

Critique of excerpts from UK Government Response to BIS Committee

Joint "Re-Engineering" Plan of UK Government and UK Publisher Lobby for "Nudging" UK Researchers Toward Gold Open Access

Stevan Harnad
UQÀM & U Southampton

Summary: The UK Government has made common cause with the UK journal publishing lobby in supporting publisher embargoes on Green Open Access and UK tax-payer subsidies to publishers for Gold Open Access fees over and above what the UK already pays publishers for subscriptions. The objective seems to be to preserve current publishers' revenue levels at all costs, on publishers' terms and timetables. The UK Government has accordingly elected to ignore most of the recommendations of its BIS Committee, but the recommendations will nevertheless be followed thanks to the HEFCE requirement to deposit articles in the author's institutional repository immediately upon acceptance for publication.

UKGOV: *"...in the long term the most effective form of OA will be Gold OA.... there is no distinction to be made between the Government's and BISCOM's direction of travel for OA. The envisaged final destination is likely to be what the Finch Group termed a 'mixed economy' of Gold and Green OA, the proportions of which the decisions of researchers and behaviour in the market will decide..."*

Throughout its response to BIS, it is evident that the UK Government is not perceiving OA primarily as a means of maximizing UK research uptake and impact -- for the benefit of the UK tax-payers that fund the research, and for the progress and productivity of research, in the UK and world-wide -- but as a means of sustaining the current revenue streams of peer-reviewed journal publishers, come what may.

That is why the Government's "travel" plans tend to be framed far less in terms of the real needs of UK research and researchers and far more in terms of "business models," "market," a "mixed economy," and how these can be "re-engineered" to keep them congruent with publishers' terms and timetable.

There seems to be little room in the UK Government's vision for even considering the following contingencies:

- that 100% OA is not only already fully feasible today, thanks to the online medium, but also urgent for research and researchers, indeed already overdue;
- that the online era has already made a lot of the traditional products and services of journal publishers (and their costs) obsolete;
- that publishers' current revenue streams are greatly and needlessly inflated;
- and that the embargoes and other retardants that publishers are themselves placing in the path of OA are not, in reality, necessities, to sustain the essential functions of peer-reviewed journal publishing, as publishers claim; they are merely contrived to prop up the expensive and obsolescent functions of publishers *in order to sustain publishers' current highly inflated levels of income at all costs*, come what may.

What is keeping the economy "mixed" and slow to provide OA, in other words, is that *publishers are holding OA hostage to their current revenue streams*, by embagoing Green, and transitioning to Gold only on terms and on a timetable that lock in those revenue streams.

The UK Government's "re-engineering" plans are designed to make sure any transition stays on that track and timetable.

UKGOV: "...Government's approach, therefore, amounts to a subtle re-engineering of the present market. By 'nudging' the flow of revenue for the publishing industry towards it becoming income from Article Publication Charges (APCs) for Gold OA..."

This "subtle re-engineering of the present market" consists of sustaining current publisher income streams (and *modera operandi*) by only providing OA on condition that current subscription revenue levels per article are sustained, and continue to be collectable in the form of Gold APCs in place of subscriptions.

There is no thought given to the distinct possibility that *with all peer-reviewed final drafts deposited in institutional Green OA repositories, there will no longer be any need or demand for a print edition, online edition, access-provision or archiving (and their associated costs)* from the peer-reviewed journal publisher: only the need for peer review (which is only a fraction of the cost of subscription publishing today).

And no thought of the real "market" that could indeed decide whether in a 100% Green OA world there will be any real demand left for anything else that peer-reviewed journal publishers offer, forcibly co-bundled with the peer review.

UK publicly funded research is being conceived by the UK Government as if it were primarily an investment in the journal publishing industry rather than in research productivity, applications and progress.

Some "nudge"! Some notion!

UKGOV: "...96% of journals have an embargo period of 24 months or less; 64% of journals have an embargo period of 12 months or less... This illustrates the extent to which the Government's policy already is being complied with..."

Hardly. The effect of the UK policy has been precisely the opposite. More and longer embargoes have been adopted by publishers since the new UK policy was announced and began to be implemented.

Yet despite this perverse effect, the percentage of publishers that endorse immediate, unembargoed Green OA remains over 60% according to SHERPA Romeo data (much as it was before the Finch/RCUK policy). (This figure is camouflaged in the Government's composite category of 64% with "an embargo period of 12 months or less .")

(And aren't the ones who are supposed to comply with a funder mandate the fundees, rather than publishers? Are we mixing up our constituencies here -- or simply giving a hint of who's really calling the shots?)

UKGOV: "...The Government, through HEFCE and the Research Councils, will continue to encourage Jisc, the Open Access Implementation Group (OAIG) and others to promote standardisation and compliance across subject and institutional repositories..."

Far more important for the UK Government to promote would be the institutional adoption of a mechanism for verifying compliance with its OA policy -- in particular, its Green option (rather than just focusing on how the Gold is spent). HEFCE has provided a potential mechanism, in requiring immediate deposit (whether or not OA to the deposit is embargoed) for REF eligibility.

Institutions (ever eager to ensure compliance with funders' conditions) will thereby be recruited and strongly motivated to monitor and ensure timely compliance. (Funding that would be a constructive use for unspent RCUK Gold OA funding.)

UKGOV: "...RCUK have balanced the objective of timely OA to all users with the need to respect, through a mutually acceptable embargo period, sustainable business models..."

Translation: RCUK has collaborated with publishers in embargoing OA to make sure that OA is only provided on publishers' terms and timetable. (This is the UK/publishing-industry "re-engineering" plan.)

Fortunately, there is a remedy for this, and that is the HEFCE [immediate-deposit mandate](#), plus the institutional repositories' automated [request-a-copy Button](#), which allows users to request and authors to provide (with one click each) a copy for research or educational purposes during any embargo (i.e., the [Liege-model mandate](#), which is the one the UK should adopt.)

UKGOV: "...A re-engineering of the research publications market entails a journey not an event. Necessarily it requires a period of transition for the process of change. Longer embargo periods, as illustrated below, play an important part under some circumstances during the transition process..."

Translation: RCUK has collaborated with publishers in embargoing OA to make sure that OA is only provided on publishers' terms and timetable.

This "journey" to "re-engineer the research publications market" is actually a government-funded business trip to guarantee publishers' current income at UK tax-payers' expense (and at the cost of lost research usage and impact). Not a happy "event" for UK research and researchers -- or for global OA.

UKGOV: "...Government believes that the first signs of the impact of its OA policy on embargo periods have been beneficial..."

Beneficial for publishers, perhaps, but certainly not for researchers, nor for OA, since the policy's perverse effect has been to encourage publishers to adopt and extend embargoes, not to shorten or drop them. (Nevertheless, over 60% of journals still do not embargo Green OA, despite the UK OA policy.)

UKGOV: "...as stated in David Willetts' letter of 20 June 2013, UK policy already is leading to shorter embargo periods for Green OA..."

It is very hard to imagine what David Willetts is imagining here: The adoption of a Green OA embargo that is within Finch/RCUK's current allowable limits is hardly a triumph for OA if the publisher formerly did not embargo Green OA at all (or had not yet formulated a policy).

Moreover, an embargo of a year or longer is no boon at all for OA. It is unspoken, but I think it's fairly clear that *most publishers are by now resigned to one-year embargoes on Green*, along with a mandated push toward hybrid Gold. They know that most of the revenue in question comes from that first year.

So a "deal" to let publishers hold OA hostage to that one-year embargo (or else pay Gold) is not good news for research and research progress in an era where immediate 100% Green OA is fully within reach, technically and practically speaking, and where the costs of peer-reviewed journal publishing could be radically reduced if freed from the grip of publisher Green OA embargoes.

But again, there is a remedy for this, and that remedy is the [HEFCE immediate-deposit mandate](#), plus the institutional repositories' automated [request-a-copy Button](#), which allows users to request and authors to provide (with one click each) a copy for research or educational purposes during any embargo. (This is again the [Liege-model mandate](#), which is the one the UK should adopt.)

UKGOV: "...Publication of the results of publicly funded research is an integral part of the research process..."

This re-statement of the [Wellcome Trust mantra](#) continues to ignore the fact that *the UK (but not*

Wellcome) also has to pay the costs of journal subscriptions. Hence the Gold APC costs are over and above subscription costs (which are likewise "a legitimate part of the cost of undertaking research").

That means Gold OA APCs today are needless double-payments, over and above uncancelable subscriptions: "[Fool's Gold](#)." The only way they can turn into "[Fair Gold](#)" is if mandatory Green OA first prevails, eventually allowing [subscriptions to be cancelled](#) (and driving down publication costs by offloading access-provision and archiving onto Green OA repositories).

Then the price of Gold will drop to a fair, affordable, sustainable level, single-paid out of the institutional subscription cancellation savings, instead of double-paid, needlessly, as now, out of scarce UK research funds -- needless because while subscriptions are still being paid (fully and fulsomely), Green OA can provide the OA.

UKGOV: "...HEFCE and other Funding Councils have agreed that QR funding may be used [to pay for Gold] at the discretion of the HEIs. Hence, HEIs have access to the necessary public funds to cover the cost of implementing the Government's and RCUK's OA policy..."

For UK researchers and institutions who deplore wasting scarce research funds to pay publishers even more money, it is hardly solace to tell them that if their UK Gold allotment runs out, they can squander their research money from other sources on fool's gold too.

(But fortunately, be the Government ever so grudging about it, freedom of author choice between Green and Gold is now restored by RCUK, so the best protection against wasting UK research funds on Gold is to provide Green instead, via [immediate-deposit](#), irrespective of embargo-length.)

UKGOV: "...The Government is aware of the reluctance of some HEIs to promote the Government's preference for Gold OA, on the grounds that it represents a reduction in funding available for research, but the cost of the Government's funded OA policy is estimated to be... approximately one per cent of the science budget... This is a marginal cost expected to be outweighed by the benefits to the economy arising from direct innovation and spill over benefits..."

(1) As noted, the UK's designated funding for outgoing UK Gold is far from being the whole of the UK's publication funding: The UK continues to pay for essential incoming journal subscriptions. And it is that level of spending that the UK is collaborating with publishers to "re-engineer" so as to sustain it whether it's paid in the form of subscriptions or in the form of Gold APCs.

(2) So the extra marginal costs of the UK Gold subsidy (a further 1% of the UK's research spend) are over and above the existing UK publication spend.

(3) Researchers cannot be expected to welcome the loss of yet another 1% of their already sparse research funding -- and especially not when it is lost just for the purpose of propping up publishers' already inflated revenue levels, come what may, in exchange for an OA that researchers could have at no further expense (beyond the existing UK subscription spend) via Green OA -- *if it were not for the publisher embargo on it* -- an embargo that the UK government is reinforcing, with its joint "re-engineering" plans to "nudge" researchers toward Gold OA.

Fortunately, there is a remedy for this, and that is the [HEFCE immediate-deposit mandate](#) -- plus the institutional repositories' automated [request-a-copy Button](#), which allows users to request and authors to provide (with one click each) a copy for research or educational purposes during any publisher embargo (i.e., the [Liege-model mandate](#), which is the one the UK should adopt.)

Because RCUK has restored authors' freedom of choice of journal, and because [HEFCE](#) proposes requiring [immediate-deposit](#) for REF eligibility, UK researchers can choose to publish in any journal and can fulfill the RCUK mandate through immediate deposit in their institutional repository, whether or not OA to the deposit is embargoed. It is this immediate deposit that can -- with the help of the repository's automated [request-a-copy Button](#) during any embargo period -- "re-engineer" publishing to [Fair Gold](#) (after 100% Green OA has prevailed, and made it possible for publishers to downsize to an affordable, sustainable price for peer review alone) instead of the

Fool's Gold toward which the UK government has set the "direction" for the UK's "journey" toward OA.

BISCOM: "The Government and RCUK should clarify that Gold open access is the ultimate goal of, rather than the primary route to, their open access policies. We recommend that the Government and RCUK reconsider their preference for Gold open access during the five year transition period, and give due regard to the evidence of the vital role that Green open access and repositories have to play as the UK moves towards full open access. (Paragraph 70)"

UKGOV: "...Gold OA, at 12 per cent, is now proving to be the dominant form of OA.
Gold OA the dominant form of OA? Far from the truth.

Spontaneous, unmandated Green OA is already twice that figure, and if effectively mandated (on the HEFCE/Liege model) Green OA is over 10 times that figure, with the majority of deposits being done even before the date of publication.

UKGOV: "...the Government and RCUK would maintain that the merits of Gold OA (immediate, final published version, compatibility with data mining, unrestricted access and re-use, with attribution) mean that it is preferred to Green OA.

Preferred by whom? Finch/RCUK or UK researchers (and the rest of the world)?

(1) Much of today's Green OA is immediate; some of today's Gold OA is delayed. The embargoes are a result of publisher preference to sustain their current revenue levels come what may.

(2) To researchers who are denied access to unaffordable publishers' versions, toll-free online access to the author's Green OA final draft is the difference between night and day, insofar as research applications and progress are concerned.

(3) While access itself is restricted (both by publishers' subscription access tolls and by publishers' OA embargoes) freeing access is incomparably more important and urgent than paying publishers still more for further re-use rights.

(4) The fastest, fairest and surest way to reach Fair Gold OA and all the re-use rights users need and authors want to provide is to first mandate that authors provide Green OA -- rather than to require pre-emptive double-payment, over and above uncancelable subscriptions, out of scarce research funds, for Fool's Gold OA, at arbitrarily inflated prices, on the pretext of needing to sustain publishers' current revenue streams (otherwise peer-reviewed publishing will perish).

UKGOV: "...The use of repositories is a feature of both Gold and Green OA. In terms of the sustainability of long term access to published research and data..."

Before institutional repositories can *preserve* access they must first *provide* it. To provide it they must have effective deposit mandates.

(There are no publisher embargoes holding up data-archiving, so it is a red herring to mention data in this context.)

The remedy is again obvious (to all but the UK Government: the publishing lobby is certainly fully aware of it, because it is fighting it tooth and nail):

Mandate immediate-deposit of all articles, whether published in a subscription journal or a Gold OA journal, whether OA is embargoed or immediate, whether the OA is *Gratis* (toll-free online access) or *Libre* (toll-free online access plus various re-use rights such as text-mining, re-mixing and re-publication).

That, with the help of the Button, will ensure that 100% Green *Gratis* OA -- and eventually Fair *Libre* Gold OA -- will come to pass as quickly as possible: affordably, scalably and sustainably.

UKGOV: "...the UK OA Decision Tree sets out clearly the direction of travel. This is not incompatible with researchers having a free choice as to whether or not to follow the preferred path. Government and RCUK hope they will choose to do so. Government welcomes RCUK retaining this decision tree. It has been agreed by all affected parties, and does not simply reflect the publishers' position, but the consensus position arrived at by members of the Finch Group..."

I suppose it's enough that the Government agrees that UK researchers and institutions are free not to follow the preferred path, hence can ignore the decision tree.

But it would have been more forthright and sensible to abandon the decision tree altogether, rather than leave it as a misleading sign-post.

It is indeed true that the UK-Government/Publishing-Lobby joint "re-engineering" plan for "nudging" UK researchers toward (Fool's) Gold Open Access "does not simply reflect the publishers' position, but the consensus position arrived at by members of the Finch Group."

But what is patently false is that it has "been agreed by all affected parties."

UKGOV: "...Government believes that by [funding hybrid Gold] the rate of adoption of Gold OA by publishers and researchers alike will accelerate..."

No doubt it will. But the goal of UK research, researchers, their institutions and the UK tax-payers who are funding the research is not to accelerate the UK rate of adoption of Gold OA but to accelerate the rate of provision of OA -- in the UK and worldwide.

UKGOV: "...Evidence quoted above from the Publishers Association suggests that this is already proving to be the case. Researchers would be disappointed to have publication in their favoured journals denied to them if they opt for Gold OA and publishers would not want the inefficiencies, or brand dilution effects, of always putting publication of Gold OA material in to a new and separate journal..."

This ludicrous and embarrassing piece of self-promotional spin is so obviously a page borrowed from the publishers' agenda that it does not deserve a reply. It is shameful that the Government of the United Kingdom is echoing this tendentious sales pitch as its own.

UKGOV: "...Government does not consider it appropriate for publishers to rely on retrospectively amortising their APC revenue to discount global subscription rates, as some now do. This may address 'double-dipping' in one sense, (no increase in total revenue to the publisher) but it does nothing to address the concerns of research intensive individual institutions, wherever they are located around the world. Such institutions paying APCs for Gold OA publication in particular journals should see some related and proportional discount in their total subscription fees, with the same publisher, to avoid them disproportionately funding the translation to Gold OA..."

This pious homily is actually masking a piece of uncritical, unreflective and unrealistic nonsense:

If the Government agrees that a UK subscription rebate of only 6% of a UK Gold OA 6% overspend (i.e., 6% of 6%), over and above the UK's 100% subscription spend, is not an "appropriate" way for publishers to refrain from double-dipping, what on earth does the UK imagine publishers will do instead? Because if publishers simply deduct the fee for UK hybrid Gold OA directly from UK subscription fees, *that's just tantamount to declaring the UK can have all the hybrid Gold OA it wants for free.*

That would be just fine (since subscription fees are already paying the costs of publication in full): UK authors would automatically be free of embargoes and would automatically retain all desired re-use rights for the hybrid Gold journals in question.

But free hybrid Gold for subscribers is not at all what publishers have in mind, given how anxious they are to embargo Green (so I suggest that the UK re-discuss their joint "re-engineering" plans in this regard).

Here's a hint: *Publishers are only interested in a transition scenario that guarantees their current income streams*, regardless of where they come from. They are just as averse to immediate-Gold OA as to immediate-Green OA, because it is the sustainability of their current revenue levels that is at risk. So unless the hybrid Gold fees are real and sustainable -- which they are not, if they are merely funny-money, available to every subscribing institution as a free bonus -- publishers will not budge on the UK Government's plaintive nudge for a "proportional discount in their total subscription fees."