Secondary Publishing Rights & Open Access

Executive Summary - How the EU & National Legislators Must Enable Open Access to Research

The Secondary Publishing Right (SPR) is considered to be one of the key instruments that can open the road to Green Open Access (OA) by challenging and lifting the contractual barriers between publishers and authors around the deposition of post-prints or Versions of Record in public non-for-profit repositories. The SPR should be considered as a secure legislative measure that coexists with others, such as policies of rights retention, for lifting restrictions and enabling publicly funded research to become OA. Such a republishing right has been introduced in seven European countries. While these often allow for a gap between initial publication and reposting, widely known as an embargo, there is an apparent tendency now towards a 'zero embargo' approach, consistent with calls by EU ministers for immediate access.

The current study, conducted by LIBER, the Association of European Research Libraries, in the framework of the Knowledge Rights 21 Programme, looks at the development and implementation of SPR in these seven countries. In parallel, it collects, analyses, and presents the expert opinions of OA professionals and legal experts from countries that do not have this legislation, as well as of representatives from relevant associations. Key conclusions are as follows:

- There is great heterogeneity among the seven countries. SPR provisions vary when it comes to their stated goals and legal contexts, but also have different components that affect their implementation.
- These provisions have been introduced in ways that have not always taken into account the voice of relevant stakeholders. It also appears that the importance ascribed to such policies by governments seems relatively low, despite the contribution that they can make to achieving OA goals.
- Expert guidance and support are vital to respond to challenges during the drafting and negotiation of the law. Skills must be developed and capitalised on at the implementation stage to make SPR effective.
- The disharmony of various legislative acts and jurisdictions confuses and affects the implementation of SPR. Resources and policy instruments are vital to monitor compliance with the law and provide informed feedback.
- While the adoption of SPR in individual countries is welcomed, the widest possible adoption at a harmonised EU level is the most plausible solution to address national and international differences.

In general, SPRs are an example of broader efforts to recalibrate the entire scholarly communication system including Rights Retention policies. Their success requires expertise in both copyright and Open Access.

SPR Report, see the full report here: https://doi.org/10.5281/zenodo.8427390