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# Copyright regulations on Open Access on European level

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ENCES

# ENCES



- ENCES = European Network for Copyright in Support of Education and Science



- International, non-governmental, not-for-profit association (registered in Berlin)



- Information and knowledge should be easy to access for anyone from any place at any time for purposes of education and research



# ENCES



- Members:

- Networks and lobby groups for copyright
- Legal researchers, research institutes
- Science organisations
- Libraries and other information intermediaries
- University publishers
- ...



## Please join!



## Position of the EU

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### **Digital Agenda for Europe (2010):**

“... publicly funded research should be widely disseminated through Open Access publication of scientific data and papers.” (p 23)



## Open Access Pilot in FP7

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Grant recipients are expected to:

- deposit peer-reviewed research articles or final manuscripts resulting from their FP7 projects into an online repository;
- make their best effort to ensure open access to these articles within either 6 months (STM) or 12 months (science in society, socioeconomic sciences and humanities) after publication.





## Utilities

- SHERPA / RoMEO
- Addenda, e.g. SPARC Author's Addendum
- Copyright Toolbox (SURF/JISC)
- Licence to Publish
- ...





## Scientist meets Publisher



**„Sign here!“**

- [http://www.youtube.com/watch?v=GMIY\\_4t-DR0&feature=youtu.be](http://www.youtube.com/watch?v=GMIY_4t-DR0&feature=youtu.be)
- By Alex O. Holcombe



## Objection

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- Market failure

= > the legislator should intervene and strengthen the position of researchers



## Art 38 German Copyright Law

„The following sentences will be added to article 38 section 1:

,Even after having granted an exclusive licence to a third party, the author has the right to make available to the public scientific papers, which have been produced in research or education and financed mainly by public funding and which are to be published in journals. The author may make the content available to the public after an embargo period of six months at the latest after its first publication, as long as this is justified for the purpose of non-commercial uses and as long as the content is not made available in the print version of the first publication. This right may not be overridden by contracts.’“

(BR-Drucksache 257/06, p 7. English version by Karin Ludewig)



## Objection

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- Right to secondary publication in one Member State only
  - => Disadvantage for researchers of this Member State



## Conclusion

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- We need a common provision in EU law:
  - As a general right to secondary electronic publication or
  - a mandatory OA exception in InfoSoc Directive 2001 or
  - a new directive for OA or
  - a general research exception!



## Conclusion



The legal status  
of research data in the Knowledge  
Exchange partner countries

Centre for Intellectual Property Law (CIER),  
Molengraaff Institute for Private Law, Utrecht University,  
The Netherlands,  
October 4, 2011

Prof. Dr. Madeleine de Cock Buning  
Barbara van Dinther (LLM) (Germany and Europe)  
Dr. Christina G. Jeppesen de Boer (Denmark and UK)  
Allard Ringnalda (LLM)

“European legislation would be required to ensure that one uniform set of applicable rules of law applies so that multi-territorial licensing is facilitated. That would significantly reduce the obstacles to sharing and reusing research data within Europe.” (p 50)



ENES

Contact

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