

# Conclusion

## Good Enough—Open Access Meets the Real World

Open access began with a flourish of utopian promise: Every scrap of human knowledge and creativity will be available to everyone anywhere at no upfront cost. Digitality has catapulted the Gutenberg revolution skyward, allowing virtually costless publication of the last copy. It will also eventually drop the costs of producing the first copy, making dissemination more efficient. Everyone can churn out almost professional output at their desks. The distinct roles of author, editor, publisher, and bookseller can collapse into one. Consumers seemingly perch on the cusp of a wondrous new age of intellectual riches.

Open access is a noble cause with true believers. Unfortunately, that cuts two ways. Fervent champions fuel the passions that drive the movement. But framing the cause in Manichean terms alienates potential supporters and drives moderates away. Enormous amounts have been written about open access. Little comes from those whom the movement is intended to benefit, whether researchers or readers. Most issues from librarians, IT specialists, and other denizens of the academic nimbus emergent in library and information science, complete with specialized practitioners, obscure jargon, and an inordinate fondness for acronyms.<sup>1</sup> The

“open-access community” is not those for whom the new system is supposedly being created—neither those who supply the content, nor those who are to consume it. Although a broad movement intent on spreading knowledge, open access has paradoxically professionalized itself by sheer quantity. Mastering the debate has become a full-time job.

With lofty ambition comes the likelihood of disappointment. However admirable open access’s highest goals are, achieving them has stumbled over several obstacles. The costs and complications of dissemination have been underestimated. Publishers play a more important role than fervent advocates may have realized. Do-it-yourself technologies are good but not perfect. The expense of producing camera-ready copy is greater than anticipated, at least if one is aiming for something more than rough typescript.

In such discussions, the third rail has been the content that creators produce for profit. Authors who make a living from their work have protested what they see as attempts to deprive them of their livelihood. Bereft of a persuasive moral argument against them, open accessors have instead argued the virtues of sharing and the gift economy. Of course, many create and share their output for sheer joy without expecting compensation. And the logic of networks amplifies and enhances work that has been made accessible.<sup>2</sup> But it has proven naïve to expect all intellectual productivity to follow the heart-warming example of barn raisings.

True, many authors are otherwise employed and paid for their work. Why do they need a second bite of the apple? But even this unassailable logic leaves major issues unaddressed. University and other researchers who as salaried employees arguably perform work for hire have not easily been persuaded to drop their claims. Authors hoping to break through to an audience beyond the university are loath to abandon their chance at popularity. Many writers of serious nonfiction are not salaried and seek to live from their work. The case for asking them to open it is unclear. Many humanities fields

study creators who are not salaried—writers, composers, artists, choreographers, filmmakers. Even if humanities scholars' content was made available, they would still face subscriptions, paywalls, and the retail price of works they need to study.

In the most difficult position are those creators (novelists, poets, composers, journalists, and sometimes filmmakers) who in another era would have remained freelancers but today work for universities or other institutions. Should their output be considered work for hire? Or are their salaries strictly for teaching, not also creating? If so, should their wages be lower than for their more academic colleagues, or their teaching heavier? Even their students' work is caught in such dilemmas. Work-in-progress novels, for example, are submitted for academic credit in creative writing programs. When they are posted on university websites, sometimes they are pilfered for sale as Amazon self-published works.<sup>3</sup>

But the elephant in the room is the commercial scientific publishing establishment. Having struck gold in research library budgets, it has no intention of relinquishing its gains. It has sunk roots ever deeper into the research world by organizing and managing raw data as well as finished output. More to the point, it has recognized that gold access is not a threat so long as publishing fees are comparable to subscriptions. That insight allowed it to support open access in the guise it champions. In this, it has met little resistance from either scientists or their funders. Yes, funders have often mandated open access. But the gold variant, where they pick up the costs, meets few objections. At \$290,000 in research funding per article, a publishing fee of \$3,000 is nothing to get riled up about.<sup>4</sup>

The gold route leaves problems unsolved. More content can be read by anyone—undeniably a major gain. But there remains the unaffordable cost of scientific output for libraries. What had been subscription fees became publishing charges. Unless funders are willing to pay at both ends, something has to give. Read-and-publish

arrangements bring in libraries directly as payers of article fees. That continues their role in subsidizing a publishing industry that could not otherwise sell its wares. Academic libraries have long been the customers of last resort. But as research globalizes and nations such as China and India come online, the gold-plated Elsevier-style model becomes unaffordable. The appeal of so-called predatory journals for Third World scholars testifies to the failure of the legacy commercial publishers.

New access barriers exclude authors who cannot afford publishing fees. Those shut out by gold paywalls are both scholars from the developing world and humanities and social science researchers in industrialized nations. These groups face two alternatives. They can continue the fight for an ideal form of open access that is less costly and applies to all scholarly content. That will require some combination of copyright reform to pare down durations and efforts to pry loose the commercial publishers' stranglehold on scientific dissemination. For those who judge this an unlikely outcome in the foreseeable future, the alternative is to create other means of open publishing workable for those excluded from the gold system. An ecosystem of new journals and presses has emerged to serve such needs. Authors keen to see them succeed can help by submitting their best work and reading others'.

The fundamental problem open access faces is worth restating. Copyright has become bloated, prey to the rent-seeking academic publishing industry. If it could be returned to the shorter duration of its original formulation, the spoils would be smaller and less worth fighting over. It is lamentable, for example, that publishers can segment the market to sell libraries e-books at higher prices than they charge individual consumers. In effect, they seek to be paid per read, not per book—much as if heavily used family cars were to cost more than if owned by bachelors. Legislators dazzled into submission by the publishing industry's success in portraying itself as defender of creativity and cultural patrimony bear much

responsibility. Copyright reform, shortening durations, would go far to solve the problem. But not all the way.

Even if reformed copyright were to speed up content's throughput, filling the public domain more rapidly, curtailing publishers' profits, and streamlining costs, a larger problem would remain. Asking consumers to pay no longer works if we hope to access the entire world's growing content. Digitality makes it possible for everyone to read everything. In the analog world, national collections were the best that could be hoped for, massive agglomerations of cellulose to which expectant readers pilgrimaged. Now we can anticipate a global library on the internet. But that will be impossible so long as readers pay for content. No institution can afford everything, and none could organize it, even with the requisite money. Only if the producers underwrite not only the much greater costs of research and writing—as they already do for scholarship—but also the dissemination of their work, can it be shared worldwide. Whether it is gold or diamond or some other collectivized form of financing is irrelevant—suppliers must pay.

## Work for Hire

It is worth pondering why work for hire remains so controversial. The moral logic of open access is that most academic authors have been paid for their research work via salaries. Its fruits therefore belong to the taxpaying public. The relationship is not formally work for hire, but its ethical equivalent. In the European regimes that enshrine moral rights as copyright's centerpiece, the idea of treating creators as salaried employees is practically sacrilegious. The Romantic idiom still resounds strongly here. Authors create freely according to their own will, beholden to no one. It is inconceivable, therefore, that their work be owned by someone else, much less attributed to them, least of all a corporation.

Yet, work for hire responds to two realities. Much work is done by authors hired for the task. And much is collaborative, with the attendant difficulties of assigning sole attribution to any one author. That someone could be credited for creating an airliner or hydro dam—much less paid a cut of the proceeds—seems implausible. Why experiments at CERN, with their hundreds of co-workers, should be different needs a robust argument. The results of collider experiments are duly credited to the scientists who conceive and perform them in a manner Boeing engineers could never hope for. Is that not sufficient? Hollywood’s collaborative mega-projects have developed an ecosystem of credit and attribution. Most of their collaborators are salaried, with salary understood to include an element of profit-sharing for the top dogs.

Why should work for hire not apply equally in universities, as it does in corporate research? Science faculties already run along such lines: their researchers have no illusions of being Romantic creators. Salaries are the bulk of their compensation, and they nurture no anticipation of royalties, residuals, or other payments. Fields that produce patentable breakthroughs are the exception. The rules here for profit-sharing are clear and broadly accepted. Humanities faculty, however, still harbor fond dreams attracting a wide audience and its rewards. That fuels their resistance to open access and the cold water it pours on the likelihood of being rewarded as *artistes*.

Universities have carved out a legal niche for themselves. Professors are exempt from work for hire, at least in the US. Work for hire is widely used in America for corporations, while in Europe, it is less common anywhere. The “academic exception” in common law allows professors and other research staff to retain rights to their works, despite having been paid to produce them.<sup>5</sup> Harvard’s policy, for example, concedes copyright, and any associated revenues, to its faculty authors, although hedging this about with the inscrutable proviso that, when deciding on publication, it expects them to “make arrangements that best serve the public interest.” Yet, having

assured faculty that it protects “the traditional rights of scholars with respect to the products of their intellectual endeavors,” it ominously goes on to caution that “Where the University takes ownership or control over scholarly works, the University shall consult with authors on plans for publication.” And where the project has been especially reliant on university resources, the policy appeals for royalty sharing. Moreover, works created as part of employment by non-teaching staff are regarded as for hire, with the university the owner.<sup>6</sup>

Universities have only rarely sought to impose work for hire on their faculty. The University of Chicago once creamed off proceeds from lectures or books above a low minimum, assuming that its salaries covered faculty’s work. That had been abandoned by 1950.<sup>7</sup> The University of Florida’s employment contract requires faculty to assign it copyright in their works.<sup>8</sup> These are exceptions.

However hands-off universities may be on copyright, they carefully specify the division of spoils for patents. Until 1980, US federal agencies sponsoring scientific research were encouraged to take ownership of the results or at least to ensure they entered the public domain. After that, tactics changed. With US research and industrial preeminence challenged by Germany and Japan, authorities wanted to put discoveries to work. To ensure findings were actively exploited, they were transferred to those who could best use them. The Bayh-Dole Act in 1980 encouraged universities to own and monetize their patents, although paid for by federal funds.<sup>9</sup> Unexploited basic research benefitted no one. Better to make the knowledge sweat, even if others reaped the profit.<sup>10</sup>

In the sciences, faculty and universities have worked out arrangements for exploiting research findings. Professional schools, business and law especially, have achieved something similar by apportioning working time to cap outside employment. The sticking point remains with the humanities and social sciences, where the stakes are lowest. Faculty here are the most dependent on their employers, with the fewest outside opportunities. Only rarely do

these professors derive significant income from extramural lecturing or writing. Yet, humanities faculty pen their articles and books and develop their courses with university support. Without research grants, sabbatical funding, summers off, libraries, teaching and research assistants, media support staff, and other university infrastructure, they would accomplish less.

Something like work for hire could be formally implemented for faculty, recognizing that they are paid ultimately by taxpayers. With work for hire in place, attacks on open access from within academia would lose their sting. Comparing itself to Hollywood, academia could—counterintuitively—take heart. Naturally, the university world resists such suggestions. Professors still fancy themselves more akin to Romantic artistes than Hollywood’s scriptwriters. But that is an increasingly archaic view. Academics are paid salaries for their research. They should be recognized by attribution and the integrity right, allowing them to decide their works’ final form. But why should they have a monopoly of dissemination?

Like universities, the film industry has a serious insider/outsider problem. Many marginally employed hangers-on lack the perks of full membership. But for those inside the bubble, Hollywood is a unionized redoubt of good pay and generous benefits. Occasionally, screenwriters or others go on strike. But Hollywood has some of the strongest unions in the country, the envy of other industries, and employee-friendly contracts.

Academe remains ensnared in traditional copyright, but not because it is smaller or less significant than the entertainment industry. However popular Hollywood’s product, however well-paid its top auteurs and moguls, the university world is orders of magnitude larger. American colleges and universities employ ten times as many people as the motion picture and recording industries, and their income is at least five times as large.<sup>11</sup> Of course, what distinguishes the two sectors is Hollywood’s profitability, while taxes finance the university world. Government employees, who also work for the



taxpayer, are subject to work for hire. US civil servants may be paid for their intellectual output only if it is unrelated to their official duties.<sup>12</sup> How different are they from university researchers?<sup>13</sup>

Academic work for hire would raise some complications, mostly trivial. How should multiple authors from different institutions be handled? Or authors who switch employers after or during a work's gestation? Would it be unconstitutional if work for hire turned out to discourage faculty productivity and thus the progress of science that copyright is constitutionally mandated to stimulate?<sup>14</sup>

The biggest sticking point remains academic freedom. Nobody disputes that scholars should have liberty from their paymasters to research, teach, and publish as they see fit. Allowing the public access to academic research does not mean giving it a hand on the tiller. Any hint that the university could guide, much less control, its faculty's work must be ruled out categorically. The point of university work for hire is not to grab a cut of largely nonexistent profits, much less to demand a say over the work. It is not even to specify where, when, or how the work appears—except for requiring open access. Instead, the goal is to prevent scholarly work from being hijacked by third-party commercial distributors, especially those that resell it to universities. The university aims to vouchsafe the public's access.

The professoriate has only tangential interests in being read widely. The public does not determine the main conditions of its employment. Even the royalties wider readership promises pale compared to the intramural criteria of advancement, promotion, and research funding. Public recognition will never trump peer acknowledgment; indeed, it may undermine it. Work for hire applied to the professoriate would allow universities to justify requiring open access for academic work. Work for hire removes whatever presumption copyright law introduced that scholarly authors produce a commodity whose sale supplies their livelihood.

Copyright law turned authors into tradespeople, producing, owning, and selling their goods. Those bohemian artistes in the attic

were—economically speaking—like shopkeepers. They might slave away inspired by Athena, but their livelihood came from flogging their wares. That helps explain why copyright’s noncommercial elements, above all moral rights, sat so uneasily with the economic claims that were its focus. Moral rights were a vestige of the idea that authors produced for a higher purpose and were tied to their work by connections deeper than mere economic exploitation.

From this vantage, open access demanded nonsense of bohemians: though small producers, you must give away the fruit of your labors. Work for hire applied to academics resolves this apparent incongruity by making explicit that many authors are employees, not independent producers. It fits with broader currents of routinizing employment relations in academia, such as graduate students unionizing to be treated like other white-collar employees.

In other words, open access does not ask the professoriate for sacrifices or to labor only for the love of it. Whatever the moral argument for open access, academic authors are not assumed to live by their work.<sup>15</sup> Their work is also a vocation, not only an avocation. They should be motivated by truth-seeking and are rewarded in the prestige economy of academic recognition. But in economic terms, they have already been paid. Their results are therefore to be made available. This clarification by work for hire of university researchers’ status ignores amateurs and the irregularly employed. But at least it explains why employee authors do not expect to sustain themselves from the retail market in intellectual property, and why they should not even aspire to the few remaining perks that derive from their pretend status as independent authors, such as advances and royalties.

Work for hire applied to universities would thus be among the rules that distinguish scholarship’s mercenary motives from those of pure learning and truth-seeking. It would be akin to the rules restricting faculty with professional qualifications from practicing their vocations too assiduously at the expense of scholarship.

Having already been paid for, work for hire would be pursued only for its intrinsic merits and rewards internal to the academy. Money beyond salary is removed from the equation. The Romantic view of copyright straddled a contradiction between treating authors' output as both the fruit of a higher calling and a marketable commodity. Work for hire eliminates that internal inconsistency.

Whatever the specifics in employment law of treating academics as hired labor, universities are free to structure their incentives to nudge faculty in this direction. In the UK, centralized research funding allows the government to leverage scholars into compliance. In the decentralized US system, that is less likely. But even here, universities can employ, promote, and tenure based on content, not publication venue. They can give priority or special consideration to open works or refuse to count research that is not accessibly published. They can reward efforts at the postpublication review that will become increasingly needed in the new system. Evaluative work could itself become part of promotion reviews. Retired faculty could occupy useful niches during their career sunsets as evaluators, much as many discover an aptitude for book reviews.

Many universities already require posting faculty work in repositories. Others have gone further, making it part of hiring and promotion. In 2013, the Higher Education Funding Council for England began requiring research outputs to be open-access for submission to future Research Excellence Framework evaluations, which determine funding for academic departments.<sup>16</sup> The University of Liège now evaluates and promotes based only on materials in its open-access repository.<sup>17</sup>

## A Hundred Flowers Blooming

Making work for hire the default position for regularly employed academics solves only some problems. Above all, it leaves aside

authors without institutional affiliation. In the eighteenth and nineteenth centuries, before higher education and research institutionalized, more scholarly work was done by researchers who—though technically amateurs, in not being salaried careerists—were nonetheless among the great minds of their time: Joseph Priestly, Benjamin Franklin, Michael Faraday, Charles Darwin, Francis Galton, and perhaps Gregor Mendel, whose upkeep was provided by his Augustinian monastery at Brunn. Our era leaves little conceptual space for amateur figures in scholarship, any more than in sports.<sup>18</sup> Classified as independent scholars, they are usually thought of as those who, for whatever reasons, did not seek or obtain conventional university positions. Unsurprisingly, many are women: Jane Jacobs, Hannah Arendt, Susan Sontag.

Nor does work for hire help pay for output from the Global South or from the humanities in the developed world. The likelihood of rolling back copyright's distended terms to shrink the problem of locked-up content is small. The disseminators and freelance authors have little reason to mount that barricade. Nor should we count on the scientific publishers giving up their foothold in gold access. Only a small fraction of funders' budgets pays for publication, so expecting them to throw in their lot with nonscience authors also seems implausible.

A more realistic prospect is to build open-access systems for those unserved by the scientific publishers. Latin America has solved the problem for its authors. A global bulletin board of some sort might be one step, allowing rudimentary access to everything, with further dissemination of works that justify extra investment. In the meantime, efforts abound to provide alternatives to gold publishing, which are needed for scholars without funding. It is here that savings wrung from a deft application of digital technologies to dissemination could do most good.

Open journals already exist in abundance. The main directory lists 17,000, with 12,000 collecting no publishing fees.<sup>19</sup> Naturally,

these are neither the biggest nor most prestigious outlets. They are spring chicken periodicals. Nothing is gained by bellyaching that reputation does not arrive instantaneously. *Nature* did not command an audience with its first issue. With time, the best of these diamond open access journals will acquire patina and prestige. Scholars eager to make them competitive should submit their best work, encouraging their peers to do the same.

According to Lotka's law, 60% of authors make one contribution to their field, only 15% more than that.<sup>20</sup> A minority of authors are the source of disproportionate content.<sup>21</sup> This power-law distribution appears to hold for the digital age, too, at least as measured by contributions to one journal.<sup>22</sup> Only in subjects where many are credited, such as high-energy physics, might one expect countervailing tendencies.<sup>23</sup>

High-publication fields require tidy sums—say 80 articles a year at \$3,000 a pop. The problem is less pressing elsewhere. Sticking with books, if the average scholar publishes one or two monographs over a career, is it unreasonable for at least the most senior and best-paid among them to front some of the publishing charges under their own steam? Amortized over 30 years, the expense does not seem back-breaking. Police are often required to buy their uniforms, but they are also given allowances to defray costs. While many police are uniformed, not all scholars publish, so targeting resources would be useful.

Surveyed on what they would be willing to contribute, scholars have not been helpful. One study revealed they could accept paying publishing charges of \$649.<sup>24</sup> Another produced even less realistic results: 55% were willing to pay nothing, 30% less than \$100, and 30% less than \$500.<sup>25</sup> On the other hand, the tax code distinguishes independent contractors from employees by asking whether they provide their own tools and supplies. Analogously, if the professor performs work for hire, it should not be expected to defray publication costs.

Monies will be needed to help underfunded scholars meet publication fees. Having required accessibility of articles, UK Research and Innovation, the body responsible for government funding in Britain, moved on to books in 2021. It required books, chapters, and edited collections to be accessible within 12 months of publication, either in the version of record or the author's accepted manuscript, ideally with CC BY licensing, and it also announced funds to help pay for this.<sup>26</sup> Wellcome moved in this direction earlier, in 2013.<sup>27</sup> More such efforts are needed.

From the demand side, open-access periodicals and book publishers are multiplying. An archipelago of new independent presses caters to the humanities and social sciences. Some began as early as the 1980s and 1990s, predating scientists' efforts in the same direction.<sup>28</sup> The numbers are small but growing. As of 2022, the most comprehensive directory of open-access books listed some 50,000 titles, representing perhaps three-quarters of all accessible volumes.<sup>29</sup> As of 2012, new open university presses in Australia had published more books than traditional ones in conventional formats.<sup>30</sup> By 2015, the Australian National University Press had published over 650 open books.<sup>31</sup>

In the UK, dominated for centuries by Oxford University Press and Cambridge University Press, new university publishers have arisen to specialize in open access: University College London, Huddersfield, Westminster, and Leeds, Sheffield, and York, united as White Rose.<sup>32</sup> Cambridge and Oxford themselves now issue accessible editions.<sup>33</sup> In the US, Lever Press is a joint effort by some 60 small liberal arts colleges.<sup>34</sup> Some university presses have open-access series—UC, MIT, and Johns Hopkins. Intech Open claims to be the world's leading open-access publisher, with over 5,000 titles.<sup>35</sup>

OpenEdition, a French house, allows free viewing but charges for PDF versions.<sup>36</sup> Open Humanities Press and Open Book Publishers are other accessible presses, as are Punctum, Ubiquity, and Open

Library of the Humanities.<sup>37</sup> German versions include Language Science Press, KIT Scientific Publishing (Karlsruhe Institute for Technology), and Göttingen University Press. Stockholm and Lund University Presses are Swedish variants.<sup>38</sup> Selling print-on-demand editions next to free online ones brings in 40% of Open Book Publisher's income. Open Library of Humanities and others employ a subscription model, with libraries paying production costs upfront, making books freely available for all.<sup>39</sup>

Libraries have entered the fray, too, becoming publishers in their own right.<sup>40</sup> A quarter of all American university presses report to their university's chief librarian.<sup>41</sup> Cornell University library runs arXiv. When almost anyone anywhere can store digital content, libraries realize they will need to make themselves useful in ways other than as repositories for a local audience of printed cellulose stored in house.<sup>42</sup>

Many of these ventures are precarious and boot-strapped. Most of the journals are small. Less than half the book publishers (40%) break even, a quarter run at a loss, and almost a third do not even know their financial status. Most rely on volunteer labor, most run with less than one full-time staff person, and 70% ring up less than \$10,000 in annual costs, half less than \$1,000. Sometimes they just give up the ghost and vanish—176 of them in the century's first two decades. And for the still-surviving, archiving and preserving are inconsistent at best.<sup>43</sup> There is a long way still to go.

By reclaiming a role in dissemination rather than focusing on research and writing and leaving the broadcast task to commercial houses, scholarly publishers have revived a lost tradition. Small-scale diamond or green presses and journals would (have to) be run by researchers and universities themselves, much as when academic societies issued the main periodicals in their fields.<sup>44</sup> One wrinkle has been the tendency of new open university presses to cater to their own faculty. As with UCL Press, that gives the locals a means to meet funders' requirements for accessible publications. But the

message it sends about quality is ambiguous. If faculty shun their local press, is that because it is mediocre? Or would a list made up entirely of its own professors' works suggest a lowering of standards?<sup>45</sup> Either way, insofar as open access helps us move away from the prestige signals sent by the legacy publishers' catalogs, it should matter less.

Efforts to promote open publication must be encouraged. Major press outlets could review open books more prominently. Over the past decade, far less than 1% of the books reviewed in the *London Review of Books* have been open-access works, even fewer in the *Los Angeles Review of Books*.<sup>46</sup> Hoping to sprinkle a bit of stardust on the first cohort of its Luminos series, the University of California Press took out a full-page ad in the *New York Review of Books*. Yet, the lack of coverage is not necessarily due to ingrained hostility. Open works are unlikely to be the kind of trade books most often reviewed in popular outlets. The authors of scholarly monographs are more interested in evaluation by professional periodicals. Not many open books have been published yet, and the reviews have been broadly in line with their presence. Most of the open presses are new, and their contacts with the pertinent editors are only just forming. Having said that, imagine the pleasure of one day reading a review and then promptly downloading the book.

Senior scholars should show the way. Though young scholars in industrialized nations are doubtless more digitally adept than their elders, they are still sufficiently in thrall to the established prestige hierarchy that they publish less in open journals than their peers from the Global South.<sup>47</sup> The tenured professoriate owes a duty here. Unshackled from the prestige treadmill, they lose nothing by issuing their work accessibly. Lionel Gossman, a distinguished professor of literature at Princeton, was an admirable exemplar, publishing several works with Open Books.<sup>48</sup> So, too, has been Jan Ziolkowski, professor of medieval Latin at Harvard, whose six-volume work, *The Juggler of Notre Dame*, is freely available.<sup>49</sup> John Braithwaite,



professor of criminology at the Australian National University, has published six open books with his institution's press, including an 800-page doorstopper on *Macrocriminology and Freedom*.<sup>50</sup> The legal theorist Peter Drahos's *Regulatory Theory* has been whatever one calls an open-access bestseller.<sup>51</sup> Peter Miller's *How the World Changed Social Media* (UCL Press 2016) has been downloaded over 600,000 times.<sup>52</sup>

Like environmentalism, open access has become a cause that few dare attack outright. Many bow ritually in its direction without much follow-up. Openwash is the result. Universities have tweaked agreements with the databases to allow contributing alumni continued access to JSTOR and other perks of the digital paradise they enjoyed as students before being ejected into the bleak world on the far side of the paywall. Publishers' hybrid journals allow them to claim open-access bona fides while conducting business as usual. So does openwrapping, their clever swaddling of accessible content in layers of proprietary (and useful) services—indexing, discoverability, tools for classroom use, data analytics—for which they then charge.<sup>53</sup> When Cambridge University Press negotiates read-and-publish agreements with US university libraries, the polite fiction that the press is nonprofit helps sugar-coat the deal, compared to negotiating with the commercial behemoths.<sup>54</sup> None of this goes to the core of the issue.

## The Way Forward

The stakes of open access are crucial. A solution is possible. The monies needed to make all past and future scholarly work available to anyone anywhere are already present in the library system. They just need repurposing. Everyone can have the library of Alexandria on their tablets. It is no longer a technical or physical impossibility. It is not even a financial issue. The obstacles are legal.

The mass of nonscholarly content requires other approaches. Work produced by freelancers that retains market appeal will have to be paid for. Streaming services provide broad, if not open, access. That may be as much as can be achieved for many media. Most books and articles lose any harvestable value soon after publication. If courts and publishers leave controlled digital lending intact, that may provide an acceptable solution for much content. Though not ideal, reading on screen is certainly preferable to books enmired on the shelves of a few research libraries. Most authors do not manage to live from selling their works. Suppose they can be persuaded that the greater attention possible via open access is more valuable than a few dollars in royalties. They will perhaps throw in their lot with salaried university researchers.

The aspirations for open access are so fervent, the goals so noble, that the cause is tempted by hyperbole. That is both a strength and a weakness. The best is the enemy of the good. Nowhere is that truer than for open access. Good enough is the best we can hope for.

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# Athena Unbound

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