SLIDE 1
Christy has addressed the question “Whose Electronic Library is It?” from the perspective of the university library and the institution it serves. I’ll now address the question from the perspective of faculty and researchers. They produce the content that we find in scientific journals. So it is very natural to ask in what senses they own the electronic library.

This talk has two goals.
First, examine to what extent researchers own their output, both individually as authors but also as members of a research community.
Second, review a few trends that bear directly on questions of ownership and frame some questions about them.
To what extent do researchers own their output, both individually as authors but also as members of a research community? Since so much of current discussion focuses on journal publishing, I will focus on this primarily rather than books or conference proceedings.
When we ask what the community of scientists owns, there are really two questions.
What do authors own in the strict legal sense of actually owning something?
What rights does the scholarly community have in the more general sense of owning rights to do these things: access, download for personal use, distribute scholarly output, and use for courses?

SLIDE 2
Consider first the strict legal sense of ownership of intellectual property.
If the results of a 2003 RoMEO study are correct, authors for the most part do not own their own work. (RoMEO stands for Rights Metadata for Open Archiving). According to the study, 90 per cent of the agreements studied had provisions for copyright assignment, even if a small portion of these also had an option for an exclusive license agreement.

There is a fascinating history of the concept of ownership transfer that I cannot chronicle here but is taken up by Jean-Claude Guedon in his article “In Oldenburg’s Long Shadow: Librarians, Research Scientists, Publishers, and the Control of Scientific Publishing”. Suffice it to say that the journal that Christy mentioned earlier, Philosophical Transactions of the Royal Society of London, played a key role in all this by “formalizing” the idea of intellectual property. The journal became a vehicle for staking a claim to a piece of "intellectual property".

SLIDE 3
In the current world, many publishers have licensing terms that constrain or impede dissemination. Provisions may allow for authors (as opposed to their peers) to circulate a certain number of copies. For example, the ACS’s Copyright Transfer form allows distribution by authors to no more than 50 colleagues some form of their paper. Also, provisions may allow authors to “self-archive” their work, which we’ll take up in a moment. But focusing on researchers in general, not just authors, it often violates copyright to circulate multiple copies of a journal article (whether the original be print or electronic) via email. Also, it violates copyright in many cases to mount an article for course use beyond one semester, without having paid copyright clearance costs.

Doesn’t efficient interlibrary loaning counteract limitations on distribution? Lehigh researchers, for example, can get almost any journal article they need and that the library does not have. They can even have the articles emailed to them about 75 per cent of the time. However, further distribution can be a violation of license agreements.

We need to ask: is the electronic library, coupled with the old ownership system still serve authors and scholarly communities? Or is there a need for a new model of ownership?

SLIDE 4
Much as during the Prohibition era, there is likely a discrepancy between what the law says and how people actually behave.
Likely many scientists do not observe copyright restrictions on sending copies of articles to colleagues. And despite the best efforts of librarians or institutions, likely there will always be faculty who will not observe copyright in making materials available to their students.

Any other analogies between consuming scientific literature and consuming alcohol are unintended.

SLIDE 5
To summarize, we can answer the question, “Whose Electronic Library is it, Anyway?” by saying that ~on balance~ it only “sort of” belongs to the content producers of journal literature. Scholars are quasi-owners of a great deal of the material they publish in journals. They enjoy a bit of ownership in the sense that they can usually get access, whether immediate or eventual, to their communal output. But this ownership is restricted and often not immediate.

I’ll spend the rest of this talk addressing some developments that potentially challenge the old ownership regime: Creative Commons licensing, and “green” rights.

SLIDE 6
Here is how Creative Commons describes itself:
“Creative Commons offers a flexible range of protections and freedoms for authors and artists. We have built upon the ‘all rights reserved’ of traditional copyright to create a voluntary ‘some rights reserved’ copyright. We’re a nonprofit. All of our tools are free.”
http://creativecommons.org/

A Creative Commons licensing adopter is the open access publisher BioMed Central.

“Authors publishing with BioMed Central retain the copyright to their work, licensing it under the Creative Commons Attribution License. This license allows articles to be freely downloaded from the BioMed Central website, and also allows articles to be re-used and re-distributed without restriction, as long as the original work is correctly cited…” http://www.biomedcentral.com/info/

SLIDE 7
New copyright or licensing arrangements such as those in Creative Commons can get people to think about new ways of conceptualizing ownership. Authors may come to expect greater rights, and that wouldn’t be a bad thing. Perhaps in the long run such initiatives will help to mitigate licensing restrictions in non-open access, that is, subscribed or toll access journals. For a very interesting elaboration of various dimensions of the issue of rights and rights management, see Richard Poynder’s piece on “The role of digital rights management in Open Access” at http://poynder.blogspot.com/2005/04/role-of-digital-rights-management-in.html
SLIDE 8
We’ve looked at Creative Commons licensing. Another major development is that publishers now allow authors to post pre-prints and post-prints of articles. These are so-called “green” rights. We’ll now look at some background details about “green rights” before evaluating their positives and negatives.
What are pre-prints and post-prints?
We’ll take the definition from a SHERPA website, which “characterises pre-prints as being the version of the paper before peer review and post-prints as being the version of the paper after peer review, with revisions having been made. This means that in terms of content, post-prints are the article as published. However, in terms of appearance this might not be the same as the published article, as publishers often reserve for themselves rights in their own arrangement of type-setting and formatting.”

http://www.sherpa.ac.uk/advice/submission.html

SLIDE 9
Here is a link that shows statistics about green self-archiving. The stats give an idea as to the large number of publishers that provide green rights. This is from “SHERPA: Securing a Hybrid Environment for Research Preservation and Access.” (host: University of Nottingham)
Note from the stats here how many publishers allow archiving.
Click on the color schemes and you’ll get the publisher policies. When in a sarcastic mood we might describe these archiving rights as “double publishing rights”. But despite the apparent redundancy, provision of rights for authors to self-archive is a major development that bears on the question of ownership in the electronic publishing arena.
The publishing industry realizes it, as witness a conference in London 11/28/05 titled “Preprint and postprint repositories and their impact on publishing”. This is slated as “a must for all senior publishing staff whose journals might be threatened by these developments.”
From https://mx2.arl.org/Lists/SPARC-OAForum/message/2522.html

SLIDE 10
Key Perspectives, a UK consultancy, has provided statistics relating to self-archiving trends in a 104 page report. A few things from the executive summary.
(i) “Almost half (49%) of the respondent population have self-archived at least one article during the last three years in at least one of the three possible ways—by placing a copy of an article in an institutional (or departmental) repository, in a subject-based repository, or on a personal or institutional website”.
(ii) A finding that I mention because it is funny and perhaps a commentary on human nature or behavior: “Self-archiving activity is greatest amongst the most prolific authors, that is, those who publish the largest number of papers”.

SLIDE 11
Let’s now look at the positives and negatives of green rights. First, positives.
Green rights have probably played some not insignificant role in spurring development of “institutional repositories”. These are repositories where a university can post scholarly output, including journal articles, electronically.
Another positive of the green approach is increased immediate accessibility of journal literature. The availability of Google Scholar has made it easy to find articles that have been self-archived. We saw that with the example Christy gave from Google Scholar.

SLIDE 12
Another possible positive effect of the green approach that is discussed is increased impact of research. For people who want to review the literature on this, the Open Citation Project has a webpage “The effect of open access and downloads (‘hits’) on citation impact: a bibliography of studies” http://opcit.eprints.org/oacitation-biblio.html
From that webpage: “Recent studies have begun to show that open access increases impact. More studies and more substantial investigations are needed to confirm the effect…..”
Finally, the green movement has created awareness of alternative publishing models.

SLIDE 13
We’ve just looked at positives. Here are some negatives. There are variations in green publisher policies. For example, APS says the publisher’s version/PDF can be used on author’s or employer’s website, but Springer-Verlag says it cannot be used.
It would be good to have uniformity here, to make things easier for authors.
Nature is described as RoMEO yellow. Note the six month embargo imposed by Nature.

SLIDE 14
Turn now to a second negative: ambiguity in user rights.
What user rights are associated with a pre-print or post-print? On this slide, we see views on various issues relating to permissible uses of the self-archived preprints and postprints of Michael Carroll, Villanova Law School Professor. He is on the Creative Commons Board of Directors.
As we can see, in Professor Carroll’s interpretation, there is ambiguity in user rights in relation to pre-prints and post-prints. By contrast, he mentions that “a Creative Commons license answers all of the above questions expressly and in the affirmative”.

SLIDE 15
Another negative: it’s not always clear what is the canonical copy of an article. Again consider the example Christy gave from Google Scholar. In the various formats that came up in the search, what is the canonical copy? Will it be transparent to users?
Yet another negative: some publishers apparently only allow authors to archive at their own website or institutional sites—apparently implying that articles cannot be aggregated in a centralized repository. This eliminates the possibility of creating a kind of after-publication repository of articles.

NOTES: Here is Elsevier’s statement:
http://authors.elsevier.com/getting_published.html?dc=CI
“You can post your version of your article on your personal web page or the web site of your institution, provided that you include a link to the journal's home page or the article's DOI and include a complete citation for the article. This means that you can update your version (e.g. the Word or Tex form) to reflect changes made during the peer review and editing process.”

Here is Springer’s statement:
http://www.springer.com/sgw/cda/pageitems/document/cda_downloaddocument/0,0-0-45-69724-0,00.pdf

“An author may self-archive an author-created version of his/her article on his/her own website and his/her institution’s repository, including his/her final version; however he/she may not use the publisher’s PDF version which is posted on www.springerlink.com”

SLIDE 16
The goal of one of the primary green advocates has been to promote “100 percent open access”. Recall the 49 per cent author self-archiving figure from the study cited earlier.

But can we be hopeful that this number will greatly increase if self-archiving is mandated by institutions or even the government? Consider the proposal by green advocates that institutions mandate self-archiving. On the face of it, this could be pretty effective. And in fact, Alma Swan’s presentation (Frankfurt) finds “compliance as expected”—see #13 and #14 slides. (October 2005 Frankfurt material at: http://www.keyperspectives.co.uk/openaccessarchive/presentations.html)

Anyone who knows anything about universities and how they operate in the U.S. will realize what a big hurdle it will be to require of all researchers on a campus that they self-archive. Is it so clear that some large portion of the colleges and universities in the U.S. are going to require self-archiving?

Some people placed hopes in government mandates to self-archive government research. People who have followed the fairly recent history of attempts to get the NIH to mandate archiving of funded research will see the idealism of supposing that we can attain strong government mandates for archiving.

Finally, green self-archiving is a right conferred by publishers. If publishers think that green self-archiving challenges their publishing revenues, they could just pull the plug on it.

SLIDE 17

This contrast between the positives and negatives of the green approach leaves open some questions. Might self-archiving be good as a catalyst to spur more robust, reliable, and long-lasting solutions to disseminating knowledge? On the other hand, should researchers work toward some other method of distributing research, such as relying more on pre-prints or working toward centralized article databases with low-cost editorial operations?

SLIDE 18
And following up on Christy’s presentation, what is the role of librarians in all this? Should library cooperatives be the future hosts for archives of scientific literature? Shoud, and will, libraries be involved as publishers of scientific journals?

We now invite you to discuss these or any other related issues.

SLIDE 19
Acknowledgments.