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General information

Gender: male

Stakeholder type:

- publisher
- policy maker

Country the interview is focused on: Germany

Language of the interview conducted: German, translation with DeepL

[00:00:00.600] - Interviewer

On the Palomera project. We have three phases in the project, a data collection phase, a data analysis phase and a data evaluation phase, where we formulate recommendations. And we are currently in the data collection phase, in which we are trying to talk to many stakeholders. Would you like to briefly introduce yourself and tell us how your professional experience relates to the topic of open access books?

[00:01:19.830] - Interviewee

Well, first of all, I work as a legal advisor for the [ORGANIZATION]. It has around 4,000 member companies, bookshops, publishers, intermediate bookshops, antiquarian booksellers and, among them, the German academic publishers, i.e. those based in Germany and also the subsidiaries of international academic publishers, insofar as they have an independent existence in Germany. As I said, I've been doing this since 2001, and I think it was in 2002 or 2003 that things really took off with open access in general. And that meant I had to deal with this topic again and again, especially in contact with academic publishers, of course, but also with our academic bookshops. The library suppliers, for example. This is an international issue, so there was also an exchange with the international associations, i.e. with our European umbrella organization FEP, the International Publishers Association (IPA) and, of course, STM, which is the umbrella organization of science, technical and medical publishers. For many years, I was always on the program committee of the Academic Publishing in Europe congress, which is actually the only Continental European congress worth mentioning that attracts an international audience for topics relating to academic publishing and open access. And as a result, I also know a number of people who are active in this field in Germany. And it has also quickly played into my actual field, namely copyright law, because issues of

secondary publication rights and the like in particular have repeatedly been put on the political agenda. And in this respect, I am mainly involved with the topic of open access in general and, of course, also partly with the topic of open access to books through my contact with academic publishers, whose interests I try to represent, bundle and articulate to politicians and in social discourse.

[00:03:59.330] - Interviewer

Yes, thank you very much. We've heard the word academic books or academic publishers a few times now. How is it actually defined in your context? I'm asking because this is also a big gap in our project. A definition of academic books makes sense, for example, if you want to try to collect data, carry out cataloging and have a metadata field for academic books, for example.

[00:04:47.970] - Interviewee

Not really, if it's relevant at all, for example with VG Wort, which makes different distributions for academic publishers than for general publishers. And there the distinction is ultimately made according to the product groups in the VLB (Verzeichnis lieferbarer Bücher, the German Books in print database). And this is indeed a distinction: when is a scientific publisher a scientific publisher? Of course, as always with all distinctions and definitions, there are grey areas around the edges. But it's actually a relatively clear distinction. There are few publishers who would classify themselves as science publishers, while others would ask why. And conversely, there are publishers that focus on publishing for the general public and also produce scientific publications. You wouldn't say that they are scientific publishers. Academic publishers are a relatively clearly defined and traditionally very distinct group of our member publishers.

[00:05:55.350] - Interviewer

In Europe, for example in the UK, the criterion of peer review is often the deciding factor for judging a book as scholarly or non-scholarly. This is not so strong in Germany.

[00:06:15.380] - Interviewee

No, but of course it's the case that ultimately, of course, the publisher also carries out a review itself. Sometimes they stimulate a publication, which is mainly very strong in the textbook sector, for example. Editors talk to the community and say that there is a need in a certain area, at least that's how it used to be. Today, the textbook market is very much in decline due to many copyright problems. They then looked to see who could write something about it and then developed it. In some cases, academic publishers have created their own programs and otherwise, of course, they have acquired a reputation, especially in certain disciplines, and are offered manuscripts, review them themselves or have them reviewed by series editors, some of whom also suggest something. And if a well-known professor of theology at Mohr-Siebeck-Verlag has a series on some Old Testament topic, then the publisher will probably not dare to question the fact that he is proposing a doctoral thesis by one of his doctoral students for publication. Peer review also takes place. But the rule is actually that the publisher either do it themselves through knowledge that the editorial office has, or that it goes through the editors, who are not formally active as peer reviewers.

[00:08:44.170] - Interviewer

You also give an indication of the historically evolved diversity of quality assurance measures in the publishing landscape. I have also had this experience in discussions with colleagues from the publishing industry. I would like to take up a second aspect that you have just discussed. It's about political effectiveness and the representation of interests, which you are also responsible for. How do you see the interaction between political measures and the book market in Germany in particular? This is also a special situation that we find ourselves in. For example, fixed book prices are always the subject of much international discussion. How do you assess the interaction between the publishing industry on the one hand and politics on the other?

[00:09:57.840] - Interviewee

Basically, the book sector is one of the few cultural sectors that is run by independent companies, without subsidies. Unlike, for example, the opera sector or the theater sector or the film sector, where nothing works without subsidies. And in the book sector, publications are published at the entrepreneurial risk of the publishing house and therefore of a privately run company. As a result, politicians are actually pleased that we have such a lively and distinctive book market in Germany, which is also unique in its structure for various reasons. This is of course also important for Germany as a cultural nation. And in this respect, apart from the direct subsidies in the academic sector, such as printing cost subsidies, there is a subsidy through framework conditions. This actually includes a reduced tax rate for books. Of course, this ultimately makes it cheaper for the consumer and enables books to be sold more cheaply. This reduction was finally extended to digital publishing products a few years ago. And the second is fixed book prices. This preserves a system of many independently purchasing bookshops compared to other countries that do not have fixed book prices. And the fact that many autonomous purchasing decisions are made means that small and independent companies, i.e. small publishers, can also find gaps in the market. As a result, the ability to sell titles is much higher than in countries without fixed book prices. And in the past, the third was also a strong copyright law. And this is the branch that politicians have been sawing at for years by increasingly diminishing the quality of the individual prohibition right in copyright law and by impairing the quality of copyright as a property right through copyright exceptions or other regulations. But that was basically the third pillar through which the book industry received support. Not typically direct subsidies, but structural subsidies.

[00:12:44.410] - Interviewer

Could you describe the aspect of the clouding of copyright law in a little more detail?

[00:12:53.630] - Interviewee

Well, if you look at the field of science now, this scientific copyright law or copyright in science created completely new restrictions a few years ago. "Exception" always means that the author's right of ownership, their individual right, is restricted, which is where the term "Schranke (exception, literally translated "barrier") comes from. Access interests of third parties are weighted higher than interests of authors and publishers.

If you look at the number of exceptions today and compare it with the time 20 years ago when I took on this job at the [ORGANIZATION], you can see that there are more exceptions today that are much more restrictive. What's more, technical changes have of course also changed the quality of exceptions. For example, there has always been the right to make a private copy, which companies or libraries are sometimes also entitled to do for other than personal use. However, the possibilities for reproduction have become more potent since this right was created. In the 60s, the devices produced perhaps 60 copies per hour. And today, huge files can be reproduced in seconds in the digital domain. And in this respect, the provision has not changed outwardly, so to speak, but of course the rights are still much more impaired without there being any compensation in the form of a levy for private copying, which is then passed on to authors and publishers. The device levy was last increased in the 1980s and has remained unchanged since then. Nevertheless, as I said, the speed and frequency of copying has increased by many orders of magnitude and, of course, so has inflation. The same money, the same amount that was paid in the 1980s, is only worth a fraction today.

[00:16:52.390] - Interviewer

So we can see that this is a very dynamic field overall, the field of scholarly communication with a variety of policy measures that have to be constantly adapted to the requirements. Open access is another very dynamically developing field that has become increasingly important in recent years. Do we also need an open access policy for books in Germany?

[00:17:30.260] - Interviewee

Well, I would say that you could also trust the market to develop sensible open access structures without having to do anything in any way through legal regulations. It would be possible, for example, to guide this through money flows. But you need an open access policy at the moment when you want to go in a certain direction. And that, I think, is the situation.

[00:18:13.450] - Interviewer

Yes, you just mentioned that there are of course market dynamics that create their own structures. Are there incentives for open access publications that could possibly be attractive for publishers? Where is the point, so to speak, at which an academic publisher finds it favorable, expedient and useful to become active in this field?

[00:18:42.260] - Interviewee

The very first statement from the [ORGANIZATION] when Open Access was brand new was that it and its publishers were open and liberal towards Open Access. In other words, there is no disgust or rejection at all. There is also no preference for one publication method or another. Publishers are not tied to print and publishers are not tied to subscription systems, but rather publishers try to work where they can give their authors visibility. And that is one of the core aims of the publishing house, by which it defines itself. And the other is that they can finance their activities from the income they generate with their publications. So the strongest publisher is the one that succeeds in making an author's work

particularly visible. In the journal sector, you can see this in the system of large peer-reviewed journals, which really achieve this absolute impact factor, such as Nature Science and Cell Press and what they are all called. Why is that? It's because everyone wants to publish there. And why does everyone want to publish there? It's because publishing there gives you the highest visibility among your peers. And why is that the case? This is of course something that has built up over decades and is related to the fact that the journal manages to organize the peer reviews in such a way that the best reviewers, who have the best knowledge and the best insight into the research areas, are willing to review the newly submitted publications for this journal and at the same time that the rejection rates of the journals are enormously high, so that in certain areas perhaps only 5 percent of the submitted articles are published in the absolute top journals. Of course, the publisher has to bear the costs for 95 percent of the unpublished articles just as much as for the 5 percent. But if 95 percent of the submitted articles are not published, but generate costs for the publisher, then of course these costs have to be added to the five percent of the published articles. And why do so many authors submit their articles, even though they know that they cannot publish in the journal? Because they get feedback on their article through peer review. And this tells them what they need to change to make the article better and more scientifically effective. Then they rework the article, resubmit it with a less renowned journal and maybe make it. You can see it more clearly in the journals, because of course it's often the life sciences that publish faster and where the whole process is quicker. But ultimately it's no different in the book sector. If you are a theologian at Mohr Siebeck, to come back to this example, and you are placed in this Old Testament series, then you are prepared to perhaps bring a printing subsidy or whatever is necessary to get there, because you know that the publisher has introduced this series to all theological faculties and their libraries. It is available everywhere and is thus accessible to researchers and is discussed. It attracts attention from peers and the specialist communities. And that's why it's more interesting for an author to get into this series with the publication than to go to some print-on-demand publisher. And vice versa, this is also the competition between publishers. There is no publisher that has any one area to itself. Every publisher can publish anywhere. So there is a very lively competition. And for the publishers, as I said, it's all about how they can attract the best authors with the best publications. And the answer is by giving the authors the best visibility and the best support. And that's how it works.

[00:26:42.600] - Interviewer

Although, of course, the 95 percent rejection rate doesn't cost the publishers that much, you have to add, because a large part of peer review is financed by the public sector. The scientists who review articles often receive very little or no money from the publishers for whom they do it. The profits that publishers make are also reported.

[00:27:07.420] - Interviewee

However, if you go to the editorial office of the applied chemistry department at Wiley VCH in Weinheim, for example, you'll see 26 chemists with PhD qualifications sitting there, even if they don't do the reviews themselves. They look for the reviewers and assign the incoming articles to the most suitable reviewer. They offer it to the reviewers, they ask the reviewers afterwards, they ask how much longer will it take? And so on. And these are costs. It's also about ensuring speed in the publication process. The

reviewers are not remunerated materially, but ultimately they do it because they receive impulses for their scientific advancement through this activity. They know earlier what research has been done and what insights can be gained from it. In this respect, the reviewers also have a vested interest. But running and developing this entire system is underestimated in terms of the amount of investment it requires.

[00:29:24.250] - Interviewer

I realize it's a controversial, exciting topic. We could go on discussing it for a long time, with different points of view. Nevertheless, I'll try to include a few of my questions. Let's stay with open access books. That was our starting point. You have already outlined the position of the [ORGANIZATION] very well in various places. I would be interested to know whether there are also discussions or controversies within your organization, especially with regard to the position on open access books.

[00:30:08.980] - Interviewee

So here too, the [ORGANIZATION] has no position, it is open and liberal towards Open Access. Publishers will publish Open Access at any time, if only the authors wish to do so. I think the real problem with the whole thing is that publishers live off their authors. And the authors of academic books, depending on the discipline, don't want what the academic administration would like for books in terms of open access.

[00:31:00.130] - Interviewer

I've had different experiences. Where do you see the points of conflict?

[00:31:03.050] - Interviewee

For example, I hear that open access funding is being granted for eBooks. But the authors still want to have printed books. There are some who only want printed books. They don't want to publish an eBook at all. It's rarely the publisher who wants or doesn't want that. There are also lots of studies on the reception of printed books compared to digital texts and media. Many people can't imagine reading an excellently researched book digitally.

Authors feel the same way. Many have a - let's call it conservative - basic understanding of their medium. And in certain areas, authors either want the printed version exclusively or at least primarily or also. And even if it is desired, it quickly becomes difficult to calculate, because of course this results in extra costs associated with printing, storage, distribution and advertising the product. In the case of hybrid publications, costs are incurred twice because there are two different publication channels.

[00:35:26.700] - Interviewer

So pointing out that hybrid options cause additional costs that are not always taken into account is a good indication. The basic idea of open access is still that publicly funded research should be publicly accessible. And the resulting conflicts with the principles of the free market economy must be identified and described. This is also part of the projects I have worked on. An exciting field of analysis and activity. What does this look like from a legal perspective?

[00:36:21.600] - Interviewee

There are a lot of people who say that we have to publish under CC-by or they set other requirements for license usage. But some authors want CC-by ND because it's important to them that it's not published commercially by third parties, e.g. they don't want it to be translated without them having the opportunity to check the translation. And now these two licensing ideas coincide. So authors often have different ideas about how they want to publish, if they publish open access at all. As a publisher, you cannot calculate, at least not with the necessary commercial certainty, what revenue you will generate from the sale of a book. This is not only because it is difficult to estimate how many buyers the printed version will have if it is to exist, but also because, when using a cc-by license, you do not know who will still acquire the printed version. And that is why a calculation cannot include any significant revenue contributions from the sale of books. And that, of course, makes it expensive again. As a publisher, you always have to calculate in such a way that you will still be publishing books in a particular subject area in 10, 20 and 30 years' time. After all, this is also in the interests of sustainable backlist management. For many findings in specific scientific fields, it is important that they are available for a long time and that it is still possible to access a doctoral thesis from 1994. But if you manage a title for 30 years, then you have running costs, even if outsiders who don't work for the publisher can't see them. And you also have to include these in your costing schemes. It's all a question of sustainability. If you want to make open access just as sustainable as printed books have been for centuries, it's also expensive. You don't save any money, although that is the secret hope behind many open access policies. If we were to abandon this misconception, we would have a more sensible and also more realistic basis for transformation processes for publishers.

[00:43:11.670] - Interviewer

Some of the papers say that it should become cheaper, but others do not. The primary political goal is still that, as I said, publicly funded research should also be accessible to those who have paid for it. The whole thing is then logically linked to a redirection of the flow of funds. What I have taken away from the interview so far is the realization that authors also have needs, for example in terms of the features of the printed book, and that publishers often act as intermediaries between the demands of the authors and the political demands that are articulated. I found that a very exciting point. And the second thing you mentioned was the licensing side. I've just come from the Open Access conference, where there were two events on licenses for books. It was seen that the CC license structure was created with journals in mind, and that we need our own legal solutions for books. I think there will something happen in the future.

[00:44:48.460] - Interviewee

So proprietary systems are always difficult. And on top of that, this CC license structure is ultimately a moving target. As a publisher, you can't simply retroactively change publishing contracts that you concluded in the 70s, 80s, 90s and 2000s. The legal framework does not allow for this, which is often unsatisfactory for publishers and for many. But it simply creates absolute legal certainty.

[00:45:39.320] - Interviewer

Regarding the technical infrastructures that you just mentioned, keyword backlist or long term archiving and availability: Are there any state-supported or provided technical infrastructures that could help to achieve sustainability goals? The repository landscape, for example, is growing every day.

[00:46:10.450] - Interviewee

Publishers are in partnership with libraries and such institutions, and these now also exist in the digital sector. However, my focus is on copyright. But there have to be jointly developed solutions. You can't expect the solution from the individual publisher, who is pursuing his own particular interests, nor can you do it without the publisher, because it is important that you jointly establish the rules that should apply to long-term archiving.

[00:47:38.250] - Interviewer

Twelve o'clock Mr. [NAME]. Time went by faster than I would have liked. But perhaps we still have the opportunity for two very brief questions. Then I'll keep it short and sweet. What are the main arguments for the transformation to an open access book market?

[00:48:08.250] - Interviewee

As I said, publishers are agnostic about this. They are not in favor of and they are not against the open access book market. They don't see themselves as the ones who make the decisions, but they are the service providers who have an obligation to the authors on the one hand and to the users who access the content on the other. If the market wants open access and if those who are the real players in the market want it, then the publishers will do exactly that.

[00:49:42.650] - Interviewer

And perhaps the last question. How do you assess the progress in this transition to open access books, which is undoubtedly taking place? Statistically speaking, there are measurably more today than back then. And what needs to be done or what should be done from your specific perspective to promote this development?

[00:50:20.080] - Interviewee

A publishing house has a dual supply-demand relationship. It has a supply-demand relationship with the author. If the author has exciting content, the publisher will offer him a publication and visibility service. The publisher will do everything and offer a lot and make it possible to have the publication with them. Vice versa, if the publisher has a very strong reputation, but the author perhaps has a weak manuscript, the author will not manage to end up with this publisher. So there is a supply-demand process, which is always a healthy selection process in the market. And the same process exists at the publishing supply level in relation to libraries and private individuals who buy books and of course also pay the open access publication fees. And what I hear from publishers in Germany, as far as books are concerned, is that a high proportion of book publications are produced outside of a specific funding context. I hear a lot from German-language

academic publishers and from their disciplines that the changeover is underestimated, that many do not get the money.

[00:53:33.240] - Interviewer

Mr. [NAME], thank you very much for the interview today. I've listened a lot today. You've talked a lot. We discussed very little. I noticed that there are many exciting areas of conflict that need to be explored further, that there are differences but also overlaps in the positions of the funding side and the association side. They described their perspective very clearly and that was very exciting.

[00:55:04.850] - Interviewee

Wonderful. Yes, thank you very much.