



**Projekt DEAL and the Anatomy of a Transformative Agreement  
for Open Access Publishing**

*with*

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KENNEALLY: Guten tag, good afternoon, welcome. My name is Chris Kenneally with Copyright Clearance Center. I'm very happy you can join us today for our discussions on transformative agreements.

In January, publisher John Wiley & Sons and the German university consortium Projekt DEAL announced a three-year agreement that provides all Projekt DEAL institutions with access to read Wiley's academic journals back to the year 1997, as well as allows researchers at Projekt DEAL institutions to publish open access articles in Wiley's journals. A Projekt DEAL representative said at the time, it is revolutionary that we are taking this path to an open access publication practice together with Wiley.

Partnership and togetherness, such declarations of unity and collaboration among stakeholders in the scholarly publishing ecosystem have been rare in recent years. In 2019, however, announcements of so-called transformative agreements between publishers and institutions have made many headlines. The revolution is becoming the regular, significantly advancing the shift to open access for scholarly journals and dramatically transforming relationships among researchers, universities, funders, and, of course, publishers.

In January, Wiley and Projekt DEAL declared their common intention to support institutions and researchers in advancing open science, driving discovery, and developing and disseminating knowledge. Transformative agreements certainly do raise hopes that the sometimes divisive debate over open access may be giving way to shared purpose among stakeholders. Yet transformative agreements also raise questions over how they will prove sustainable, practical, equitable, and achievable.



And right now we're going to discuss the particular Projekt DEAL-Wiley agreement with two of the most important participants in the negotiations.

To my right is Dr. Ralf Schimmer. Dr. Schimmer, welcome. As Head of Information and Deputy Director at the Max Planck Digital Library, Ralf Schimmer leads the licensing strategy for the library, serving the 80-plus advanced research institutes of the Max Planck Society. He is a champion of open access and scholarly communications, a frequent guest of mine here at Frankfurt Book Fair, and he chairs the Governing Council of SCOAP3 and is project leader for the Open Access 2020 Initiative.

And to my left is Deirdre Silver, Deirdre, welcome. Deirdre is Associate General Counsel Global and Vice President of Legal Research for John Wiley & Sons. She's responsible for all aspects of legal work from Wiley's Global Research Publishing operations. She is a member of the board of Copyright Clearance Center, as well as a member of the STM Intellectual Property Committee.

And welcome again, Dr. Schimmer. I want to talk to you about the particular agreement with Wiley, but I think it's important to bring up something that everyone will have on their minds, which is Plan S, because last year, if we had been here on this stage, we would have been talking about Plan S, it was red-hot in the news, and that may lead people to think, OK, last year, Plan S, this year, transformative agreements. But there really isn't a direct relationship because the kinds of transformative agreement that you've been able to establish with Wiley is along a path that you've been walking down for many years. Tell us about that.

SCHIMMER: Yeah. Yes, of course, Plan S was the big topic that hit the scene last year in the fall. I believe it was released in September, and ever since it has been on the agenda of many, many meetings. But we have to see that transformative agreements have by no means been invented with the deal between Wiley and DEAL in Germany. This is a concept that has been evolved over the last five years, starting with the initial first agreement offset, as it was called at the time, between Austria and the Institute of Physics Publishing, and then others followed in the Netherlands, in Austria, and we, ourselves, at the Max Planck Society level have also quite a large number of these amounts by now.

Plan S and the concept behind transformative agreements have a common starting point, and this is a frustration that 15, 16, 17 years after the Declarations of Budapest and Berlin, we still don't have open access. It was the moment to step back and think about how can we accelerate things. The vehicle that was found was really that the money that's been transacted – the money flowing from funders,



in the case of Plan S, but institutions also, through the library budgets, need to be repurposed so that open access can be resolved.

On the Institutional side we have the flagship initiative, OA2020, which I am proud to have – to be leading that initiative, and the concept of transformative agreements has been developed, particularly through the network of OA2020. Plan S is just recognizing this, and they think, what can we do and how can we complement what transformative agreements are doing from a funder's side? So the two align. Plan S sometimes gets more stage light and attention, but in reality I think transformative agreements carry the bigger promise and the higher impact.

**KENNEALLY:** We are giving them the attention they deserve right now. It seems to me that if you've been on that journey of five years or more, one of the principal activities you've undertaken – you, yourself, personally, but also at Max Planck, is what I call community building. This has been nationally, in Germany, and you can tell us about why it's important that the DEAL consortium exists. But then you've also worked around the world to develop similar kinds of community. Tell us why, in getting over this frustration that you described, that community building activity was so important.

**SCHIMMER:** Well, community building is important when you want to organize something that has consequence. And what can have more consequence when you reorganize the flow of money from one mode of operating to a new mode of operating? So to talk about this is easy, to get it done is quite difficult. In that, the historic landmark project was SCOAP3. SCOAP3 took many years to get started, and it got started officially in 2014, but SCOAP3 helped to create networks in all countries that have research in the world. We are libraries, funders, research learned societies, maybe government agencies, work together to reorganize the flow from what was previously spent through subscriptions onto a logic of paying for publications.

SCOAP3 set the precedent, and that was taken up as an idea with the question, how can this be deployed on a larger scale? And the OA2020 is just the next step in that development to exploit on those communities, on those networks to bring them together, but just with a larger focus, and to go through negotiations and provide open access coming from subscription, redirecting that money, and have more open access as a consequence.

**KENNEALLY:** But it's not just a community of like-minded people. DEAL, itself, is a legal entity, and that's a critical difference, too, right?



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**SCHIMMER:** Well, DEAL – the name DEAL, the concept DEAL is not a legal entity. DEAL is a self-organized bottom-up initiative of the alliance of research organizations in Germany. It is not a government mandate or something behind, it's really self-organized. The question was if we want to find a solution with larger publishers, what do we have to do? And the answer was we have consortia in the country, but we need an approach that is higher than consortia. We need to find an all-in way of making negotiations, and that, in the end, had also the consequence that a separate legal entity had to be founded. This legal entity is MPDL Services GmbH, but DEAL is the umbrella name. It's the concept and the alliance behind MPDL Services. It's just the operating entity and the legal entity to do the contracting and organize all the operations.

**KENNEALLY:** Thank you for that clarification. And Deirdre, I saw you nodding just now, as Ralf was explaining the differences and the importance of that. But it is critical for Wiley to go into this kind of negotiation to have a partner in that negotiation, to be clear about what they were able to bring to the table. That was important.

**SILVER:** Yeah, sure. When you're doing an agreement, you obviously need a counterpart to work with in terms of ensuring that there's control over the funding. But also there are so many changes in workflow that need to happen in order to make a transformative agreement work. So you need to know that you have a partner that is able to work through all those complicated details to ensure that all of the researchers that should be covered by the agreement are properly identified and included in the process. So you need to have someone on the other side to work with closely, and MPDL has been an amazing partner in that.

**KENNEALLY:** To the extent that you can talk about negotiations, which is always difficult, this session that we are having today at Frankfurt Book Fair is meant as a way for others who may find themselves in similar negotiations to pick up some learning and to maybe take home some tips as far as how they should prepare. Can you talk about the work that was involved before you even really sat down to come to terms? There's a lot that needs to be looked at here, because it's financial, it's your relationship with researchers and the authors – it's quite a daunting task, I imagine.

**SILVER:** Yeah, of course it is in everyone's interest to have a sustainable system for the dissemination of sound research. In order to have that, you, of course, have to look at the financial aspects of any arrangement you're entering into, both with respect to the market that you're looking at here in Germany during the term but also after the term – what it will mean after the term, as well as what are the impacts on other



markets? As I already alluded to, you also have to think through all of the changes in workflow, both changes that you need to make internally, but also connections with partners and member institutions for how the operation of the deal will operate because there's a constant work hand in hand that goes on to make sure that all of those changes in workflow are smoothly done so researchers have a positive experience.

**KENNEALLY:** Right. So it's an intense, close relationship throughout those negotiations, but that doesn't end when you've got the deal because you've got to carry those out over the three-year term.

**SILVER:** Yeah, certainly. Yeah, Ralf and I were just talking before, because I'm the lawyer on the deal, most of my time was before the agreement was signed, and we spent tons of time together working really closely. One of the great things about the negotiation, I think, and I think one of the reasons it was so ultimately successful is that it is true that researchers, publishers, funders – we all have the same core mission of ensuring dissemination of research. Yet there's always been this divide among publishers and funders. I think negotiating together and realizing we have this common mission, we were able to build the trust to get through the process, and we kept coming back to that. Ralf and everyone on the DEAL team was sensitive to our concerns, just as we were sensitive to theirs, and we kept coming back to that and working through the details of it. But as the lawyer, once the agreement was signed, I haven't been as involved. But everyone else at Wiley and member institutions and Projekt DEAL continue to work very closely together to ensure a really wonderful implementation.

**KENNEALLY:** Ralf Schimmer, I was thinking that publishers may have general association with funding organizations that they just produce these mandates and commandments to do certain things a certain way. But this is a different arrangement here, this is a relationship. How did that change how you viewed the publishing ecosystem itself? It's a new role, really, or it's an evolution of the role.

**SCHIMMER:** Yes, we see this very much as an evolution, but of course this – we see it as also as an evolution, from a library perspective as an evolution in licensing. So when you look back at the past 20 years there were elements first like figure it out how electronic license agreements worked, and there were the packages, the notion of the big deal came up, then there was the notion of additional content, cross access, all these terms and concepts that were floating around and had to be refined. We see now that open access is the new additional content in terms of licensing. But of course this is not just an add-on because at the same time this requires a change in outlook, a change in logic, and also a focus on new processes, etc. So



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datapoints such as the number of publications who were just not part of a subscription equation are now very relevant. And in this agreement, which has been published so everyone can read the details, it is clear that the pricing is based entirely on the numbers as they are processed in the system. So therefore the responsibility, or the requirement in the system is enormously high on both sides. And this is just not there yet, and this has to be built. We have been saying, internally, at least, that hey, wait, this is so fast and so massive, we have to build the plane while we are already flying.

**KENNEALLY:** Every negotiation is its own separate deal. It's like a marriage, for example, each marriage is different. Yet there are certain principles that are more conducive to harmony in a relationship of any kind. Tell us about the things that you feel, in the deal, may be perhaps models for others who are working on the same kinds of negotiations.

**SCHIMMER:** Well, I would say that this deal is an expression of the concept of transformative agreements. Transformative agreement is now a very stable and developed concept. It's been documented. There is the principles of transformative agreements have been stated on the ESAC homepage, and there is a community around. We just had Monday or Tuesday this week another convention, a meeting of the OA2020 community. Negotiators from 30 countries were in Berlin. Some of them have moved on to the Frankfurt Book Fair now, so we develop this concept. This is really the idea that we want to repurpose the money, to remove the money from paying for subscriptions, but at the same time, give the strong signal also to the publishers that we are willing to reinvest the principle of cost neutrality, at least for the transitional period has been acknowledged so we are willing to keep the money flowing. We don't expect or not prepared for major price increases.

The publishers on the other side, of course, have no interest in losing money, and they also have to see certain growth opportunities. The negotiations are normally not very easy and we cannot deny that they were also long and complicated in that setting, you all know. The first negotiations in Germany started already in 2016 with Elsevier, so these were all complex negotiations. But I think this contract is a true example that in the end we found a formula or a concept or a model that seems to work for both sides. This is something – I've been involved in negotiations for two decades. I can say if someone wants to triumph after a negotiation, this is not a good agreement, this is then a one-sided agreement. But if both sides are exhausted, well, yeah, not really wanting to go to celebrate, that is typically the expression of a good compromise, and I think this is what we had in the end. And since we had to then set up these operations, we had a firm grounding through the



contract and this agreement, and then we had to build something as processes and a firm stable network, and the level of trust has really come out of this.

KENNEALLY: Right, and –

SILVER: Just to build on what Ralf said, there was obviously a very strong interest on the Projekt DEAL side to shift funding towards publishing, and it is true that the payment is based on contributions. But there was an understanding that it is also crucially important for Wiley that the acknowledgement that reading has a value, as well, that should be paid for. So it's a publish and read fee that incorporates payment for reading as well as publishing.

KENNEALLY: Right, but it is also beyond publish and read. It commits Wiley to work more closely with researchers to engage with some educational programs. Tell us about that aspect of the deal.

SILVER: Yeah, so it's one of the amazing things about the agreement that we've reached is that it is much broader than that. The publish and read piece is obviously very important, and it's something that has had a lot of discussion, but as Ralf alluded to, we're in daily communications with MPDL and the member institutions to do all sorts of other projects. We're going to be launching an open access journal that will have top tier research that will also test out new models, such as open and transparent peer review and reviewer recognition. We are also – and Ralf's very involved with this piece, as well – we're going to have an open research and author services development group to work on publishing standards, open metrics, open data, as well as an annual early career researcher conference that we're going to co-convene. And then there are also all the elements that we have that are educating researchers about our agreement, so workshops at all the member institutions and webinars, events like this that we're doing together.

KENNEALLY: Well, Dr. Schimmer, so you've mentioned the importance you place on the flow of money there, but to Deirdre's point, this is about more than that. There is the role of the researchers, the education of the future authors and the current readers. Why was that important to you? Why did that need to be in the agreement, as well?

SCHIMMER: Well, I guess – I don't know how to answer. So from our perspective – from my personal own perspective as an employee of the Max Planck Society, our researchers were behind the open access declaration, the Berlin declaration 2003. Inside the Max Planck Society we have heard it over all those years loud and clear that they want open access. So for me, personally, to think about educational



material in the Max Planck Society doesn't really fly, it's not really required. However, of course we hear it that at the universities, that situation very often is different. And then of course, Wiley naturally has an interest and focus on this because the revenue ultimate is based on the numbers of articles they can attract. So therefore the interest there is higher than in our case, but we can understand this, so therefore we do this together in mutuality. We inform each other, and we sometimes create author-facing material, information material jointly, so we write the things together.

**KENNEALLY:** Fair point, but the consortium of the universities that you represent, I believe 700 different institutions, have I got that right? Something like that?

**SCHIMMER:** Yes.

**KENNEALLY:** So they are large and small, they are institutions with national/international reputations, others that are serving particular types of students. So their needs, their questions will be as wide-ranging as that list of institutions.

**SCHIMMER:** Yeah, absolutely. When you look at the publishing distribution, you could say this only 160, 170 institutions in the country that do publish. Then there are maybe another 200 that have just one or two occasional publications. So the longer tail is really literally zero or close to zero publications. So we are talking about a core group of 170 institutions that contribute a substantial amount. With those institutions, of course, that's the target group for educational material for bringing these people up to speed. And when it comes to the processes, of course, we have local open access administrators, particularly in those 170 institutes, we try to give to as many of them the local authority that they can look at their publishing data and validate it, etc., at their local level so that it's not done at the remote central operating institution that we are for them, from a local perspective.

**KENNEALLY:** Right. And so in conclusion it seems to me that we've had discussions about open access over a number of years at Frankfurt Book Fair, and occasionally they've veered towards the potentially apocalyptic. But this is a moment of harmony, of breaking down of barriers, would you say? Did you feel that during the negotiations some of those walls began to come down?

**SCHIMMER:** Negotiations are what they are and what they have to be. There are interests in the world, and negotiations and contract are the moment where you bring them together, where you negotiate and you have to align, and this always for a contract period. This is a compromise that you have to find, and then you have





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find a new compromise in the next contract. I think it was a very intense process and it was not an easy way to find harmony. I don't want to just say it was easy. But once we have agreed and the hand-shaking had happened, so we were all facing together in the same directions, and from that moment on I think it was a cooperation and a true alignment. So we see that Wiley takes this very serious, that there is commitment, and from our side as well. For me, this is really an example that we have taken the interaction between academic institutions and publishers really at a new level which I think is the needed next level from which we will have only one way forward, and this is increasing open access until we reach the final point of having finally 100% open access and no further questions asked.

KENNEALLY: Right. Deirdre Silver, so to put on a bumper sticker, a little less us versus them, a little bit more us and them, would you agree?

SILVER: Yes, certainly. As I was discussing, I do think there were a lot of barriers broken down even during the negotiation, but certainly after, where we are working together to make this a success.

KENNEALLY: I want to thank – I think it was a success in our discussion just now – I want to thank our panelist, Deirdre Silver, she's Associate General Counsel, VP of Legal Research at John Wiley & Sons, and Head of Information and Deputy Director for the Max Planck Digital Library, Dr. Ralf Schimmer. Thank you all, as well, for joining us.

(applause)

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