

“Aligning the Definition of Published Scholarly Products with Today’s Practices”

Centering Authors’ Rights and Interests

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Aligning the **Disposition of Rights** with Today's Practices

- My **principled claim**: new scholarly practices strengthen the **traditional OA argument** for a new allocation of rights as between author, publisher, and reader.
- My **strategic hope**: de-centering the journal article/monograph will be a powerful tool in practice for de-centering the big publishers who have controlled (and monetized) scholarly products for the last century or so.

Principled **Argument:**

- The old world of books and journal articles was organized around a **set of assumptions** about copyright, technology, incentives, and outputs.
- per BOAI: Those assumptions were **never a good fit**, but digital technology made them **completely untenable** and even **self-defeating** as applied to articles and books.
- The proliferation of scholarly outputs **amplifies** both the **strength** of the OA argument and the **urgency** of following through on it.

Obsolete argument:

- **Authors** need financial incentives to create new expressive works
- **Publishers** need financial incentives (profits) to curate & distribute works
- **Unfettered copying**, distribution, etc. will undermine these incentives
- Vesting authors with **exclusive property rights** (which they transfer to publishers in exchange for distribution) is the best way to solve this market failure

Obsolete assumptions debunked:

- Authors need financial incentives to create new expressive works? Almost **never true**.
 - Academic authors write for tenure, prestige, influence, the love of science, etc., but rarely for \$\$
- Publishers need financial incentives (profits) to curate & distribute works? **Depends** on the publisher.
 - A publisher housed in a university or scholarly society may choose to publish at a loss to advance mission (subsidized by other activities)
 - Publishing services/infrastructure could be provided as a service for an upfront fee
 - Publisher could monetize data analysis on top of a free platform (Facebook model)

Obsolete assumptions debunked (cont'd):

- Unfettered copying, distribution, etc. **will undermine** these incentives?
 - **Rarely true** for scholars—they value *moral rights* (attribution, integrity) and resent *unauthorized commercial* uses, but do not begrudge free access for readers or use by other researchers
 - **Not necessarily true** for publishers, depending on mission and business model
- Vesting authors with **exclusive rights** is the best way to solve this market failure
 - **Maybe!** But not in the way this argument originally envisioned.

The BOAI Statement

- “An old tradition and a new technology have converged to make possible an unprecedented public good. The old tradition is the willingness of scientists and scholars to publish the fruits of their research in scholarly journals **without payment, for the sake of inquiry and knowledge**. The new technology is **the internet**. The public good they make possible is the **world-wide** electronic distribution of the peer-reviewed journal literature and **completely free and unrestricted access** to it **by all** scientists, scholars, teachers, students, and other curious minds.”

Scholars Publish

- Data
- Lab notebooks
- Software
- Peer reviews
- Visualizations
- Posters
- Websites
- Lectures/Slide decks
- “Preprints”
- “Post-prints”
- “Publisher PDFs”
- Annotations
- Reviews
- Op-eds
- Textbooks
- Curricula, lesson plans, syllabi, OER

Authors want **new outputs** to be:

- **Speedy and unfiltered**—preprints, lab notebooks, etc. are disclosed much earlier in the research process, with minimal gatekeeping
- **Interoperable and reusable**—the point of many new scholarly forms is to generate feedback, collaboration, and follow-on work, which means published products need to be available to users in a format (and with accompanying rights) permitting reuse. The author herself is also a future (re-)user!
- **Widely publicly available** to increase impact and invite input and reuse by unexpected audiences and collaborators
- **Interactive**, with features that encourage input and engagement that go beyond mere consumption
- **Iterative**—they are part of an ongoing process, and a conversation, not a final product (true of all science broadly, but more so here).

They actually want this for **journal articles, too**

- ResearchGate, [academia.edu](https://www.academia.edu/), etc.
- Course reserves
- Their own websites, CVs, etc.
- Routinely surprised to find the limitations on their reuse of their own work
- But **inertia** and **incentives**

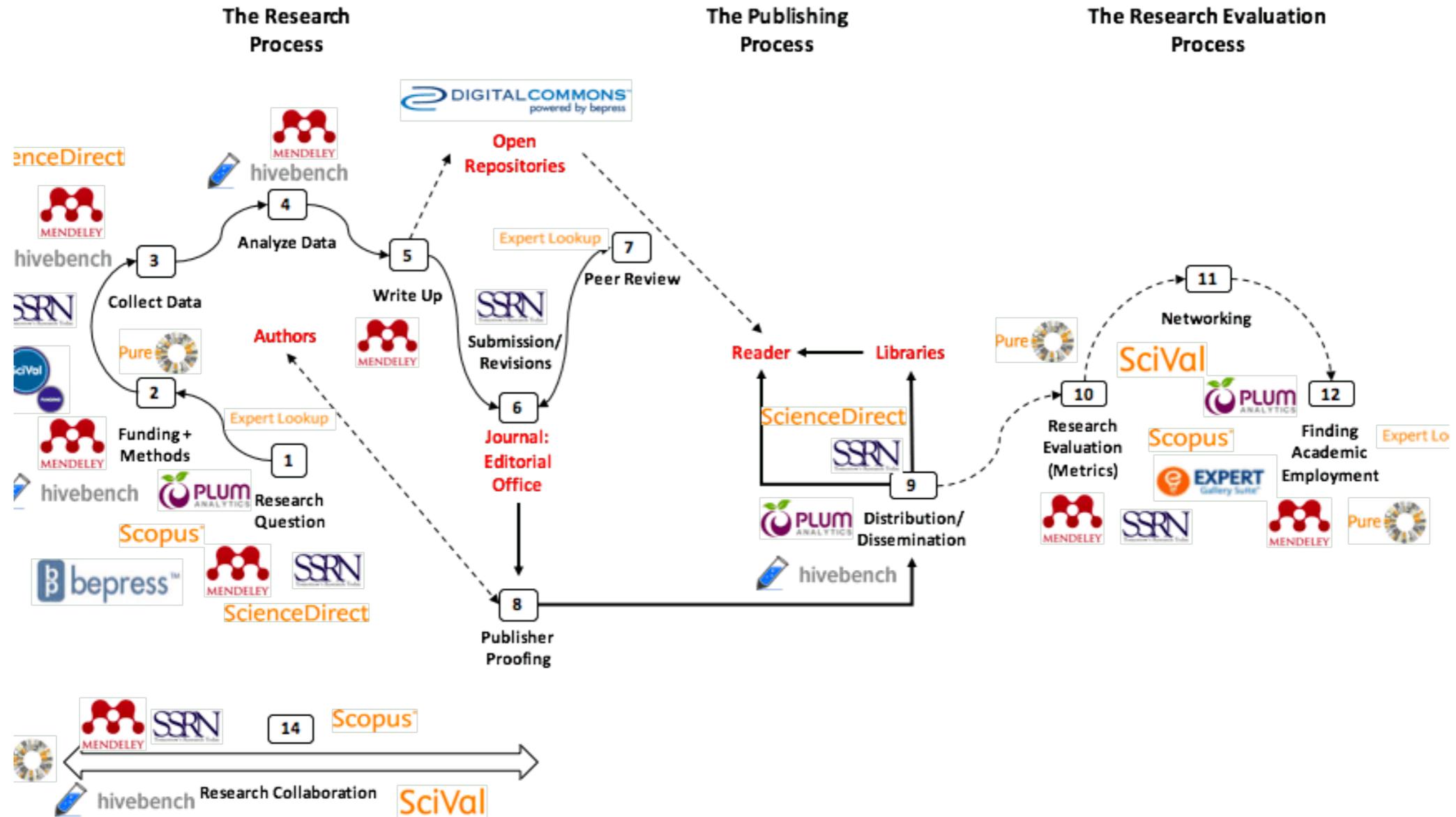
Who owns rights in new outputs?

- **Funders**
 - When funding agreements stipulate, e.g., that data or manuscripts resulting from funded work must be deposited or openly available
- **Authors**
 - Creators of expressive works are the initial copyright holders
- **Home institutions**
 - When there is an appropriate open access policy in place, and no waiver
- **The public domain**
 - Facts, ideas, and raw data are not protected by copyright in the first place (though “thin” copyright may apply to creative selection and arrangement of data)

Strategic Hope

- New scholarly products can be published without the dysfunctional rights allocation we've seen with traditional outputs
- Their nature, and authors' goals and aspirations for them, make open, scholar-controlled platforms naturally more attractive than locked-down, proprietary ones
- But we have to build those tools **and supporting social norms** and practices before industry colonizes the space completely

The Academic Knowledge Production Process



They're **several steps** ahead of us
(sorry)

(diagram via Alejandro Posada and George Chen, PUBLISHERS ARE INCREASINGLY IN CONTROL OF SCHOLARLY INFRASTRUCTURE AND WHY WE SHOULD CARE, <http://knowledgegap.org/index.php/sub-projects/rent-seeking-and-financialization-of-the-academic-publishing-industry/preliminary-findings/>)

BUT

- They're colonizing the **old workflow**, with the assumption that the published article is the real, authoritative product
 - The workflow is (framed as) **all collateral** to the article, defined in relationship to it, as an antecedent or a consequent of the article
- If new products **decenter the article**, they open the way for new, better, scholar-controlled services/infrastructure.

Thanks!

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