

Negotiating Transformative Agreements at the German National Library of Science and Technology – A “field report”

Nicola Bieg

Licensing Management, Technische Informationsbibliothek (TIB), Hannover, Germany.

ORCID: 0000-0001-5375-3063

E-mail address: Nicola.Bieg@tib.eu



Copyright © 2022 by Nicola Bieg. This work is made available under the terms of the Creative Commons Attribution 4.0 International License: <http://creativecommons.org/licenses/by/4.0>

Abstract:

In line with its overall commitment to Openness, the TIB – Leibniz Information Centre for Science and Technology has been supporting the move to Open Access in journal publishing for a couple of years now. With its expertise and long-standing track record in reaching beneficial licensing deals for library consortia, the TIB is well-positioned to negotiate publishing options for academic and research institution across Germany. This “field report” aims to give a short overview on the state of affairs regarding the implementation of Open Access policies and introduces three transformative models currently implemented in TIB-led consortia. It also offers a (preliminary) assessment of both the benefits and the drawbacks associated with the different transformative models and presents some of the “lessons learned” so far. Lastly, it looks ahead at what the sector might expect in terms of institutional Open Access agreements in the future.

Keywords: open access, transformative agreement, read & publish, library consortia, case study

Introduction: About TIB and the state of Open Access in Germany

The TIB – Leibniz Information Centre for Science and Technology holds a unique collection of science and technology worldwide. Its mission is to preserve recorded knowledge and to provide the latest information, both now and in the future, irrespective of time and place. As a university library, TIB provides students and faculty of the Leibniz University Hannover with literature and information. It also serves a much broader group of clients in science, research, industry and business in its capacity as the German National Library of Science and Technology as well as Architecture, Chemistry, Computer Science, Mathematics and Physics. TIB is also a research institution with a focus on the digitisation of science and the development of new services in the fields of scientific data management, knowledge infrastructure and visual analytics, among others. In line with its key goals to make information, publications and scientific data freely accessible, more transparent and better reusable, TIB is committed to the advancement of Open Access in the field of scholarly communication. Before looking into what this commitment looks like in practice and in order to provide some context, this paper will first give a short overview on the state of affairs regarding Open Access in Germany.

The German academic and research community at large has identified the move towards Open Access – specifically the Golden route¹ – as a core tenet. This is demonstrated in a variety of ways: The German Science and Humanities Council (*Wissenschaftsrat* or *WR*) has recently published an extensive paper with recommendations for Open Access (OA) that states:

“The WR considers it advisable that OA publishing become part of good scientific practice as soon as a sufficient number of adequate and inclusive OA publishing opportunities have been established. This assessment is supported by the current German federal government’s commitment to OA and open science in its coalition agreement. Thus, the goal is for the OA transformation of academic publishing to be completed within the next few years and the open publication of scientific results to become standard practice.” (p.7)

In line with this, more and more funding opportunities are emerging, such as the “Open Access Publication Funding” programme by the German Research Foundation (*Deutsche Forschungsgemeinschaft* or *DFG*) that is set to run from 2021 until 2027. If institutions want to benefit from funding being applied to the per-article-fee, they need to stick to certain requirements in regards to budget, workflows and infrastructure, posed by the DFG with the aim to expedite the move to an OA-based scholarly environment.

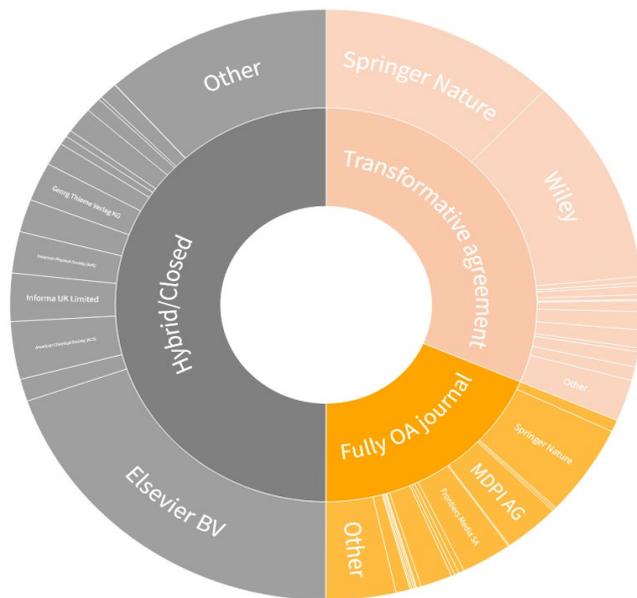
The negotiations of Projekt DEAL (<https://www.projekt-deal.de/>) have also (partially) come to fruition in the past years.² A nation-wide agreement was reached with Wiley in 2019 and with Springer Nature in 2020, both combining read access to the publishers’ journal portfolios with OA publication services in their hybrid journals under a Publish & Read model³. Even though the DEAL agreements are often criticized, they have achieved the goal

¹ Gold Open Access has been defined by the German Science and Humanities Council (*Wissenschaftsrat*) as publications that are “made freely available immediately, permanently, at the original publication venue and in the citable, peer-reviewed and typeset version of record under an open licence (CC BY)” (p.8)

² Negotiations with Elsevier have not resulted in an agreement so far.

³ Articles in Gold OA journals are not covered by the yearly fee; they have to be paid at article acceptance but are discounted from the standard APC in most cases.

of creating OA publishing opportunities on a large scale, as in 2021 an estimated 28,000 articles by German researchers were published OA in the hybrid and Gold OA journals of those two publishers, according to Johannsen & Stump. When looking at the overall distribution of publications in Germany, one can see that these agreements have had a significant impact in increasing the percentage of freely available research literature from Germany.



Source:
<https://github.com/subugoe/oa2020cadata/>,
[ESAC Transformative Agreement Registry](https://esac-transformative.org/registry/)
 TA data last updated: 03-06-2022.

Graph retrieved from:
<https://esac-initiative.org/market-watch/>
 [accessed 16 June 2022]

The chart above, facilitated by the ESAC Initiative’s Market Watch feature, represents the estimated distribution of publication output across Germany:

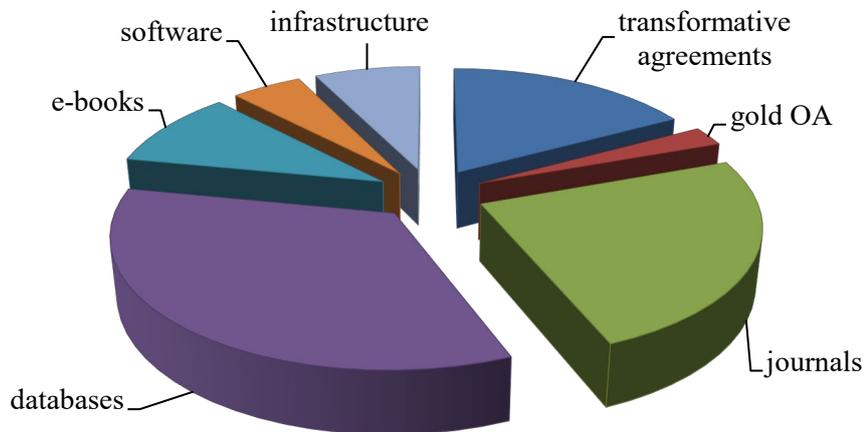
- Closed publications in journals behind subscription paywalls [in grey]: **50%**
- OA publications in hybrid journals under transformative agreements [in light pink]: **31.4%**
- OA publications in fully open access journals [in yellow]: **18.6%**

The takeaway here is that through the existing Project DEAL agreements, a little less than a quarter (c. 23.4%) of the total national publication output has been transformed to Open Access in a relatively short period of time.

The “field report”: Transformative models at TIB

As a part of fulfilling its supraregional mandate, TIB negotiates and administers library consortia. Traditionally, members to these consortia have benefitted from advantageous conditions when licensing content from publishers. In more recent years, TIB consortia have expanded to include publication services for authors affiliated with participating institutions. In 2022, TIB is running 42 consortia in total, servicing 290 institutions of all kinds and sizes across Germany. Of these 42 consortia, eight include a publishing component. This number will likely increase in 2023 as TIB is currently negotiating transformative agreements with three further publishers and is in the process of establishing its first national consortium for a framework agreement with an Open Access publisher. The communal financing of OA journals through library consortia is also an area that TIB has recently ventured into.

The diagram below shows the distribution of TIB’s current consortia (2022) by product type:



Not all of TIB’s consortia have the potential to be transformed to Open Access, at least not in the near future. There is certainly a focus on the product type of journals, while OA publication opportunities for e-books are opening up only slowly and on a small scale. Databases often entail periodical content alongside other content (such as standards or norms) for which no models exist yet to make that content freely available. Other products like software or infrastructure solutions see an increasing demand but bring with them different sets of challenges, e.g. tendering requirements. The development of licensing costs as well as administrative and labor costs associated to running these consortia is hard to predict. In the following, three models of transformative agreements in current TIB-led consortia are presented and some “lessons learned” offered:

Case Study A: From a capped “Offsetting Agreement” to an unlimited “Read & Publish Agreement”

The consortium covering the journal portfolio of Publisher A has existed as a classic subscription consortium for several years. For the period 2019-2021, a so-called “offsetting agreement” was negotiated, in which the article processing charges (APCs) for a set number of articles in a selected portfolio of hybrid journals was offset against the subscription cost. The number of OA articles under the agreement has therefore increased while the cost remained within the range of the previous spending level. The participating institutions benefitted from a mechanism, in which “unused” articles from individual members were pooled and rolled-over to the following contract year. Members that had reached their individual article cap could then use up the articles from the consortial pool on a first-come-first-serve basis. Points for criticism were the fact that not the entire sum of subscription cost was re-allocated to cover publishing services and that only part of the publisher’s portfolio of hybrid journals fell under the agreement.

Overall, TIB considered the “offsetting agreement” a successful first step towards transformation as the count of OA articles published by affiliated authors has risen by about 25% (nearly 700 articles were published OA over the three-year contract term). The member count of the consortium has also seen an increase over the course of the agreement, demonstrating that the cost-neutral and relatively simple model made it attractive for institutions to participate in the consortium.

From 2022 onwards, the transformative impact of the agreement was broadened significantly as almost the entire portfolio of journals (with the exception of some partner journals) was brought into the agreement, which now covers Gold OA journals alongside hybrid journals. Additionally, the article cap was lifted so that authors affiliated with member institutions benefit from unlimited publishing opportunities. The price increase from the previous agreement, reflecting both the expansion of included journal titles and an expected increase in research output, was seen as reasonable. In fact, the consortium not only retained a majority of its members, but also gained new members. It is expected that the Read & Publish deal will limit author-facing APCs “in the wild” for eligible researchers to a minimum. This will allow for a reliable assessment of publication output and associated costs for each participating institutions at the end of the agreement term. It remains to be seen whether the article count will grow as expected and will justify the annual price increase for the following years of the agreement.

Case Study B: A capped “Read & Publish Agreement”

Another model for a Read & Publish type of deal was implemented in 2021 with Publisher B, building on a long-standing subscription consortium with that same publisher. This agreement brings together costs for access as well as for a set number of Open Access articles in hybrid journals. The article contingent is set on the consortial level and depends on the overall turnover of the group. Authors from participating institutions can publish OA articles on a first-come-first-serve basis until the article cap is reached. Any OA articles that exceed the cap will incur an additional but discounted APC payment by the respective institution.

Different than in Case Study A, where the article cap was initially calculated for each institution individually (based on its subscription price), Publisher B left the internal pricing model and article allocation within the consortium entirely up to TIB. The contingent is monitored by TIB through a dashboard, which is also used to inform about articles that need approval for cost coverage in case the contingent is exhausted. Institutions can choose individually whether they want to approve or deny additional articles by affiliated authors automatically or decide on a one-by-one basis. TIB initially covers the yearly overall fee for the consortium as well as any additional APC payments and then charges them onward to the institutions. It is therefore taking up a more active role as consortial leader in that it handles the calculation of costs on the institutional level, the invoicing procedures and the administration of the dashboard for the consortial group.

Since the agreement is still in its early stages, an assessment of the level of Open Access reached through the deal is difficult. The article cap for the first year of the agreement was set at nearly 500 articles – due to some initial hiccups regarding contractual procedures and workflow implementation, this cap was not met, which does not necessarily speak to the suitability of the model. A positive feature is certainly that the overall cost for the agreement is within the range of previous spending levels. Also, the possibility for internal redistribution of costs renders this a viable model for helping institutions with a large research output transition to a system where costs are based on publications. However, in terms of the administrative workload, especially regarding the distribution of cost within the consortium and the invoicing and monitoring processes, this is probably TIB’s most labour-intensive consortium to date.

Case Study C: A “Read” agreement with the option to add a “Publish” component

The third case study constitutes a low-threshold option to implement a publish component in an existing consortium. For 2022, Publisher C has defined this as a step forward from a previous subscription agreement with extended Green OA rights. Participating institutions can choose whether they want to continue only licensing read access to Publisher C’s journal portfolio or pay a moderate surcharge (tiered according to institutional size) for adding publishing opportunities for their affiliated authors. While this might be seen as double dipping since subscription costs are not offset against the publish fee, the surcharge covers unlimited articles in eligible journals (both hybrid and Gold OA journals) and for most institutions lies below the cost of one APC (exceptions are larger institutions). This makes it an inexpensive, low-risk option for members that expect at least one article to be published by their researchers within the year.

Institutions appreciate that the model is very simple and transparent, offering price predictability over the course of the three-year agreement and allowing authors the freedom of choice across the entire portfolio (this is aligned with TIB’s goal of preventing unwanted article migration from full OA journals to hybrid journals, which might happen when only hybrid journals are included in an agreement). However, as the publish component is optional, the transformative effect is limited and TIB has seen this model mainly being offered for smaller consortia where the historic publishing output is not large to begin with (mainly in double digits). Publishers choose this model as a way to assess the demand for publication services within existing consortia, while not having to risk losing members by implementing the price increase that usually accompanies transformative deals.

“Lessons learned”

The experiences that TIB has gathered in negotiating and managing consortial transformative agreements in the past years allow for a (preliminary) assessment of the features that work well and the challenges that persist. While far from being the “perfect” solution, transformative agreements currently seem to be the most practical tool for increasing OA publication opportunities for researchers and building up pressure to flip hybrid journals. As some models, like the Read & Publish model, have gained popularity and therefore more publishers are familiar with them, it makes sense to build on those and develop them further to the advantage of the scientific community. While transformative agreements also open up possibilities for establishing new consortia, in TIB’s experience risk-sharing is easier when the partners can build on a longstanding relationship, i.e. when (subscription) consortia have been in place already for a couple of years. It is also key that the expectations on both sides (publisher and consortium) are clearly communicated at the start of the negotiations while still allowing for some degree of flexibility and willingness to compromise. Feedback from institutions is usually very helpful for TIB in assessing which components of an offer are non-negotiable or where the pain point in terms of price lies.

However, there are several challenging factors that accompany the move to transformative agreements and that impact different stakeholders in different ways. To exemplify these challenges, the following three examples shall be listed here:

- 1) Transformative agreements are labour-intensive and require more communication effort between all parties, as expectations need to be managed on all sides. Sometimes negotiations therefore take several months or even years until a mutually beneficial

solution is reached. Also, the implementation of transformative agreements into existing workflows and systems takes time and effort as standard procedures are not yet in place or need to be adjusted to changing needs. TIB therefore needs to carefully consider its resources before attempting to build a consortium with a publish component, and is currently also deliberating the options for charging a fee for its services.

- 2) Reliable publication data is not easily attainable, especially for larger groups of institutions. As the publish price is oftentimes directly informed by the historic publication output, it is key that the negotiator knows how many publications can be attributed to each (potential) member institution. The publisher usually provides such a report, but ideally it should be double-checked so that expected publication counts and growth assumptions can be realistically appraised. There is a need for tools that provide reliable publication data and trace publication patterns over several years. Some technical solutions are thankfully already available for free, such as the Open Access Monitor (<https://open-access-monitor.de/>). At the moment, however, the process of compiling and checking historic publication output is largely handled on the institutional level and is oftentimes still a manual process.
- 3) Solid financing flows for covering publications centrally are not often in place yet, so that libraries might have to initially rely on their acquisition budgets alone to finance OA publications. The shift to paying for publication services instead of access requires a change in budget allocations of the institutions, which might be substantial depending on the publication output and the institution's previous subscription costs. Many institutions are trying to answer the call for a combined "information budget"⁴, but changing the financing flows takes time and effort on the managerial level as well as in relation to the financing bodies. Moreover, in Germany publication services are taxed higher than access to literature, which adds an additional financial burden to library budgets.

Conclusion and Outlook: Consortial solutions for Open Access

While cOAlition S has famously announced the ceasing of financial support for articles published under transformative agreements by 31 December 2024, thus setting a global timeline for when scholarly journal publishing should ideally have moved to full Open Access, the situation in Germany today renders this goal not feasible. The aforementioned recommendation by the German Science and Humanities Council, stating that "a sufficient number of adequate and inclusive OA publishing opportunities" need to be established before "OA publishing become[s] part of good scientific practice" (p.7), is a better reflection of the goals that TIB has set for its institutional clients. Trying to provide a larger number of OA publishing opportunities by negotiating transformative agreements is therefore still a priority within TIB's consortial efforts today.

⁴ The term „information budget“ has been widely used in the context of the OA transformation. This paper follows the definition given by Pampel (2019): "The term information budget [...] refers to a financial management tool that captures all income and expenditure for scientific information. The information budget forms part of the institution's overall budget. Depending on the institution and its profile, the information budget subsumes the costs for information supply, which have always been managed by the libraries, as well as all other expenditures for publishing (open access, hybrid option, further publication fees) and other costs related to the supply of scientific information, for example the operation of publication infrastructures by the academic community at the local or consortial level." (p.11; translation by the author of this paper)

Next to transformative agreements, TIB is also preparing for negotiating more and more consortial “outline agreements” for Gold OA journals that solely cover publication services for authors of participating institutions. The benefits for members are:

- a predictable and discounted price compared to the payment of APCs “in the wild”
- reliability regarding legal and administrative procedures, leading to a reduced workload
- support in communicating with authors/researchers
- the possibility to influence the shaping of financial models and processes.

It seems that having a set flat fee, paid annually up-front by the members and covering an unlimited amount of articles, is the most practical solution for the moment. This model achieves the goal of price predictability and minimizes the administrative burden in monitoring an article cap for all parties involved. Other consortial leaders might prefer and even handle payment on acceptance of each article for the consortium as it allows for more flexibility and quicker cost control – however, as a public-law foundation, TIB faces certain legal and financial requirements that renders this approach difficult.

In the past months TIB has also expanded its efforts in creating consortia that communally finance the immediate switch of closed journals to Open Access (at least in regards to their frontlist publications). The team working on the project KOALA (<https://projects.tib.eu/koala/>), comprised of staff from TIB and the University of Constance, seek out publishers that are willing to flip their journals to Open Access without relying on the APC-model. The team is then bundling publications from different publishers by subject area. These bundles have recently moved into their first pledging phase, seeking support for a three year period from a variety of funders – next to academic libraries, these might be businesses, museums or even private individuals. The hope is that, if successful, this model might be reused for other types of products (e-books etc.) or other groups of institutions, potentially even on an international level (see Schulz & Pöche).

Acknowledgments

A special thanks goes to the author’s colleague Dr. Alexander Pöche, Head of Licensing management at TIB. This “field report” also draws from his insights and experience.

References

cOAlition S / European Science Foundation (n.d.). Principles and Implementation. <https://www.coalition-s.org/addendum-to-the-coalition-s-guidance-on-the-implementation-of-plan-s/principles-and-implementation/> [accessed 2022, June 16]

ESAC Initiative (2022, March 3). Market Watch. <https://esac-initiative.org/market-watch/> [accessed 2022, June 16]

Johannsen, J. and Stump, K. (2022, May 31): DEAL Update [conference presentation]. 8. Bibliothekskongress 2022, Leipzig.

Pampel, H. (2019): Auf dem Weg zum Informationsbudget: zur Notwendigkeit von Monitoringverfahren für wissenschaftliche Publikationen und deren Kosten; Arbeitspapier, Potsdam: Helmholtz Open Science Koordinationsbüro.
<https://doi.org/10.2312/os.helmholtz.006>

Schulz, K. and Pöche, A. (2022, June 2): Bibliothekskonsortien als Bestandteil der Open-Access-Transformation [conference presentation]. 8. Bibliothekskongress 2022, Leipzig.

Wissenschaftsrat – German Science and Humanities Council (2022): Recommendations on the Transformation of Academic Publishing: Towards Open Access (9477-22_en), Cologne, January 2022. <https://doi.org/10.57674/0gtq-b603>