



Opinion

# A Middle-of-the-Road Proposal amid the Sci-Hub Controversy: Share “Unofficial” Copies of Articles without Embargo, Legally

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**Abstract:** This article summarizes the two sides of the Sci-Hub debate, and raises awareness of the rights of journal article authors to post a certain version online that one is legally allowed to share, with no embargo.

**Keywords:** Sci-Hub; open access; preprint; accepted manuscript; author’s original manuscript

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The case of Elsevier Inc. et al. vs. Sci-Hub et al. 15 Civ. 4282 (RWS), decided in October 2015 by the United States District Court for the Southern District of New York, has triggered a heated debate between the two sides. On the one side, people support Sci-Hub and Library Genesis to let online users obtain copyrighted journal articles for free; on the other side, people believe that law is law and that Sci-Hub and Library Genesis are illegal and must be shut down. The debate has been so heated that one Sci-Hub thread on *LIBLICENSE*—a listserv for discussing license and copyright issues of digital resources—received 60 messages in March 2016. The distant second most active thread in number of messages in the same month had only 14 messages [1].

From these debates, the views of the side supporting or sympathizing with Sci-Hub and other similar sites may be summarized as: (1) The current system is broken, because the prices of many journals are so high that many academic libraries cannot afford them; (2) the authors and referees of journal articles are primarily university faculty members doing the work for free, and yet they have to buy back their work at high prices while publishers make high profits; (3) knowledge is controlled by publishers; (4) Sci-Hub activities and other similar activities could be categorized as civil disobedience, and these activities can lead to raised voices of anger and desperation amongst those who are against the current system. People of opposing views may believe one or all of the following points: (1) Sci-Hub activities and other similar activities are illegal and must be stopped; (2) existing copyright laws must be respected and not be violated; (3) the current system serves to deliver journal articles to researchers well; (4) calling Sci-Hub a form of civil disobedience is ludicrous; (5) not all authors want to reach the largest possible audience.

Readers who would like to learn more about Sci-Hub and Library Genesis can read free articles such as “The Research Pirates of the Dark Web” by Kaveh Waddell in *The Atlantic* online [2], or subscription-based articles such as “Librarians Find Themselves Caught Between Journal Pirates and Publishers” by Corinne Ruff in *Chronicle of Higher Education* online [3].

In addition to Sci-Hub and other similar sites, the article by Waddell above has also mentioned other ways for people to get fee-based articles without paying fees or going through library subscriptions, such as peer-to-peer article sharing on Twitter (with the hashtag #icanhazpdf). Other social network sites known for peer-to-peer article sharing include Reddit Scholar and Facebook. Gardner and Gardner conducted a survey on these article sharing sites and survey respondents said that they turn to peer-to-peer sharing more because of convenience than because of any other

reasons [4]. It seems that both sides of the Sci-Hub debate failed to notice that convenience is a key reason for why people resort to unconventional (or illegal) ways to obtain journal articles.

Nevertheless, both sides of the Sci-Hub debate appear to have some good points. It is important that some middle ground is made or some lessons are learned, so that improvement can be made in scholarly journal publishing, including the ethical and legal aspects. For several years, Open Access (OA) has been advocated as a major alternative to the traditional subscription publishing model. The development of OA journals has generally been a success in scholarly journal publishing. By July 2016, DOAJ (Directory of Open Access Journals) listed more than 9000 OA journals worldwide [5]. In the *Chronicle of Higher Education* article by Ruff, a librarian believes “that scholarly publishing should move toward open access that can be harnessed in a way that is equitable” [3]. However, as many OA journals as there are and as much as OA advocates believe that scholarly publishing should move toward OA, some authors would still rather publish in traditional subscription-based journals. Maybe the two obvious reasons are journals’ impact factors and OA fees. For tenure and promotion purposes, traditional journals with high impact factors may still be preferred. Not all authors have the funding to pay for OA publishing fees, often called APC (article processing fee), even though not all OA journals require APC.

With various factors considered, here is a new, middle-of-the-road proposal in the Sci-Hub controversy, as an alternative to publishing in OA journals: Post and share some kind of “unofficial” copy of journal articles without an embargo or delay, as currently legally allowed by nearly all major publishers.

What does that mean? Almost all major publishers allow authors to post or share a certain type of “unofficial” copy of journal articles without an embargo. Different publishers may use different terms and different definitions for the “unofficial” copies.

- Elsevier uses the term “author manuscript versions” and adopts a CC BY-ND-NC license for them [6]. The CC BY-ND-NC license allows people to freely share articles by copying and redistributing articles in any medium or format, as long as people give appropriate credit to the authors and publishers, do not use articles for commercial purposes, and do not make derivatives [7].
- Springer’s policy is not as clear as Elsevier’s. It does not have a complete policy in one place. On Springer’s self-archiving policy page, it uses the term “accepted manuscript” by saying that the “Authors may self-archive the author’s accepted manuscript of their articles on their own websites. Authors may also deposit this version of the article in any repository, provided it is only made publicly available 12 months after official publication or later” [8]. On Springer’s copyright form, it states that the “Author may self-archive an author-created version of his/her Contribution on his/her own website and/or the repository of the Author’s department or faculty” [9]. It appears that the “author-created version” is an earlier version than the “accepted manuscript” and enjoys more flexibility without an embargo.
- Taylor & Francis uses two different terms: “Author’s Original Manuscript (AOM)” and “Accepted Manuscript (AM)” with different policies for the two unofficial copies. For AOM, “this is your original manuscript (often called a ‘preprint’), and you can share this as much as you like.” For AM, “you can post your Accepted Manuscript (AM) on your departmental or personal website at any point after publication of your article (this includes posting to Facebook, Google groups, and LinkedIn, and linking from Twitter)” [10].
- Wiley uses two terms: “submitted version” and “accepted version” for unofficial copies, with the former having a more generous policy, including sharing at any time on the author’s personal website, company or institutional repository, not-for-profit subject-based repositories, and scholarly collaboration networks which have signed up to the STM sharing principles [11]. The STM sharing principles are on voluntary basis and have been accepted by major publishers including Elsevier, Emerald, Springer, Taylor & Francis, Wiley, and some university presses. Details on STM sharing principles can be found on STM web site [12].

Society publishers and university presses are about the same as the major commercial publishers in their policies of sharing unofficial copy of articles. For example, Oxford University Press has two unofficial copies: “Author’s Original Version” and “Accepted Manuscript”, with the former having a more flexible policy: “Prior to acceptance for publication in the journal, authors retain the right to make their original version of the article available on their own personal website and/or that of their employer and/or in free public servers of original version articles in their subject area, provided that, upon acceptance, they acknowledge that the article has been accepted for publication as follows: This article has been accepted for publication in [Journal Title] Published by Oxford University Press” [13].

Although publishers may use different terms for unofficial copies at different stages of publication, it is clear that they generally allow authors to share one version of unofficial copies, typically the author’s original version or the submitted version, without major restrictions and an embargo. Elsevier has even adopted a CC license for that.

This is different from a typical repository version (determined by publishers) that generally requires an embargo. Repository “policies often involve embargo periods during which the repository version is not publicly accessible. Standard embargo periods range between six and 24 months after initial publication” [14]. Posting articles on freely accessible repositories after they were published is usually considered as Green OA, in contrast to Gold OA, i.e., publishing articles in OA journals.

Some publishers even allow authors to post the final version after a certain period of embargo, though most publishers do not allow this. For example, AIP allows authors to “post the Version of Record (VOR) to their personal web page or their employer’s web page 12 months after publication by AIP Publishing” [15]. That means that authors can post an unofficial copy immediately after publication and then replace the unofficial copy 12 months later with the final official copy.

Imagine if more than half of the scholarly journal articles’ unofficial copies were posted on institutional repositories, personal web sites, authors’ social networking sites (such as ResearchGate), and other sites, with no delays, and with the potential to replace unofficial copies with official copies 12 months later. Maybe we can call it “embargo-free Green OA”. With “embargo-free Green OA”, would people still need Sci-Hub and other controversial or illegal sites? Probably not. It is possible that many authors are not aware of the rights they have been given to share the original version or the submitted version of their articles. One possible challenge for authors to post any copy of their publications on any OA site is low author participation. It was reported in July 2016 that only 25% of authors in the University of California system have put their papers in a state-created repository, three years after the project was created [16]. Therefore, more efforts should be made to encourage authors to do their part. Maybe some energy from the enthusiastic Sci-Hub supporters can be diverted to mobilize authors?

This middle-of-the-road and embargo-free proposal does not mean that the status quo should be unchanged. On the contrary, it should serve as another way to push for changes. The major commercial publishers are actually not alone in having very high prices for scholarly journals, since some societies and university presses also do so. A case in point is how American Chemical Society Journals were cancelled by State University of New York at Potsdam in 2012, because the price was too high [17].

Sci-Hub and similar sites and activities are violating copyright laws, however the debates on them may lead to a positive outcome. This piece would like to raise awareness of authors’ rights given by publishers, so that more authors will post a certain version online that one is allowed to share, with no embargo. This, together with OA journals and other ways, may help improve the current scientific communication system.

**Conflicts of Interest:** The author declares no conflict of interest.

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