Towards effective institutional policies to promote open access in educational resources

Dulce M. Cairós Barreto, Luis Fajardo López , Carina S. González González,

University of La Laguna, Canary Islands, Spain

National University of Irelan, Galway, Ireland

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1. Legal issues

- **Copyright (Directive 2001/29/EC)**

  Different rights:

  → economic exploitation

  → moral rights (like attribution, integrity,...)

  Digital Right Management

  What about their exceptions and limitations?

1. Legal issues

- Limits and conditions
  - Moral rigths on his creative work
  - Explotation rigths on his creative work
- Use for (theoretical)
  - To place the intelectual property rights from its isolated theorical construction down in the world
  - To coordinate it with other rights and duties: such as Education rights
    - **i.e. Illustration for teaching**

1. Legal issues

- **The University of La Laguna, the virtual campus and CEDRO**

- Bern Convention & Directive 2001/29/EC

- Have to pay a **"fair compensation"** for teaching usage of any work, except otherwise provided in a written agreement with the right holder.

- Law says that "*authors and publishers will have a irrevocable right to become from the teaching entities a fair remuneration, that will be managed through the collective management societies*"
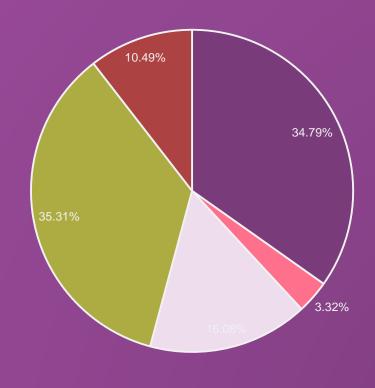
CEDRO and ULL

- Initial analysis of learning-teaching virtual environments uses (done)
- Training of teaching staff in open access and intellectual laws (done)
- LMS Plugin and poll (done)
- Institutional Repository of Teaching Resources (in progress)
- Global Institutional Open Access Policy proposal (in progress)

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ULL analysis

Resources by knowledge área
2013-2014

Pie chart:
- 34.79%
- 3.32%
- 16.08%
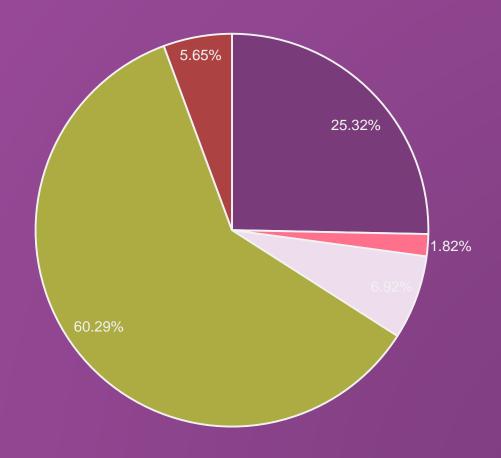- 35.31%
- 10.49%

Legend:
- Artes y Humanidades
- Ciencias
- Ciencias de la Salud
- Ciencias Sociales y Jurídicas
- Ingeniería y Arquitectura

ULL analysis

Resources by knowledge área
2014-2015

- ☐ Artes y Humanidades
- ☐ Ciencias
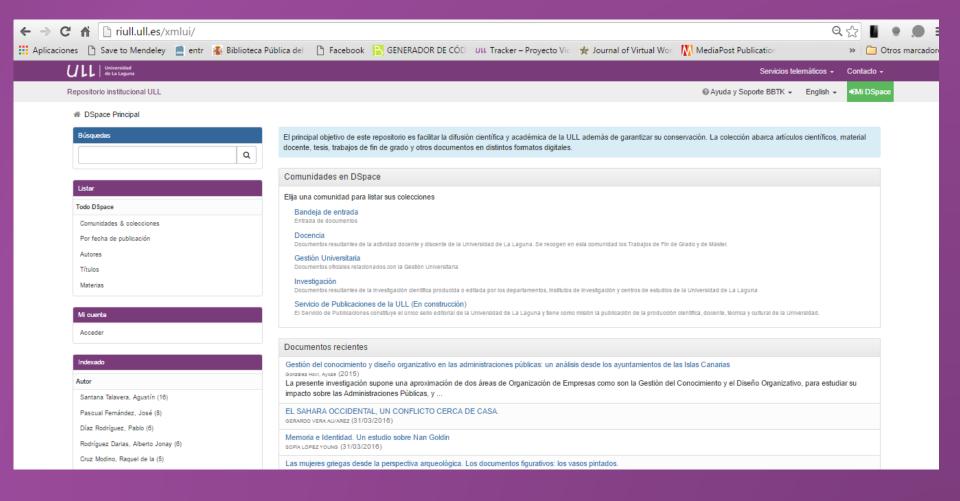- ☐ Ciencias de la Salud
- ☐ Ciencias Sociales y Jurídicas
- ☐ Ingeniería y Arquitectura

25.32%
1.82%
6.92%
60.29%
5.65%

Plugin LMS Moodle

ULL Repository

1. Legal issues

In Spain it is legally mandatory:

- **For all public institution to make available to the public their digital production**.

- **For public universities, to have repositories** (owned or shared) **and to connect it with other national or international similar initiatives**. (Science, Technology and Innovation Act Ley 14/2011, 1 June, Art. 37.1 and 5)

1. Legal issues

- Interoperability of all repositories is guaranteed by good practices assumed by all Universities and FECYT (Spanish Foundation for Science and Technology)
    - Recolecta connected with OpenAire (OAI-PMH).

1. Legal issues

- Public repositories should be (not mandatory) public available (Act 23/2006, 7 July, Aditional Disposition 3th)

- All researchers are compulsory to make its works public available, when the research has receive public funds
  - All publications resulting from mainly publicly funded research must have a digital copy of their final version, once they have been accepted to be published in periodical or serial research publications. An embargo of a maximum of 12 months is accepted.

- **THE EXPLOITATION RIGHTS ALL WORKS CREATED FROM RESEARCHERS LINKED IN ANY WAY TO A PUBLIC UNIVERSITY BELONGS TO THE UNIVERSITY:** no university has a knowledge policy to make advantage of that legal difference.

- Repositories and electronic administration

2. Requirements and considerations of legal policy in knowledge management

- **Policy measures**

- **Organizational measures**

- **Strengthen the ICT services which support the knowledge management policy**

- **Agreements with other Universities**

2. Requirements and considerations of legal policy in knowledge management

- A flat rate cannot be imposed just to compensate the legally questionable canon for the teaching usage of the Universities.

- The institutional repositories, together with the on line bibliographic resources, should be the technological base for the knowledge management through inter-university transfer agreements and for the respect to the intellectual property rights in the university sector.

- Knowledge management policy must develop an opinion about scientific social networks, giving instructions for their utilization and analysing those similar to SHERPA/ROMEO, in order to classifying them according to the institutional policies.

2. Requirements and considerations of legal policy in knowledge management

- The manner in which we must proceed in our way to Open Access.

- The creation of knowledge is an administrative work and it must be the result of electronic administrative procedures, as the entry to the institutional repository

- To link accreditation and evaluation procedures to the incorporation of the materials to be evaluated in the institutional repository

- Put the universities in a better place to negotiate with publishers

Institutional Open Access Policy

Thank you!

URL: http://riull.ull.es/xmlui/handle/915/2120