

FROM RESEARCH TO INDUSTRY



**ETUDE BIBLIOGRAPHIQUE SUR
L'OPEN ACCESS AUX PUBLICATIONS
SCIENTIFIQUES AVEC BENCHMARK
AVEC LA PRATIQUE US ET
ACTUALITÉS CONCERNANT LA
RÉVISION DE LA DIRECTIVE PSI:
OPEN ACCESS AUX DONNÉES DE
RECHERCHE**

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20 Novembre 2018

A) Etude bibliographique sur l'Open Access aux publications scientifiques avec benchmark avec la pratique US

- 1) *Benchmark institutionnel US (Président, agences fédérales, organisations de recherche)*
- 2) *Autres sources US (bibliothécaires, analystes, experts)*
- 3) *Quelques sources Européennes*

B) Actualités concernant la révision de la directive PSI: OPEN ACCESS aux données DE RECHERCHE

A1) Benchmark institutionnel US: le Memorandum du Président OBAMA en 2013

https://obamawhitehouse.archives.gov/sites/default/files/microsites/ostp/ostp_public_access_memo_2013.pdf

« To the extent feasible and consistent with law; agency mission; resource constraints; U.S. national, homeland, and economic security; and the objectives listed below, the results of unclassified research that are published in peer-reviewed publications directly arising from Federal funding should be stored for long-term preservation and publicly accessible to search, retrieve, and analyze in ways that maximize the impact and accountability of the Federal research investment ».

« The Administration also recognizes that publishers provide valuable services, including the coordination of peer review, that are essential for ensuring the high quality and integrity of many scholarly publications. It is critical that these services continue to be made available. It is also important that Federal policy not adversely affect opportunities for researchers who are not funded by the Federal Government to disseminate any analysis or results of their research.

« Further, each agency plan shall »:

« shall use a twelve-month post-publication embargo period as a guideline for making research papers publicly available; however, an agency may tailor its plan as necessary to address the objectives articulated in this memorandum, as well as the challenges and public interests that are unique to each field and mission combination, and »

A1) Benchmark institutionnel US: le Memorandum du Président OBAMA en 2013

- Limité aux publications scientifiques avec revue par les pairs, pour les programmes financés par les agences institutionnelles fédérales US
- Prise en compte des questions de sécurité nationale ET économique
- Non obligatoire; indicative
- Période d'embargo conseillée de douze mois

A1) Benchmark institutionnel US: agences fédérales

<https://publicaccess.nih.gov/faq.htm#814>

« The NIH Public Access Policy does not affect authors' freedom to choose the vehicle or venue for publishing their results. NIH expects that its awardees will continue to publish the results of their research consistent with their professional autonomy and judgment, in order to advance science as efficiently and comprehensively as possible.

NIH recognizes that publication in peer-reviewed journals is a major factor in determining the professional standing of scientists; institutions use publication in peer-reviewed journals in making hiring, promotion, and tenure decisions »

A1) Benchmark institutionnel US: research organisations

➤ **MIT:** <https://libraries.mit.edu/scholarly/mit-open-access/faq-on-the-oa-policy/>

« **Will this policy harm those in tenure processes who need to show publication in high quality journals?** »

The opt out option protects authors who need to publish in journals that will not cooperate with the policy.

Is MIT taking the rights to my writing?

No. This policy grants specific nonexclusive permissions to MIT. You still retain ownership and complete control of the copyright in your writings, subject only to this prior permission. You can exercise your copyrights in any way you see fit »

➤ **Columbia University:** <https://scholcomm.columbia.edu/open-access/open-access-policies/frequently-asked-questions/>

« **8. Is Columbia trying to take the rights to my scholarship?** »

No. You, as the author of the article, own the copyright unless and until you assign it to someone else, most commonly a publisher. The license granted to Columbia under the policy is not an assignment or transfer of copyright. It is just permission from you, as the copyright holder, to Columbia to make a certain use of your work. You still retain ownership and complete control of the copyright in your writings, subject only to this prior license.

11. Will the policy affect where I can publish my work?

No. The policy does not play any role in the publishing process until after a paper is accepted for publication by the journal of your choice. The policy does not mandate publication in open access journals; you continue to be free to publish where you choose, based on whatever criteria are most important to you.

12. What if the policy conflicts with my publisher's policies?

Columbia will grant a waiver of the policy for any given article to any faculty member who requests one in writing. Authors only need to request a waiver by sending an e-mail to the appropriate contact (see below) in which you clearly identify for which article you are requesting a waiver. »

A1) Benchmark institutionnel US: research organisations

<https://library.unc.edu/scholcom/open-access-at-unc-chapel-hill/faqs-about-uncs-open-access-policy/#18> (University of North Carolina at Chapel Hill)

Opt-outs, waivers, and embargos

« What if a journal publisher refuses to publish my article because of the prior permission given to UNC under the policy?

Faculty have the freedom to opt out of the Open Access Policy for any individual scholarly article. To opt out, [request a waiver](#) from the university.

How does a waiver work?

Under UNC's Open Access Policy, faculty give the university a non-exclusive license to make scholarly articles openly available. When a faculty member requests a waiver, UNC gives up that right. We grant waivers whenever they are requested and send email confirmation to the faculty member who made the request.

Will I be able to embargo access to my article?

Yes, the CDR's submission process allows authors to choose an embargo period ».

<https://www.insidehighered.com/views/2015/12/15/mandatory-open-access-publishing-can-impair-academic-freedom-essay>

*« **Open Access and Academic Freedom** » ; Rick Anderson is associate dean for collections and scholarly communication at the University of Utah's J. Willard Marriott Library.*

« The national American Association of University Professors (AAUP) stands firmly behind the principle that academic freedom guarantees faculty members the right not only to decide what research they want to do and how to do it but also the right to decide how the fruits of their research will be disseminated. Academic freedom does not terminate at the moment when you create a publishable book or essay ».

« Arguments backed up by coercion are always suspect; if they are as strong as those making them seem to believe, then coercion should not be necessary. Where coercion is shown to be necessary for widespread adoption, then perhaps that suggests the need for a more rigorous examination of costs and benefits ».

<https://onlinelibrary.wiley.com/doi/full/10.1002/leap.1034>;

« **Why are there virtually no mandatory open access policies at American universities?** » ; [Rick Anderson](#) ; First published: 20 June 2016 ;

« **Abstract:** Key points

- *U.S. university OA policies are far less mandatory than those in the U.K.*
- *The waiver clauses in U.S. university policies make it easy for authors to decline making their articles OA.*
- *The relative autonomy – and competitiveness – of U.S. universities may be the reason for weaker OA policies ».*

« **FIRST, PUBLIC HIGHER EDUCATION IN THE UNITED STATES IS HIGHLY DECENTRALIZED**

SECOND, ROUGHLY HALF OF U.S. NONPROFIT INSTITUTIONS OF HIGHER EDUCATION ARE PRIVATE, NOT PUBLIC

THIRD, THE AMERICAN CONCEPTION OF ACADEMIC FREEDOM INCLUDES A HIGH DEGREE OF FACULTY AUTONOMY WITH REGARDS TO PUBLISHING CHOICES

« *However, in the sphere of U.S. institutions of higher education, I will be very surprised if truly mandatory and truly open access becomes widespread in the foreseeable future ».*

<https://jisc-pub.org/articles/abstract/10.7710/2162-3309.2104/> ;

David James Johnston ; 2017 ; Librarian, University of Windsor

« *Policies that contain conditions that require authors to make a work OA either through a repository or OA journal without providing a corresponding ability to opt-out introduce a greater risk of conflict with academic freedom* »

<https://www.aaup.org/article/what-open-access-movement-doesn%E2%80%99t-want-you-know#.W2rxddlzY2w>. 2015

University of Colorado Denver librarian

Jeffrey Beall was the librarian who drafted the list of predatory OA publishers.

<https://beallslist.weebly.com/>

« *The low quality of the work often published under the gold and green open-access models provides startling evidence of the value of high-quality scholarly publishing* ».

« *Some publishers and journals do not charge fees to researchers and still make their content freely accessible and free to read. These publishers practice platinum open access, which is free to the authors and free to the readers. Platinum open-access journals are usually published by nonprofit societies and associations.* «

<https://onlinelibrary.wiley.com/doi/full/10.1002/leap.1034>;

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<https://scholarlykitchen.sspnet.org/2018/04/11/interview-keith-marmer-avp-ed-technology-venture-commercialization-university-utah/12/04/2018>

Interview: Keith Marmer, AVP & ED for Technology & Venture Commercialization at the University of Utah ; By [RICK ANDERSON](#) ; APR 11, 2018

Q : « In the scholarly-communication world, there is ongoing debate over the degree to which the public should expect free access to research results, especially when these are based on research funded by the public. The points you're making suggest a possibly important distinction between publishing an account of the research (including some degree of revelation with regard to results) and publishing all the details of the resulting data. It sounds like you're suggesting that there may be legitimate reasons for keeping at least some of the research results indoors, even when the public has funded (either entirely or partially) the research. Is that correct, and if so, can you expand on this point? »

A : I think it is challenging to draw a black and white distinction on the public rights vs benefits issue. Ultimately, I agree that the use of public funds should benefit the public – it is merely a question of how. If you look back to the early days of federal research funding, the federal government owned all inventions. Research was published openly and the public had free access to the results of the work. It was Congress that determined the public interest was not being served, and in 1980, passed the Bayh-Dole Act. This legislation recognized that universities are closest to the work, and if they have proper incentives (i.e. financial return), commercialization of select research would do more to benefit the public. This is not to say that universities seek commercial benefit on all research. In fact, it is a very small percentage of research where initial patent protection is sought. Most academic research makes its way into the public domain via publication and other forms of free access.

<https://poynder.blogspot.com/2018/03/the-open-access-big-deal-back-to-future.html>;
28/03/2018 ; Richard Poynter

« The UK has signally failed to achieve any meaningful transition to OA while enriching publishers further. It is also now clear that the UK approach is financially unsustainable. This is all too evident if one reads the recent [Monitoring the Transition to Open Access](#) report. As the Times Higher [noted](#), “In 2016, a sample of 10 UK universities paid £16.1 million for subscriptions to seven of the biggest publishers, up a fifth since 2013, according to a new Universities UK report tracking the growth of open access publishing, released on 5 December. Yet these universities also spent £3.4 million on article processing charges (APCs), the fees required to publish an article open access, up from about £750,000 three years previously”.

European negotiators have therefore vowed that they will provide no new money for OA Big Deals, although whether they will succeed in this remains open to question. In any case, even if they do manage to avoid the British trap, it is highly unlikely that the costs of scholarly communication will come down as a result of these agreements. Legacy publishers are never going to voluntarily agree to deals that will lead to a fall in their profits, and by their very nature, these deals cannot unleash the kind of market forces that would be needed to compel publishers to lower their prices ».

A2) Autres sources US (Philip Mirowski; historien, philosophe des science): « The future of Open Science »

« **Abstract:** Almost everyone is enthusiastic that 'open science' is the wave of the future. Yet when one looks seriously at the flaws in modern science that the movement proposes to remedy, the prospect for improvement in at least four areas are unimpressive. This suggests that the agenda is effectively to re-engineer science along the lines of platform capitalism, under the misleading banner of opening up science to the masses. »

.....

« The layers of confusion surrounding open science rival a millefeuille, and can be just as sticky. Consequently, open science has not in any straightforward way seemed to augment scientific productivity in the one specific instance where it has been embraced by industrial representatives.

Platform capitalism meets open science; romance ensues

The most important aspect of this Brave New World is to understand why its champions would believe that such a sloppy unintegrated bottom-up system beset by waves of ignorant kibitzers would produce anything but white noise. (linguee: Kibitzer: People who are watching games on tables they are not playing at).

Open science is to conventional science as 'online education' is to university education: Neither has as its primary goal serious enlightenment of the citizenry. Thus Science 2.0 constitutes the progressive removal of autonomy from the research scientist. Indeed, 'ghost authorship' is the natural outcome of open science »

http://www.allea.org/wp-content/uploads/2018/02/LFesusOpen_Access-The-Problem-Landscape-from-an-Ethical-Perspective.pdf

Open Access: The problem landscape from an ethical perspective ; László Fésüs ; Hungarian Academy of Sciences and University of Debrecen Hungary ; ALLEA's Permanent Working Group Science and Ethics member

« Unexpected Consequences in Open Access Publishing-ethical issues

- *Possibility of restriction in academic freedom*
 - ***Researchers may be restricted in academic freedom to publish where they consider it best***
 - *administrative open access mandates*
 - *limited availability of funds for Article Processing Charges (APCs).*

*This may **endanger freedom of science***

- *Emergence of APC figure as a measure of quality?*
- *Mushrooming of bogus („predatory) journals”*
- *Increased use of bogus journals*
- *Hybrid journals –„double dipping” »*

A3) Quelques sources européennes: université de Constance

<https://www.uni-konstanz.de/en/university/news-and-media/current-announcements/news/news-in-detail/open-access-satzung-auf-juristischem-pruefstand/>; 21/11/2016 and <https://www.uni-konstanz.de/en/university/news-and-media/current-announcements/news/news-in-detail/verpflichtendes-zweitveroeffentlichungsrecht/02/11/2017>

« Seventeen University of Konstanz teachers have brought an action against these regulations. They consider the university's policy to require its researchers to follow the secondary publication right as a violation of their basic right to academic freedom (Art. 5 para. 3 German Basic Law) ».

« Federal Constitutional Court to clarify whether regulation conforms to the German constitution »

« In the UK, the Finch Report (2012) recommended the gold route as the preferred route for Open Access publication. Bodies such as the Wellcome Trust and Research Councils UK give monies to researchers to fund Article Publication Charges (APCs) in both hybrid journals and pure gold journals. The purpose of funding such publishing activity was to transition UK Higher Education to full Open Access. **That transition has clearly not worked and the reason is financial. The average cost of an APC paid by a British university is £1700 (per publication) and, for a productive institution, this average will increase its publishing costs above the current cost of accessing these resources through subscriptions.** »

« Universities need to be able to decide which mix of policy decisions, measures and ways to engage with stakeholders best fulfils their needs in view of the institutions' overall strategies and national or other agendas. Since these vary widely across Europe, it is impossible to have identical goals or measures across all universities, even within the group of LERU universities. One-size-fits-all solutions are in most cases inappropriate and unlikely to be successful »

« A second point that universities should note is that the EOSC will not build a central infrastructure or data archive or repository. Rather, it will link interoperable infrastructures where they exist. **Countries, research organisations and universities must thus invest in such infrastructures in order to engage with the EOSC as a pan-European development. Cost is an important factor in such developments. How much will institutions have to pay in order to have the necessary infrastructure in place to interact with the EOSC? This is a key question for all universities and one that is extremely difficult to answer, since universities either do not have all the necessary infrastructure in place or else do not disclose their costs.** Universities need to be able to decide which mix of policy decisions, measures and ways to engage with stakeholders

best fulfils their needs in view of the institutions' overall strategies and national or other agendas. Since these vary

widely across Europe, it is impossible to have identical goals or measures across all universities, even within the group of LERU universities. **One-size-fits-all solutions are in most cases inappropriate**

<https://www.sueddeutsche.de/wissen/wissenschaft-tausende-forscher-publizieren-in-pseudo-journalen-1.4061005>; 19/07/2018

« Many researchers waste taxpayers' money, which should actually be invested in cutting-edge research. This results in months of research by NDR, WDR, Süddeutscher Zeitung, the SZ magazine and other national and international media such as Falter and Le Monde. According to research, 400,000 researchers worldwide have published in questionable journals. The number of such publications has tripled in the past five years worldwide, in Germany even quintupled ».

<https://w.ch/article/doi/smw.2018.14600/>

« *Open access, data capitalism and academic publishing* » ; Michael Hagner ; DOI: <https://doi.org/10.4414/smw.2018.14600> ; Publication Date: 16.02.2018 ; Swiss Med Wkly. 2018;148:w14600

<http://www.wiss.ethz.ch/personen/mitarbeitende/hagner.html>

Abstract

« *Open Access (OA) is widely considered a breakthrough in the history of academic publishing, rendering the knowledge produced by the worldwide scientific community accessible to all. In numerous countries, national governments, funding institutions and research organisations have undertaken enormous efforts to establish OA as the new publishing standard. The benefits and new perspectives, however, cause various challenges. This essay addresses several issues, including that OA is deeply embedded in the logic and practices of data capitalism. Given that OA has proven an attractive business model for commercial publishers, the key predictions of OA-advocates, namely that OA would liberate both scientists and tax payers from the chains of global publishing companies, have not become true. In its conclusion, the paper discusses the opportunities and pitfalls of non-commercial publishing.* »

- **Directive PSI = réutilisation des données
« administratives » publiques**
- **Dernière révision en 2013: extension aux Données
culturelles et renforcement des contraintes d'accès
libre et gratuit pour la réutilisation**
- **Nouveau projet de révision en 2018:**
 - **extension à encore plus de types de données
administratives et aux données de la Recherche**
 - **Restriction encore plus forte des exceptions où les
Données ne sont pas accessibles librement et
gratuitement**

Réactions Hors Données de Recherche (documents publics):

- **un très grand nombre d'associations Européennes ou nationales de producteurs de données publiques cherchent à être exclus de la Directive:
Eurogeographics, UITP, PEARLE, EBU, CER, CEEP,.....**
- **Plusieurs gouvernements (NOR, UK,FI) d'Etats Membres ou de parlements nationaux (UK, GER) ont exprimé par documents publics leurs réserves sur la nécessité de réviser**

Données de Recherche:

- **Très grande confusion dans la rédaction du projet de texte et des amendements du Parlement, notamment entre les attendus (recitals) et les articles: par exemple, si les attendus indiquent que la directive ne porte que sur les Données qui auraient été ouvertes auparavant, c'est beaucoup moins clair dans l'article 10!!**
- **Certains amendements du Parlement étendent la confusion aux Données des études préparatoires et aux données obtenues avec seulement une part de cofinancement public**

B) Actualités concernant la révision de la directive PSI: OPEN ACCESS aux données DE RECHERCHE

Joint Statement BUSINESS EUROPE DIGITAL EUROPE EARTO EUA SCIENCE EUROPE:
12/11/2018

http://www.earto.eu/fileadmin/content/03_Publications/2018/Joint_Statement_on_the_Revision_of_the_PSI_Directive.pdf

1. Reconsidérer l'objectif et l'intérêt de l'extension proposée de la directive PSI aux données de recherche.
2. Garantir une approche cohérente et cohérente entre les différents textes législatifs de l'UE sur le partage des données de recherche, selon le principe «*aussi ouvert que possible, aussi fermé que nécessaire*».
3. Focalisation sur la réutilisation optimale des données de recherche et non sur l'ouverture (inconditionnelle) de ces données, en indiquant explicitement que seules les données de recherche qui ont déjà été publiées auparavant, volontairement et sans condition ou placées dans un référentiel en accès libre par des chercheurs ou leurs organisations, sont dans le champ d'application de cette directive.
4. Éviter clairement d'étendre encore le champ d'application de cette directive aux "études préparatoires" et aux "projets ne bénéficiant que d'un financement public partiel".