



Open access and transformative agreements: A study

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An attempt has been made to study the current state of transformative agreements around the globe, particularly in India. The drawbacks of transformative agreements, and their implications on open access are discussed. It is found that transformative agreements are largely undertaken in parts of Europe and USA. Further, they get discontinued in between and do not divulge all the terms and conditions of the agreements thus raising doubts of complete open access to journals and transparency. It concludes, such agreements may be able to raise only a small percentage of open access to published literature.

Keywords: Open access; Open access journals; Open access publishing; Plan S; Coalition-S, Scholarly publishing; Transformative agreements

Introduction

Open access, enabling access to scholarly literature at no cost and free from copyright on the Internet, has evolved since the 1990s. Today, due to efforts of the governments, organizations, and individuals; around 45% of the published literature is available in some form of open access¹. However, achieving complete open access in scholarly publishing is a distant dream.

The slow progress of open access is attributed to multiple factors such as authors' unwillingness to publish in open access journals and platforms, publishers' business models, funders' policy, quality and non-coverage of OA journals in citation indexes. However, different mandates have emerged from institutions and funders, asking authors to publish their funded research in some form of open access.

Among such mandates, Plan S, an initiative of Coalition-S established by the European research councils and funders in 2018, mandates that with effect from 2021, all research funded by its members must be published in open access journals or on open access platforms or made immediately available in open access repositories without an embargo. Among these suggested mandates, it will also consider authors' open access publications in subscription journals under a transformative arrangement². This has increased the number of transformative agreements between publishers and libraries or consortia.

A transformative agreement is one which seeks to shift the contracted payment from a library or consortia to a publisher away from subscription-based reading and towards open access publishing³. According to ESAC⁴, "Transformative agreements are those contracts negotiated between institutions (libraries, national and regional consortia) and publishers that transform the business model underlying scholarly journal publishing, moving from one based on toll access (subscription) to one in which publishers are remunerated a fair price for their open access publishing services".

It suggests moving away from the existing model of read only subscriptions to open access publishing. In other words, its emphasis is on shifting the focus of journal licensing from the conventional subscription model to an open access publishing model⁵. It aims to cut costs associated with publishing and access to full text articles. Thus, facilitating dissemination of research by providing immediate open access to articles, also acting as a bridge to fully open access journals preserving authors' rights. It recommends distribution of articles under an open license, especially the CC-BY (Creative Commons license).

Transformative agreement essentially saves institutions from making double payments (double dipping) by way of subscription and article processing charges (APC). Once agreed, as per the terms of the agreement, the publishers allow the authors of the

institution to publish open access articles in all of their/select open access or hybrid titles with an APC, which is either adjusted against the subscription amount or is paid at a certain percentage higher than the cost of subscription to make up for any loss of revenues to the publishers.

Various flavours of such agreements exist, among which the notable ones are 'Read and Publish' and 'Publish and Read' agreements. The transformative agreements are temporary in nature allowing authors of the institutions to publish open access articles in subscription-based titles with a clear underlying understanding that publishers should/will eventually transform or flip the agreed titles to being fully open access within a certain period thus achieving the desired objective of providing complete open access to all the published articles.

The paper discusses the transformative agreements and examines its role in achieving open access to scholarly literature.

Review of literature

Transformative agreements, a recent phenomenon in the world of scholarly publishing has been created to encourage open access and to meet the funders' mandate. Hinchliffe³ in his post has given an overview of transformative agreements, which acts as a primer for one to gain an in-depth knowledge about these agreements. Borrego, Anglada, & Abadal⁶, have tried to find out whether these agreements are leading to better open access by studying around 36 such agreements recorded in ESAC registry. They have dealt with detailed and different types of agreements, provisions under each type and are of the opinion that transformative agreements are more transparent than publishers' licenses issued for journal subscriptions and have also mentioned that, it is very difficult to believe them as a temporary agreement.

Capaccioni⁷, while analysing transformative agreements, has highlighted how these agreements are accelerating open access to publications, but are also facing criticism for turning into one of the paid publishing options. In yet another study, Szprot et al⁸ along with an overview of transformative agreements have provided the current state of negotiations between publishers and institutions, with legal analyses and have elaborated on case studies from Germany, Norway, and Sweden. Based on their analysis, they further provided procedural and legal recommendations for organisations in undertaking such agreements.

Li and Lin⁵ have discussed how libraries and publishers are renegotiating agreements to have transparency in a bid to move away from the traditional licensing model of subscription to an OA publishing fee. They have also reviewed some of the existing transformative agreements to guide libraries in their pursuit of signing such agreements with the publishers. Farley et al⁹ have elaborated on myths and realities of transformative agreements and argue that such agreements favour publishers in augmenting their profits rather than helping in increasing open access publications and are of the opinion that these agreements will also continue to lead to inequitable access. Moreover, they have cautioned that, read and publish or publish and read agreements may put pressure on the budget of libraries as increasing amounts of funds would be diverted to pay for subscriptions as well as APCs.

Transformative agreements and open access

Open access to scholarly literature evolved over a period of time owing to the efforts of organizations, government, and individuals. However, its transformation has been substantial after the publication of the Finch report, submitted to the UK government in 2012, which strongly advocated open access to scholarly literature emanating from funded research in the UK as well as other parts of the world¹⁰. It further got a boost from 'Plan S' introduced in 2018, which compulsorily mandated researchers to make funded research by any of its member research councils, as open access immediately upon publication from 2021. This in turn brought in challenges and opportunities for publishers, researchers, and libraries in providing open access to the scholarly literature.

Among the other proposed forms of open access, publication of funded research in gold or hybrid journals by authors is also considered, provided they are covered under transformative agreements undertaken between libraries or consortia and the publishers, with an underlying understanding that such journals would eventually convert into completely open access resources after a specified time period, wherein, it suggested a model for moving away from paying subscriptions only for reading to publishing with or without any additional costs. The seed for such transformation was first discussed in the Max Planck digital library white paper in 2015¹¹.

Over a period of time, the number of such agreements between libraries or consortia and the

publishers have grown significantly especially in Europe followed by the United States having different types or levels of agreements. However, their presence tends to be skeletal in other parts of the world. A registry of agreements along with the guidelines and negotiation principles has been made available in an initiative known as ESAC (Efficiency and Standards for Article Charges) to share the information with the concerned stakeholders. However, it may not have all such agreements, as registration is voluntary.

Transformative agreements models

Transformative agreements have evolved into various models and, new models may emerge in the future. At present, they can be grouped into following three categories.

Offsetting agreements

Offsetting agreements or contracts are like traditional subscription agreements coupled with read access, free or discounted APCs, usually for limited number of articles within the paid subscription. Example of such an agreement is VSNU Netherlands agreement with Royal Society of Chemistry⁶.

Read and Publish [RAP]

RAP agreements emphasize on bundling of costs of reading and publishing into one, with enhanced benefits of publishing. Through this bundling, it tries to ensure payments are brought under contractual agreements rather than be paid by authors on an ad-hoc basis. Example of such an agreement is Springer Nature agreement in Austria, wherein authors of the eligible institutions can publish their articles as open access in 2000 hybrid journals¹².

Publish and Read [PAR]

PAR agreements emphasize on paying only for publishing while reading comes at no cost. Here, the lump-sum subscriptions are disaggregated, and costs are expressed on per article PAR fees. The PAR fees are paid centrally by the participating institutions per article published, relieving authors from administrative hassles¹³. Example of such an agreement is between Springer Nature and Projekt DEAL of Germany. The authors of participating institutions are allowed to publish open access in 2000 hybrid journals and more than 500 gold open access journals¹⁴.

Current state of transformative agreements

Transformative agreements between libraries or consortia and the publishers, if registered, can be found from ESAC registry or else on publishers or libraries/consortia websites. It is evident from the number of such agreements that they are helping in accelerating open access content. However, it is unsure to what extent such agreements will lead to a full transformation of journals into open access.

As updated on August 17, 2021, the ESAC registry has around 339 agreements, out of which agreement number 3, 8, 16, 40 were found to be expired by the end of 2016, 2018, 2019 and 2020 respectively, leaving 272 active agreements at the time of analysis¹⁵. Table 1 gives a country-wise distribution of active agreements. It is revealed that, highest number of agreements have been undertaken by countries in Europe followed by the USA and Saudi Arabia. Germany has 35 such agreements followed by Netherlands (33), UK (29), Austria (21), Ireland (20), Norway (15), USA (15), Sweden (14) with Switzerland and Finland having 10 each. The rest of the countries are basically from Europe, Middle East and Asia-Pacific having less than 10 agreements. Apart from those mentioned, other parts of the world have minimal or no presence of such agreements.

The distribution of agreements by publishers given in Table 2 reveals that highest number of agreements were undertaken by the Cambridge University Press – 28 in 22 countries, followed by the Oxford University Press – 15 in 13 countries, Springer Nature – 14 in 13 countries, IOP Publishing – 14 in 9 countries, Elsevier – 13 in 12 countries, Company of Biologists – 12 in 9 countries, Royal Society of Chemistry – 12 in 11 countries, Taylor and Francis – 12 in 11 countries, The Royal Society – 12 in 10 countries, Wiley – 12 in 12 countries, American Chemical Society and Sage – 11 each in 11 countries, Association of Computing Machinery – 10 in 6 countries and rest of the publishers having less than 10 agreements.

The difference in the number of agreements and countries is observed owing to some of the countries having multiple agreements with different libraries or consortia. In most cases the number of agreements and the libraries or consortia match indicating an equal number of institutions going for such agreements. However, in the case of Karger publishers, it is observed that nine agreements distributed among eight libraries or consortia owing to one consortium (JISC) having two agreements from the Karger.

Table 1 — Distribution of transformative agreements by country

Country	No. of agreements	Country	No. of agreements
Australia	7	Japan	1
Austria	21	Latvia	1
Belgium	1	Moldova	1
Canada	1	Netherlands	33
China	1	Norway	15
Czech Republic	7	Palestine	1
Denmark	1	Poland	5
Estonia	1	Qatar	1
Finland	10	Saudi Arabia	6
France	1	Slovenia	6
Germany	35	South Africa	3
Greece	2	South Korea	1
Hongkong	2	Spain	7
Hungary	4	Sweden	14
Ireland	20	Switzerland	10
Israel	4	UK	29
Italy	5	USA	15

N = 272

Table 2 — Distribution of transformative agreements by publishers

Publisher	No. of agreements	Countries	Libraries/ Consortiu ms
AIP Publishing	7	5	7
American Chemical Society	11	11	11
American Physiological Society	2	2	2
Association for Computing Machinery	10	6	10
Bioscientifica	1	1	1
BMJ Publishing	5	5	5
Brill	4	4	4
Cambridge University Press	28	22	28
Canadian Science Publishing	1	1	1
Cold Spring Harbor Laboratory Press	2	2	2
Company of Biologists	12	9	12
CSIRO	1	1	1
EDP Sciences	2	2	2
Elsevier	13	12	13
Emerald	8	8	8
European Respiratory Society	1	1	1
Future Science Group	2	2	2
Hogrefe	1	1	1
IEEE	4	4	4
IGI Global	1	1	1
IOP Publishing	14	9	14
IOS Press	2	2	2
IWA Publishing	3	3	3
John Benjamins Publishing	2	2	2
Karger	9	8	8
Mary Ann Liebert, Inc.	1	1	1

(Contd.)

Table 2 — Distribution of transformative agreements by publishers (Contd.)

Microbiology Society	7	5	7
Oxford University Press	15	13	15
Portland Press	4	4	4
Rockefeller University Press	2	2	2
Royal College of General Practitioners	1	1	1
Royal Irish Academy	2	2	2
Royal Society of Chemistry	12	11	12
Sage	11	11	11
SPIE	4	2	4
Springer Nature	14	13	14
Taylor & Francis	12	11	12
The Electrochemical Society	2	2	2
The Geological Society of London	2	2	2
The Royal Society	12	10	12
Thieme	3	3	3
Trans Tech Publications	1	1	1
Walter de Gruyter	7	7	7
Wiley	12	12	12
Wolters Kluwer Health	2	2	2

From the registry, it has been found that, most of the agreements provide only the brief information about the agreements such as the agreement ID, status of availability of full agreement, period of agreement, consortia/institution, size of authors, country, costs, journals covered and license type among others. It has been observed that the link for the full text of the agreements having terms and conditions is available only in a select number of agreements. This unavailability may be attributed due to a non-disclosure clause put forth by the publishers on the institutions, raising a question about their transparency. Moreover, the discontinuation of agreements, evident from the registry between publishers and libraries, or consortia may impact the growth of open access.

Drawbacks of transformative agreements

Transformative agreements in a way are promising in the quest to provide open access to articles, but they are not free from shortcomings. Some of them are given below.

Unequitable distribution in scholarly publishing ecosystem

Every institute, to be part of open access ecosystem under such agreements, either pay the APC or ask for a waiver, discount or collaborate with authors from the partnered institutions⁹. Furthermore, they are mostly associated with research intensive institutions and commercial publishers and not with open access society publishers, thus causing unequitable distribution.

Complete transformation to open access is not guaranteed

In principle, the agreements should lead to a complete transformation of scholarly journals over a certain period, but this is not guaranteed. Agreements may break in between; revenues might not be assured and there is no agreed period for complete transformation of journals. Plan S in its updated guidelines, restricted an annual growth of minimum 5%¹⁶ towards open access content.

Additional costs for APC and reading

Institutions may end up paying more towards reading or publishing, even though cost neutrality is promised. It may happen in case the authors' publications of affiliated institutions fall outside the given quota, or the types of journals allowed. Publishers also may tend to increase the APC fees over a period to keep their revenues intact. In such cases, it's difficult for libraries or consortia to sustain increasing costs¹⁷.

Underutilization of given quota of publications

Based on their publication history, the institutions get a quota for open access publication of research papers. During the period of agreement, if some of the institutions do not utilize their given quota, it may expire, resulting in no credits and also does not allow carry forwarding for the next year⁶.

Publication restrictions to select titles and type of articles

The publishers, often restrict certain publications in the select portfolio of their journals. It is very rare to find that the entire portfolio of journals is open for publication. It has also been observed from the ESAC registry that, many of the publishers are restricting publications only to original research and review articles in the agreed list of journals. This often limits the publication avenues.

State of transformative agreements in India

Transformative agreements have marked their presence in India, but not to the extent as it is observed in European countries and the USA. Their slow progress in India may be attributed to the following factors:

- Research funding for APC is rare/very low
- Fixed library budgets, no uptake towards publishing costs
- Agreements mostly linked with bundled subscriptions
- Lesser number of research intensive institutions
- Lower participation from consortia/institutions/publishers'

- Lack of knowledge of transformative agreements

However, there are four such agreements found from the publishers' websites but have not been registered in the ESAC registry. All are 'Read and Publish' agreements agreed between libraries or consortia and the publishers. These agreements are as follows:

Cambridge University Press and E-Shodh Sindhu

The Cambridge University Press agreement in association with E-Shodh Sindhu, India's largest consortium of academic libraries administered by INFLIBNET under the aegis of Ministry of Education, Govt of India, offers a read and publish agreement to all the participating institutions of this consortium, provided that certain number of titles grouped into collections are subscribed. The affiliated authors of these institutions are allowed to publish open access articles in gold and hybrid journals within the chosen package of subscribed titles. The types of articles accepted under this agreement are research or review articles and rapid communications. The agreement was initiated in 2020 and at present is in active state until the end of December 31, 2022. As per the information available on publisher's website, 20 institutions have signed up for transformative agreement¹⁸.

Cambridge University Press and IIM Consortium

Similar to the agreement with E-Shodh Sindhu, Cambridge University Press has also undertaken a read and publish agreement with IIM Consortium, wherein two of the IIMs Bangalore and Visakhapatnam have signed up. This agreement allows only a limited number of articles to be published as open access in the chosen package of titles. The types of articles allowed to publish are the same as E-Shodh Sindhu i.e., research or review articles and rapid communications. This agreement was initiated in 2020, but no information about its status is available on the publishers' website¹⁹.

Cambridge University Press and Other institutions

Cambridge University press has also initiated read and publish agreements with the following institutions.

- Ashoka University
- Mahatma Gandhi University
- Punjab University
- Postgraduate Institute of Medical Research and Education

Like the agreements with IIM and E-Shodh Sindhu consortiums, it allows only a limited number of articles to be published as open access in the chosen package of titles. The articles allowed for publication is restricted to research or review articles, rapid communications, brief reports and case reports. In case of Ashoka University and Punjab University the agreement was initiated in 2021 whereas in case of Mahatma Gandhi University and Post Graduate Institute of Medical Research and Education, it has been initiated in 2022, but no information is available about the status of Ashoka University and Punjab University on publishers' website²⁰.

Springer and Manipal Academy of Higher Education

Springer agreement with Manipal group of institutions known as Manipal read and publish (Springer Compact) agreement under which authors from Kasturba Medical College, Mangalore, T.A. Pai Management Institute (TAPMI) and Manipal Academy of Higher Education (MAHE) can publish open access articles in more than 2000 hybrid journals and get access to the subscribed content. It is a first of its kind for Springer to have such an agreement in Asia, initiated in 2020 which is going to be valid until the end of December 2022. The types of articles allowed for publication under this agreement include original or review papers, brief communication, and continuing education.²¹

Conclusion

Transformative agreements, owing to funders requirements, limit their impact on open access only to funded research. To some extent, transformative agreements may help in enhancing open access but may not be able to substantially contribute as their spread is limited largely to Europe and the USA. Furthermore, given their temporary and transitional nature, they do not guarantee complete open access, because agreements are not continuous, and publishers might not be willing to transform journals to open access at the end of the agreements if their revenues are not sustained. Besides, it is evident from the ESAC registry that, most of the agreements are potentially undertaken between institutions and larger commercial publishers, and not with the purely OA/society publishers, eventually enabling commercial publishers to have a larger share in the revenues, also avoiding equitable distribution and sustainability of society publications. There is a point

of reference to their transparency as well, as details of the many agreements are not known, which raises questions on the actual cost savings and transformation. In view of these, it is questionable, whether these kinds of agreements will really lead towards the larger growth in open access. Though it is a topic of debate, such an initiative may not work to have an all-round open access. Different approaches are needed to ensure wider adoption of open access across the globe.

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