

Authors Addenda:

Updating current forms and strategizing on adoption opportunities

CC Global Summit, Lisbon, May 2019

Rosarie Coughlan, Queen's University
Roger Gillis, Dalhousie University
Diane Peters, Creative Commons
Jennifer Zerkee, Simon Fraser University



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Introductions



Rosarie Coughlan,
Scholarly Publishing
Librarian,
Queen's U (Canada)



Roger Gillis,
Copyright & Digital
Humanities Librarian,
Dalhousie U (Canada)



Diane Peters,
General Counsel,
Creative Commons
(Global)



Jennifer Zerkee,
Copyright Specialist,
Simon Fraser U
(Canada)

Our goals

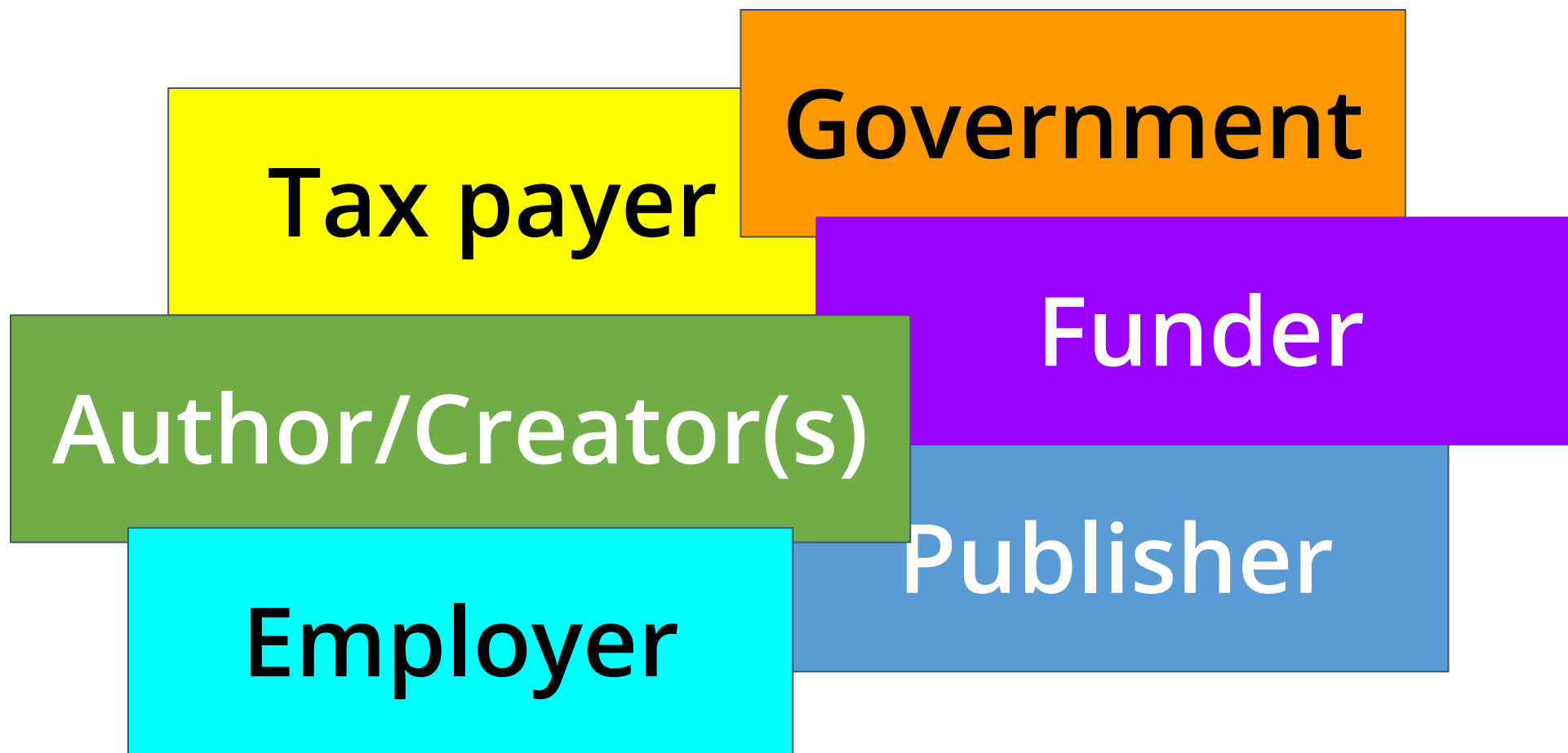
- Authors rights in academic publishing, global perspectives
- Authors Addendums, use and application
 - Perspectives from Creative Commons
- Revisions to the Canadian Authors Addendum
- Beyond addenda, a call to action

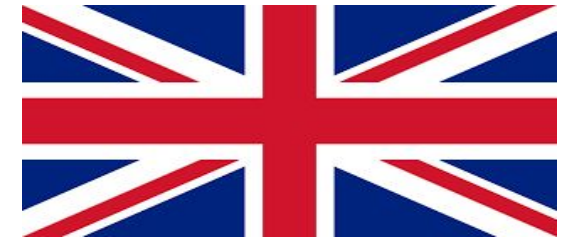
Author rights in context

- Copyright and author rights
- What do we mean by 'authors rights'?
- Who owns the copyrights in an author's work?



“who pays the piper calls the tune”





Example: UK

Copyright normally owned by the employer, unless there is an agreement otherwise.

Universities may waive copyright in certain kinds of publications written by employees:

- Research publications and textbooks where the author retains copyright
- Course materials where the University asserts its ownership of copyright

Example: Canada



- d. A Course Authorship Agreement or Course Revision Agreement shall grant the University an irrevocable non-exclusive, non-transferable (other than to other post-secondary educational institutions under a reciprocal arrangement), non-royalty bearing license to use the Member's Intellectual Property created and/or provided under the Agreement by the Member for the purpose of teaching students enrolled in a Queen's University course for which the Intellectual Property was created and/or provided, including where there are modifications, updates and changes to the course in accordance with Paragraph 3.e of this Appendix. Any use of Intellectual Property created and/or provided under the Agreement that is not included in the license is prohibited without the consent of the Course Author or Course Reviser.
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 - ii. transfer all Intellectual Property into a current or any successor learning management system or delivery medium;

Example: USA



Consider: “Work for Hire” - your employer owns the copyright for that work from the moment it comes into being.

No written agreement is required for the creative work of a regular employee to be deemed a work for hire (one is usually made).

The "scope of employment" can be defined so that whatever the employee creates on her own time outside that scope clearly belongs to her.

Open Access & authors rights



Tri-Agency Open Access Policy on Publications

“3.1 Peer-reviewed Journal Publications

Grant recipients are required to ensure that any peer-reviewed journal publications arising from Agency-supported research are freely accessible within 12 months of publication.”



Draft Recommendations

MIT Ad Hoc Faculty Task Force on OA - March 16, 2019



Recommendations

The Task Force offers recommendations organized around three strategies for supporting the open dissemination of MIT research and educational outputs:

1. Policy recommendations
2. Infrastructure and resource recommendations
3. Advocacy and awareness recommendations

Policy recommendations

1. Adopt an all-campus open access policy, granting MIT non-exclusive permission to openly disseminate scholarly articles⁷ written by any MIT author. Such a policy would apply to scholarly articles written by undergraduate and graduate students, staff, post-doctoral fellows, research scientists, and other MIT community members who produce scholarly research articles while employed and/or enrolled at MIT, and would be modeled on the existing [MIT Faculty Open Access Policy](#). This is not intended to apply to work that students produce solely for courses; it

Europe: Plan S



Plan S

**Making full and
immediate Open
Access a reality**

01 Authors retain copyright of their publication with no restrictions. All publications must be published under an open license, preferably the Creative Commons Attribution Licence CC BY. In all cases, the license applied should fulfil the requirements defined by the Berlin Declaration;

Access journals or platforms.

ember

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en

Issues and limitations

Sharing works outside of publishers websites (e.g. personal website, institutional repository, social networking sites)

Lack of awareness around options (negotiating terms, addenda, CC licenses)

Knowledge around copyright may be limited - researchers face different pressures (tenure & promotion, publishing in certain venues)

Previous rights arrangements (e.g. assignments of certain rights in previous contracts/licenses)

Caring about sharing

Researchers often want to share their publications (personal websites, institutional repositories, etc.) but restrictive agreements may restrict them from doing so.

Publishers escalate battle against ResearchGate. Inside Higher Ed.

<https://www.insidehighered.com/news/2018/10/04/publishers-accuse-researchgate-mass-copyright-infringement>

Researchers are unaware of options

Using addenda or other tools

Negotiating and understanding licenses and contracts (what am I signing away?)

Implications and limitations of assigning copyright

Pressures faced by academic researchers

The ticking time clock of tenure

Publishing within certain journals/publication venues (which may have restrictive copyright arrangements)

Lack of rewards / incentives for publishing Open Access (with less restrictive rights) formats

[Draft report on Open Access \(MIT Taskforce\)](#)

[Preliminary Findings from the Review, Promotion, and Tenure Study](#)

(Alperin et. al.) | [Preprint.](#)

Other barriers

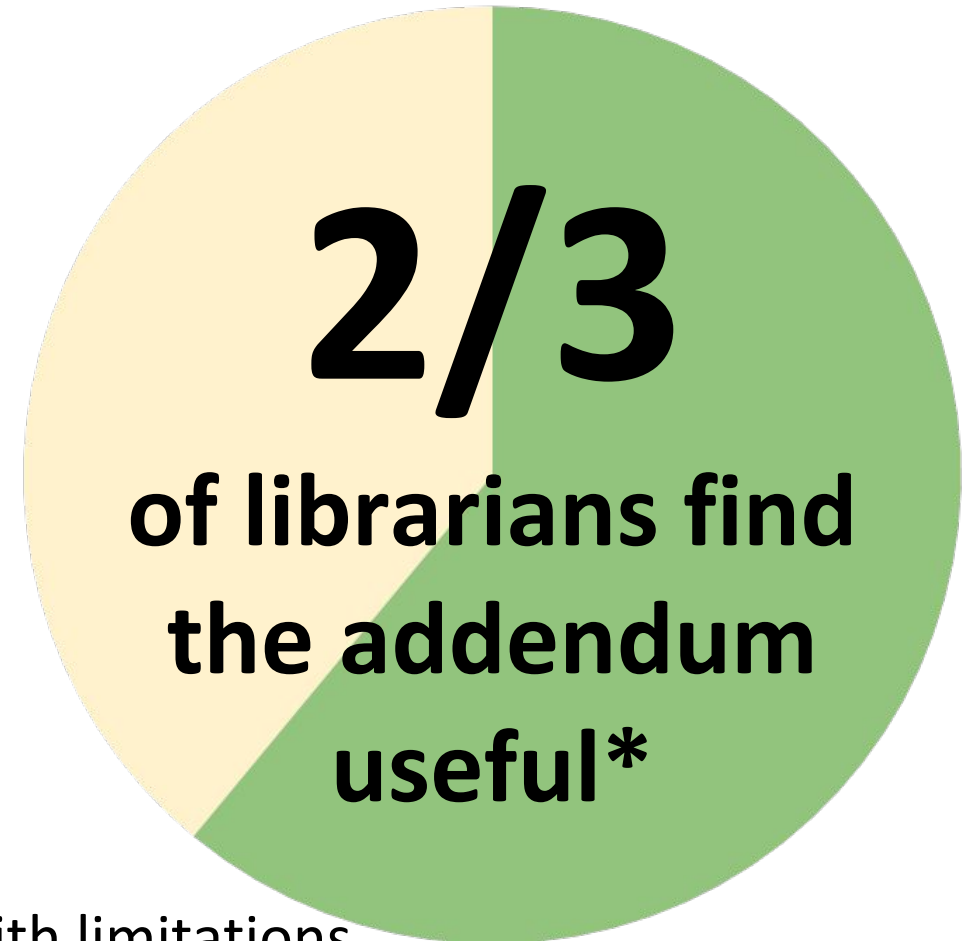
Click-through agreements (little room for negotiation)

Previous agreements/licenses

Revising the Canadian addendum

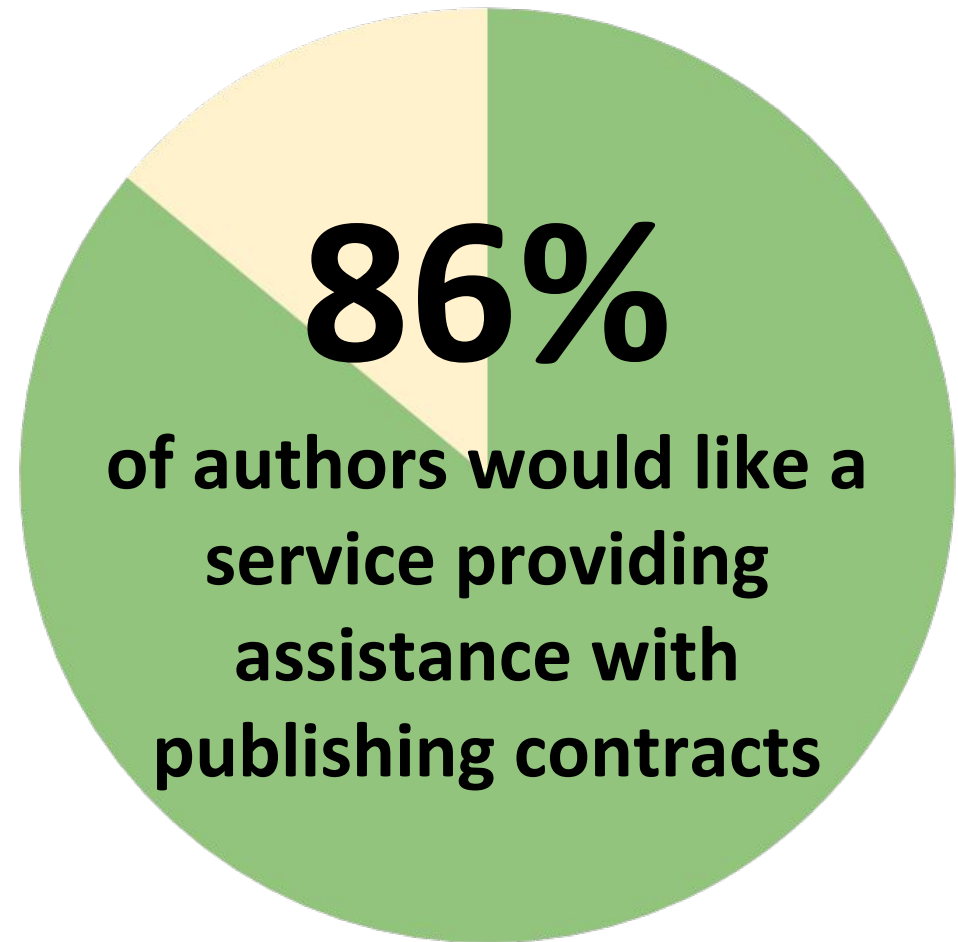
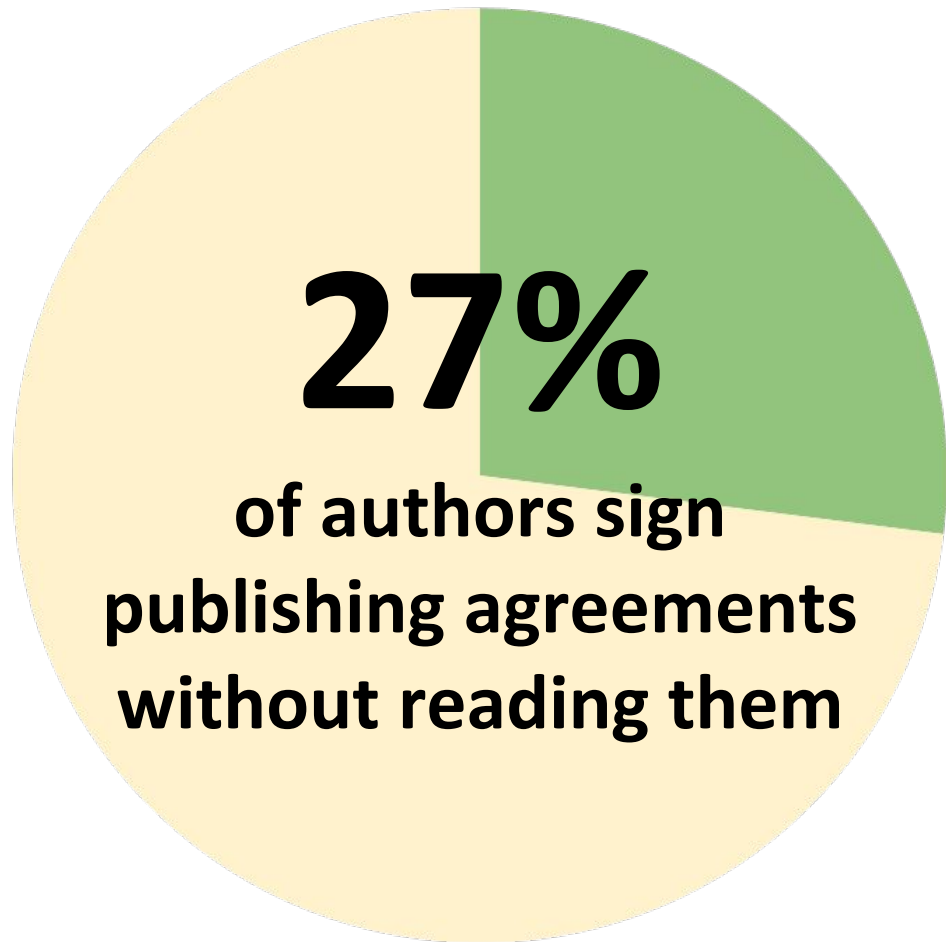


Canadian Association of Research Libraries /
Association des bibliothèques
de recherche du Canada

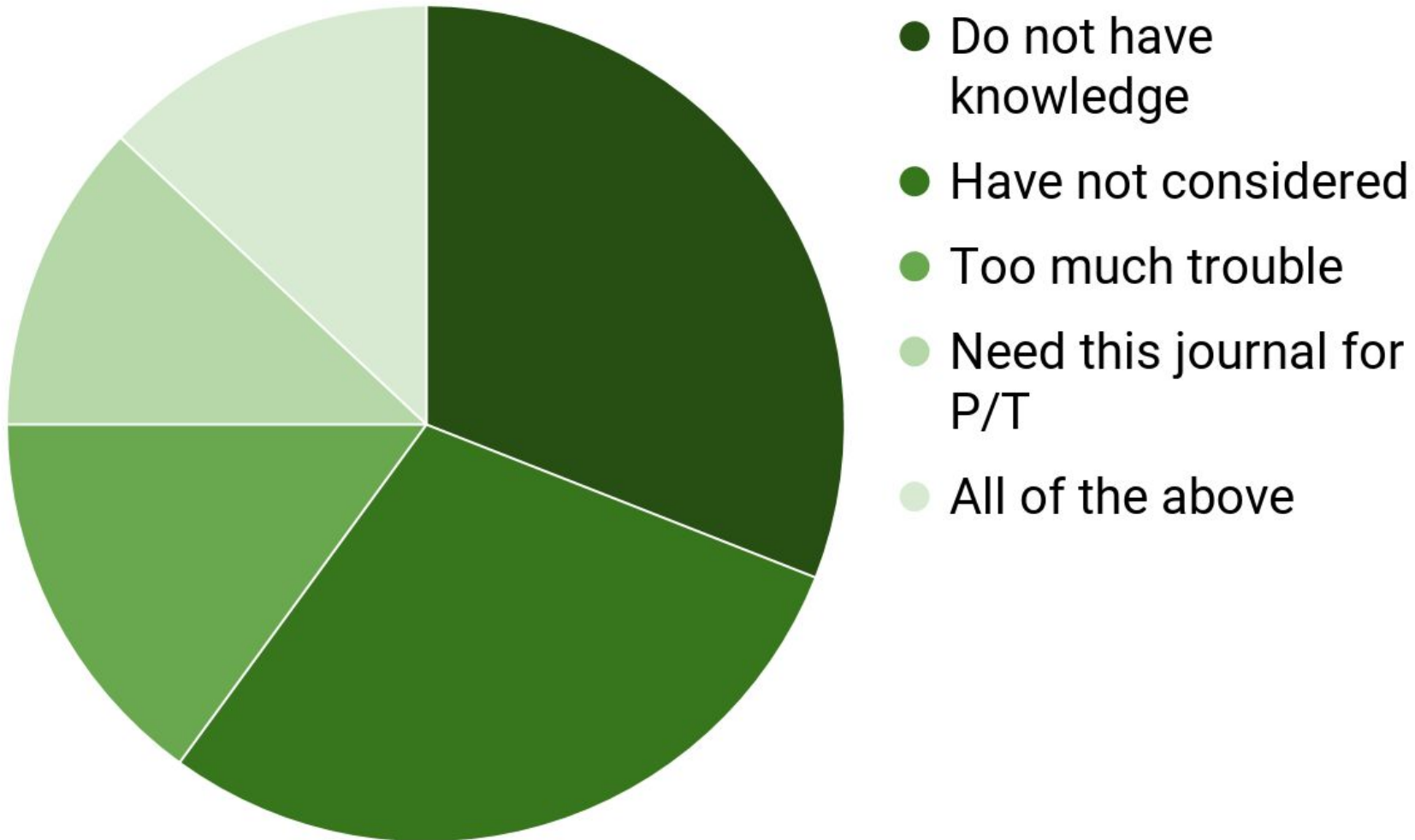


*with limitations

2016 survey of researchers



“What factors prevent you from negotiating with publishers?”





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[journal or book name]

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 - Determine which of these rights** you wish to retain (e.g. sharing the work with students and colleagues, depositing in repositories, using graphs and tables in future publications).
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 - Sign and date a print copy of the Addendum**, scan, and email to the editor, along with your signed agreement, and wait to receive a response*. *It is recommended that you signal your addition of an addendum clearly, via email and/or as a note next to your signature on the author agreement.*

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CARL Guide to Author Rights

About this guide

This guide summarizes what you should know about your rights as an author in order to make your work available for sharing and reuse by you and others.

There are many ways in which you may wish to share your work, for example through institutional repositories, personal websites, with colleagues or students, or through adaptation and reuse in a new research product.

Unfortunately, many publishers' agreements ask authors to transfer copyright to them at the time of publication, thereby restricting future use of the work.

This is a very short introduction to this topic. Don't forget that your institution's Scholarly Communication Librarian or Copyright Office may be available to help you throughout this process.

This guide offers you things to consider...

- ➔ Before you submit your manuscript to a journal or book publisher
- ➔ During the submission and review process, and
- ➔ After publication.

But first, copyright is...

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Copyright belongs to the author and co-authors from the time of creation, unless and until those rights are transferred to someone else. (In some cases, employers may own copyright in employees' works. However, in many Canadian universities, collective agreements stipulate that authors retain rights to works of teaching, research and scholarship; check your employment contract or collective agreement as well as your institution's policies and regulations.)

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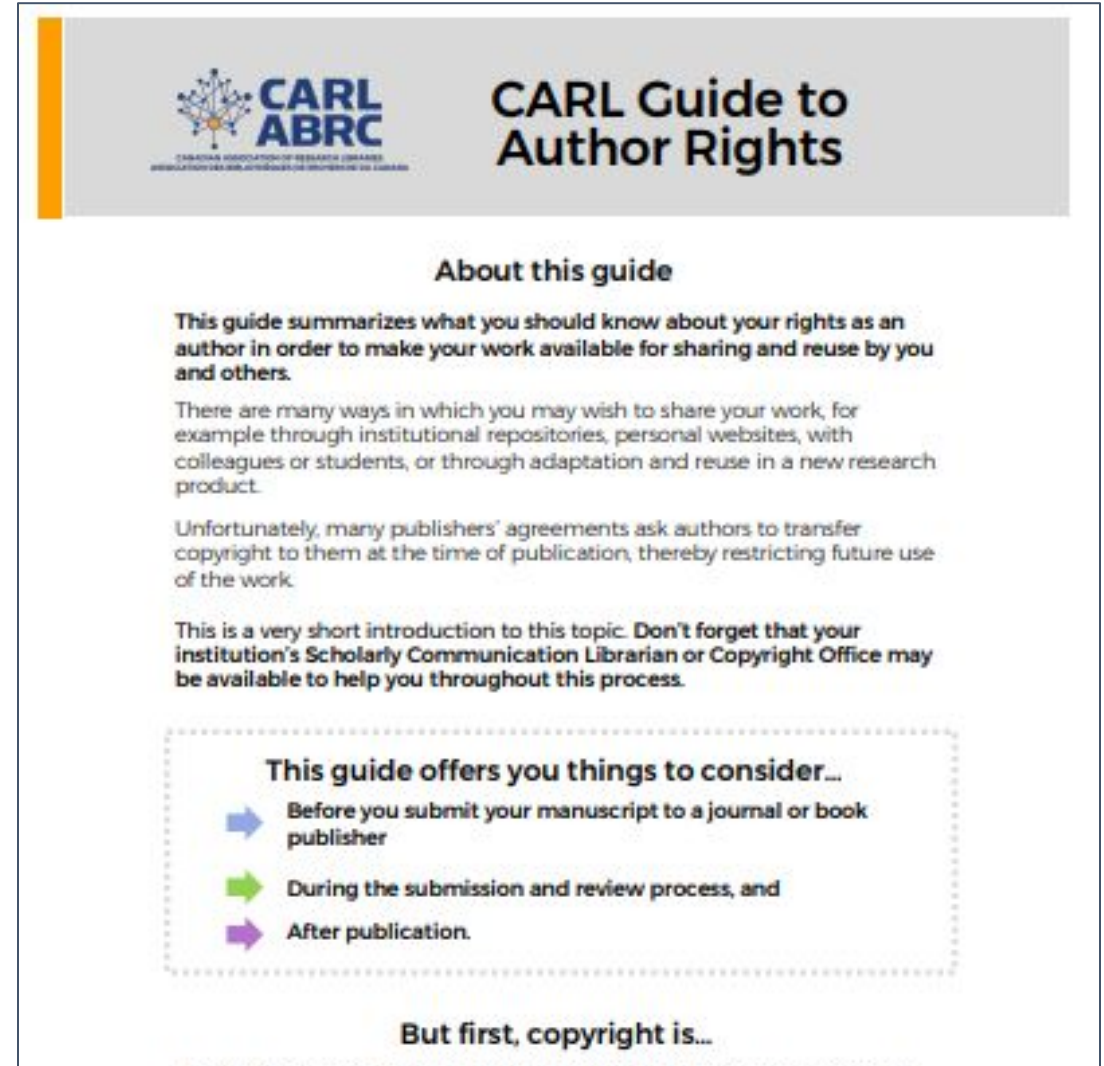
- 1 Get to know your rights
- 2 Determine which rights you want to retain
- 3 Read your publishing agreement to see what rights it gives you
- 4 Download and fill out the Canadian Author Addendum
- 5 Submit the addendum to your editor

CARL guide to author rights

Before you submit

During submission and review

After publication



The screenshot shows the title page of the 'CARL Guide to Author Rights'. At the top left is the CARL ABRC logo, which includes a stylized network diagram and the text 'CARL ABRC' and 'CANADIAN ASSOCIATION OF RESEARCH LIBRARIES'. To the right of the logo is the title 'CARL Guide to Author Rights'. Below the title is the section 'About this guide'. This section contains three paragraphs: the first explains the guide's purpose, the second lists ways to share work, and the third discusses publisher agreements. Below this is a dashed box titled 'This guide offers you things to consider...' containing three bullet points with colored arrows: blue for 'Before you submit your manuscript to a journal or book publisher', green for 'During the submission and review process, and', and purple for 'After publication.'. At the bottom of the page, the text 'But first, copyright is...' is visible.

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- ➔ Before you submit your manuscript to a journal or book publisher
- ➔ During the submission and review process, and
- ➔ After publication.

But first, copyright is...

Before you submit

- 1 Select your publication venue carefully
- 2 Identify rights you want to retain
- 3 Review funder and institutional policies
- 4 Additional considerations:
 - Third-party content
 - Publishing research data

During submission and review

- 1 Understand the terms of your agreement
- 2 Negotiate to retain your rights if necessary

After publication

- 1 Retain a copy of your publishing agreement
- 2 Reclaim your rights
- 3 Share your work as widely as permitted

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Creative Commons & author addenda

CC Scholars Copyright Addendum Engine (current) Offerings

- ♦ Goal: ensure authors retain some rights to publish their works on open terms when submitting articles for publication
- ♦ Creative Commons, SPARC, MIT, and many dozens if not hundreds of types of addenda, with various terms
 - ♦ See http://oad.simmons.edu/oadwiki/Author_addenda
- ♦ SCAE: generates standard a standard addendum for submission with publication agreements

Type	Authors may ...
CC/SPARC	Immediately post online under BY-NC or equivalent
CC Immediate Access	Immediately post published version online if no charge to access
CC Delayed Access	Post final version (after peer review) online if no charge to access Post published version after 6 months
MIT	Use in academic work at MIT, deposit in Dspace, and if NIH-funded deposit in PubMed Central

Utility and impact; Are addenda effective?

Measuring success, value of addenda overall

- Use by authors – learnings
- Acceptance by publishers and/or change in standard publication agreements
- Biggest Impact: education and empowerment of authors

Considerations for the future

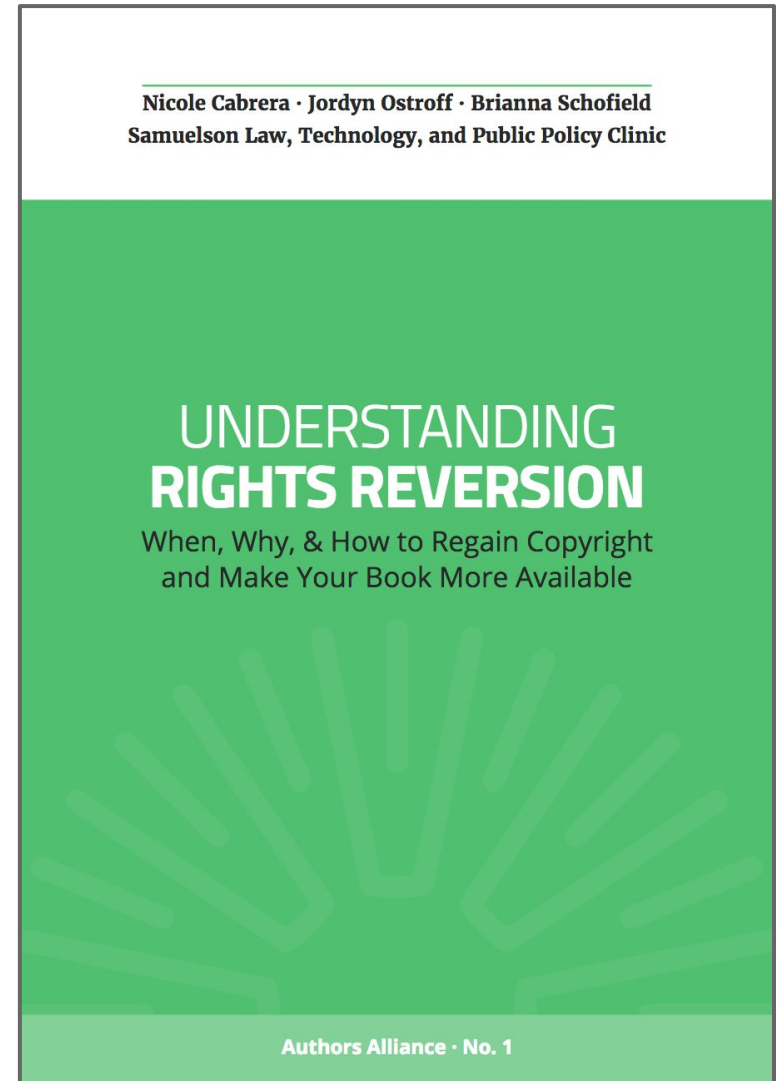
- Ongoing utility and impact? Data is sparse
- Expansion of legal terms to address changing ecosystem
- Technology
- Education // Socialization
- Other (potentially) more impactful mechanisms

The larger ecosystem for authors

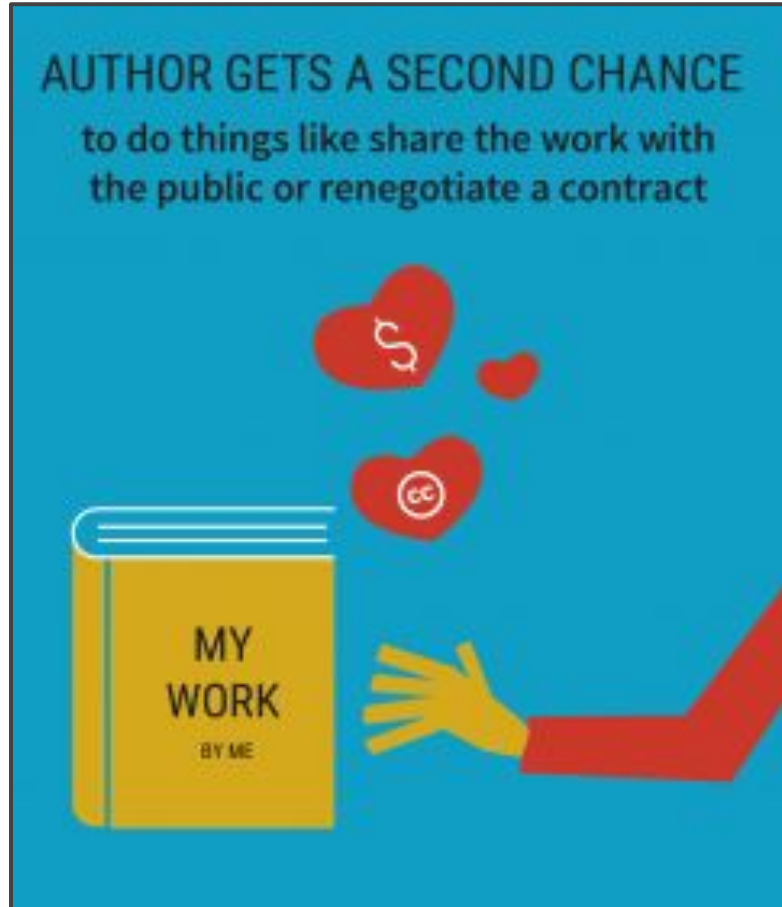


Rights reversion

- Publishing agreements may contain a reversionary rights clause (different or in addition to statutory rights reversion).
- Allows an author to regain some or all of the rights in her book from her publisher when its triggering conditions are met.
- Pro tips:
 - Authors can still negotiate with their publishers in the absence of a contractual clause.
 - Keep a copy of your publication contract.
- Authors Alliance provides free information about rights reversion (authorsalliance.org/resources/rights-reversion-portal)



Termination rights: why take them back?



The opportunity to recapture rights allows creators to:

- Give new life to works that have outlived their commercial lives (by, for example, releasing them to the public on open terms)
- Renegotiate contracts and enjoy more of their works' financial success

Termination rights (U.S.) (rightsback.org)

IS THE ToT TOOL USEFUL TO ME?

The Termination of Transfer (ToT) tool helps authors understand the termination of transfer provisions of U.S. copyright law, which allow authors to regain copyright to creative works they have previously signed away, even if their contracts say otherwise

AUTHOR CREATES WORK

- Art
- Academic
- Literature
- Music
- Film

AUTHOR TRANSFERS RIGHTS

TIME PASSES

AUTHOR TERMINATES TRANSFER TO GET RIGHTS BACK

AUTHOR GETS A SECOND CHANCE to do things like share the work with the public or renegotiate a contract

LEARN MORE ABOUT EXERCISING YOUR ToT RIGHTS AT [RIGHTSBACK.ORG](https://rightsback.org)

creative commons | AUTHORS ALLIANCE

Authors Alliance/Creative Commons
Termination of Transfer Tool (ToT Tool)

Termination rights (global): RightsBackResource



<https://labs.creativecommons.org/reversionary-rights/>



Many countries have laws giving statutory rights that allow authors to reclaim or have their rights returned

Generally, come in two flavors:

- **Automatic reversion:** e.g., in Canada
- **Termination upon demand:** e.g., in Poland

Moral rights as termination rights

- Primarily in civil law countries
- Control reuses, possibly regain
- Not typically transferable or licensable

Countries



Select a country on the map above, or:

What's the RightsBackResource?

- Searchable database of termination rights in all countries
- Aggregates
 - Laws (enacted and pending/proposed)
 - Case law and administrative decisions
 - Scholarly articles and resources
 - Links to termination tools and guides (currently U.S. and Poland)
 - Other information, including submitters of content if provided
- Consider contributing!

How to Contribute

CC Rights Back Resource [BETA] About **Contribute** Countries FAQ

Poland

Legislation

Title	Number
Act of 4 February 1994 On copyright and Related Rights, Journal of Laws of 2017, item 880,1089 from 2018, item 650	art. 57, Section 1

Bills

Title	Number
-------	--------

Decisions

Title	Number
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Resources

Title

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- [Add a new bill](#)
- [Add a new legal decision](#)
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Contributors

Katarzyna Strycharz.



Act of 4 February 1994 On copyright and Related Rights, Journal of Laws of 2017, item 880,1089 from 2018, item 650

Country

[Poland](#)

Number

art. 57, Section 1

Effective Date

1994-05-23

Link

http://www.prawoautorskie.gov.pl/media/download_gallery/04_18.pdf

Link (in English)

http://www.copyright.gov.pl/media/download_gallery/Act%20on%20Copyright%20and%20Related%20Rights.pdf

Summary

"If the acquirer of the author's economic rights or the licensee who has undertaken to disseminate the work does not start the dissemination within the agreed time limit or if there is no agreed time limit, the author may renounce or terminate the contract within two years from the acceptance of the work and may claim the damage to be repaired after the expiry of an additional time limit, not shorter than six months." This provision was meant to protect the interests (both moral and economic) of the creator (and legal successors), which concern the public presentation (public access) of his work. The author has a right to renounce or terminate the contract and claim the damage, if the the acquirer of the author's economic rights or the licensee does not start the dissemination of the work within the agreed time limit. The author can exercise his rights only after the expiry of an additional period, not shorter than six months after agreed time limit or if the is no agreed time limit, after two years from the acceptance of the work. This provision does not apply to architectural and architectural and urban planning works.

Contributed By

Katarzyna Strycharz

Hearing from you

Call to action

What more can be done to help creators be aware of their options and negotiating their rights when publishing?

What can the broader CC community do to promote retaining rights?

Resources and further reading

[SPARC author addendum](#)

[CARL author addendum and guides](#)

[CC Scholars Copyright Addendum engine](#)

Authors Alliance:

[Guide to Open Access](#)

[Guide to Publication Agreements](#)

[Model Publishing Contract](#)