

Investigating International Academic Librarian Attitudes on Copyright Reform in Support of Open Access

Stephanie Savage and John Willinsky*

This paper reports on the results of a survey of academic librarians from 19 countries on their attitudes toward copyright reform in relation to open access to research. In addition to querying general attitudes toward the advancement of sustainable open access, the survey asks respondents about their level of agreement for three current copyright reform proposals in support of open access. The results of this research demonstrate endorsement from the academic librarian community for professional associations, in particular, to continue to advocate for the advancement of open access and to consider whether there are copyright reforms that are likely to encourage and support this objective. Survey responses also identify the need for any reform to address respondents' distrust of publishers' "exploitative" open access models.

Introduction

Now that open access has established itself as the ideal publishing model—from the perspective of researchers, publishers, librarians, and funders—for the digital-era circulation of research and scholarship, the question of how to best achieve open access on a universal and sustainable basis has become one of the academy's principal and pressing concerns.¹ That copyright law might have a role to play in the achievement of open access on that scale seems a reasonable point of inquiry, given how influential this area of law has proven for the distribution of knowledge in the age of print. Academic librarians have long been involved in copyright compliance and user rights and are therefore worth studying in connection with copyright reform's potential role in bringing about universal open access. This motivated the design and dissemination of a survey whose results are reported here. This study's goal is to

*Stephanie Savage is Scholarly Communications and Copyright Services Librarian at the University of British Columbia, email: stephanie.savage@ubc.ca, ORCID: 0000-0002-2648-5603; John Willinsky is University Research Associate and Founder of the Public Knowledge Project at Simon Fraser University, email: willinsk@stanford.edu, ORCID: 0000-0001-6192-8687. ©2026 Stephanie Savage and John Willinsky, Attribution-NonCommercial (<https://creativecommons.org/licenses/by-nc/4.0/>) CC BY-NC.

¹While questions can be raised about the levels of commitment to open access among these stakeholders, a typical example of the current open access consensus is Taylor & Francis' "How Can Librarians Support Open Research?" and Elsevier's "Open Access Essentials for Librarians." In addition, Willinsky (2023, pp. 29–58) documents the consensus among libraries, publishers, researchers, and funders in support of the open access model of scholarly publishing.

share a small sample of librarians' current stances on (1) the role of copyright in open access and (2) the potential for legislative reform in advancing this model for scholarly publishing. It is intended to further motivate and sustain the conversation needed to advance a sustainable future for open access.

Literature Review

Research shows that academic librarians possess a basic knowledge of copyright. For example, Olaka and Adkins (2012) surveyed academic librarians in Kenya, finding that librarians were "only moderately knowledgeable about copyright issues" (p. 46). Similar studies done by Carbonneau and Priehs (2014) in the United States, Oppenheim and Woodward (2004) in the United Kingdom, and Fernández-Molina et al. (2017) in Brazil come to similar conclusions and further note the need for increased training opportunities for librarians to improve their copyright literacy. In a study on an international scale, Todorova et al. (2017) surveyed 1,926 library professionals across 13 countries and found that "the level of knowledge and the awareness of respondents ... regarding copyright issues is far from satisfactory" (p. 336). However, they also note that familiarity "is highest for national level copyright-related laws and institutions (around 50 percent familiarity rate), and for the knowledge of limitations and exceptions in national copyright laws" (p. 336). Moreover, they found that knowledge level was unevenly distributed across countries, with the U.K. and U.S. emerging as leaders.

While copyright literacy may not be high among academic librarians, the literature does reflect a growing interest in and sense of responsibility for copyright within the profession. Research conducted by Kawooya et al. (2015) demonstrates an increase in the mention of copyright knowledge in American Library Association (ALA) job board postings from 2006 to 2013, suggesting that "copyright is a prerequisite for current and future needs of academic libraries and academic institutions in general" (p. 341). Complementary work done first by Horvara (2010), and revisited by Graham and Winter (2017), further shows that in Canadian academic institutions, "the library is the primary locus for most matters related to copyright" (p. 150).

An interest in copyright goes beyond the librarian's institutional responsibilities, as librarian professional associations have also exhibited a commitment to advocating for copyright reforms. In a 2022 study on the 2017 Copyright Act Review in Canada, Zerkee et al. found that, as a community, higher education institutions (most of which were represented by their libraries), not only made more contributions to the review than any other stakeholder group, but also represented the largest voice for the protection and advancement of fair dealing, a central user right in Canadian copyright law. An earlier history of the role of the Association of Research Libraries (ARL) in the development of the United States' Copyright Act of 1976 demonstrates that, since at least the 1960s, academic library associations have been consciously engaging in lobbying activities to advance their copyright policy positions (Miller, 2009). Evidence of ongoing interest in copyright reform can be found in the public policy briefings and position statements put forward by librarian organizing bodies, including the International Federation of Library Associations (IFLA's position: <https://www.ifla.org/g/clm/the-ifla-position-on-copyright-in-the-digital-environment/>), the Canadian Association of Research Libraries (CARL's position: <https://www.carl-abrc.ca/influencing-policy/copyright/>), Ligue des Bibliothèques Européennes de Recherche–Association of European Research

Libraries (LIBER's position: <https://libereurope.eu/liber-position-statement-copyright-in-the-digital-age/>), and the U.S.-based Library Copyright Alliance (LCA's principles: <https://www.librarycopyrightalliance.org/principles/>).

While research has been conducted on librarian understanding of, interest in, and activism around copyright as it bears on academic libraries, there has yet to be a study of librarian attitudes around issues of copyright reform generally, let alone in relation to furthering open access. This study seeks to fill the gap in the literature by surveying academic librarians directly on their attitudes toward copyright reform in relation to the goal of open access for research, which has attracted much librarian support.

Methods

Research Design

The survey "Copyright and Open Access to Research: An International Survey of Academic Librarians" presented participants with an initial set of four statements on a web-based survey platform (Qualtrics) about the state of copyright and open access (see Appendix A). These statements were intended to measure librarian interest in copyright reform directed toward open access with a Likert scale from strongly disagree to strongly agree. A fifth question asked participants to similarly respond to three existing proposals for legislative reform intended to achieve open access. Each of these three proposals is accompanied by a brief description and links out to further information, should a participant require more information before completing the survey.

An initial draft survey was distributed to a selection of academic librarians from across different specializations and areas of expertise. In response to their feedback, the survey was refined, and additional introductory information about copyright and open access basics was included to provide necessary context. The completed survey was translated into French to respect principles of bilingualism in Canada, as well as to increase its accessibility and reach to French speakers in Canada and abroad.

Participants

Invitations to participate in the survey were posted to listservs that belonged to associations known to represent the target audience, including library and librarian associations in Canada, the United States, and the United Kingdom, along with the International Federation of Library Associations. Recipients of the study announcement were also encouraged to share it within their networks. The survey was initially available for one month but was later extended for an additional two months to maximize the response rate. While a response rate cannot be established for survey participation, it seems very low, suggesting that respondents who took the survey are among those academic librarians with a special interest in the intersection of copyright and open access. The participants also reflect the overrepresentation of both Canadian and scholarly communications or copyright-focused organizations among the survey announcement venues.

Results

The survey received a total of 196 responses with 176 in English and 20 in French. Respondents were asked two demographic questions, including the country where their institution is located and their primary area of responsibility within the library. Importantly, respondents were

not asked to provide any identifying information about themselves or the institution they are affiliated with.

Beginning with the geographical distribution of respondents, 59% of participants identified themselves as being affiliated with a library in North America, with the largest percentage (37%) coming from Canada. Outside of North America, 39 respondents (20%) came from Australia and an additional 11 (5%) from the United Kingdom. The final 23 respondents (12%) who identified their country of affiliation came from a total of 15 countries across Europe, Africa, and the Middle East. The distribution of responses largely correlates with the dissemination strategies employed by the authors. However, the large number of responses coming out of Australia—a country that was not directly targeted for participation—suggests that some respondents redistributed the survey through their own collegial networks.

Respondents were also asked to identify their area of primary responsibility within their library. Answers were evenly split with the largest identified group coming from a scholarly communications role ($n = 45$, 23%), followed closely by librarians with a subject specialization ($n = 40$, 20%) and those specializing in copyright ($n = 37$, 19%). The remaining 74 respondents (38%) represent a wide variety of specializations from across the spectrum of academic library positions and range from administrative roles to those that are technology or instruction focused. The breadth of responses we received from librarians with diverse professional responsibilities is a positive indication of the relevance of copyright to the broader academic librarian community. The paper includes quotations from 49 of the participants, which are identified by an “L” for librarian followed by an assigned number (L01–49).

Survey Results

Open Access

The first survey question asked respondents to assess the growth of open access within the scholarly publication ecosystem (see Figure 1). Many felt that it was progressing at a “satisfactory” (48%) pace; however, most of that support fell into the “somewhat agree” category, and those who did not agree (including neutral) made up a slight majority (52%), which suggests both that the results were mixed on open access’ progress, and that it’s worth considering changing approaches to open access.

These mixed reactions are reflected in the respondents’ comments. The strong affirmations were specific. For example, “Read and Publish, and Transformative agreements are making great strides in Australia” (L27), and “the academic community is making great strides at the university level” (L13). On the other hand, a general sense of less than satisfactory gains was more common, with responses such as, “I would characterize it as glacial progress” (L40).

TABLE 1 Respondents’ Library by Country	
Country	Respondents (%)
Canada	72 (37%)
United States	44 (22%)
Australia	39 (20%)
United Kingdom	11 (5%)
Other	7 (4%)
Blank	23 (12%)
Total	196 (100%)

TABLE 2 Respondents’ Primary Role in Library	
Librarian Role	Respondents (%)
Scholarly Communications	45 (23%)
Subject Specialist	40 (20%)
Copyright Specialist	37 (19%)
Other	74 (38%)
Total	196 (100%)

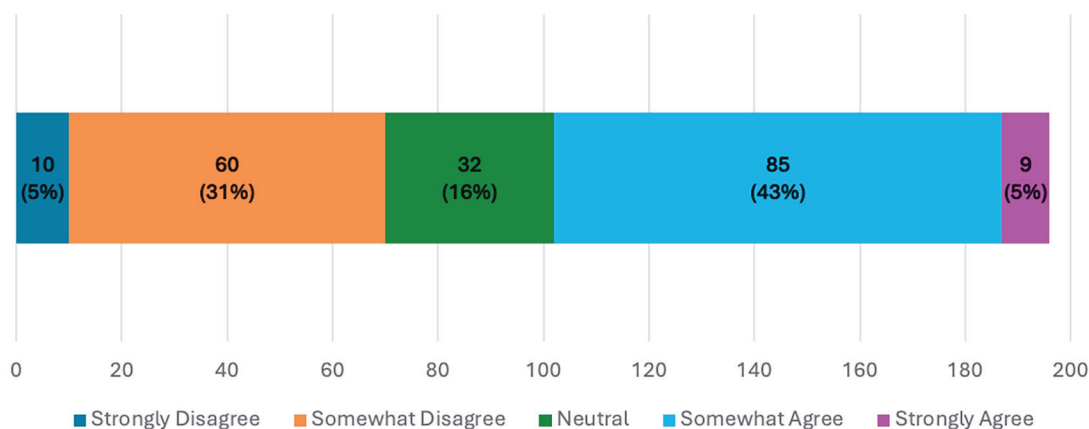


Figure 1. Statement: "The academic community is making satisfactory progress in bringing about open access for research publications" ($n = 196$).

Article Processing Charges (APCs) were identified as the main culprit for the slowness by eight librarians: "I think the APC trend has slowed our progress towards OA [open access]" (L10). More broadly, concerns about the financial sustainability of this "progress" were also raised: "We are making progress but in financially unsustainable ways" (L39). Or more pointedly: "I feel the movement is failing. It's been hijacked by vendors" (L32). This pervasive distrust of publishers—"We are being fooled by publishers with transformative agreements" (L29, translated)—was also reflected by six respondents referring to publishers unduly *exploiting* open access: "We need to leverage our collective power and push back against publishers' rent-seeking, exploitative practices" (L28). The lack of support for open access from the universities' tenure and promotion committees were also identified by four of the librarians as another impediment: "Tenure and promotion committees aren't always on the same page about the legitimacy (not quite the right word) of OA publications, unfortunately" (L35).

Copyright and Open Access

The second statement concerns whether copyright matters to open access (see Figure 2). For this question, most respondents ($n = 127$, 65%) indicated that copyright is indeed implicated

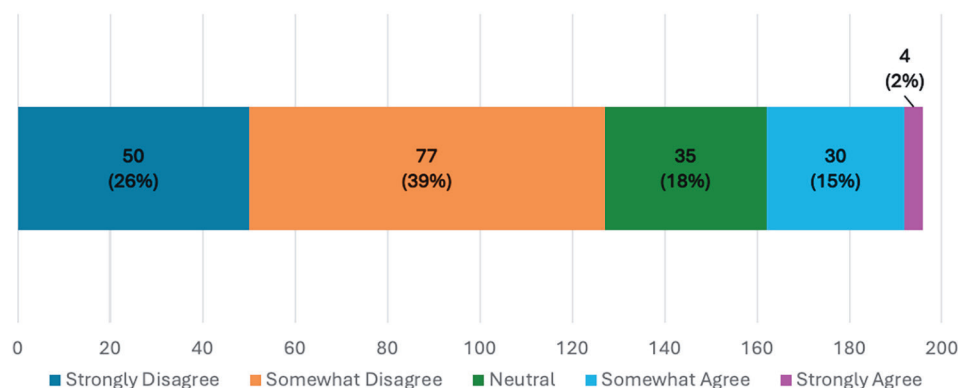


Figure 2. Statement: "When it comes to the academic community's progress with open access, copyright is not proving to be an issue" ($n = 196$).

in open access' progress. The proportion that felt that copyright was not involved was low ($n = 34$, 17 %) and comparable in size to those who were neutral on the question.

More than one respondent felt that copyright was not just an issue, but that "it is THE issue" (L43) and a "huge issue!" (L21 and L03). More than one respondent mentioned the lack of trust between publishers and the academic librarian community with comments such as, "Academic publishers are weaponizing copyright to slow progress of open access initiatives" (L19), and "the publishing sector obstructs [secondary rights] in every way it can" (L01). At least one librarian saw value in copyright change in response to this statement: "Some reforms (like secondary publishing rights) and new practices (like author rights retention) would definitely accelerate progress" (L17). Another noted copyright's datedness: "Copyright legislation in Australia is fairly out-of-date" (L44). At least four of the librarians added comments on how "'copyright' is not the issue," with two of them pointing to the sheer absence of "knowledge about" copyright as the problem (L30). Others pointed to specific misapprehensions, such as "the great myths of open access—that it cannot work nicely with copyright" (L06). One pointed to faculty "who do not effectively manage their rights" (L36) and another, in a related point, referred to how it is "almost impossible to get authors to be interested ... [in] their copyright" (L03). A third noted the irony that "researchers hate copyright laws, but they love their own intellectual property" (L11), which is protected by those laws.

Library Associations

This statement aimed to measure librarians' interest in seeing whether copyright could do more to support open access to research (see Figure 3). It introduced the library association as a means of exploring copyright's possibilities, on the grounds that many such associations have copyright committees. This statement received the most extensive "strongly agree" support of any statement presented. This suggests, above all, the willingness and interest among respondents to see more inquiry into what copyright might do for open access. The strong level of support could be attributed, in part, to the fact that those who were willing to complete the survey had an existing interest in this question of copyright's role in open access. Given the much higher level of support for this statement ($n = 174$, 89%) compared to the response to statement two (i.e., the idea that copyright is proving to be an open access issue at the moment; $n = 34$, 17%), the data might also indicate a hope for copyright reform in the future.

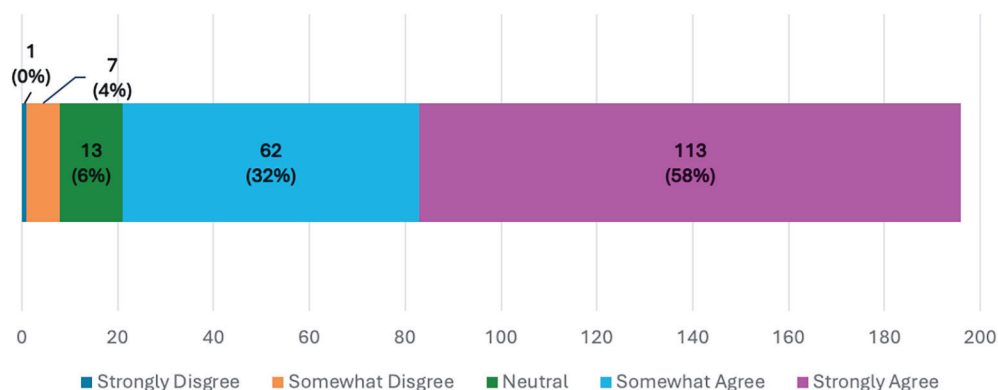


Figure 3. Statement: "Academic librarians and library associations should consider whether there are copyright reforms that are likely to encourage and support sustainable open access to research" ($n = 196$).

Written responses clearly supported this third statement. For example, one respondent wrote, “All library organizations should have this conversation as top priority” (L33). Yet, there were also concerns: “I’m ... pessimistic about seeing our legislator make revisions in copyright law for the good of open access” (L26). One respondent was intrigued — “interesting and clever solution” (L23)—but also joined others in expressing skepticism about this strategy with comments such as, “Corporate rights holders have much more lobbying power” (L19) and “you open up the chance for it to be worse” (L43). There were doubts, as well, about professional library associations: “I have never had faith in the American Library Association in relation to copyright” (L40). Some were more targeted in their concerns about what legislative reform needed to encompass, even as they were leery of government action: “We all got bamboozled by the Nelson memo in the U.S. ... It is going to cost us more overall to comply unless publisher profits go on the chopping block” (L22). Related to this sense of limited impact was a sense that reforms would be limited to “those with federal grants, which is not the majority of research” (L02). The question of whether librarians had a part to play in such reform came up: “Legal change is not something that library staff will (be able to) bring about” (L41). Then there was the sense of not knowing what can be done: “Honestly though, I don’t know what those reforms would be” (L09). This was reflected, as well, by how there were fewer comments on this statement compared to the others.

Copyright Reform

This statement identified a specific challenge that one of this study’s authors frequently heard librarians mention as the principal deterrent to seeking copyright reform. This statement’s goals were to assess apprehension over publishers’ lobbying power, and to gain greater insight into its basis. Most respondents ($n = 131$, 67%) did not agree that publishers were “likely to strengthen their position” through copyright reform. The perception of this threat was not absent but was held by a minority ($n = 25$, 13%), while the proportion who chose a “neutral” response, such as “I don’t know enough to comment” (L11), was among the highest for these initial four statements on the survey ($n = 40$, 20%) by a few percentage points. Remaining neutral on this statement may also minimize the threat from publishers.

Respondents bluntly rejected the proposition that copyright reforms will only advance the publishers’ position (e.g., “doesn’t matter what publishers want” L33), while some respondents

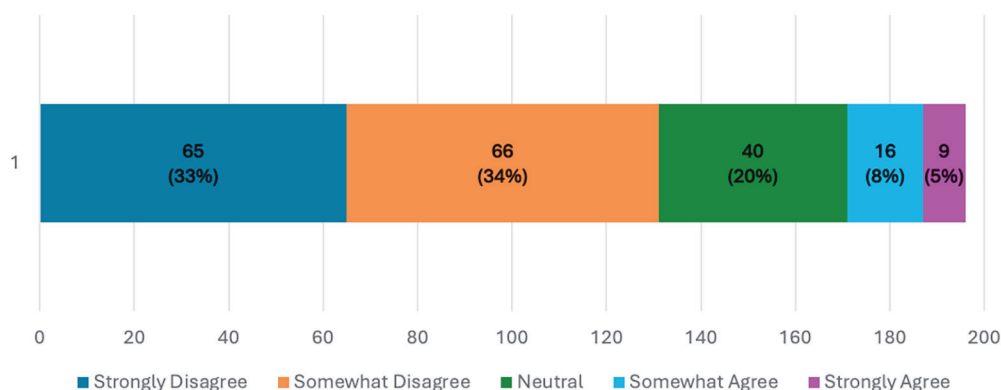


Figure 4. Statement: “Academic librarian and library associations should not pursue open access copyright changes because publishers are likely to strengthen their position over libraries through any legislative changes” ($n = 196$).

saw the statement as setting out a challenge: “We have a lot of educating and campaigning ahead” (L26). Some respondents pushed back against the idea of fearing publisher lobbying power: “We shouldn’t walk across the street because we might be run down” (L08) and “if we don’t challenge the publishers on this issue, who will?” (L13). Yet the recognition of publisher power was present in the librarians’ comments: “Elsevier has the time, money, and interest to pay their lobbyists to live on Capitol Hill” (L40) and “publishers ... have already co-opted open access with various schemes” (L07). There was also a call for a different approach to the publishers: “We should stop framing publishers as enemies in this discussion” (L41). And some were optimistic about librarians’ pursuit of copyright: “Libraries will improve things through changing the law, not hard-nosed dealmaking” (L05).

Three Proposals for Copyright Reform

In addition to the statements about librarians and copyright, survey participants were presented with three examples of active copyright reform proposals designed to address access to research (see Figure 5). While the other survey statements were intended to probe attitudes and beliefs around copyright, the responses to these three proposals were to provide a sense of where librarians stood on current reform proposals coming from different contexts.

User Exceptions. A strengthening of exceptions to the application of copyright, which give users additional rights, received the second highest level of support (see Figure 6). Exceptions, such as fair use and fair dealing, have been the subject of global copyright reform initiatives affecting libraries, enabling them, beginning in the United States in the 1970s, to make single photocopies of materials, such as research articles. More recently, many countries have begun to enact new legislation to protect uses of works necessary for machine learning. In terms of current initiatives, Sean Flynn leads a Washington College of Law “Right to Research” project on “text and data mining and of more ‘open’ exceptions for research uses” that has been examining this approach on a global scale (Flynn et al., 2022).

Respondents were in favor of this approach to copyright reform ($n = 140$, 77%), with only a handful strongly disagreeing ($n = 7$, 4%). Supportive statements ranged from “I would support almost ANY possible expansion of user exceptions” (L45) and “absolutely should” (L18), to less firmly stated support: “The law certainly needs to be more favorable to fair use

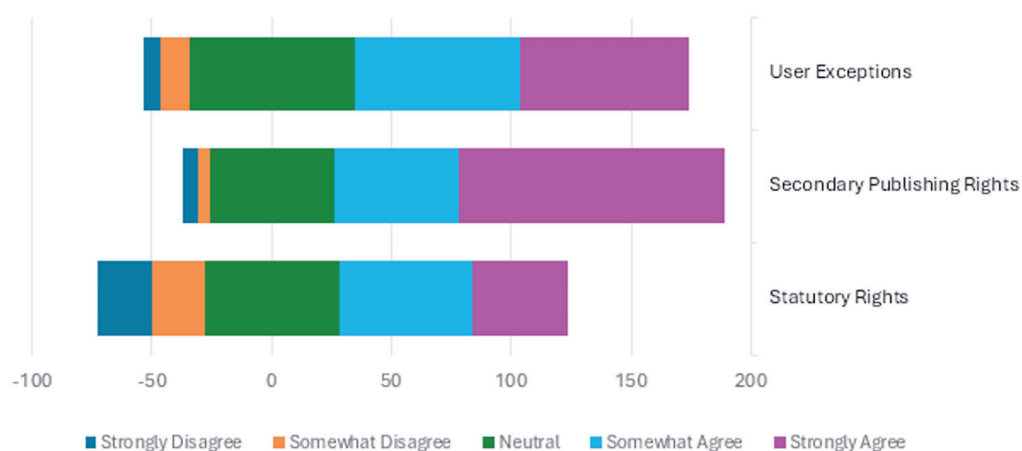


Figure 5. Three Copyright Reforms by Level of (Dis)agreement ($n = 184$).

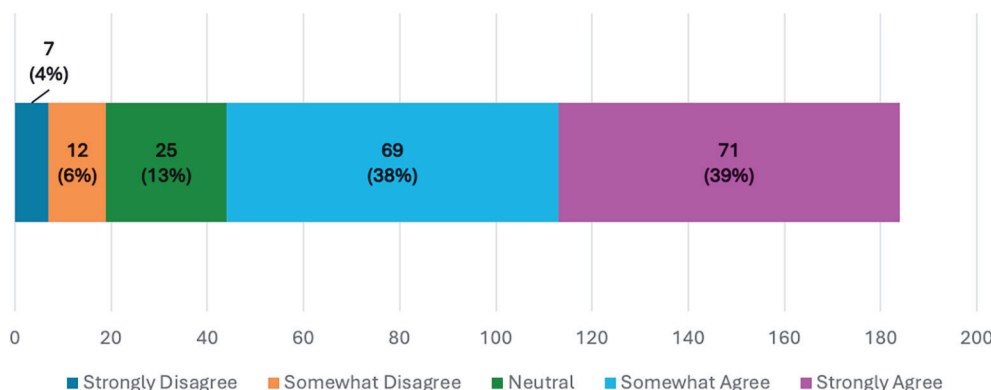


Figure 6. Statement: “User exceptions (e.g., fair dealing, fair use, etc.) should be strengthened to support a wider use of research and other texts for research in the legislation governing copyright. This would extend copyright’s exceptions to protect users’ access to research publications, and to other works (e.g., for AI) for research purposes” ($n = 184$).

for research purposes” (L14, translated). One librarian stated that: “Exceptions should become rights” without “loopholes” (L04). Some saw the strengthening as a matter of responding to publishing changes: “Legislature needs to evolve alongside technology and ethos” (L15) and “the law either needs to be future proofed or we need to come up with something better” (L25). Challenges were raised, with comments such as, “it is difficult to reconcile such an expansion of end user rights with the Berne three-step test” (L01) and “what about feeding data to large language models” (L37). This latter response falls, in fact, within the proposed text-mining exception of this reform effort, if for research purposes (a difficult distinction to make in the flow between research and commercial large language models).

Secondary Publishing Rights. Respondents most strongly agreed with secondary publishing rights among the three copyright reforms proposed.² A substantial majority ($n = 163$, 88%) agreed with this approach to reform (see Figure 7). That this statement also received the least commentary of any survey component might further reflect its level of acceptance among participants (see Table 3). The positive response to this proposal may reflect growing support for secondary rights among academic library associations. For example, the Canadian Federation of Library Associations recently issued a public call to the government of Canada, urging the government to “introduce an amendment to the Copyright Act recognizing the academic authors’ Secondary Publishing Rights in support of immediate access to publicly funded research published in research periodicals” (2023). This call echoes an earlier

²One librarian in the survey helpfully pointed out that there is a distinction between “secondary publishing rights” and “rights retention strategy” that we did not make clear in our survey. Secondary publishing rights refer to legal provisions that are enshrined into law and grant authors the right to self-archive their work, regardless of publication agreements they may have entered into. Secondary Publishing Rights have been codified in the national laws of several countries, including the Netherlands and Spain. A Rights Retention strategy, on the other hand, is not a legislative solution. It may be imposed by a funder, implemented by an institution, or negotiated directly between an individual author and publisher through the use of an author addendum (see Electronic Information for Libraries, 2024). Although both approaches concern an author’s secondary publishing rights, we regret not retaining the distinction in the survey when we referred to “secondary publishing rights (also known as a rights retention strategy).”

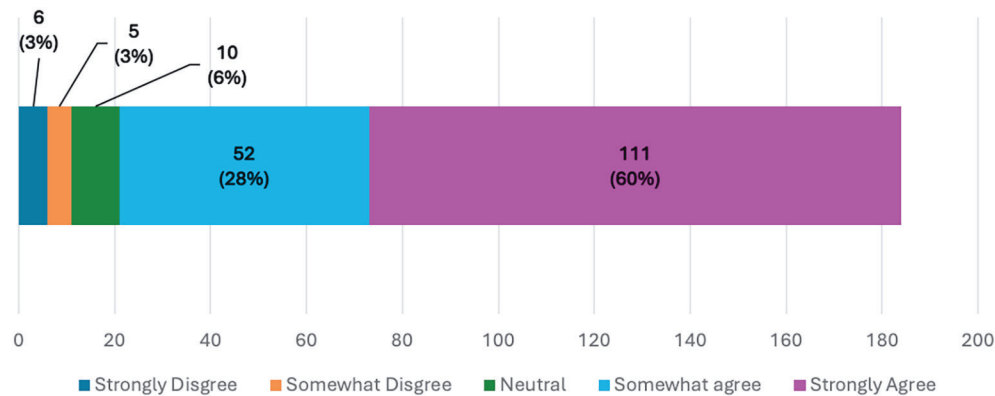


Figure 7. Statement: “Secondary publishing rights (also known as a rights retention strategy) should be introduced into the legislation governing copyright. Authors of publicly funded research will be granted an irrevocable right to make their work open after publication, possibly following an embargo period after a publisher’s initial publication” (*n* = 184).

appeal by LIBER, which went so far as to propose a model law for secondary publishing rights in EU countries (2021). The movement around secondary publishing rights has been particularly strong in Europe (e.g., Knowledge Rights 21 (<https://knowledge-rights21.org/>)) leading to it becoming law, if in slightly different forms, in France, Germany, Belgium, Italy, the Netherlands, and Spain.

Among survey participants, support for secondary publishing rights could be outright and unequivocal: “Absolutely yes” (L31). Another librarian also noted how “the Nelson Memo does this already” (L40), referring to how that 2022 White House directive asked U.S. federal agencies to develop policies for making funded research immediately available (Nelson, 2022).

One reason for supporting legislative reform was to avoid “the lobbying power of the big publishers” (L38), a comment that other respondents raised as a concern with any reform. Those respondents who qualified their support for this reform acknowledged, for example, that “our researchers do not give much thought to licensing” (L09), and thus “are likely to still give rights away to publishers with easy one-click consent” (L34).

Several respondents who indicated that rights retention “is not good enough” connected this to how this approach commonly includes “embargoes, which are terrible and set science back” (L33). Nine respondents stated in one form or another that “embargos are not acceptable” (L22). Steps have been taken, such as with the Nelson Memo, to end the embargoes that

TABLE 3 Survey Commentary Word Counts	
Survey Component	Commentary (number of words)
1. Open Access	2,232
2. Copyright and Open Access	1,774
3. Library Associations	1,139
4. Copyright Reform	1,238
5. User Exceptions	1,286
6. Secondary Rights	802
7. Statutory Licensing	1,454
Total	9,925

³At the time of writing, for example, the “National Institutes of Health Draft Public Access Policy” includes “a statement granting NIH make Manuscripts publicly available in PubMed Central upon the Official Date of Publication” (NIH, 2024).

keep research from being made open access for a fixed period after publication.³ A second limitation of rights retention was clearly identified by a respondent, namely that “the majority of research isn’t federally funded, so this only helps the minority” (L02) of studies.

Statutory Licensing. The third copyright reform presented to survey participants is the most recent, having been introduced in 2023 (see Figure 8). It was devised by one of the authors of this paper (Willinsky, 2023) and draws on the Music Modernization Act of 2018 in the U.S. as an inspiration for statutory licensing agreements that can apply to entire domains of intellectual property while including judicial review of pricing. Of the three reforms, statutory licensing is the most legislatively demanding, given that it calls for (a) introducing “research publications” as a category of work into copyright law, (b) setting up a means of determining the body of works to be included in that category, and (c) establishing owner collectives that will participate, along with librarians, in determining fair publisher compensation before a judicial body.

While statutory licensing attracted the highest level of opposition ($n = 45$, 24%) of the three reform proposals, it also had the highest number of librarians selecting “neutral” as their response ($n = 43$, 24%). This may suggest that it was the least familiar of the three copyright reforms presented. Nevertheless, a slight majority of participants agreed with statutory licensing as a viable copyright reform ($n = 96$, 52%); still, this was considerably less support than the other two copyright reform proposals gained, with a high proportion of librarians *strongly* agreeing with secondary publishing rights ($n = 111$, 60%).

Of those who supported statutory licensing, one survey participant noted how this reform could alter the economics involved—“I would like to see scholarly publishing removed from market forces”—even if that participant did not “see this level of government control happening in the U.S.” (L26). Another librarian imagined that a “statutory license would probably make negotiations for OA less onerous” (L39). One librarian found it “the most likely scenario that would have agreement from the publishers and would successfully make research pubs openly available,” while still being hesitant over what was perceived to be “the principle of paying twice” (L16). Another took the opposite view in stating that

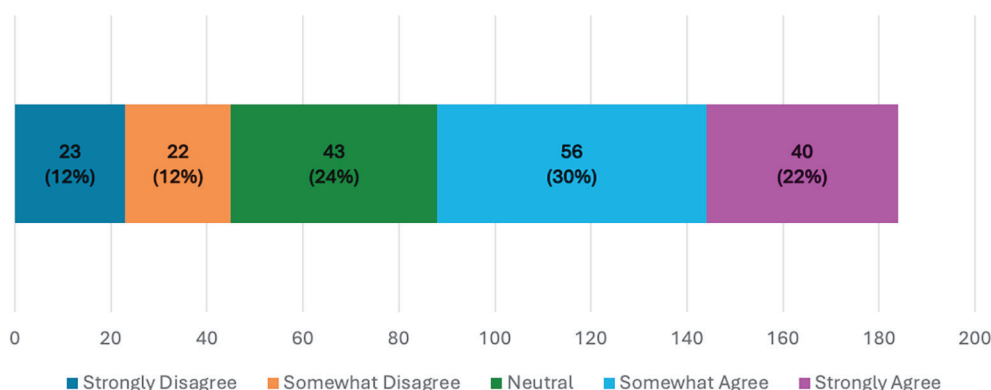


Figure 8. Statement: “Statutory licensing that requires open access to research publications should be included in the legislation governing copyright. Research publications will be subject to immediate open access with publishers compensated by the institutional users and funders of research at rates set in consultation with all parties by the Copyright Board” ($n = 184$).

“it would also help underfunding of academic libraries” (L24, translated). There were more questions around statutory licensing than with the other two reforms, such as, “How would this work?” (L40); “Who defines what a ‘research publication’ is?” (L46); “the copyright board could be a somewhat neutral party in setting rates??” (L47) and “lots of questions on this one” (L48).

On the other hand, the responses to statutory licensing could also be sharply opposed — “oh boy no thank you; this is a recipe for disaster” — because it was seen to “solidify the positions of the major publishers” (L02) or because the reform could “be hijacked by” them (L01). At least one librarian knew a great deal about music copyright, which is the original cultural industry subject to statutory licensing, noting that with music it is “an abysmal failure at helping creators retain and manage their rights” (L19), pointing to its third-party expenses, lack of transparency, and start-up costs.

Statutory licensing again evinced comments about the lack of trust around publishers, who were seen fighting it because “publishers are not willing to be reasonable about their profit margins” (L38). In related concerns, a respondent objected to how it would be “maintaining the profit margins of publishers” (L22), and another held that “publishers don’t need compensation” (L30). The general distrust of publisher finances was also reflected in respondents’ responses to the statutory licensing’s regulation of fee-setting, with one librarian holding that “there should be no compulsory fees paid to publishers ... the copyright board should not retain this power” (L31), while two others foresaw “endless legal wrangling over the terms of compensation” (L20) and (L13).

When it came to considering all three copyright reforms, one librarian offered overarching support: “I chose ‘strongly agree’ for all 3 reforms, since I think for any true reform to be successful, there will need to be a multi-pronged approach” (L35). Another found in the three proposals reasons for thinking that “it really could be time to have a complete rethink around where and how taxpayers’ money is being spent!” (L37). And one felt compelled to move beyond the three, leading the librarian to speculate about flipping a major copyright infringement case around: “What if ... people could just legally use Sci Hub” (L18).

Discussion

The 196 librarians who participated in this study from 19 countries, provided almost 10,000 words in commentary to the survey, which suggests that the respondents are fully engaged in the topic of copyright and open access. Although the survey invitation was widely distributed and redistributed (preventing us from providing a survey participation rate), it is fair to conclude that this is a small nonrepresentative sampling of academic librarians — representing copyright, scholarly communication, and subject specialties — with an existing interest in copyright and open access.

That said, respondents felt quite differently about both copyright and open access. The participants were divided, for example, on the progress being made in open access to research and scholarship. If less than half saw open access’ progress as satisfactory, a more substantial proportion (65%) felt that copyright was playing a significant role in that progress. The differences, on the other hand, were related, at times, to working in a variety of jurisdictions. Rights retention, for example, was recognized as “already the case in France (Law for a digital republic)” (L49), and “I don’t have a lot of faith in [measures to strengthen exceptions] getting past in Australia where our Fair Dealing is so narrow” (L18).

Respondents agreed most (90%) on how their professional associations should be considering copyright reform in support of open access. In addition, a common thread throughout the respondent comments was a distrust of publishers, whether in terms of what were felt to be exploitative business models or undue influence through government lobbying. It was a rare voice among the participants who called for an end to this perception of publishers as “enemies.” However, most librarians (67%) did not see the publishers’ economic power as a reason to back away from seeking copyright reform. It seems fair to conclude that respondents are interested in what copyright reform might do for open access. While such interest might seem unsurprising for scholarly communication and copyright librarians, most respondents (58%) were serving in other roles, suggesting that the topic has currency within the profession. Clearly, professional associations—as they heed this call for copyright reform to advance open access—should include in such reform some form of check on what are felt to be publishers’ monopoly pricing practices.

Librarians’ interest in copyright reform speaks as well to how scholarly communication has been left out of the digital-era copyright legislative changes resulting from the advocacy of other culture industries, including music, gaming, television, and video. While five countries have, as noted, passed secondary publishing rights provisions, copyright has not been otherwise updated “to promote the progress of science” for this new age, to cite one of the principal purposes of copyright in the U.S. Constitution. In the U.S., for example, the last significant copyright changes affecting scholarly materials date back to the Copyright Act of 1976, which made concessions to the age of photocopying in an era that might be said to have previewed open access, given how much more freely research circulated thanks to the photocopier.

When it comes to the respondents’ consideration of the three specific copyright reforms presented to them in the survey, secondary publishing rights won the most support. This reflects the gains secondary publishing rights have made legislatively, as well as the related author rights retention have made contractually with publishers and funding agencies. As some respondents noted, the ability to achieve such rights directly with publishers rather than through legislation is an advantage. Many funding agencies have supported this approach through open access policies; more recently, moves by funding agencies and advocacy groups (e.g., Knowledge Rights 21) have sought to eliminate what librarians objected to most about this approach, namely, the embargoes that publishers were allowed to impose after publication (typically six to 12 months) before a work was made open. Part of secondary publishing rights’ appeal to librarians may be its incrementalism (in which it can be seen to be making progress) and for its restriction of publisher rights (given librarian distrust of publishers); however, it remains attached to earlier efforts, in providing for open access to the authors’ final drafts (rather than the publisher’s version of record) of government-sponsored research. It does not take advantage of more recent developments in publisher support for open access nor offer any checks on publisher pricing, which was otherwise a concern among several respondents.

Respondents placed strengthening user exceptions second among the three copyright reform options. Certainly, “fair dealing” (or “fair use”) is an exception to copyright that forms part of the day-to-day life of the library. Thus, extending fair dealing to new areas of research and scholarly publishing would work well in this environment. Treating researchers’ use of research and other texts for generative AI makes sense in operating outside of copyrights commercial protections. It may also appeal to librarian interests in limiting publisher rights.

However, some respondents considered treating research as an “exception” to copyright as diminishing its standing, as well as people’s right to it as a public good. Copyright exceptions typically apply to the *uses* of a copyrighted work—for purposes of research—rather than applying to research as a body of work to which one has a right. Exceptions are also typically qualified not only by purpose, but by the amount of access and by the loss of business opportunities; this complicates extending research’s exception into the commercial publishers’ domain.

There was notably less support for introducing statutory rights which would incorporate open access to research publications into copyright law, with a bare majority supporting this approach ($n = 96$, 52%). While there was less familiarity with statutory licensing, as reflected in the questions raised in the comments, this topic also faced pointed opposition for giving publishers a statutory place at the table. Although this reform introduces a means of adjudicating the price of open access through courts or boards (which was credited by a few), this was insufficient in addressing participant interests in restricting publisher rights, as the other two measures would do. Generally, statutory licensing’s radical copyright makeover for research publications offered undue complexity compared to secondary publishing rights’ incrementalism. Its considerable borrowing from recent revisions to music copyright also made it liable for the shortcomings of that legislation. There may still be interest in a more encompassing legal remedy; however, at this point, responses show that librarians stand most strongly behind the more modest approach’s gains.

Conclusion

The 196 academic librarians who participated in this survey differed in their thinking on many points about copyright and open access. However, respondents made one point very clear: their interest in seeing professional associations, across various jurisdictions, continue or amplify their efforts in exploring how copyright reform might better serve the spread of open access to research. Moreover, participants demonstrated a level of awareness of copyright issues that should inspire these association’s copyright committees to continue reaching out to their memberships on these matters, knowing that the committees are being heard and are doing appreciated work.

The survey results also surface librarian preferences for incrementalism, which suggests that associations and their copyright committees should consider the steps—beyond secondary publishing rights—that show promise for achieving universal and sustainable open access to research within a reasonable time frame. Such steps would need to address concerns that publishers are unduly exploiting their research publication monopolies in ways that threaten the sustainability and universality of open access. Given the scale of digital-era transformation underway, copyright reform for research publications is overdue, and academic librarians, who have long demonstrated their expertise as stewards of the scholarly record, should be part of the necessary deliberative process to ensure that copyright continues to promote scientific progress.

Data Availability Statement

The librarian participants’ comments, as well as the raw data for the survey responses, is available in Harvard Dataverse (<https://dataverse.harvard.edu/dataset.xhtml?persistentId5doi%3A10.7910%2FDVN%2FRP8HSF&version5DRAFT>)

Conflict of Interest Statement

As noted in the paper, John Willinsky is the author of a work advocating statutory licensing as the open access path for copyright reform, one of three current reform initiatives that librarians were asked to consider in this study.

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Appendix A: Survey Instrument

Copyright and Open Access to Research: An International Survey of Academic Librarians

Thank you for your interest in this study. The aim of this research is to explore academic librarian attitudes toward copyright reform, particularly as it relates to changes that may help support open access to research. This survey consists of 7 items and, with the background information provided, should take approximately 15 minutes to complete.

No personal identifying information will be requested or captured, including your IP address. Only general information about your professional role and country of residence will be recorded. As data is collected anonymously, once submitted, it cannot be withdrawn. The responses you provide will be stored in a restricted-access electronic file on secure servers and may be used in academic publications, conference presentations, and reports for external organizations and websites.

Please note that researchers may be required by granting agencies or journals to make their findings or de-identified data available at the time of publication in order to comply with principles of open access, which serve to foster the broad dissemination of research findings to the public. Because survey responses are collected anonymously, the open distribution of survey data does not have any additional impact on respondents.

The co-investigators on this project are Stephanie Savage, Scholarly Communications and Copyright Services Librarian, University of British Columbia and John Willinsky, Khosla Family Professor Emeritus, Stanford University. If you have questions you can contact the researchers at stephanie.savage@ubc.ca, or willinsk@stanford.edu.

Who can you contact if you have complaints or concerns about the study?

If you have any concerns or complaints about your rights as a research participant and/or your experiences while participating in this study, contact the Research Participant Complaint Line in the Office of Research Ethics.

- ☐ Yes, I consent to participating in this survey.
- ☐ No, I do not consent to participating in this survey.

Closest position title to your primary library role:

- ☐ Copyright Librarian (1)
- ☐ Scholarly Communications Librarian (2)
- ☐ Subject Specialist Librarian (3)
- ☐ Other (4) _____

The country in which your library is located:

- ☐ Canada
- ☐ United States
- ☐ United Kingdom
- ☐ Other

BACKGROUND***Copyright basics for research libraries***

Copyright legislation is generally intended to grant creators or copyright holders exclusive rights over their works for a limited period as a financial incentive that will lead to societal benefits. As copyright law applies to many different kinds of works, ranging from literary works to sound recordings and musical performances, different categories of works are often afforded unique protections. Importantly, research publications are placed within the broad category of literary works, rather than having their own copyright terms. Fair dealing (or fair use) in copyright is a user's right meant to balance out the protection granted to creators. Among other purposes, it exempts the use of works for research or private study so long as certain conditions are met, including whether it can be said not to interfere with the works' business model.

Open Access basics

Open access enables readers everywhere to read research publications without restrictions, although this access may have involved payments by authors or institutions to publishers. Open access is thought to benefit research, as it circulates the work more widely. It is supported, at least in principle, by funders, publishers, societies, researchers, and librarians. This survey refers to "sustainable" open access in the sense that this model needs to be affordable for libraries, institutions, and authors over the long term. There are three current ideas about how to change copyright to better serve open access presented on the next page. You may wish to see what some people are considering before responding to statements #1–4 below.

1: OPEN ACCESS

Statement: The academic community is making satisfactory progress in bringing about open access for research publications.

Strongly disagree Somewhat disagree Neutral Somewhat agree Strongly agree

2: COPYRIGHT AND OPEN ACCESS

Statement: When it comes to the academic community's progress with open access, copyright is not proving to be an issue.

Strongly disagree Somewhat disagree Neutral Somewhat agree Strongly agree

3: LIBRARY ASSOCIATIONS

Statement: Academic librarian and library associations should consider whether there are copyright reforms that are likely to encourage and support sustainable open access to research.

Strongly disagree Somewhat disagree Neutral Somewhat agree Strongly agree

4: COPYRIGHT REFORM

Statement: Academic librarian and library associations should not pursue open access copyright changes because publishers are likely to strengthen their position over libraries through any legislative changes

Strongly disagree Somewhat disagree Neutral Somewhat agree Strongly agree

5: CURRENT PROPOSALS FOR COPYRIGHT REFORM

There are currently three copyright reform initiatives in support of open access under discussion in various countries. Each proposal is briefly introduced below. Based on the information provided and/or your previous understanding of these initiatives, please indicate your level of support for each initiative.

USER EXCEPTIONS

User exceptions (e.g., fair dealing, fair use, etc.) should be strengthened to support a wider use of research and other texts for research in the legislation governing copyright. This would extend copyright's exceptions to protect users' access to research publications, and to other works (e.g., for AI) for research purposes.

Statement: User exception reform should be pursued in support of open access to research.

Strongly disagree Somewhat disagree Neutral Somewhat agree Strongly agree

AUTHOR RIGHTS

Secondary publishing rights (also known as a rights retention strategy) should be introduced into the legislation governing copyright. Authors of publicly funded research will be granted an irrevocable right to make their work open after publication, possibly following an embargo period after publisher's initial publication.

Statement: Author rights reform should be pursued in support of open access to research.

Strongly disagree Somewhat disagree Neutral Somewhat agree Strongly agree

STATUTORY LICENSING

Statutory licensing that requires open access to research publications should be included in the legislation governing copyright. Research publications will be subject to immediate open access with publishers compensated by the institutional users and funders of research at rates set in consultation with all parties by the Copyright Board.

Statement: Statutory licensing reform should be pursued in support of open access to research.

Strongly disagree Somewhat disagree Neutral Somewhat agree Strongly agree