

A Submission on the Proposed Tri-Council Open Access Policy
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This submission addresses the proposed policy document as a whole and specifically its objective.

I write as the director of the Canadian Centre for Studies in Publishing; an early enthusiast of open access and the initiator of open access discussions between journals and librarians in 2010; a publisher of seven journals; the editor of one OA journal, *Scholarly and Research Communication*, a member of the executive of a subscription-based journal, the *Canadian Journal of Communication* which was the first established journal to make its back issues freely accessible on-line (in 1994); and a member of the negotiating team of the Canadian Association of Learned Journals who are in discussion with the Canadian Association of Research Libraries to develop an open access partnership. I am also an author of a foundational textbook on Canadian mass communication.

The principle of open accessibility to publicly funded research seems unassailable and fundamental to a democratic, open society. Arguably, this principle should govern all research supported by public funds, including those directly in the employ of the federal government. Regrettably, Canada's current Prime Minister has enacted a policy of restricting scientists in their communication and shutting down politically inexpedient research data collection such as the work done in the Experimental Lakes Region of Ontario and other work based on the mandatory long-form census. Yet his government, through its "open government" policy appears to want to make it seem that it does endorse open public accessibility. This incompatibility should be challenged front and centre, not set aside as if it were non-existent. That said, I will not dwell upon this clear contradiction.

Within a narrowed debate that does not include the right of the government in power to exempt itself from the very principles it apparently espouses, the goal of accessibility must be tempered by other goals. These goals would include such elements as clarity and human understandability of content, preservation of information integrity, respect of paternity (recognition of authorship), the promotion of machine readability, and resistance to effective information capture through, for example, product development that renders what is freely available as too awkward to serve its intended purpose. I do not see such goals gaining any substantial attention in the proposed Tri-Council policy.

I am also profoundly disappointed that there does not seem to exist a thorough set of economic studies of open access generated either by academic economists or commissioned by the many bodies around the world that have research accessibility as a concern or mandate, such as the Tri-Council. Such an analysis of the market dynamics of making a "public good"¹ freely available would greatly assist in the

¹ A public good is a good that is not destroyed in its consumption but one that can, simultaneously or

development of policies that would achieve the potential of open access of publicly funded research to all of society. In the absence of that contribution, and to give a sense of its importance, consider broadcasting as a neighbouring example where reception “over the air” is free. Think of the struggles the CBC has had over the years to ensure its continuing ability to produce programs. Think also of the interest-driven partnerships commercial broadcasters have made with advertisers to allow them to produce content. Also, consider the wealth that cable companies such as Shaw and Rogers in English Canada have been able to accrue based on harvesting and redistributing free content (of both the CBC and commercial stations). Consider, too, the regulatory regime within which broadcasting and cable operate and the extent to which the regulator (the CRTC) has intervened over the years to ensure the flow of funds within the sector to ensure continuance of production by Canadian creators to serve the needs and desires of all Canadians (and to address the goals of the Broadcasting Act): Imperfect in its efforts to be sure, but instructive in understanding the dynamics of the exploitation of “free” content.² Consider as well what broadcasting delivers and who controls and influences what is made available and how they do so, as well as the value of that content to society. In this multivariate context, think of the continuous tension that only occasionally becomes public between the idealistic mandate given the CBC and the consumption habits of Canadians. Finally, consider the changing models of distribution given new technologies (e.g., Netflix) and the range of content they offer in the context of the social interest. All these dynamics are manifestations of the production and distribution of free content. It is a complex environment and the struggle to pursue the public interest is constant. No discussion of open access has emerged that even mentions the possibility that open access may require quite a sophisticated and expensive regulatory framework to ensure that it can make the contribution its promoters imagine as possible.

Against this backdrop of complexity and lack of economic analysis, rather than moving forward based on idealism and international momentum into an uncertain future, which is already causing other countries to backtrack, the Tri-Council should be commissioning research into Open Access that is of two types. First is the nature of the marketplace in which Canadian academic institutions, through their libraries, must acquire globally produced goods. Included in that research should be consideration of the full dynamics of production and consumption where, on the one hand, the totality of all research represents the official record of knowledge, and on the other hand, it is critical on a day-to-day basis to only some disciplines. The second type of research needed, is possible models (note the plurality) for creating a marketplace that would function, in a more satisfactory manner than currently, to address the needs of the primary producers as well as those of the primary users of the content. That the Tri-Council, which is made up of Canada’s primary RESEARCH

subsequently, be consumed by more than one person.

² In an international context, Peter Grant’s and Chris Wood’s *Blockbusters and Trade Wars* documents the cultural tool kit that Canada has developed to ensure the preservation of space on the radio spectrum for Canadian cultural content. (Vancouver: Douglas & McIntyre, 2004).

funders and administrators, is proposing to proceed on the basis of international momentum and the extent and nature of community reaction to its forging ahead, rather than a solid research foundation is both ironic and discouraging for its collapse in the path of political and social will.

Considering an appropriate course of action with respect to open access also brings decisions makers face to face with a fundamental of capitalism. That fundamental is that entrepreneurs, quite appropriately, seek to exploit anything they can exploit from water to aggregated patterns of social behaviour because that is the nature of capitalism and free enterprise. Publishers are capitalists who transform research reports into effective communication directed at certain audiences. If barriers are erected that make their current activities financially untenable, they are unlikely to quit the field, rather they will restructure their activities to serve the needs (that will not disappear) of the same market. If, as is happening in other countries, the market is restructured to transform a knowledge access market into a publishing services market for authors, where a) readership is not crucial to market success; and b) the rewards to authors for publication versus no publication are high and are subsidized; and c) a case can always be argued for quality, independent of its merit; then as the explosion of new publishers indicate, there is plenty of exploitable opportunity in such a restructured market especially if publishers are prepared to invest substantially in marketing their services to naive consumers (in this case, authors). Combine these variables with the ease of distribution offered by the Internet, and it becomes clear that the building of an orderly and reliable certified body of knowledge that can be used as a solid foundation for extending understanding even further, is clearly structurally compromised. The resulting loss of value inherent in such a transformation appears to call for substantial intervention and regulation to ensure that scholarly publication continues to offer value as a authoritative record of research, a call that has so far gone unheeded due to the over-simplicity of the open access debate and the domination of that debate by the attractiveness of the principle (not the reality) of open access. Bear in mind also that the market is further compromised in its role as an authoritative record by the penchant for overlapping but, strictly speaking, not duplicative publishing, in the form of institutional repositories by university libraries.

In short, whereas the academic community has the capacity to identify the likely trajectory of the adoption of open access, spurred on by a) enthusiasm for technological development; b) idealistic members of the academy; and c) the library community which, in the name of self-survival has a vested interest in diminishing the role of publishers and expanding its role in the dissemination and curation of knowledge, it is choosing not to do so. This, to my mind is both irresponsible and self-defeating in that it undermines the fundamental tenets of research and the contribution researchers and associated institutions argue that research makes to society.

At this point in history, academic institutions are further compromised by their blind alignment with the interests of the monetization of access and the

undermining of monetization of content, the struggle between Silicon Valley and copyright. How can open access be said to be aligned with those who monetize access? Simply, in the call for content produced by creator researchers to be freely available, and the lack of consideration of the value added by publishers other than peer review, those who organize that access are free to benefit from their organizational activities, either monetarily or, by their call on the public purse through the provision of a public service. Consider the analogy of the Catholic Church and its control of access to heaven prior to the Reformation.

With the above as background, what actions should Canada, and specifically the Tri-Council be taking? First is the commissioning of both theoretical and applied research into the full dynamics of open access. The prediction of likely behaviours in an open access dominated market combined with empirical studies of major initiatives such as the implementation of Britain's Finch Report, the activities of notable initiatives such as PLoS and Pub-Med Central, and commercial open access journals, would be instructive. Particularly important to include in the research agenda would be analyses of usage behaviour and differential usage patterns across the various disciplines.

Second is the commissioning major research into the nature and operations of Canadian journal and monograph production including cost effectiveness as well as the nature and extent of their operations. They are substantially different from the nature, operations, and cost-effectiveness of international commercial publishers. My analyses have suggested that while scholarly publishing in Canada is far from perfect, it is probably the most cost effective scholarly publishing in the developed world and, to the extent that functions might be transferred to library employees, it is likely to double in cost. That said, there is room for increased professionalism.

Third is a smaller focused study, perhaps illustrated by case analyses, of the value added by publishers in general and by Canadian scholarly publishers in particular. The focus of such a study would be understanding how that value could be maintained no matter how the market structure might change.

Fourth is the exploration of the feasibility and hence the funding of a mixed system that would assist new open access journals to establish themselves and, at the same time, in the context of the cost effectiveness of Canadian scholarly publishing, provide the needed support structures to allow publishers who wish to continue to remain in the market and sell subscriptions to do so. The proof of open access, surely, should be in the marketplace pudding where there is a distinct advantage to author and publisher of the widest possible sustainable circulation and readership.

Open access, both by definition and implication, entails public worldwide access. Yet, if Canada's research libraries are going to play a role in providing that public worldwide access, where is the infrastructure funding to come from given that the mandate of university libraries is to serve members of their institutions? Moreover, and this takes us back to the question of monetization (which must be read broadly

as social and financial capitalization), is it wise that academic institutions play a larger role in the dissemination of research leaving the academy with a smaller role? Given that institutions are dependent on governments for their operating budgets, I see such a shift as a substantial net negative with respect to academic freedom and the independence of inquiry.

I close on a final point: now is the time for Canada to act differentially. True, in league with other nations, it must deal with the international commercial publishers that overcharge for their publishing services. But distinct from other nations, and led by SSHRC support for scholarly journals and monographs, there is a real opportunity to take a lesson from information production in other sectors of society that produce free information where publishers and their professional writers, editors, layout professionals, strategic planners, rich media experts, marketers, publicists, and conceptual leaders are embedded in the information generation process often from the beginning to help structure both inquiry and reportage to ensure that the investment of investigative effort bears informational fruit that can be digested by its public. Such an initiative represents a real opportunity to demonstrate, once again, that Canadians are great actors in the communicational sphere.