

Tilburg, January 13th 2017

Dear STM CEO and Directors,

A Christmas break always provides sufficient time to reflect on the various things that matter to us. As a researcher and a citizen, I care deeply about how people are able to consume information, especially scholarly information. Hence, I found myself reflecting about copyright and its development throughout history. As a result, I have a few questions that I would like to ask you. I hope you can enlighten me about your position on these matters.

The matter that is primarily on my mind is that of the Public Domain. Copyright legislation is quite messy due to the various legislative changes that have happened in the last century, as I am sure you are aware. This potentially makes it difficult to pinpoint which works are copyrighted and for which works copyright has expired. Nonetheless, copyright on some works has clearly expired. Examples of such works are those that predate the Berne convention by several decades and whose copyright expired after approximately thirty years depending on the legislative area. This would mean that most works before 1850 are clearly in the Public Domain.

I was surprised that there are still many works whose copyright has expired but are still available under your member publishers with an explicit assertion of copyright (e.g., Elsevier; I focused on scholarly publishers). An example is an index page from 1823 that is being sold for \$35.95 [1]. I find this sort of behavior quite bewildering, and a touch ironic, given that Elsevier and others have a particularly strong stance when it comes to enforcing their own copyright, as emphasized in the ongoing legal battle against Sci-Hub and LibGen.

My questions are thus as follows:

1. Do you condone or condemn illicit claims of copyright by your member organizations?
2. Do you view the asserted copyright as in [1] and [2] valid?
3. Do you believe it is ethically responsible to sell scholarly works whose copyright has expired at the same price as new, copyrighted scholarly works?
4. Is it your intention to put the works, whose copyright has expired, truly in the Public Domain to accord with your mission statement of “creating and supporting the means for disseminating this knowledge”?
5. What steps will STM take to avoid this sort of mis-claim of copyright in the future, if it believes it to be incorrect?

I look forward to hearing your response and would like to inform you that I will share this letter on my website. I believe more people are interested in this topic but I do not want to selectively present only my side of the story, so I will publicize your response(s) alongside my letter to provide you with a platform to share your views as well.

Kind regards,

Chris Hartgerink (writing in a personal capacity)

[1] <http://www.sciencedirect.com/science/article/pii/S0140673602953638>

[2] <http://www.sciencedirect.com/science/article/pii/S0140673602953882>