MPA response to the University proposal “Changes to submission format and exposure of Higher Degree by Research theses.”
November 2013

1. Submission and examination

“Monash University has initiated a project to move to online thesis submission and examination for doctoral and Masters by Research degrees...”

Key issue, dot point 1

The MPA supports the move to online thesis submission and examination.

2. Definition of restricted access

“There are several categories of access to these awarded thesis copies held in the Monash library: open/no embargo (both hard and electronic copy available to all), restricted access (electronic copy permanently unavailable), and embargo (the hard copy is not available to anyone for a three year period, renewable up to three times).”

Key issue, dot point 2

Describing the storage of an ethesis in the restricted access section as an “electronic copy permanently unavailable” is incorrect.

Etheses held in the restricted access section of the online repository are available to be borrowed in the same way a hardcopy thesis has always been able to be borrowed from the library by other researchers. Individuals and/or libraries submit a request (via email/online form) and are required to agree that the thesis will be used only for the purposes of research and study. In response, an electronic copy of the thesis can be emailed, and thus is delivered faster and more efficiently than a hardcopy thesis, that needs to be mailed or collected in person.

So rather than being “permanently unavailable” an ethesis stored in the restricted section of the online repository is much more readily available to other researchers than it has ever been.
3. Simplifying access conditions

“...it is proposed to simplify the access conditions to either open access or embargo...”

Key issue, dot point 3

Postgraduates currently have a choice as to whether they will place their thesis in an open access repository or a restricted access repository. Postgraduates also have a choice as to whether or not they wish to place an embargo on their theses.

The discussion around repository storage in open or restricted access and the discussion around whether or not to embargo, are completely separate matters. The decision to place an embargo on a thesis merely delays the effect of the chosen mode of repository access.

So to propose that the choice is now between open access storage and an embargo, actually confuses the situation. What this proposal really means is that:

a. all postgraduates will be required to publish their theses in the open access section of the online repository – they will no longer have a choice; and

b. any postgraduate can choose to delay the publishing of their theses by 18 months by electing to place an embargo on the thesis.

The MPA strongly objects to the university attempting to take away the right of postgraduates to make decisions about where and when their own work will be published. Postgraduates own copyright in their theses and the university should respect this right which is enshrined in the university’s own statutes.

4. Default embargo period

“Introduction of an initial, default embargo period will provide students with time to submit their work for publication or other commercial activities, during which the thesis is not available for consultation.”

Key issue, dot point 4

The introduction of a default embargo period does not mitigate the fact that the open access publication of theses is being forced on students. The university is moving from the current and proper situation of thesis publication being the copyright owner’s choice to thesis publication being made mandatory.

Additionally, the use of an embargo in this context is contrary to the purpose of having an embargo, which is to protect sensitive or secret material.

The proposed introduction of a default embargo period would actually result in theses being less publicly available to other researchers than they currently are when stored in the restricted access of the repository (see section 6 for further explanation).
5. Application of proposed changes

“Once approved, to apply to all currently enrolled candidates in Doctoral and Masters by Research degrees.”

Implementation

Were this proposal to be approved, all currently enrolled postgraduates would have a very strong argument to assert that the candidature conditions in force at the time of their enrolment should apply for the duration of their candidature. Retrospective operation of policy is inappropriate.

6. Improving dissemination of research

“Greater dissemination of thesis research to the research community through compulsory submission of an electronic copy.”

Benefits/Advantages

The “submission of an electronic copy” does not automatically lead to “greater dissemination of thesis research”. This discussion is not about the submission of an electronic copy of the thesis, but about where that electronic copy is stored and how it is accessed.

“Simpler access conditions that aim to make all theses available to the research community unless there are grounds for an embargo.”

Benefits/Advantages

The proposal to introduce a default embargo period means that postgraduates will not need to have “grounds for an embargo” – they will automatically have the right to embargo. The feedback received from postgraduates indicates that were this proposal to be effected, the majority of postgraduates would choose the default embargo in order to have time to publish books and journal articles. This would result in most theses not being available to the research community at all for 18 months.

Under the current conditions, those same postgraduates would simply choose the restricted access section of the repository, meaning that their theses would be available immediately to any researcher who requested access. This arrangement does not impinge on any plans to publish books or journal articles, because when lodged with the library in the restricted access section, the thesis is not considered to be a publication (in a legal sense) but rather an unpublished work.

It is difficult to see how this proposal encourages dissemination to the research community. On the contrary, it appears to restrict dissemination.
7. **Risks**

When theses are stored in the restricted access section of the repository, postgraduates are not required to secure permission to reproduce third-party works because the thesis is considered an *unpublished work* and can therefore rely on the fair dealing provisions of the Copyright Act. Once the thesis is published in the open access section of the repository, it changes from being considered an *unpublished work* to a *publication* in relation to the Copyright Act. As a publication, postgraduates cannot rely on the fair dealing provisions, and must seek permission to reproduce all third-party material.

In some disciplines, such as history, identifying the owners of third-party works can be a very long and complicated process. Postgraduates have cited examples where two independent organisations both claimed to be the owners of a specific historical document. Some copyright owners require payment in return for permission to republish works.

Compulsory publication of theses in the open access section of the repository raises the possibility of the following risks:

- Postgraduates publishing third-party works for which they have not secured permission (or for which they mistakenly believe they have secured permission) will be placed at risk of being sued. The university may also be placed at risk of being sued. The university may consider this a very low level risk for the organisation and therefore decide to proceed. However the university should not be making this decision on behalf of postgraduates.

- Where securing copyright is complicated, the additional time taken by those postgraduates to secure copyright in order to complete and submit their PhDs will result in a measurable loss of income for the university.

- Postgraduates may be subjected to additional significant costs in the process of securing copyright permission.

- Where significant portions of a thesis are redacted due to a postgraduate’s inability to secure copyright, the resulting publication may appear to be substandard, placing at risk the university’s reputation as a leading research institution.

8. **Summary**

At best, it is unethical for the university to force postgraduates to publish their work. At worst, it is contrary to the Commonwealth Copyright Act for the university to make publication a requirement for submission, as this essentially constitutes an implicit blanket IP assignment.
It is clear that the university is keen to populate the repository. While the university has a right to encourage postgraduates to publish their theses in the open access section of the repository, they should also be aware that they have a responsibility to inform postgraduates (and supervisors) of the ramifications of choosing the open access section.

The MPA recommends that the university reject the proposal to make publication of theses mandatory in the open access section of the repository. Postgraduates should retain the right to have a choice when it comes to the storage and access of their theses.

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