

A decorative graphic consisting of a thin yellow circle on the left side. A horizontal bar with a light green-to-white gradient extends from the circle across the top of the slide. On the left end of this bar is a large black left square bracket, and on the right end is a large yellow right square bracket.

Ownership, publication and
authors' rights

Managing Scholarly Communications

Kevin L. Smith, Duke University

Open Access Week, 2009

What is scholarly communications?

- A web of relationships, legal rules and business practices by which scholarship is
 - Created
 - Evaluated
 - Disseminated
 - Rewarded
 - Preserved

[We are not where
we used to be]

Eventually, Steve looked up. His mother was nowhere in sight and this was certainly no longer the toy department.

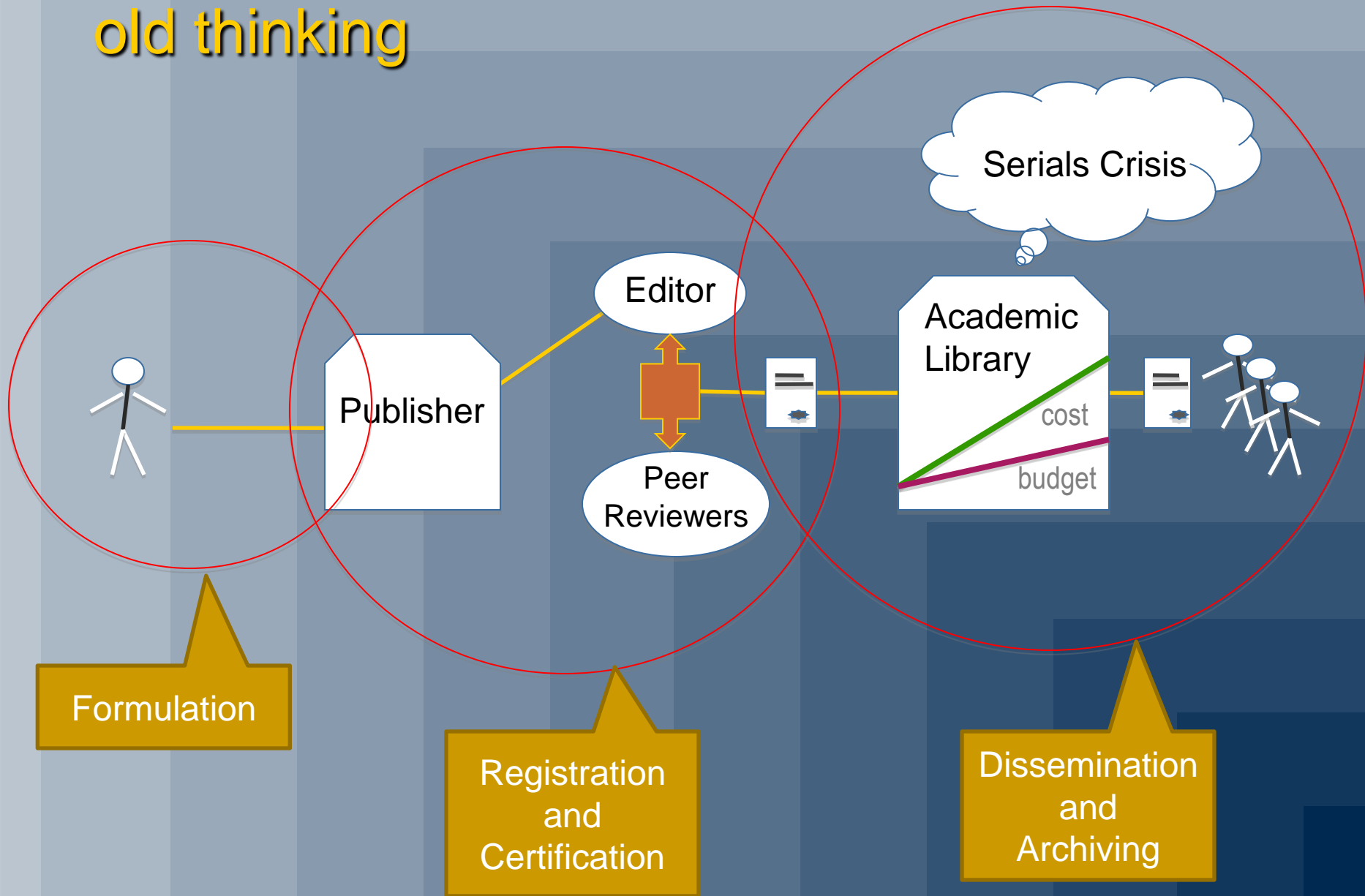
Gary Larson

[Why worry?]

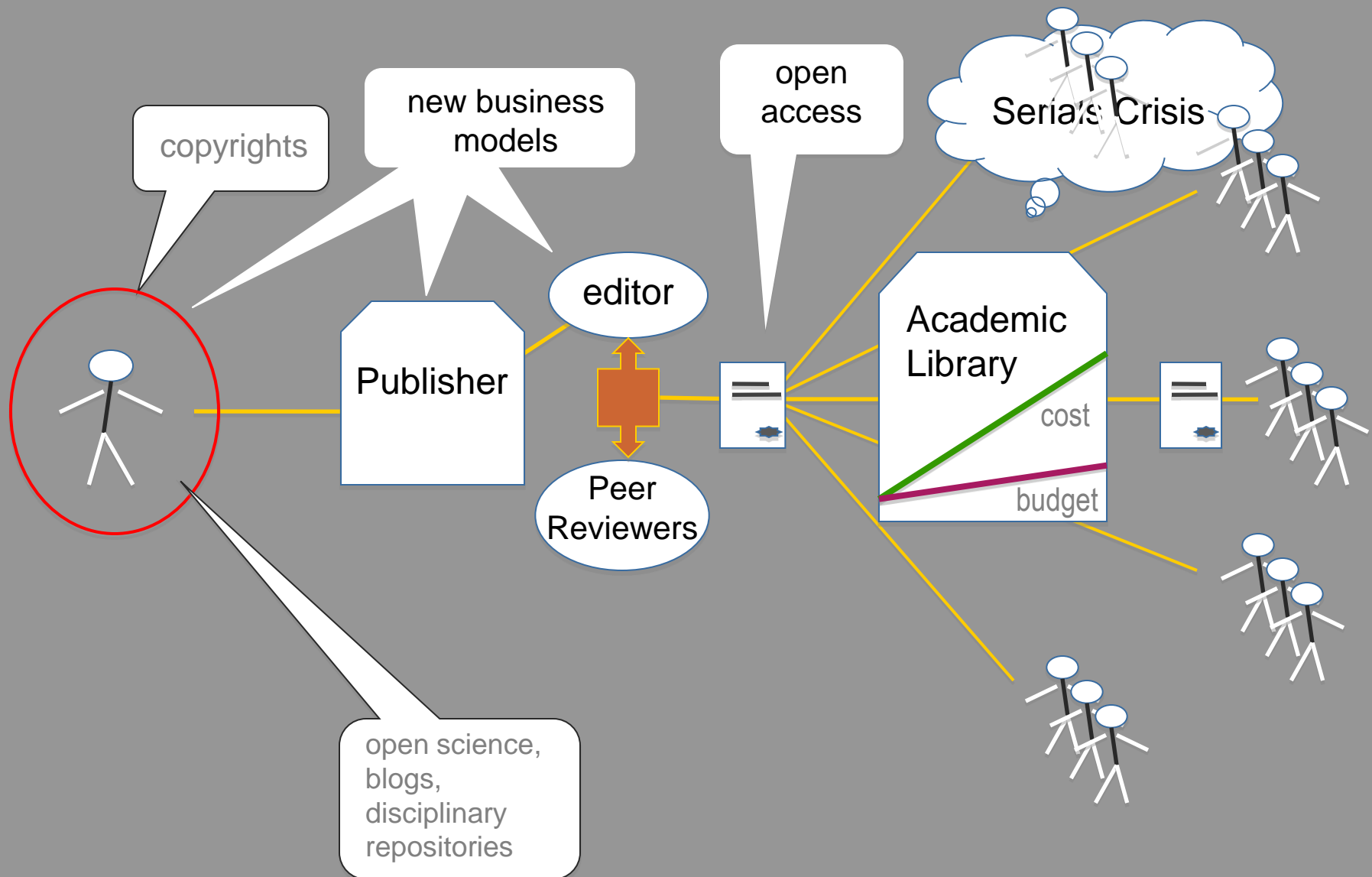
- “Intelligence is not the measure of how much we know how to do, but of how we behave when we don’t know what to do.”
 - John Holt, “Teach Your Own”
- Attention to the changing scholarly communications system is preparation for acting in an uncertain situation.

Scholarly Publishing

old thinking



Scholarly Communications System



[What's changed?]

- Journal prices
 - Massive cost increases → cancellations.
 - Bundling makes selective collection decisions difficult.
 - Money not spent efficiently
 - Can no longer assume that traditional publication will put your work in the hands of all who need to see it.

[What's changed?]

- Digital technology
 - Scholarship happens faster
 - Traditional outlets cannot keep up
 - Scholars usually begin research online
 - More opportunities
 - Informal scholarship (blogs, pre-print servers)
 - More eyeballs
 - Open access opportunities

[What's changed?]

- Copyright law
 - Automatic protection
 - Authors own copyright immediately; not dependent on publication
 - The shrinking public domain
 - More control for scholars
 - Failure to keep pace w/ technology
 - “Photocopier law” in age of YouTube

[What's changed?]

- Emphasis on internationalization and interdisciplinary work.
 - New modes of access needed
 - Discovery & collaboration
- Research funders beginning to mandate open access
 - NIH Public Access Policy, HHMI
 - FRPAA (not FERPA!)

[Amidst all these changes,]

Where
do you
fit in?

[It is good to be the owner!]

- Author = Owner
- Who is an author?
- Owner can
 - Exclude or Allow.
 - Transfer.
 - License.



Copyright protection
showers down on a creator
as she creates.

[Ownership wrinkles]

- Work for hire
 - Most institutions do not claim © ownership under work for hire rules.
 - Need to know local policy
- Joint authorship
 - Each author must contribute original content with intent to combine into unified whole
 - Each joint author entitled to exercise copyrights.

Curious impact on academics

- Likely own many rights of which they are unaware.
- Financial incentive of monopoly pricing matters little.
- Real “benefit” of © monopoly is **control!**

[Exercise control, manage ©]

- Law encourages thoughtful decisions
 - Transfers and exclusive licenses must be in writing.
 - Transfers & exclusive licenses can be terminated after 35 years.
 - Many books contracts allow for reclaiming rights
 - Google Books issue

Publication agreements are negotiable

- Read the agreement – look for rights retained
- Consider what you would like to do with your work in the future.
- Ask for any additional rights you need to retain.

Possible rights to retain

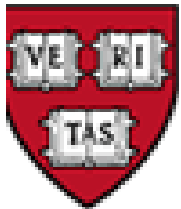
- Republication in later works / derivatives.
- Use with students – course packs, e-reserves, course management sites.
- Distribution to colleagues.
- Open access on person, institutional, disciplinary web site.
 - Version issues.

Author addenda

- NIH suggests specific language for funded research articles.
- SPARC and Science Commons have addenda
 - Some faculties have adopted their own
- An addendum is useful
 - For authors to think about needs
 - When the offered agreement does not cover all those needs
 - Seldom a substitute for direct negotiations

Harvard A&S Faculty

- Feb. 08 – Voted to give non-exclusive license to university.



Harvard**Science**

SCIENCE AND ENGINEERING AT HARVARD UNIVERSITY

- Archiving of faculty work in digital repository **prior** to any submission to publisher.
 - Waiver provision

OA Licensing policies are becoming common

- Adopted at MIT, Stanford, Boston University, University of Kansas.
- Introduced to faculty Senate at U. Va.
- Under consideration at Duke, Emory.
- Rejected at U. of Maryland
- Most are licenses to the institution
 - Waiver and embargo provisions
 - Controversy over recommendations to publish in OA journals

A quick survey of 8 publisher policies on OA self-archiving

- 7 CTAs, 1 exclusive license to publish (NPG).
- 4 permit immediate self-archiving in IR (Duke, Cambridge, APA, Elsevier).
- 1 requires 6 month embargo (*Nature*).
- 2 require 12 month embargoes (ASA, *Academic Medicine*).
- 1 does not permit OA self-archiving (John Wiley).

[OA comes in many flavors]

- Open Access journals
- Open Access option with traditional publishers.
- Participate in "flipping" subscription models
- Deposit pre-print in a disciplinary repository (i.e. ArXive)
- Self-archive in an institutional repository or personal web page

[Benefits of open access]

- Showcase institutional research / accountably for public institutes
- More access → more impact for individual scholars
- Possibilities for collaboration, data mining and new discoveries.
- Promotes academic values.

[Peer-review]

Three good choices:

- Open access journal like [PLoS Biology](#) or [Duke Law Journal](#).
- Author-fee OA w/ traditional publisher (i.e. Wiley, Sage).
- Self-archiving after traditional publication.
Must retain rights

Creative Commons

- Leverages copyright to protect attribution & reputation

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