



**The AHRC Research Centre for Studies in
Intellectual Property and Technology Law**

Legal Aspects of e-repositories and e-collections

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Developing a legal strategy



E-repository – the container

E-collection – the content

JISC response to the Select Committee on Science and Technology's Report on Scientific publications: Free for All (House of Commons, Select Committee on Science and Technology, 2004)

“The JISC has a remit to ensure joined-up thinking across the boundaries of research, learning and teaching, and the administration functions within institutions to avoid multiple solutions being adopted. JISC's vision is to enable the seamless linking of e-research, e-learning, digital library and management information resources, **through the co-ordination of technical architectures and standards.**”

Much being done on technical side.

What about the legal framework?

Types of repositories and collections



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*By **Content** type:*

Raw research data; Derived research data; Full text pre-print scholarly papers; Full text peer-reviewed final drafts of journal/conference proceedings papers; e-theses; Learning objects

*By primary **Functionality** of repository:*

Enhanced access to resources (resource discovery and location); Subject access to resources (resource discovery and location); Preservation of digital resources; New modes of dissemination; Sharing and re-use of resources

*By **target user group***

Learners; Teachers; Researchers

See Digital Repositories Review, Heery and Anderson, 2005

The goals



Research

Teaching

Education

Text

Images

Sound

Data sets

Publications

Moving images

Medical information

Science engineering and technology

Health and life sciences

Social sciences, arts and humanities

Medicine

Access

Preservation

Curation

Static

Dynamic

Sharing

Re-use

Interoperability

Examples of repositories and collections



JORUM

LORE

AHDS

eSCRIPT – LLM in Innovation Technology and the Law by
Distance Learning

GRADE

The next step...



Copyright

Creation

Exploitation

Infringement

Database right

Ownership

Digital Rights Management

Fair Dealing

Moral Rights

Third Party Rights

Accessibility

Data Protection

Liability

At Present



Lack of legal planning

Leads to

Re-active rather than pro-active thinking

Empty repositories

Inability to develop content

Un-reusable content

Much re-invention of the wheel – i.e. same issues have been faced by others elsewhere

The problem



Lack of coherent economic and legal policy framework

Economic framework - sustainability?

Legal framework developed to support overall policy goals (facilitate – not inhibit)

Legal Framework to facilitate goals



Yes: IPR has to be respected

Yes: moral rights of creators have to be respected

Yes: third party rights have to be respected

Yes: the DP regime must be adhered to

Yes: FOI must be taken into account

Yes: rules on accessibility must be followed

The way forwards?

The first stage – Legal matters higher on agenda

Legal – The licensing of community-developed content needs to protect the intellectual property of institutions, individual academics and third-parties as necessary yet still be supportive of the open access approach. The community needs to find ways to avoid a situation where concerns about IPR are allowed to **stifle the creative sharing and re-use** of academic content.

Digital Repositories Roadmap: Looking Forward Heery and Powell 2006

High enough yet?

Needs

Overarching economic and legal strategy within Education to **support and facilitate** the development of e-repositories and e-collections

The second stage



Identify the legal framework

Intellectual Property

Data Protection

Freedom Of Information

Liability

Once goals decided can the technology be developed to support the legal framework?

Much valuable work already done at policy and practical level:
Zwolle conference; JISC Legal; JISC Legal and Policy issues cluster;
Rights and Rewards; TrustDR; ETHOS; IPR Consultancy

Are/will lessons be taken forwards?

The Repository



Build the repository to support the goals

Need to know what the goals are

Strategy and how to get there

What is the repository for? What type of content will it hold? Who will be depositing/using the content? How will it be sustained over the longer term?

The content

Develop content to match the goals (dovetail with repositories)

Need to know what the goals are

Need to know how to get there

Education – yes, but... (everyone an expert? Time and transaction costs?)

Third party rights – parameters of fair dealing?
- orphan works?

Re-usability - Education Licence? E.g. ASharenet; BC Campus;
Creative Commons; Click-use; Creative Archive

Authors



Remember the author.

Are authors 'buying into' the grand vision?

Is too much expected of the author? (e.g. who owns within Institution; find third parties; clear rights; fair dealing; training)

Is enough being done to respect the interests of the author in the integrity of the work? The right of attribution?

The need to know where data came from and what operations have been performed upon it?

Legal Matters



Should no longer be considered as an afterthought – but as important as the technological framework if the programme for development and use of e-repositories and e-content is to meet its stated aims.

Note: Gowers Review on Intellectual Property

Are clarifications of/changes to the law possible to facilitate goals?

AHRC Centre has submitted evidence on:

Complexity of fair dealing – what does it mean in education and research?

Orphan works

The relationship between Public Sector Information Holders and the research sector.