signed by an author will protect them from legal action by third parties for breach of copyright and may be advised to take legal advice and insurance cover.

3.3 The web-site owner or manager should require an author depositing content to take responsibility for the costs of any legal action taken against the owner or manager if the content proves to infringe copyright or to be libellous, defamatory or otherwise unlawful.

3.4 The web-site owner or manager should adopt procedures to identify the nature of the version and the date of a particular document, e.g. whether the version on the web-site is the pre-submission, submission, peer-reviewed, post-editing or post-formatted version.

4. Publishers' interests and responsibilities.

4.1 The interests of a publisher come into play for open access content either when the content is published by an open access publisher, or when the content is made available both for purchase and on open access.

4.2 An open access publisher will wish to ensure that suitable agreements are in place to govern the relationship with authors and with readers. An agreement with an author may or may not entail assignment of copyright or the use of a licence (e.g. a Creative Commons Licence). An agreement with a reader (most conveniently through a "click-on" licence) should specify briefly and in clear language what the reader is or is not permitted to with the content.

4.3 A publisher of content available for purchase will need to give permission for particular content to be made available through an open access site (such as a repository) together with information regarding any restrictions on subsequent use.

5. Employers' interests and responsibilities.

5.1 Authors may be required by their employers' copyright policies or employment contracts to take the employers' interests into account in making content available on open access web-sites.

5.2 Academic employers will not normally wish to interfere in the copyright relationship between author and repository or open access journal, but may wish to do so in particular circumstances, for example if the employer makes teaching packages compiled by its academic authors available for sale.

5.3 Commercial employers will naturally take more interest in the availability of their employees' content on open access if there is a risk of breach of commercial confidentiality.

6. Readers' interests and responsibilities.

6.1 Readers benefit from minimal restrictions upon the copying or re-use of open access content.

6.2 However, readers must be informed in clear, easily-read copyright statements of any restrictions upon copying or re-use of open access content placed by authors, publishers or other stakeholders. Readers have the responsibility to observe any restrictions placed upon use of the content.

6.3. Readers will expect open access content to be trustworthy and stable, and will expect access to be reliable.

7. The interests of taxpayers or society at large.

7.1 Taxpayers and society at large benefit from easier access to the results of research (itself often publicly-funded). The public understanding of academic research may be improved through easy access and a stimulus is given to further research.

7.2 However, taxpayers and society at large will wish to be assured that sound policies and procedures are in place as a protection for the quality of research publication, for example to protect the integrity of the content against the corruption of research results.

8. Conclusion.

8.1 Good rights management procedures are as important for open access content as they are for purchased content. The purpose of the procedures is not to hinder the legitimate use of the open access content but to protect the legitimate interests of stakeholders.

8.2 Licences and clear copyright and other rights statements are the key tools in the implementation of the Zwolle Principles in relation to open access content.

Frederick J. Friend
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