

Copyright licensing and open access

Understanding the value of teaching materials to university libraries



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Introduction

In August 2019 research was published to understand the value of the Copyright Licensing Agency (CLA) Higher Education Licence, paid annually by all UK universities (Secker et al., 2019). This licence allows universities to make multiple copies, in print or electronic format, of published content from books and journals, and the fee is based on an institution's student numbers. The study was funded by Universities UK, SCONUL, Jisc Collections and RLUK and undertaken by Jane Secker, Chris Morrison and Elizabeth Gadd under the auspices of the UUK Copyright Negotiation and Advisory Committee (CNAC).¹ This committee, made up of copyright specialists from the higher education sector, negotiates blanket licences for the sector and offers advice on copyright matters.

In addition to exploring the value of this Licence, the study compared the cost to the sector with the annual subscriptions paid by universities to publishers and other content aggregators to gain access to electronic content used in teaching. These costs were all examined against the backdrop of the growing move towards open access (OA) and investigated how many items used in teaching might be available on open access. In total 17 recommendations were made in the study, of which three specifically were aimed at library directors. In this short article we provide an overview of the research and these recommendations.

The use of the CLA Licence

The research team took as its starting point the data return that UK universities are required to make annually to the CLA in relation to the digital copies they make under the Licence to support courses of study. This is not, of course, all the copying they do to support teaching – especially of journal articles, which are often available under e-journal licences. However, it is a good indication of the range of materials used to support teaching, which differ in many respects from the content used to support research. Using this data we examined the volume of copying undertaken across the sector, the nature of the copying (whether scanning from print, or digital to digital copying), and whether it was extracts from books or journals.

In summary we found that only a relatively small number of institutions are making high use of the Licence, and there was a long tail of institutions making relatively minimal use of the digital copying aspect of the Licence (see Fig. 1). We also found that the number of extracts being scanned appeared to be starting to decline when comparing the 2016–7 and 2017–18 data. Those institutions undertaking high levels of scanning tended to be the larger, well-funded Russell Group universities and the top 20 institutions who made greatest use of the licence in 2016/17 carried out 51% of all scanning across the sector. Eight of the top ten institutions undertaking scanning at high levels reported a decline in levels between 2016–17 and 2017–18.

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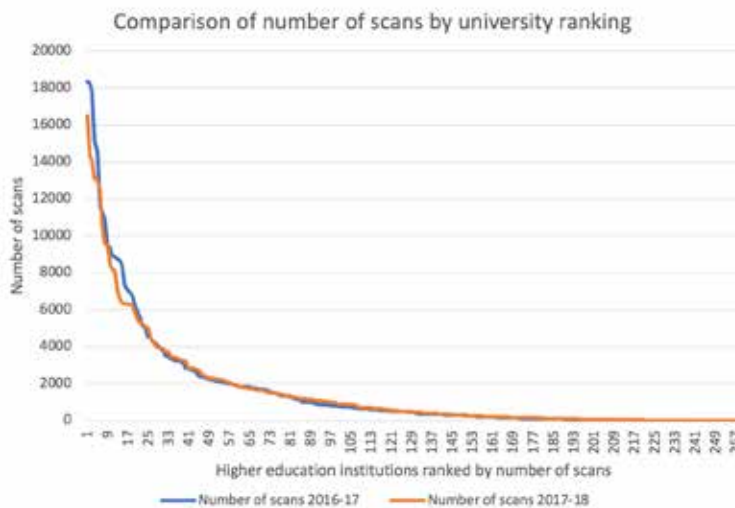


Fig. 1: Universities ranked according to the number of extracts they scan under the CLA Licence in 2016–17 and 2017–18

In addition to analysing the data return, we also undertook ten case studies with institutions, five of whom were high users of the CLA Licence and five of whom were low users. We also examined their purchasing spend on e-resources to see if there was any correlation with the use of the CLA Licence. The research suggested there was not, although clearly the sample was small. Through interviews with acquisitions staff and copyright specialists in libraries we investigated how decisions were made about the use of the CLA Licence in relation to the purchase of primary content in the form of e-books or journals. The data from this part of the study was also verified through a workshop held at the National Acquisitions Group forum in November 2018. In conclusion, we found that the CLA Licence was primarily used to provide access to book content, and most frequently when that content could not be purchased in an appropriate electronic format. Sometimes the content was simply not available electronically, so scanning from print was the only option; however, at times an appropriate licensing model was not available to allow multiples users to get access to the material in an affordable way.

Open access availability

Overall, we found that 18% of the items copied were journal articles and 82% books. So, taking a random stratified sample of the journal content, and searching for openly accessible copies using Unpaywall, Open Access Button (OAB) and Google Scholar, we found that 38% were openly available in some form, which was encouraging. However, establishing whether the open copy was available legitimately could often be challenging. Interestingly, approximately 30% of the papers discovered by Google Scholar were available in more than one location – so under the ‘Lots of copies keeps stuff safe’ (LOCKSS) principle this might give librarians reassurance that should one copy disappear another would still be available. So far this was all good news.

However, of the sample, only 7% came with an obvious re-use licence, and just 3% explicitly allowed use in an electronic ‘course-pack’. This is where the important differences between gratis and libre Open Access, between available and re-usable, between CC BY and CC BY-ND, come to the fore. Most researchers do not worry about these distinctions as long as they can find what they need and read it on the day they find it. However, for librarians wanting to ensure permanent, legitimate access to the final version of record for students, the licences are important. Recent EU case law finding unauthorised linking to be an infringement of copyright will not help to reassure librarians.

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It is perhaps for these reasons that none of the librarians we interviewed were currently incorporating OA searches into their acquisitions processes. Most put it down to a lack of evidence that it would be worthwhile, and that legal copies could be found. This is such a shame, especially when we found that 89% of the content has been written by UK academics, and 58% has been written since 2000 and thus could arguably have been made openly available under a suitable re-use licence if they had had the appropriate support to do so.

Key recommendations for library directors and institutions

As mentioned, the report made 17 recommendations, of which three were aimed specifically at library directors. The first of these three was that library directors should review and monitor the use their institution makes of the CLA Licence to consider how this might compare with the sector as a whole and with similar institutions to their own. The data in our report is anonymous, but anyone wanting to benchmark their activity is urged to contact their in-house copyright specialist (or their CLA Licence coordinator) who can liaise with the CNAC to help with this activity.

The second recommendation for library directors was that their institutions review how the CLA Licence supports their approach to supporting teaching and learning as part of their overall approach to purchasing content. For those institutions making high use of the CLA Licence, they should consider whether there are alternative routes to sourcing content, such as use of primary licensed or open access content. For those institutions making low use of the CLA Licence, they should consider the reasons why this is the case and consider whether it would be beneficial to use the Licence where it is not possible to source content any other way.

We also recommended that acquisitions librarians would benefit from a closer working relationship with research support teams, who generally have a good understanding of open access to explore the opportunities for using openly licensed content in teaching.

Finally, we urged institutions to consider whether they could fund UK academics to create openly licensed teaching content, which may provide costs savings as well as more equitable and inclusive resources.

Conclusion

Our research suggests that as a library community we need to do better at both open access and appropriate licensing. As librarians we need to do better at beginning to look seriously at using in teaching the OA content that many (including librarians!) have worked so hard to provide. Our study found that Unpaywall and OAB were both fairly equal when it came to finding copies, each locating about 30% (although Unpaywall had fewer false positives). But Google Scholar found the other 70%, many of which were 'legal' OA copies (either Gold copies or Green copies on Institutional Repositories) that neither of these other services found. So unfortunately there is no one-stop-shop yet for locating legal OA material for use in teaching.

This finding, in conjunction with the complexities of the OA landscape (preprint vs postprint, legal vs illegal, Gold vs Green, permanent vs impermanent) makes librarians' reluctance to engage understandable. However, with increasing pressures on library budgets and our work showing that over one third of journal material is now available openly, the time must be right to start exploring this more seriously. The obvious starting point would be the provision of guidance for librarians as to how they might go about locating, checking and making available such content to support teaching.

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This should be a priority for the library copyright and information literacy community and a fruitful area for collaboration.

In the meantime we encourage you to read our full report, which also considers the role of copyright exceptions and their relationship to licences and provides an international comparison. We would also urge you to consider the role of the CLA Licence, primary subscriptions and OA material when acquiring content to support teaching.

References

Secker, J., Gadd, E. & Morrison, C. (2019). *Understanding the value of the CLA Licence to UK Higher education*. Universities UK / GuildHE Copyright Negotiation and Advisory Committee. Final report. Available at: <https://ukcopyrightliteracy.files.wordpress.com/2019/07/cnac-research-project-report-final-with-logos-1.pdf> [accessed 11 September 2019]

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Acknowledgements

This article is adapted from a blog post written by the authors that originally appeared on the LSE Impact blog published on 16 September 2019: Gadd, E., Secker, J. and Morrison, C. (2019) Open access to teaching materials: how far have we come? LSE Impact Blog. Available at: <https://blogs.lse.ac.uk/impactofsocialsciences/2019/09/16/open-access-to-teaching-material-how-far-have-we-come/> [accessed 16 September 2019]

Endnote

- 1 For further details and membership of the CNAC see: <https://www.universitiesuk.ac.uk/policy-and-analysis/Pages/copyright-working-group.aspx> [accessed 11 September 2019]

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