Point & Counterpoint

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Recently there have been calls for all authors of STM journal articles to use the CC BY license as the one that best accords with the widely accepted Budapest Open Access Initiative’s definition of open access. There is concomitantly an effort being made to dissuade authors from using the CC license that restricts reuses to “noncommercial” ones (CC BY-NC). A good summary of these objections may be found here.\(^1\) Legal scholar Michael Carroll has also made the case\(^2\) for “Why Full Open Access Matters” well.

I understand the reasons for promoting the CC BY license as the one that best embodies the idea of what Peter Suber has called “libre” compared with “gratis” open access, but I think that it is a strategic mistake for the OA movement to restrict its endorsement to just this single type of approach because it can both serve to divide the community that supports OA and limit the opportunities for both authors and publishers to achieve goals that are important for their own success.

Most publishers that are experimenting with OA approaches to monograph publishing, including The National Academies Press, Bloomsbury Academic, University of Michigan Press, and Penn State Press (where I was director until 2009) have, for lack of alternative sources of funding, been compelled to rely on revenue generated by the sale of POD and/or PDF versions of their books to support these ventures. These could not have been initiated if authors had made their monographs available only under a CC BY license, because then anyone could sell these versions legally. It is important for political, intellectual, and many other reasons that OA not be limited to just STM journal publishing, but the insistence on using only the CC BY license would have this effect. It makes no sense intellectually for journal literature to be digitally available via OA while monographic literature is not, as this will create an unfortunate “digital divide” between naturally symbiotic forms of scholarly writing.

But even if this were not a major problem, authors and publish-
ers have other reasons to be concerned about losing all control over subsequent reuses of their copyrighted works. One important consideration that authors of articles and books in the humanities and social sciences have especially is that translations of their writings be done competently. Using a CC BY license makes it impossible for an author or publisher to exert any control over how translations are prepared and published abroad, unless it could be proven that the translations were done in such a malicious way as to run afoul of the provision in the CC BY license that obliges a reuser not to “distort, mutilate, modify or take other derogatory action in relation to the Work which would be prejudicial to the Original Author’s honor or reputation.” This provision might provide grounds for action against an intentionally bad translation, but not just a poor one innocently done. Authors also sometimes are worried about how their articles or book chapters are reproduced alongside other articles or book chapters in anthologies. For example, a conservative author might object to the tendentious use of his work in a volume edited by a Marxist. Such use would also not likely run afoul of the provision just cited.

In short, while the CC BY license has many virtues and may be preferred by authors in STM journal publishing, it can cause real harm to the potential for expansion of OA monograph publishing, create a new “digital divide” between book and journal literature, and interfere with legitimate concerns authors and publishers have about low quality and tendentious reuses of their works.

IN-TEXT LINKS


2 http://www.kuro5hin.org/story/2005/9/11/16331/0655