

**YOU SHARE
WE TAKE
CARE**

USING THE DUTCH COPYRIGHT ACT TO SPEED UP OPEN ACCESS

status and lessons learned



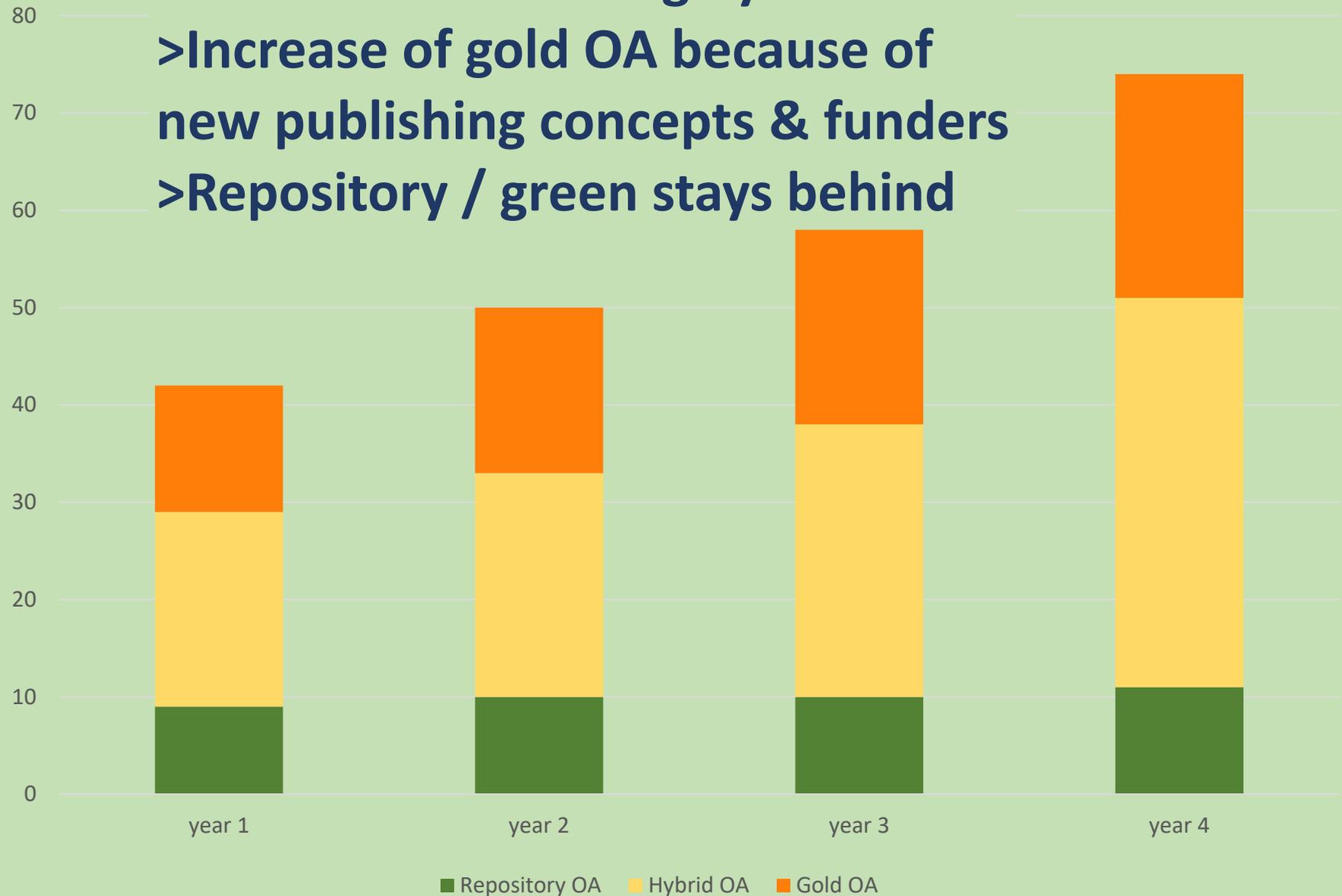
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Towards 100% OA in The Netherlands

Long term trend:

- >R&P deals are fulling hybrid OA
- >Increase of gold OA because of new publishing concepts & funders
- >Repository / green stays behind



**Green
important in
a 100% OA
strategy**

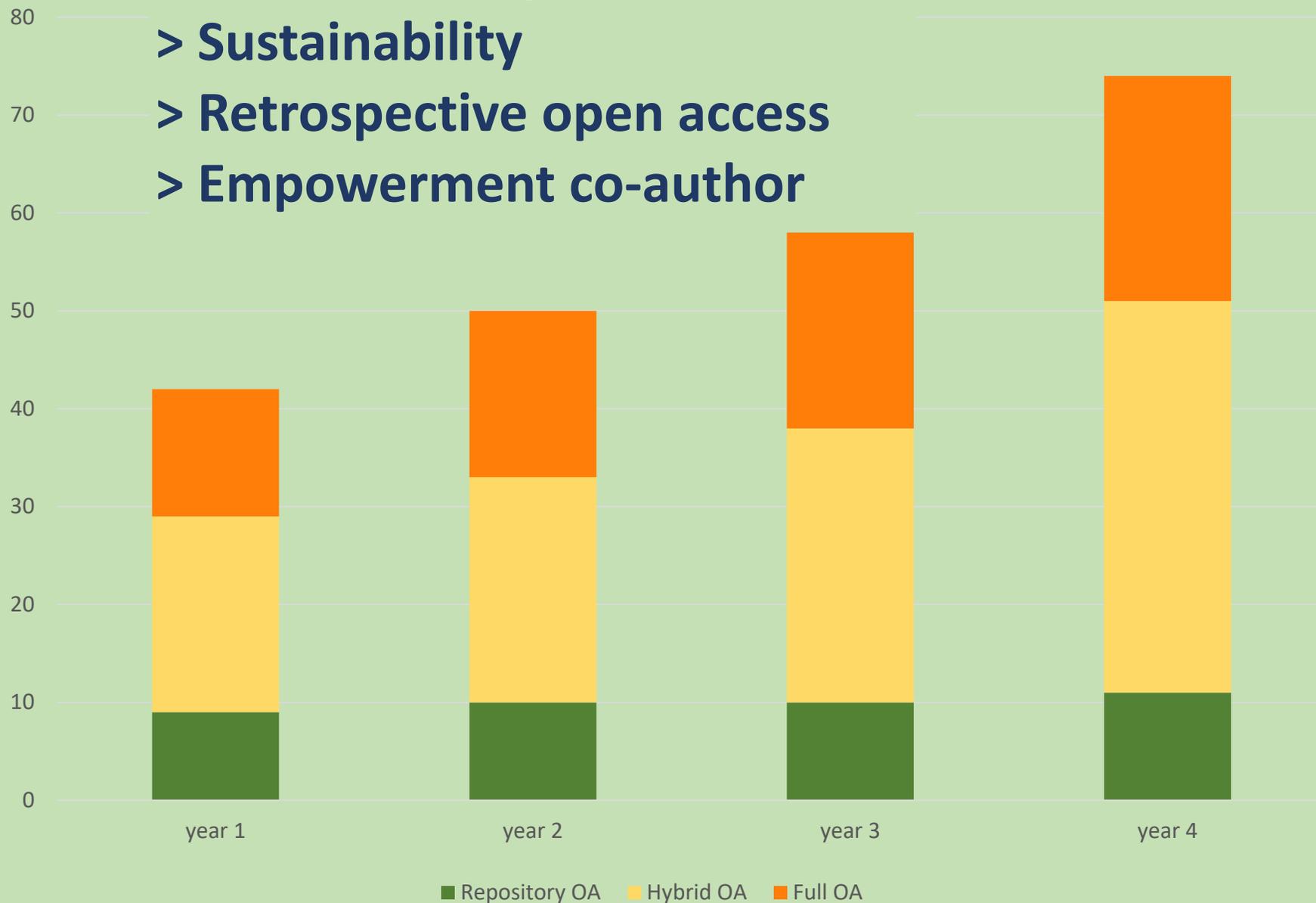
Power of repository / green OA

> Cost efficiency

> Sustainability

> Retrospective open access

> Empowerment co-author



Hurdles Green OA



SHERPA/ROMEO

Elsevier's Journal Specific Embargo Periods

(<https://web.archive.org/web/20170804083643/http://www.sherpa.ac.uk/romeo/elsevierembargo.php>)

Elsevier policies for journal embargo periods are complex compared with other publishers. They vary depending on:

- > Whether or not the publication results from funded research
- > The policies of the funding agency or agencies
- > The open access policies of the author's institution
- > Embargo periods tolerated by these funding or institutional policies
- > Whether Elsevier has a specific agreement with the funder or institution
- > Journal specific embargo periods

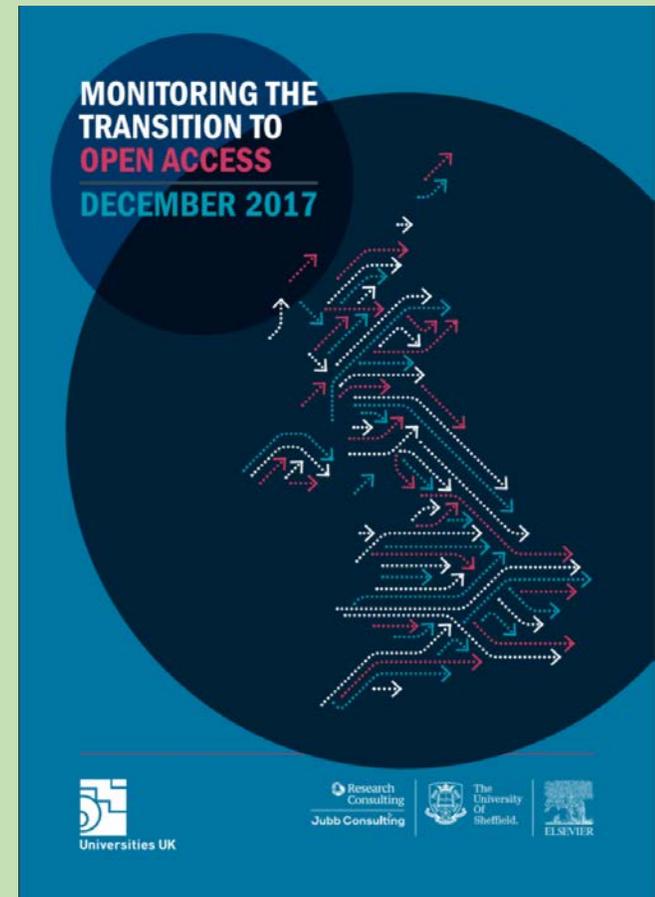
Hurdles Green OA

“Posting policies for Green OA are becoming more complex”

“Only a sixth of journals allow access for postings in institutional repositories with no embargo, and that proportion has fallen since 2015.”

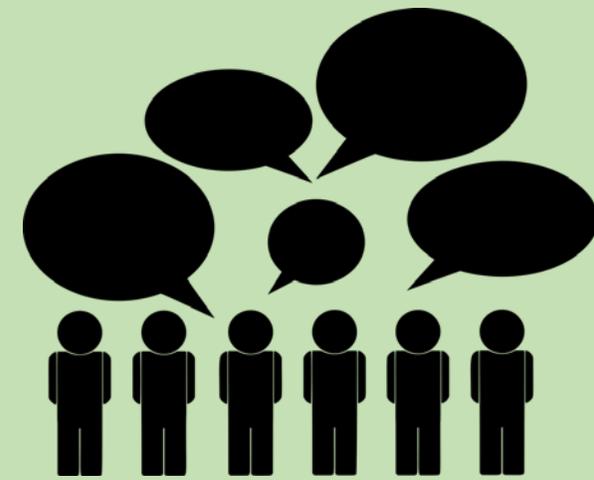
Around half set an embargo of 12 months, but the proportion setting a longer embargo has risen, from 24% to 31%”

<https://www.universitiesuk.ac.uk/policy-and-analysis/reports/Documents/2017/monitoring-transition-open-access-2017.pdf>



Hurdles Green OA

Role of the researcher



“I don’t have time to upload my paper”

“I don’t have the correct version”

“Uploading is too complex”

“I don’t know my rights”

**“I don’t want to share the AAM version
only the published version”**



Hurdles Green OA

Copyright act not concrete enough for researchers to use by themselves

Article 25fa of the Dutch Copyright Act (amendment Taverne)

The author of a short scientific work funded either wholly or partially by Dutch public funds is entitled to make that work publicly available for no consideration following a reasonable period of time after the work was first published, provided that clear reference is made to the source of the first publication of the work.

Tip 1: take initiative

Implementing article 25 fa

- UKB decided to investigate the possibilities of the amendment.
- To prevent discussions between legal experts about possible interpretation, UKB asked one reputable expert for advice on interpretation and implementation.
- Based on that advice, UKB analyzed the possible value for the 100% OA strategy of the universities and wrote a proposal
- No consulting of publishers upfront

Tip 2: Make it as powerful and simple as possible

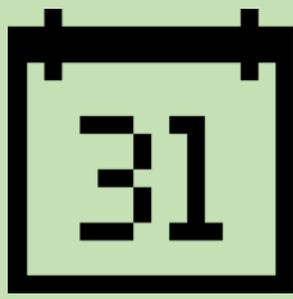
- A. The work will be shared in its **definitive, published** version (VOR).
- B. A **reasonable period of time** will be uniformly interpreted as **6 months**, regardless of discipline.
- C. **'First publication'** is the date on which the published version first becomes available online.
- D. **Short academic work** includes **journal articles**, as well as **conference papers** and individual **chapters in 'edited collections'**. It does **not** include **monographs** or **chapters of monographs**.
- E. **Applies** regardless if a publisher **appeals to foreign law** and/or **only a (small) fraction of the co-authors has been funded by Dutch public funds**. The inclusion of a researcher as co-author is prima facie evidence that his or her contribution is of substantial value to the final product.

Tip 3: Show commitment and leadership



- National project team and local project teams working together
- Rector magnificus of every university made use of the amendment at the start of the pilot
- Universities agreed that when one university is charged by a publisher: expertise and costs will be shared.

The results of the pilot 2019



- 7 months pilot

- All universities participated



- 600 researchers signed license

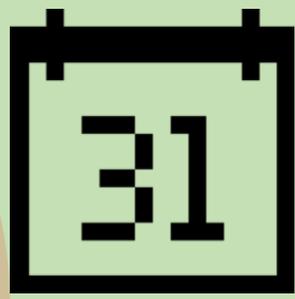


- 2800 publications shared including 2100 articles and 350 book chapters of edited collections.



- 0 legal 'incidents'

Conclusions of the pilot December 2019



- Researchers positive about extra OA possibility and library support. Sometimes peer pressure not to sign in.
- Publishers are critical but still on speaking terms
- Next step: scaling up is, also on NPOS level
- BUT: workflow needs to be more efficient and this is possible through automation, Terms of Employment or CLA (Collective Labor Agreement)
- AND: Right to share + embargo limits re-usability and is not Plan S compliant

Current status

March 2021

- Universities are making progress in implementation
- Most invest in improving workflow to support opt-in
- First university implemented opt-out (part of Terms of Employment), others will follow
- University Medical Centers started, more organizations want to join
- Sharing legal risks still part of the project
- Government finances national project team
- Evaluation of the copyright law by government: positive statement on implementation article 25fa.

- But is the current article 25fa suitable to support ambitious government and funder OA goals in the next years?

Is article 25fa future proof?

What if the organization is the author?

National policy is vulnerable in international setting

How can green OA support books?

Article 25fa of the Dutch Copyright Act (amendment Taverne)
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Right to share or ownership?

Can zero months be 'reasonable'?

Toon alle stukken in
33308 (Hoofddossier)

rechten van de auteur en naburig recht (Wet auteursrecht)

AMENDEMENT VAN HET LID TAVERNE TER VER

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How can green OA support books?

Challenge 1: more flexible and at the same time more powerful

partially by Dutch public funds is entitled to make that work

Challenge 2: Support national policies & ambitions and at the same time internationally aligned

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AMENDEMENT VAN HET LID TAVERNE TER VER

Thanks for
your
attention!
More info:

open access.nl News and events What is open access? In the Netherlands Your role References

What does academia want? What does academia want? Current situation Monitor Publisher's deals Taverne Amendment Plan S

You share, we take care!

The ambition of the Netherlands is to achieve 100% open access by 2020. Agreements have been made with many publishers about open access publishing. Unfortunately, this is not possible for all types of publications or journals. However, Dutch copyright law offers an alternative.

Article 25fa of the Copyright Act (Taverne Amendment) allows researchers to share short scientific works (e.g. articles & book chapters), regardless of any restrictive publishers' guidelines.

Taverne Amendment

The maker of a short scientific work, the research for which has been paid for in whole or in part by Dutch public funds, shall be entitled to make that work available to the public for no consideration following a reasonable period of time after the work was first published, provided that clear reference is made to the source of the first publication of the work.

The Dutch universities decided to give open access an extra boost from 2019 by starting a pilot early 2019. On the basis of the Taverne Amendment, the publishers' versions of short scientific works can be made available after six months via the university repository. It is important that the researcher explicitly asks for this. From January 1, 2020, the VSNU will roll out the use of the Taverne amendment widely within the affiliated universities.

Conditions for participation

The university libraries can make your publication available in the repository. The period of publication after six months applies under the following conditions:

- The publication is funded wholly or partly with Dutch public funds.
- The maker(s) has/have an employment contract with an institution affiliated to the VSNU; the makers can be both authors and co-authors.
- It is a short scientific work; this has the length of a scientific article or book chapter in an edited collection.

How does it work?

- Contact your university library if you want to participate.
- The university library will verify the conditions with you and provide additional information to make the publication available in the repository.
- Your short scientific work is made available in the repository and can now be shared freely with scientists and audiences around the world.
- If you receive questions at any time, for example from the publisher, the university will reply in your name.
- From **January 1, 2020, the VSNU** will roll out the use of the Taverne amendment widely within the affiliated universities. Contact your own local contact point (see below) for more information about conditions and implementation.

Supporting material



The flyer 'You share, we take care!' features the VSNU logo and explains that users have the right to share publications after six months. It includes a flowchart: 'Can the article be shared?' leads to 'Yes' (Share the publication via the institution's repository) and 'No' (Check the article for the license). The 'Share the publication via the institution's repository' section states that the Copyright Act has made it more difficult to share research and that the Taverne Amendment allows sharing. It also mentions that the VSNU will roll out the amendment widely from January 1, 2020. The flyer concludes with 'Should you like to know more? For more information and the conditions, please visit www.openaccess.nl/en/you-share-we-take-care' and the open access.nl logo.

Flyers

- [Flyer digital](#)
- [Flyer print](#)

Q&As

- [Pilot background](#)
- [Questions from the](#)