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Plan S Update: Rights Retention Strategy

by Caroline Winter | 20 November 2020 | English, Observations, Observations and Responses | 0 comments



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This observation was written by Caroline Winter.

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At a glance:

Title	Rights Retention Strategy
Creator	cOAlition S
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Keywords	copyright , international policy , open access

This Observation is part of a series focusing on developments related to cOAlition S and Plan S since they were launched in September 2018.

Plan S is an initiative of cOAlition S, an international consortium of research and funding organizations. It calls for full and immediate open access (OA) of all publicly funded research publications as of January 2021 (see "[Plan S and cOAlition S](#)").

In July 2020, cOAlition S released its [Rights Retention Strategy](#) (RRS). With this strategy, funding organizations will mandate that researchers apply a Creative Commons Attribution 4.0 International (CC BY 4.0) licence to their research before it is submitted for publication (cOAlition S 2020a). This will allow researchers to retain the intellectual rights necessary for sharing Author Accepted Manuscripts (AAMs) or Versions of Record (VORs) in an OA repository upon publication, even when publishing in a subscription or hybrid journal (see Rooryck 2020).

A [CC BY license](#) allows anyone to use and alter the licenced material in any way they like, including by republishing it commercially, as long as they provide attribution, indicate whether any changes were made, and do not apply any additional technological or legal restrictions on the work (Creative Commons n.d.-a; Creative Commons n.d.-b).

Although the move by cOAlition S could be considered a “checkmate” for the OA movement (Lem 2020), publishers are not obliged to publish submissions from Plan S-funded research. They could simply choose to decline submissions to which the CC BY licence has been applied (Lem 2020; Van Noorden 2020).

Response to the RRS from the INKE Community

The Canadian Association of Research Libraries (CARL–ABRC) released a [statement in support of the RRS](#), emphasizing its position that authors should retain the copyright to their work (CARL 2020), as stated in CARL’s [response to the revised Plan S Implementation Guidelines](#) released in May 2019. The statement notes that the RRS frees individual authors from having to negotiate for their rights at an individual level, and calls this “funder-mandated” strategy “an important and positive step forward” (CARL 2020).

The statement also points to CARL’s [Canadian Author Addendum to Publication Agreement](#) (adapted from the [SPARC Author Addendum](#)) and [CARL Guide to Author Rights](#), which were both revised in 2019 to reflect changes to Canadian copyright and to enable authors to comply with the [Tri-Agency Open Access Policy on Publications](#) and other funders’ open access policies.

The Council of Australian University Librarians (CAUL) and the Australasian Open Access Strategy Group (AOASG) also released a [statement in support of the RRS](#). It notes that the RRS aligns well with the [repository-based approach to OA](#) supported by CAUL, AOASG, the universities they represent, and the [Australian Research Council \(ARC\)](#) and [National Health and Medical Research Council \(NHMRC\)](#) (CAUL and AOASG 2020).

The CAUL/AOASG statement also notes that the RRS aligns with findings from CAUL’s recent report on [Intellectual Property Rights Retention in Scholarly Works at Australian Universities](#) (2020), which offers strategies for universities to ensure researchers retain non-exclusive reuse rights to their works.

Response to the RRS from the Research Community

Many other organizations and stakeholders have also expressed support for the RRS, including

- [The Association of European Research Libraries \(LIBER\)](#)
- [The Association of Research Libraries \(ARL\)](#)
- [CESAER](#)
- [Electronic Information for Libraries \(EIFL\)](#)
- [European University Association \(EUA\)](#)
- [International Alliance of Research Library Associations \(IARLA\)](#)
- [Marie Curie Alumni Association](#)
- [OpenAIRE](#)

One of the reasons given in these statements for supporting the RRS is that it empowers authors. For instance, the statement from Creative Commons notes that,

Publishing under an OA model and transferring rights over to a publisher are antithetical. [...] By retaining their rights, as cOAlition S promotes through the aforementioned Rights Retention Strategy, researchers are empowered and keep their freedom to share their research outputs in ways that benefit the academic community and society as a whole. (Vézina 2020)

Like CARL, the American Association of Research Libraries (ARL) praises the RRS for empowering authors to retain copyright to their work without having to negotiate with publishers on an individual level (CARL 2020; Aiwuyor 2020; see also EUA 2020 and Shawrav 2020).

Another reason for supporting the RRS cited by CARL, ARL, and other organizations is that it particularly supports Green OA, or the deposit of works in open access repositories (CARL 2020; Aiwuyor 2020). Statements from [OpenAIRE](#) and [EIFL](#), for example, note that because Creative Commons licences are already widely used and recognized, as well as human- and machine-readable, the CC BY 4.0 licence will make research widely available, allow for greater interoperability among repositories, and enable text and data mining (OpenAIRE n.d.; EIFL 2020).

[LIBER's statement](#) emphasized cOAlition S's assertion that the COVID-19 pandemic has demonstrated the urgent necessity of open access research, and links the RRS with its own [call for copyright changes](#) to address the need for accessible learning resources during the pandemic (LIBER 2020) (see "[Open Scholarship and COVID-19](#)").

Overall, these statements applaud the RRS for its boldness. For instance, the International Alliance of Research Library Associations (IARLA)—members of which include the ARL, CARL, CAUL, LIBER, and Research Libraries UK (RLUK)—states that with the RRS “[t]he cOAlition S funders want to effect a critical shift in the licensing landscape that would ensure that authors are able to publish in their journal of choice while also making their work openly accessible” (IARLA 2020).

Some stakeholder organizations raise concerns about the RRS and its implementation, however, even when they support Plan S and/or open access in principle. These groups include:

- [Association of Learned and Professional Society Publishers \(ALPSP\)](#)
- [the Optical Society \(OSA\)](#)
- [Cambridge University Press](#)

One issue raised in the above organizational statements relates to how the RRS will affect the financial viability of learned societies and other smaller publishers if they are not able to recoup the costs of producing AAMs. Another is the related concern that the RRS will limit authors' choice of publishing venue (ALPSP 2020; Taylor 2020).

Another issue raised is that authors may find themselves in complex legal situations, bound by their funders' and publishers' conflicting policies (ALPSP 2020; Day 2020).

A third issue raised in these statements is the concern that, in facilitating Green OA, the RRS may have the unintended effect of undermining other routes, particularly Gold OA (ALPSP 2020; Day 2020).

In a piece that sparked lively discussion on [The Scholarly Kitchen](#), Rick Anderson raises concerns about the CC BY license itself. Calling the RRS a “rights confiscation strategy,” he argues that, although the CC BY license technically allows the author to retain the copyright to their work, effectively that work is in the public domain, and the author cannot stop it from being altered or reproduced. He notes, for instance, that authors may not want their work to be translated without their authorization, and points to examples of an author's work being [published without their consent in hate publications](#) and [republished in a](#)

commercial publication (Anderson 2020).

Other stakeholders have expressed related concerns about the appropriateness of the CC BY license in different disciplinary contexts. For instance, in its [response to the original Plan S Implementation Guidelines](#) (which were [revised in May 2019](#)), CARL agrees that authors should retain the copyright to their work, but recommends that authors be allowed to choose the CC license that best suits their needs, rather than being limited to the CC BY 4.0 license (CARL 2019).

Overall, these concerns point to the idea that a one-size-fits-all strategy such as the RRS may not be appropriate for a global research community with varying levels of resources and funding, as well as varying disciplinary practices (Taylor 2020; Day 2020).

Implications for Open Scholarship

Because cOAlition S is becoming increasingly international, developments to Plan S and its related strategies—including the RRS—are of interest to the global research community. Moreover, the discussion about the benefits and drawbacks of the CC BY 4.0 license and the role of funders in mandating which license apply to their works is of relevance to the open scholarship community more broadly.

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