Commentary on SCSC White Papers: Reviewers from Outside Academic Council Channels

February 15, 2006

Profile of Commentary

With encouragement from Academic Council Chair Brunk, SCSC Chair Pitts invited comments from more than 50 individuals and organizations outside of the Academic Council Review process. Individuals were nominated by SCSC committee members and included University leaders, society officers and publishers, university press directors, and academic library directors.

Seven solicited and two unsolicited comments were received. These include:

- A law professor and board member of Creative Commons/Science Commons
- A UK cognitive science professor (unsolicited)
- Three university press directors
- A senior staff member from the Association of Research Libraries
- UCSF Library Senior staff
- A non-UC university library director
- A journalist on scholarly communication issues (unsolicited)

Comments are arranged here by reviewer with headings that delineate introductory and general comments from those specific to each of the five whitepapers and the copyright proposal. **Readers may wish to use the "Document map" feature in MS Word (under the "View" menu) to easily move to relevant sections of the commentary when viewing on screen.**

Michael Carroll

(Associate Professor of Law, Villanova; Creative Commons Board member)
Submitted 2/10/06

General

Thank you for the opportunity to comment on the draft white papers produced by the University of California's Academic Council Special Committee on Scholarly Communication. Copyright law is one of my fields of expertise, and I have been active in promoting open access to the scholarly literature for some time. The draft white papers are a significant step forward, and the Special Committee should be congratulated for its thoughtful and sensible response to the challenges and opportunities that digital technologies present for scholarly communication.

Evaluation of Publications in Academic Personnel Processes

The focus of this paper is appropriately on the challenge of evaluating new forms of scholarly communication, particularly electronic publications. Consider whether it would be appropriate to connect this discussion with the concern about faculty management of copyright in traditional peer-reviewed publication expressed in the other white papers. Since some evidence indicates that a scholar has greater impact when her work is available on the public Internet, consider whether personnel evaluations should include an inquiry into the steps a faculty member has taken to manage copyright and to make her work published through traditional channels available on the public Internet, recognizing that tenured and untenured faculty are differently situated in this regard.

Copyright Proposal

This proposal has great promise. I have a preliminary observation and a recommendation. The SCSC's differentiation between assignments and licenses is helpful.

There is a further distinction between exclusive and non-exclusive licenses that should be drawn. An exclusive license, such as that described in the first SCSC comment, is a transfer of a property right. A non-exclusive license is not such a transfer and might be described colloquially as a grant of "permission." This nomenclature may make the proposal more palatable to faculty members inclined to distrust their employing institution's motives. The faculty member has not parted with any exclusive right in the faculty member's work. Instead, the policy simply requests a grant of permission, although admittedly a permission that cannot be revoked once granted.

As stated, this proposal requires individual faculty members to negotiate with publishers to alter the terms of their standard form agreements to ensure that the faculty retains sufficient rights to grant permission to the Regents. The policy could be made stronger and more effective if it called for a strategy of pre-commitment. Under this approach faculty members agree that they grant to the Regents in advance a non-exclusive license to post in a non-commercial repository any journal articles written by the faculty member while employed by UC.

By having granted the license in advance, the Regents would receive permission to post at the time copyright comes into existence, that is, as soon as the manuscript is complete. If opt-out is still desirable, faculty could be given a time frame in which the non-exclusive license would be revocable. Under this approach, the faculty need not "retain the right" to grant the license to the Regents because it will already have been granted. The author need not negotiate with the publisher over the rights of the Regents because the author cannot transfer to the publisher

If it helps to explain or understand this approach, it is the same approach already used by the federal government when it funds research through a grant or cooperative agreement. For example, This is how the NIH license works. Many NIH-funded researchers sign copyright agreements that purport to assign copyright to the publisher without mentioning the non-exclusive license already granted to NIH. My position is that since the publishers are well aware of the NIH policy, their copyright agreements must be interpreted to take the NIH license into account. I would make the same argument if the University of California system were to adopt such a policy as well.
[**end Carroll comments**]

Stevan Harnad

(Professor of Cognitive Science, University of Southampton)
Submitted 1/5/06

Copyright

Dear Professor Pitts,

I am writing to you in your capacity as Chair of the University of California Senate Academic Council Special Committee on Scholarly Communications to make 2 inquiries,
1 recommendation and 1 request concerning the White Papers on Responding to the Challenges Facing Scholarly Communications
http://www.universityofcalifornia.edu/senate/committees/scsc/reports.html

The principal theme and proposed strategy in the UC White Papers appears to be copyright retention: It is being proposed that UC authors either retain or transfer to UC the copyright for their scholarly work (or the right to deposit it in the UC Institutional Repository).

Inquiry 1: Is "scholarly work" perhaps not too wide and vague a category? There is a big difference between a peer-reviewed journal article (an unambiguous and easily justifiable target for the UC policy) and a potential best-selling book (a much more complicated case, and more likely to elicit opposition from UC authors).

Inquiry 2: Informal inquiries to others concerning the proposed UC policy have suggested that UC is already doing citation searches to find the published work of UC faculty and then requesting the online versions from the authors in order to deposit them in the UC Institutional Repository (presumably eScholarship) after first checking copyright): Is this true? (If so it would be very good news indeed!)

Recommendation: If 2 is true (i.e., if UC is indeed requesting and depositing UC articles after checking copyright), could I suggest that the articles should be deposited whether or not the copyright agreement explicitly allows the author to make his article Open Access (OA) in a repository? Articles for which there is some reason not to make them OA should be deposited anyway, and access can instead be set as "RA" (Restricted Access). Webwide users could only access the metadata (author, title, journal, date, etc.), but they could then email the UC author to request an eprint of it to be emailed to them. (The procedure could even be simplified and automatized by a simple modification of the UC repository software.)

Request: If 2 is true (i.e., UC is indeed requesting and depositing UC articles -- or even if it is merely planning or proposing to do so), could this actual or planned/proposed policy be registered in the Institutional Self-Archiving Policy Registry to serve as a model and encourage other universities to do likewise? (Two US universities [U. Kansas and Case Westren Reserve] and fourteen other universities from the UK, Australia, France, Germany, Switzerland and Portugal, plus CERN, have already registered their policies.)
http://www.eprints.org/openaccess/policysignup/
[**end Harnad comments**]

Karla Kahn

(Association of Research Libraries, Director of Scholarly Communication)
Submitted 1/30/06

Introduction

I am very pleased to have been invited to offer comments on the five draft short papers created by the Academic Council's Special Committee on Scholarly Communication. As the Director of the Office of Scholarly Communication for the Association of Research Libraries, I work closely with librarians in our 123 member libraries and with other stakeholders in the scholarly communication system. The draft papers address the key challenges and opportunities facing faculty today as we face a time of profound transformation in systems of scholarly communication.

The Association of Research Libraries (ARL) is dedicated to influencing the changing environment of scholarly communication and the public policies that affect research libraries and the communities they serve. ARL's strategic plan notes that within the arena of scholarly communication, "ARL will be a leader in the development of effective, extensible, sustainable, and economically viable models of scholarly communication that provide barrier-free access to quality information in support of teaching, learning, research, and service to the community."

I have read all five papers carefully and have provided responses to each. The discussion of the individual papers is followed by observations about the papers as a set.

Evaluation of Publications in Academic Personnel Processes

This paper addresses an issue integral to the effective functioning of the scholarly communication system. The process of evaluating publications is central to the faculty reward system mediated through faculty promotion and tenure decisions. The effectiveness of the scholarly communication system depends on the maintenance of high standards and the expectation of excellence in

scholarly works. There are obviously high stakes in any recommendations for changes in historic practices. At the same time, the entrenchment of evaluation criteria has contributed in some measure to the dysfunction of current communication systems and resistance to change. There is a fine line to be negotiated by faculty considering how to best articulate criteria which are supportive of transformation while maintaining expectations of excellence. Dr.

It is welcome, therefore, to see indicators that alternative venues besides traditional print publications are acceptable and there is a willingness to consider new forms of works and publishing venues. The ongoing commitment to maintaining quality standards expressed throughout the paper is similarly gratifying. I want to note that I am in agreement with the addendum to the subcommittee report in observing that at a time when new venues can offer benefits to scholars and scholarly communication, it is important to avoid penalizing new venues and models simply for being new.

While the paper notes at several points that assessments of the impact of a work are important, it would be stronger if it incorporated more explicit consideration of access and impact in considering quality assessments. With electronic distribution becoming increasingly common, measures of accessibility become reasonable indicators of the impact and quality of works. Access rates for e-versions of journals, books, or other types of works should be considered in evaluating publishing venues.

As the paper notes, "… work should be evaluated after its appearance." Some impact measures are discussed but largely limited to traditional impact measures for journals. Access and impact measures are also increasing available for individual works. For instance, citation rates are available for works covered in ISI's citation databases and in the new Scopus database produced by Elsevier. Increasingly, new types of "citedness" measures are developing both at ISI and from competing organizations that better account for electronic publishing practices.

Another important issue is touched on in the addendum to the subcommittee report. There has been increasing discussion among many academics about the issue of substituting evaluations of publishing venues for direct evaluation of scholarly works. This substitution can shortchange works of scholarship and creates barriers to the creation of new publishing venues where those could enhance scholarly communication. Certainly, the quality of a publishing venue relates to the quality of a work, but it remains necessary for works to be evaluated on their own merits. The paper seems to me to emphasize evaluation of publishing venues much more strongly than assessment of individual works.

Journal Publishing

As this paper rightly points out, technological and organizational innovation are providing opportunities to increase the speed, scope, and impact of disseminating works. Faculty members are key stakeholders in the transformation of journal publishing. To reap the full potential of this paradigm shift they will need to pursue a range of avenues to promote positive change. The actions called for in the discussion statement strongly support reform of scholarly journal publishing. Effective management of copyrights is an important action for faculty to take. It will also be important for faculty to make clear their expectations that publishers' decisions must serve the best interests of the scholarly communication system. The status quo is not sustainable. Publishers traditionally focus on adding value to the communication system. Innovation, cost effectiveness, and breadth of access must be values that are emphasized.

In the past, journal publishing was a cost effective way to maximize access to works, but increasingly the expense and limitations of print publishing have resulted in access that is neither optimal nor, increasingly, even adequate. ARL has documented the damage done to research library collections by journal inflation and commercialization of the journal marketplace. It has also worked to draw attention to the manner in which bundling practices distort the marketplace by creating commitments to a small number of large publishers at the expense of large numbers of small publishers. While the paper effectively conveys these concerns, I would encourage the UC

faculty to strengthen the case for broadening access and increasing the cost-effectiveness of distribution. I encourage the Committee and the faculty to consider the importance of wide access to maximizing impact.

An emphasis on increasing the cost-effectiveness of journal publishing is implied at several points, but it would be helpful if it were stated more explicitly. I also suggest the faculty consider encouraging support of open access approaches and public access policies, recognizing their potential to broaden access to scholarly works.

Book Publishing

I am pleased to note the support the Committee expresses for the creation of new forms of scholarly works and new players in the arena of monographic publishing. ARL member libraries are active in exploring opportunities to take on new roles in monographic publishing. The paper very rightly acknowledges the positive opportunities afforded by the maturing of print on demand technologies to shift emphasis from paper publishing to electronic production and distribution of scholarly works. I was also glad to see that resource issues were not overlooked. Without a broad commitment to creating resources to fund new models, new publishing ventures, and individual publications, monographic publishing will continue its decline.

Recognizing the strengths of this paper, I believe it is important to note that in evaluating the quality of scholarly works, assessments of the impact of the work are crucial indicators of its quality and value. The paper would be strengthened by some discussion of the need to consider this issue. I suggest that it is important to create incentives based on measures of the impact of the work and not solely on quality assessments of the publishing channel.

Although a separate paper on scholarly societies was prepared, I would also encourage the Committee to consider explicitly discussing here the important role of scholarly societies in the production and evaluation of monographic works. Many such societies could or do distribute monographic works. In addition, as the emphasis in evaluating works of scholarship shifts from the publishing process to the impact of works, scholarly and professional societies are positioned to play a crucial role as arbiters of quality and impact.

Scholarly Societies

I am pleased to see the Committee strongly supporting scholarly societies and recognizing their important role in the scholarly communication system. The advancement of research and scholarship is a primary goal scholarly societies share with faculty. As the paper acknowledges, societies have been profoundly challenged by long-term trends toward commercialization of the scholarly publishing system and by the paradigm shift presented by digital communication technologies. In the face of these challenges, I commend the Committee for calling on societies to reaffirm their mission and develop publishing practices and systems that promote positive change. The research library community has similarly been working to support scholarly societies in developing new models for promoting scholarship.

Within this context I would note two additional avenues for faculty to offer encouragement to scholarly societies. First, it would be helpful for societies to be encouraged to diversify revenue streams. Many societies have become dependent on subscription revenues to fund not just publishing activities but to subsidize other activities, as well. Dependence on subscription revenues increases the attraction of contracts offered by commercial publishers who can leverage their economies of scale to offer stable subscription revenues. Excessive reliance on subscription revenue leaves publishers vulnerable to cancellation spirals where revenue is increasingly maintained at the cost of subscribership and distribution of scholarship. Where societies diversify their revenue sources, they increase their adaptability and build a flexible foundation for creating new value for their membership.

Second, I would suggest that faculty encourage societies to expand their role in organizing peer review and assessment of works of scholarship. Scholarly societies have long been particularly effective in adding value to scholarship through these kinds of activities. As publishing takes on new forms, scholarly societies can support their membership by developing new models for offering peer review and assessments of research impact.

Copyright

The Committee has rightly identified copyright management as one of the key responsibilities of faculty in managing their publishing and scholarly communication efforts. As the initial holders of copyright in their works, they must recognize the value they are creating and their responsibility for ensuring that any transfers of rights are in their own interests, the interests of advancing scholarship within their discipline, and the interests of the institution that supports their scholarship. Increasingly, managing copyright is key to accelerating innovation, access, and impact for research and scholarship. Recognizing this, ARL has made copyright education a key initiative. Transfer of limited rights by faculty to the Regents of California is an important step toward regaining balance in the scholarly communication system and to ensuring broad and enduring access to their works. Collective action by the University of California faculty creates a strong position to use to demand retention of rights. Some publishers have never required exclusive rights grants from authors and federal employees typically cannot grant publishers exclusive rights to the works they create. These examples suggest that author retention of copyrights is not inherently injurious publisher's ability to add value to works and enables authors to make the best decisions about how they wish their works to be made available and under which terms they can be reused.

General

In looking across the five draft documents, collectively they convey a strong understanding of the dysfunctions in the communication process created by market practices that are destructive but have long been taken for granted. Market forces have become very powerful within the system and are increasingly distorting the purposes of publishing. The papers also show the awareness that the scholarly communication system is a socio-technical system. Technology creates new opportunities to increase efficiency and effectiveness but also creates pressure to cede control and the responsibility for managing change to interests outside the scholarly community. However, technology is often instrumental, not determinative of change. It will be the collective actions of scholars and researchers that will most profoundly shape the transformation of scholarly communication.

I believe the papers address the key arenas for faculty engagement in reshaping scholarly communication to better serve the needs and goals of scholars and researchers. Processes and criteria for the evaluation of works of scholarship are central to maintaining the effectiveness of scholarly communication while supporting and motivating the development of new systems. Monograph and journal publishing have been increasingly the pressure points within the marketplace. It is welcome to see scholarly societies recognized as key stakeholders with faculty in creating change. I am particularly pleased to see copyright addressed as an important point of leverage within the system both for addressing current dysfunctions and also for enabling broader impact and enduring access to works.

The research library community has identified very similar sets of concerns and arenas for action. Libraries are taking on new roles and new responsibilities in publishing and disseminating scholarly works and seeking to engage faculty, academic leadership, scholarly societies, funding agencies, and others around the issues. The community welcomes actions by other stakeholders pursuing positive change within the system.

In closing, I encourage the University of California faculty to act collectively to create new incentives to promote changes that work for the advancement of healthy communication practices. Resistance to change is very real and faculty actions are essential to creating a healthy

system. It will not arise on its own; others cannot create it for them. I will eagerly await news of further responses and actions arising from discussion of these papers. If there is further assistance I can provide, please do not hesitate to call on me. Sincerely, Karla Hahn, Ph.D., MLS Director, Office of Scholarly Communication Association of Research Libraries
[**end Hahn comments**]

Penelope Kaiserlian

(Director, University of Virginia Press)
Submitted 1/08/06

General

Thank you for inviting me to comment on the draft papers on scholarly communication that have been prepared for consideration by the University of California Academic Senate. I appreciate the opportunity to participate in this initiative to address some of the problems that have become more pronounced in recent years and to rethink the current system of scholarly communication.

As the director of a mid-sized university press, I am well aware that we are part of a larger system of scholarly communication. I see that our individual decisions as publishers, driven by economic forces, and multiplied by similar decisions at other university presses, may have unfortunate consequences in some disciplines for faculty seeking to have their work validated and disseminated by respected publishers. Solutions to the current problems in scholarly communication and academic certification are beyond the capacity of any one of the parties--faculty authors, scholarly societies, university presses, commercial publishers, university libraries, university legal offices, or university administrations—and well-meaning attempts to solve a problem in one part of the system may have unfortunate consequences in another part.

I have read the four draft papers and the proposal. Let me comment on the papers in the order in which they are presented.

Evaluation of Publications in Academic Personnel Procedures

1. As a press that is beginning to publish born-digital work, we applaud the concept that an author's work need not be in printed form for the author to receive recognition for the scholarly contribution.
2. Providing information on number of manuscript submissions and acceptance rates may be a difficult requirement for book publishers. University presses usually provide information to administrators on the peer review process for monographs on an as-needed basis. I doubt that many maintain statistics on acceptance rate for books.
3. Well stated.
4. We applaud the recognition that book subventions may be needed for junior faculty to help get a first book published. There is increasing awareness in many universities that such support is needed to assist the individual faculty member and those scholarly publishers that continue to support publication of monographs in fields with declining sales. The editors at this press now routinely ask authors of monographs, particularly first books, whether any support is available from their institution. The availability of support is not usually a condition of publication, but it can help a press maintain a presence in certain disciplines. It also helps spread the costs of publication so that they do not all fall on the eighty-five universities whose university presses are full members of the Association of American University Presses.
5. Agree.

The background notes are well stated but I would question the word "unwillingness" in "the unwillingness of many presses to publish books with limited circulation." It is not so much that we are unwilling as that we are unable to publish these books and still meet our financial obligations to our parent universities. A new book that is very relevant to your discussion is John B. Thompson *Books in the Digital Age* (Polity Press, 2005). He provides a very good analysis of

the economics of monograph publishing and the response of the commercial scholarly publishers and the university presses to the decline in average sales of monographs. Let me quote one of his comments:

Some commercial academic publishers, unconstrained by constitutional obligations, saw the writing on the wall and exited the field. But for the university presses, exiting the field was never an option. They felt obliged to continue publishing scholarly work, both because this was a central part of their educational mission and because they were locked into a system of certification from which they could not easily extricate themselves. The university presses found themselves in the increasingly uncomfortable position of having to continue with a form of publishing where revenues and margins were declining while at the same time trying to ensure that their overall financial position was secure. (p.167)

Journal Publishing

This press does not publish journals, but I believe you would find support for the positions taken in your draft paper among the university presses that do publish journals. Both book and journals programs of university presses have been adversely affected by the pricing policies of some commercial publishers. We have seen the resources that university libraries once devoted to purchase of scholarly monographs diverted to maintaining subscriptions to high-priced scientific journals and to acquisition of large electronic databases from various commercial publishers. University press journal publishers have been in the vanguard of converting print publications to electronic delivery and have maintained reasonable pricing policies as part of their commitment to dissemination of scholarly work.

Book Publishing

I agree with the overall discussion statement and the call for authors, universities, and publishers to address these problems together.

Experiment with new publishing models

It should be recognized that although many university presses are eager to experiment with new publishing models, they do not often have the resources to do so. In our case, we received unusual support from the office of the President of the university as well as substantial funding from the Andrew W. Mellon Foundation to undertake an experiment in digital publishing. Although it may be true that "the status quo is not working," we need to be careful not to undo the parts of the system that are working in an attempt to address the needs of those who are having difficulty finding a publication outlet in the current system. We lack systematic analysis of the number of books being published in different fields and whether there has been an actual decline in numbers per year. In our own case, we are publishing as many first books as ever and have maintained our commitment to our traditional areas of publication in the humanities.

Collaborate to make best use of each other's strengths

The collaboration between the California Digital Library and the UC Press is a promising one, and I would be interested in reading more about the economics of the project, how it was set up, and how it will be sustained. Other examples of Press-Library cooperation exist, and there is certainly plenty of opportunity—but not yet much financial incentive—to do more.

Indicators of scholarly quality, remove requirement for print

While I agree that "format need not be an issue in the dissemination of scholarship," I believe this section overstates the cost-effectiveness of print-on-demand (POD) technology. Perhaps it is a question of terminology, but if POD is one book printed at a time, book publishers hardly find it cost-effective to supply books in this way. Current printing technology allow us to do small print runs from digital files (short-run digital printing, SRDP), and perhaps this is what is meant.

Rethink how university resources for monograph publishing are distributed

This analysis of the direct and indirect cost of scholarly book publishing is much needed, but I would caution against changing the parts of the system that are working well, or that need only modest additional infusions of capital. University presses have been publishing monographs for over a hundred years in the United States, and for much longer in England and Europe, often under very difficult financial circumstances. The university presses should be regarded as a great resource in the analysis and solution of the current problem.

Provide publishing subventions for non-tenured faculty
I certainly endorse the provision of subventions for non-tenured as a short-term strategy to ease the current problem, but it is not a substitute for addressing the system-wide problems. One of these problems is *overpublication* with unrealistic pressure on junior faculty to publish more than would have been required in the past to be considered for tenure.

Copyright
The proposal here is for UC faculty to grant the Regents of the University of California a limited license to place their scholarly work in an open-access depository. While recognizing that retaining this right on behalf of the UC system would have clear benefits in terms of making the scholarship of California authors available to those who cannot afford to access it through the official publication channels, I believe you also need to consider whether the action will have negative impacts on the current acceptance of work by UC authors for publication. I hope that you are seeking opinions from non-profit journals publishers for their reactions to this requirement.

There is reference on p.3 of "Scholars' Management" to studies that suggest retention of these rights "need not seriously reduce publishers' economic and other incentives for first publication." I am not familiar with these studies but expect that they refer to journal publication. In the case of book publication, where the investment in an individual work is much higher than for a journal article, the publisher may be wary of accepting such a provision in an author contract since it would limit the publisher's ability to recover its investment in the publication. University presses expect to sell their monographs to university libraries but also for use in upper-level courses, and to individuals in the field. They also depend on the extra revenue that derives from licensing subsidiary rights to others. I would be concerned that putting a work in an open-access repository at the same time as the print edition is released would affect the expected sales of the book. Since the economics of monograph publishing are always fragile, this uncertainty might be just enough to affect the decision to publish.

Fortunately, the proposed UC copyright policy change is modified by the provision "Faculty can opt out of this agreement for any specific work, or invoke a specific delay before such work appears in an open-access repository." Apparently this provision for opting out, or delayed deposit of the publication in the archive, is a matter of some debate. I think you will find it necessary to retain it or you may find that California authors are at a disadvantage when negotiating publishing agreements. If you adopt the modified version, and the implementation does not prove harmful to publishers, it will be easier to make the case to other universities to adopt similar practices.

I appreciate the opportunity to comment on these stimulating papers and look forward to learning the outcome of the further discussion.

Peter Suber

(author of the SPARC Open Access Newsletter, and the editor of the Open Access News Blog)
Submitted 1/03/06 (via Blog entry)

General

1/03/06. If I were at the U of California, I'd send supportive comments immediately to both the Academic Council and the Special Committee on Scholarly Communication. I might recommend

a simplification of the policy, e.g. one that merely requires faculty to deposit their peer-reviewed journal manuscripts in the UC repository immediately upon acceptance for publication. But even without this kind of streamlining, the policy is strong and the accompanying statements of principle are excellent. If you have colleagues at the U of California, please alert them to these documents and urge them to send send supportive comments with or without reservations. [**end Suber comments**]

Sandy Thatcher Director

(Director, Penn State University Press)
Submitted 1/30/06

Introduction

First let me express my appreciation to you and the Academic Council for seeking advice from representatives of university presses as you seek to formulate responses to the challenges of scholarly communication facing faculty at the University of California (and everywhere). Surprising as it may seem to you, all too often in such investigations university presses, while acknowledged as major stakeholders in the enterprise of scholarly communication, are given no opportunity for input, leading to decisions that do not reflect the true extent of university-based interests in the goals pursued.

Before I comment on the specific papers that the Academic Council has drafted, I'd like to begin by recommending, as further background reading, an essay of mine, a book that I recently reviewed, and a web site. The essay titled "Thinking Systematically about the Crisis in Scholarly Communication" I prepared as a talk for a 1997 conference co-sponsored by the AAUP/ACLS/ARL on The Specialized Scholarly Monograph in Crisis, Or How Can I Get Tenure If You Won't Publish My Book? Re-reading this essay now, I see that very little has changed as far as my basic analysis of the problems affecting the system are concerned. Indeed, if anything, the divergence between merit-based and market-based editorial decisions in university press publishing has grown even wider since then. And some of what I foresaw on the horizon then has become reality in the meantime: the experiments in e-book publishing like the History E-Book Project; the linking of citations to full text sources through CrossRef; the growing problem for junior faculty publishing their revised dissertations created by the greater availability of dissertations in electronic form through ProQuest and the Networked Digital Library of Theses and Dissertations; the undermining of the market for paperbacks and edited volumes by the resort to "fair use" as justification for e-reserve systems that have taken the place of photocopy coursepack vendors; the rapid increase in for-profit online education through the University of Phoenix and other commercial providers; and the entry of Internet giants like Google into the "business of learning" through its Print Publisher and Library initiatives, the latter now mired in legal controversy over what constitutes "fair use" in the digital world. The URL for this essay is http://www.arl.org/scomm/epub/papers/thatcher.html. I also highly recommend the essay Colin Day, former director of the University of Michigan Press and now director of the University of Hong Kong Press, wrote for this conference about the economics of electronic book publishing: http://www.arl.org/scomm/epub/papers/day.html The book I want to recommend is a very recent publication from Polity Press titled *Books in the Digital Age* by Cambridge University sociologist John Thompson, who has the advantage of being not only an academic expert in media studies but also a practicing publisher as co-director and co-owner of Polity Press, one of the leading commercial academic publishers in Britain. It is the best, indeed the only, comprehensive study of scholarly book publishing (as well as college textbook publishing) and its development in the U.K. and the U.S. since the 1980s, and reading it will be eye-opening for anyone in academia who does not understand the truly revolutionary changes that have been affecting how publishers operate. I attach a review of it I wrote for the *Journal of Scholarly Publishing*. Since it is due to appear in the January 2006 issue, it should be possible to refer to it by a URL soon (making it accessible online through Project Muse to its many institutional subscribers including everyone at the University of California). Finally, the web site is the discussion that ensued after a panel of the

Modern Language Association previewed some of its recommendations on tenure and promotion from a forthcoming report at the MLA's annual convention in December. *InsideHigherEd,* which has been doing a marvelous job of fostering dialogue on such issues, ran a piece about this recently to which I contributed under the title "A Tenure Reform Plan with Legs": http://insidehighered.com/news/2006/01/05/tenure. This discussion connects in many ways with the efforts the Academic Council is undertaking in its parallel investigation.

With this background, let me now go on to offer observations on specific points in the drafts of the six papers.

Evaluation of Publications in Academic Personnel Processes

As a general caveat, I urge you not to place too great weight on the distinction between electronic and print publication. It is rapidly eroding as publishing practices evolve. One commentator in the *InsideHigherEd* discussion rightly noted that, even if a journal still is available in print form, it is more often than not now accessed electronically through such databases as Project Muse. Project Muse itself contains some journals that do not exist in print, and the trend in scholarly journal publishing is definitely toward gradual elimination of the print format for which demand continues to erode. In book publishing, many backlist titles have now been converted by presses to digital form, leaving no physical inventory but available for "print on demand" (POD). And even some frontlist titles are being issued in this manner. This is the way our revived series of Romance Studies monographs will operate as planned by the Office of Digital Scholarly Publishing that we recently launched as a joint venture with the Penn State Libraries. See http://www.libraries.psu.edu/news/releases/2005/digpubspr_305.html. Here the new titles will be made available "open access" online, while a POD option is offered for anyone who wants to purchase a print version. See http://romancestudies.psu.edu. Is this electronic or print publication? Really it is both. Expect more of this blurring of the distinction in the future.

What is very important, however, as the draft paper emphasizes, is evaluation of the methods used by the various publishers to reach their decisions. One of the worries about "open access" publishing as it now exists is that, as noted in a recent report, more of these than regular subscription-based journals rely just on the opinion of the journal editor (perhaps with some advice from an editorial board if one exists) rather than on full peer review involving external readers. (See http://chronicle.com/daily/2005/10/2005101204n.htm. So there is reason to be suspicious and concerned about how some of these newer experimental online journals are operating editorially, though there is nothing in principle to connect this shortcoming in any necessary way with their electronic mode of delivery.

One of the assumptions of the SCSC in this draft appears to be that peer review in books is identical or at least very similar to peer review in journals. That is reflected, for example, in the recommendations under #2 that "Publishers of new and established books [which should be reformulated to avoid the awkward and meaningless "established books"] and journals should provide the following in a readily-accessible form: a. Names and institutional affiliations of editors and referees [and] c. Numbers of manuscript submissions and the acceptance rate for publication." But in fact there are some very significant differences that make implementation of both these recommendations problematic. For instance, whereas a journal has a very specific subject matter that would make providing a list of reviewers for a year's issues not likely to lead to identifying any given reviewer as the reader of a given article (because the same reviewer might well have critiqued any number of the articles for that year's issues), it is much more probable that a list of reviewers for a press's books published in any given year could be matched up with the specific books that they evaluated, thus violating the press's policy of not disclosing readers' identities without their permission. As for calculating the "number of submissions and the acceptance rate," this is not so easy and straightforward a task for books as it is for journal articles. Presses receive hundreds, even thousands, of proposals from authors each year, but invite submission of only a small fraction of these as manuscripts for full review. I do not know of any presses that keep track systematically of the entire number of proposals, yet this would logically be the equivalent of the number of articles submitted to a journal annually, wouldn't it? (I

am not aware of journals that regularly consider "proposals" for articles.) One also needs to bear in mind that, unless I am mistaken, journals have no equivalent of the "advance contract" offered by book publishers to authors of incomplete manuscripts; yet, surely, a press would count such contracts signed as acceptances. The SCSC should also be concerned about this practice as it varies significantly among publishers, commercial and non-profit alike. Even among university presses, some conduct no peer review externally in offering advance contracts, whereas others conduct a review very similar to the full review given to completed manuscripts. And some presses, which do conduct full reviews in offering advance contracts, do not conduct any external evaluation of the manuscripts once finished. Such differences in peer-review practices, I should think, would need to be taken into account in the department's assessment of what weight to accord an advance contract in a faculty member's portfolio. But, beyond specific practices like this, it is important also to be aware that the whole system of review of books by university presses is quite a bit more complicated than the review typically undertaken by a scholarly journal. I have examined this in some depth in two different publications, "Listbuilding at University Presses" in Rita J. Simon and James J. Fyfe, eds., *Editors as Gatekeepers: Getting Published in the Social Sciences* (Rowman and Littlefield, 1994), pp. 209-258, and in "The 'Value Added' in Editorial Acquisitions," *Journal of Scholarly Publishing* (January 1999), pp. 59-74. (See http://www.utpjournals.com/jour.ihtml?lp=product/jsp/302/302_thatcher.html.) There I identify nine different roles that acquiring editors play in the process and I try to illuminate the complex dynamic that exists among acquiring editors, authors, external expert reviewers, and the editorial boards of presses. There is much more going on in this multifaceted process than a simple and straightforward assessment of scholarly merit, which makes it especially problematic for the press's decision to publish to be regarded as a ready substitute for an academic tenure-and-promotion committee's own judgment of merit. On this point I fully concur with the draft's recommendation of "not abrogating or transferring its judgment to an external entity," even more so when that external entity is a book publisher rather than a journal editor.

It has also been a continuing concern of mine that tenure-and-promotion committees too readily substitute the "brand" name of a book publisher for their own judgment of merit. Not only is there the general complexity of the review process for books just noted, but complicating it is the underappreciated similarity in the review processes used by the larger and more "prestigious" presses compared with smaller and less "prestigious" ones, which does not justify the extreme differences in weights accorded to the former's imprints over the latter's in the rankings that many departments use. I elaborate on this "fetishization of the brand" in the *InsideHigherEd* discussion where I point out that, despite the identical nature of the review process used at Princeton, where I was editor-in-chief, and at Penn State, I have great difficulty competing with putatively more "prestigious" presses for books by junior faculty. This problem has many dimensions, including the advantage that larger publishers have of being represented in many more fields and subfields of scholarship that makes their "brand" more widely recognized even though a smaller press may be specializing in a subfield to such an extent that its quality in that subfield is actually higher than the larger press's (as exemplified by the distinguished list that the University Press of Kansas has in American politics). This caveat connects in some ways with that offered in the Addendum of the draft, where it is observed that "the academic personnel process at times may place excessive reliance on the reputation of the venue to the detriment of specific assessment of the work itself." To that I would add that "reputation" should not just be a matter of how long the publisher has been in business or how wide the scope of its list is; a more fine-grained analysis of what undergirds a publisher's reputation is needed than what is often undertaken, with the resulting imbalance to the system I point out in the discussion.

Not surprisingly, I fully concur with the SCSC's recommendation #4 that the University should "consider offering subventions in start-up support for new faculty, particularly junior faculty, to publish books in peer-reviewed presses." But bear in mind that subventions alone may not resolve the problem about publishing revised dissertations noted above and a more radical change along the lines of the MLA panel's approach may well be required. Moreover, I see no reason in principle for limiting support to junior faculty. Books do not become easier to publish just because they are written by senior scholars; the economic difficulties involved are not usually a

function of the age or status of the author but of the subject matter and academic treatment. Scholarly communication will suffer just as much if books by more senior scholars cannot find publishers for financial reasons. An additional consideration, again in comparison with journal publishing, is that as "open access" comes to be viewed as desirable for books, too, the economic problems become a lot more complicated. It is one thing to ask the author of an article in an "open access" journal to come up with a fee of $500 to $1,500 to have the article accepted for publication; it is quite another to require an author to obtain the upfront costs of publishing a monograph, which for a book of average length without illustrations can easily be in the range of $20,000 to $30,000! Meanwhile, even in the realm of journal publishing, beware of the inequities that "open access" publishing creates among less and more well-supported faculty. And, while it avoids the problem of requiring a fee as a condition of publication, beware also the temptation that "partial open access" publishing may offer to some rapacious publishers to eat their cake and have it, too: charge fees to some authors who can afford them to gain "open access" while maintaining the basic subscription approach, which allows the publisher to get income from two different sources in a mixed business model.

Journal Publishing

Penn State Press publishes 11 journals in the humanities and social sciences, so I feel qualified to comment on this draft. In general, I would characterize this draft as imbued too much with a bias against publishers, and not sufficiently according recognition to the fundamental reason that we have a "journals crisis"in the first place: namely, the driving force to increase the number of publications that derives from the tenure-and-promotion system itself. Contrasted with book publishing, which has become ever more demand-driven, journal publishing has become increasingly supply-driven. Authors have needed to publish greater numbers of articles to meet rising expectations for tenure and promotion, thus leading to pressures for publishers bring out more new journals and expand the length of ones already in existence. Publishers, of course, have been happy to oblige because they can take advantage of the monopoly power faculty have given them to keep prices rising at least as fast as costs and often faster, making a tidy profit in the meantime. But, ultimately, publishers did not create this dynamic, they merely responded to it and made it work to their bottom-line advantage. That said, we obviously have reached the limits of the system's sustainability, and the cracks in the edifice have begun to appear more prominently every day.

Solutions, however, need to be very carefully considered, and there is a danger of being swayed by the public rhetoric about the "crisis" to adopt countermeasures that can either (a) add to the problems already existing, (b) create new ones in their place, or (c) simply shift costs from one part of the system to another (which is why I urge "thinking systematically" about how everything in the academic world interacts). Let me give you examples of each. (a) I mentioned above the possibility that "partial open access" already being implemented by some publishers, commercial and non-profit alike, can be exploited to drive up overall costs (and profit margins) further. (b) The recommendation here that publishers "seek only first publication copyright" is problematic for several reasons. Perhaps the most damaging result of such a change would be to exacerbate greatly the problem of clearing permissions to reproduce materials beyond "fair use" in coursepacks where rapid turn-around is a crucial requirement for keeping the system functioning smoothly. If a teacher had to track down the author of every article used in a coursepack (or in an e-reserve system) to ask for permission, many coursepacks would never be ready in time for use in the classroom. By aggregating copyrights, publishers serve a very useful function in making this process work better, and publishers in turn cooperate in further aggregation by allowing the Copyright Clearance Center to act as a "one-stop shopping" source for the bulk of such permissions. There is a good reason that Congress, in passing the 1976 Copyright Act, recommended establishing such an entity as the CCC. The draft's recommendation would serve to undermine that carefully established centralized system and take us backward, rather than forward, in the process of facilitating pedagogy. (To disclose my interest fully here, I am a member of the CCC's Board of Directors.) A further consequence would be to deprive those non-profit publishers, like scholarly societies and university presses, of a stream of income that now

helps pay some of the bills and the absence of which would result either in higher subscription rates or possibly the demise of some journals altogether. Moreover, at least for university presses, whatever "profit" is made from journal publishing and coursepack fees is used to support the publication of monographs, so removing this source of income would only exacerbate the financial problems involved with publishing monographs. (c) That last is an example of shifting costs, saving money in one place only to have costs increase in another. So, too, is the "solution" that was championed by SPARC and is recommended here as "the launching of competing journals." To the extent that this is done responsibly by supporting lower-cost publishers (often scholarly societies or university presses) in setting up competing journals, it is an idea worth exploring. But it often has led to the illusion that journals run by professors on their own using departmental resources are "cheaper" than the competing journals, simply because the real costs of faculty time and departmental resources are not properly accounted for in the journal's operating budget but appear as a hidden subsidy instead. This is the thrust of Colin Day's warning about the misallocation of faculty time to labor that lower-paid and more expert publishing staff can perform better at lower overall cost to the system.

The recommendation about "transparency" is fine as far as it goes, but you need to be realistic about how much commercial publishers are ever going to reveal about the details of their financial operations regarding the journals they publish. On the other side, the University of California itself has not acted on this principle but instead flatly refused the request of the publishing community, including university presses as represented by the AAUP, for "transparency" with regard to the materials being copied in large quantities (beyond "fair use," in the view of publishers) within its e-reserve systems at the different main campuses. UC needs to be more willing to provide such transparency if it can expect publishers to reciprocate.

Scholarly Book Publishing

Much of what I have to say here I have already said above, but let me emphasize these points: (a) Focusing on subventions for monograph publishing by non-tenured faculty may be a good priority where resources are scarce, but it will not address the full scope of the problem in this area. (b) It also does not address the particular dilemma posed by the conflicting practices of libraries, which do not want to spend their slim book budgets on revised dissertations when they have the dissertations in electronic form already, and tenure committees, which make demands often for two books in six years without realizing the special impediments to publishing a revised dissertation as the first book. There is need for more creative thinking here of the kind the MLA panel is pursuing. (c) When evaluating books for tenure and promotion, be careful about delegating too much authority to the "brand" name of the publisher, which may not be as reliable a proxy for quality as is commonly thought.

The draft recommends "library-press publishing partnerships" as one among several approaches to the problem, and obviously as director of a press that has just such a partnership with a library through our joint Office of Digital Scholarly Publishing I am all in favor of such experiments. But I add this word of caution: do not expect overall costs of publication to be dramatically reduced by moving to a digital environment. Colin Day's analysis is worth bearing in mind here, and I also recommend the fuller analysis of the economics of publishing in both print and digital formats provided by John Thompson in *Books in the Digital Age*. Since two thirds to three fourths of the cost of publishing are not affected by the medium of publication, the change from print to electronic will not realize huge savings, and some of the costs that will disappear (in the form of physical inventory) will be replaced by new costs of technology and the staff expertise to make it work properly.

In this context I don't understand what is meant by "journal-like distributed editing." The expertise of scholars as reviewers will presumably continue to be recompensed by honoraria in the digital environment, and most reviewers will continue to want to read book manuscripts in print form rather than on screen. If the "editing" meant here is what we in the business call "developmental" and "line" or "copy" editing, this has always been done best anyway by professional staff, not by

scholars, few of whom possess this kind of editing skill that has little or nothing to do with subject expertise. It is a mystery to me what savings are envisaged for book publication in this regard.

While I applaud the SCSC for recognizing that "the line between print and digital is blurring," and that there is an increasingly importance role for POD (and, one might add, SRDP-short-run digital printing-using the same technology), the greatest challenge ahead arises not from the use of this technology to extend the useful life of books in print, however valuable that may be in many ways, but from the more ambitious uses of technology to create works in electronic form that have no true counterpart in print form-the kind of multilayered works that I talk about at the end of my essay and that became the inspiration, through the public advocacy of Princeton book historian Robert Darnton when he was AHA President, for both Project Gutenberg-E and the History E-Book Project. These are the experiments that push the frontiers of digital publication the farthest, and they have been so far generously supported by the Andrew W. Mellon Foundation. However, it is by no means certain that either project will survive to the point of long-term sustainability. Another question related to such more ambitious projects, raised in the MLA panel discussion, is the collaborative nature of electronic publishing projects that seek to realize the medium's full potential and the consequent challenge for tenure-and-promotion committees to accord an individual faculty member appropriate credit for participation in such projects (which, nevertheless, seems to have been figured out in the sciences where such collaborative projects abound).

Finally, while usefully urging more library-press partnerships at other universities, I hope the SCSC will also consider including in its final report a call for other universities that, unlike California, do not now support a university press to stop being total "free riders" on the system and step up to the plate by providing subventions for their faculty's publications at university presses. This was one of the major recommendations made by the National Enquiry into Scholarly Communication way back in 1979, and it is long overdue for implementation. See *Scholarly Communication: The Report of the National Enquiry* (Johns Hopkins University Press, 1979), pp. 24-26.

Scholarly Societies

The draft provides an excellent analysis of the role of societies in the system of scholarly communication. Here, more than in the other drafts, explicit recognition is given to various tradeoffs, for example, between the higher pricing of society journals versus the increase of membership dues to support a society's activities, and I applaud the call for greater transparency so that society members can collectively decide which approach best serves their overall interests. Again, I would emphasize that there is a tradeoff, too, in authors retaining or transferring more than the right of first publication owing to the advantages that aggregation through societies first and then through the CCC provides for the subsequent management of permissions for reuse in coursepacks and other secondary publications that are valuable for teaching purposes. Presumably, societies could perform this function themselves without in turn handing it over to publishers as yet another intermediary, and they could thereby derive the full financial benefits thereof to support their own activities, rather than enlarge the profits of commercial publishers. (University presses, of course, as publishers for societies, would use any extra income from permissions for purposes that would directly benefit scholarly communication, as by subsidizing publication of monographs.) I would also remind you of the tradeoffs involved in moving to "open access" publishing, which indeed has substantial benefits but can also result in inequities among financially privileged and less privileged faculty and perhaps among fields that are more and less well supported by grants. Is giving everyone free access to scholarly publications worth a possible limitation of the ability to publish by faculty authors?

Copyright

Unlike the draft about scholarly societies, which reflects awareness of differences between commercial and non-profit publishers and is careful about making generalizations, this draft resorts to a "one size fits all" approach and is careless about distinctions between types of

publishers and about differences between book and journal publishing. It reads like a policy position paper from the Association of Research Libraries leveled at those rapacious commercial publishers of STM journals like Elsevier.

Here are some examples of statements that are made with no qualification of their intended scope: (a) "For decades the cost of scholarly materials has escalated at rates far exceeding the consumer price index rate of inflation." True for STM journals, mainly published by commercial companies, but is it true for journals in the humanities and social sciences, especially those published by societies and university presses? I doubt it. And it manifestly is not true for monographs, as shown by the ARL graph for library expenditures between 1986 and 2004, which shows the CPI increase as 73% and the monograph cost increase as 63%. (b) "Commercial reward has rarely been a direct incentive for scholars." Surely true for journal publishing, where scholars typically have never received any royalty income but, at best, income from residual sales of reprints. Mainly true for monograph publishing, where royalties are usually not high if offered at all. Mostly not true for academic trade book publishing, where royalty income can reach significant levels. And definitely not true for textbook publishing, where successful authors can make a great deal of money. (c) "Non-profit and society publishers comprise a significant but shrinking proportion of current scholarly publishers." Questionably true for journal publishers, in light of the many mergers that have reduced the number of individual commercial companies operating as journal publishers (while increasing their size and impact on the market). Not likely true for book publishers, again because of mergers but also because of closures of many smaller commercial academic publishers while the number of university press and society publishers putting out books has changed little, if at all.

Lacking differential application, the main recommendation that faculty "transfer only the right of first publication" to publishers is far too blunt an instrument to solve the variety of problems involved in copyright management. As noted above, this approach would create a new problem for teachers getting permission to use journal articles and book chapters in coursepacks and e-reserve systems, as they would then need to track down individual copyright owners rather than go to a much smaller number of licensing sources, including publishers and the CCC.

Beyond this aggregative function, there are other good reasons for the tradition of academic authors ceding management of their copyrights to publishers. Unlike trade publishing, where authors typically do not transfer their copyrights to publishers because they hire agents to handle the sale and licensing of the individual constituent rights under copyright, faculty authors usually do not have agents to represent them in dealing with university presses, society publishers, and commercial academic publishers and thus have relied on their publishers for the management of such rights in the same way that trade authors have relied on their literary agents. Faculty typically do not have the time or motivation to learn about the intricacies of licensing various types of rights in different markets; they are not aware, for example, of how to go about arranging for licensing of rights to a foreign publisher, what terms such a license should include, what royalty is reasonable to request, what type of payment schedule is standard, when a license should expire, etc. They often haven't a clue even about what kind of fee is typically charged for reuse of material in a coursepack or printed anthology. Many academic authors, we know, don't even read the contracts they sign very carefully, let alone have the ability to create a license de novo. The finer points of copyright law are ill understood by most faculty, and they would not know how to go about protecting their rights in court. Publishers are expert in all these matters because they are part of their daily business. And, as businesses, they also have leverage that allows them to be credible in challenging copyright infringements, whereas individual faculty authors would generally not have the financial means or the time to pursue litigation.

To give just one example of the complications that can arise from faculty managing their own copyrights, consider the special problems created by what are known as "embedded rights"-materials included in new works that are reproduced from other copyrighted works by permission. A faculty author, while realizing the necessity of seeking permission to reproduce these materials in the article or chapter to begin with, might well be oblivious to the need to reclear permissions

for further reuse in, for example, e-reserve systems where digital rights, not given for the original publication, are implicated. When approached directly for permission, then, such an author might unknowingly grant a license beyond what his or her authority as author of the original work would permit, leading the requestor in turn to infringe the third party's rights. The publisher of this work, very aware of "embedded rights," would be much less likely to make this mistake than the faculty author would.

In your further consideration of this recommendation, then, it would be wise for you to ask yourselves the question of just how much effort the University would like and can afford to expend to "develop support services to assist faculty to manage their copyright[s]"-not a simple task, by any means. It may be simpler for journal articles than books, true, but it is not even that simple for articles. How well do faculty really understand what "fair use" means, for example? Even lawyers who have spent years studying the matter cannot easily predict what a court will consider to be "fair use" or not. (The reason partly may be that Congress made a conceptual mess of "fair use" in codifying it in Section 107 of the 1976 Copyright Act, as I argue in a talk I gave about the Google controversy at a recent meeting of the National Association of College and University Attorneys, which is forthcoming in the April issue of the *Journal of Scholarly Publishing* and meanwhile accessible at my press's web site: http://www.psupress.org/news/news_google.html.)

Two other points are worth making. First, consider what disadvantages may be incurred by UC faculty if this policy is implemented and journal publishers do not care to take on the extra trouble of treating UC faculty authors differently from everyone else. Since there are almost always more articles available to fill any journal, publishers may simply decline to consider submissions from UC authors under these restrictions-unless most universities persuade their faculty to take the same stance. (And the policy almost certainly will not have the desired results if applied to books.) Second, the recommendation in Appendix I.2 to use the Creative Commons license fails to appreciate the vagueness of the crucial distinction on which this license depends, between "commercial" and "non-commercial" use. For example, is use by a university press "commercial" (because we sometimes pay royalties to authors and always sell our books in the regular retail marketplace) or "non-commercial" (because we are non-profit publishers serving the overall mission of higher education for the greater public good)? You tell me. I have posed the question to the originator of Creative Commons, Larry Lessig, and have yet to receive an answer from him.

The basic message I want to get across here is that no simple application of a single recommendation like transferring only the right of first publication will adequately deal with the complexity of the problems involved in the proper management of copyrights for the good of higher education overall. Any effort to implement such a blunt approach can only end up hurting society publishers and university presses, whose income base will be eroded, while it may alleviate but hardly resolve the fundamental challenge created by giant commercial monopoly power. Again, I implore you to think about the system-wide effects of any such action, not just the effects on the primary target at which it is aimed.

Copyright Proposal

The main recommendation here, for faculty to grant the University "a limited, irrevocable, perpetual, worldwide, non-exclusive license to place the faculty member's scholarly work in a non-commercial open-access online repository," has a certain logic and intuitive appeal to it, but I see at least three difficulties with it: (a) Again, no distinction is made between journal articles and books. Is it really being proposed that faculty deposit their books in such an open-access repository? And will this repository allow not only for online reading but for downloading and printing in high-resolution format? I can assure you that there will be no quicker way to bring about the demise of university presses than this, so long as presses themselves are compelled to operate in the traditional marketplace and are not supported so as to allow them to publish in an "open access" mode. (b) And, within the realm of books, are those lucky faculty authors who manage to break into the trade market with their scholarly works (as not a few of them do, publishing with imprints like Basic Books, Knopf, and Norton) expected to deposit these works, too? If not, who is going to decide which works are mandated for inclusion, and which not? And

what about "trade books" published by university presses themselves? Will these be included, but not the trade books published by commercial houses? If so, why? (c) Finally, even restricted to just journal articles, will such a policy not possibly have adverse effects on some ventures that are now highly valued, such as Project Muse? Especially if institutional repositories are readily searchable via Google, Yahoo, etc., will not this "open access" of journal articles unfairly compete with the ability of Project Muse to remain in business? Yet Project Muse is probably the most successful example of self-sustaining innovative digital publishing that has come out of just such library-press cooperation that the SCSC elsewhere strongly advocates. Why undermine a university-based enterprise that runs so well and so responsibly now? Isn't that being terribly short-sighted? I would urge, then, at a minimum further clarification of this proposal as it relates to books and journals and an assessment of its potential impact on successful ongoing operations like Project Muse. Talk to the people who run Project Muse at the very least.

General

This has turned out to be longer than I had anticipated, but I hope you will find these comments helpful in your further deliberations. Please feel free to share them as you like with me identified as their source.

Despite the critical nature of some of these comments, I don't want to leave the impression that I have only reservations and doubts about this set of documents. On the contrary, I believe overall they represent the best attempt I have seen to confront the many challenges we collectively face in rationalizing the system of scholarly communication and thinking creatively about ways to respond to them. I wish you further success with your efforts and appreciate being asked to provide a perspective from universi0ty press publishing.
[** end Thatcher comments**]

Helen Tartar

(Fordham University Press, Editorial Director)
Submitted 1/28/06

General

Thank you very much for sharing the interesting and excellently researched documents on your Web site and for asking for my comments. Let me give them, very briefly, below.

From my standpoint, what seems most lacking in these documents is some recognition that a university press is itself an asset to the university and to its reputation, and that publishing is itself a public good. These things may be presupposed, but university administrations probably need to hear them explicitly.

Academic Personnel Processes

This excellent statement of what is involved in using publication to evaluate personnel fails to state the university's responsibility for maintaining the quality of publication outlets. The work of evaluation is done mainly as part of faculty work, but there needs to be somebody, somewhere, to design, manage, and orchestrate this work. That is what, for books, university presses, as opposed to commercial presses, do.

Journal Publishing

I have no direct publishing experience here, and simply applaud this initiative. I would point out, however, that in all the times I have seen the University of Arizona chart invoked to criticize rising serials costs, no one has questioned the other curve that seems out of line--the one labeled "Library Materials." What does this refer to? Should it, too, be curbed? Is it where the very real costs of technology show up? How might that be tapped (e.g., by philanthropic donations from those who are financially benefiting) or curbed (e.g., by letting the usual latest and not especially useful technology update go by for a year or two)?

Scholarly Book Publishing

It would be simply wonderful if the UC faculty would endorse the need for title subsidies of at least $5,000 for first books, whether as part of a start-up packet for junior faculty or via an overall program like the Hilles Fund at Yale or the Hull Fund at Cornell. This would go a long way toward replacing the library sales that earlier fueled the university press system, would be in line with what I know of European practice, and would level the playing field for these books. Such subsidies, however, would not eliminate the need for subsidies for later books by faculty in the humanities or for university presses overall.

What a scholarly book is and the remarkable talents cultivated to create such works need to be explicitly recognized. I can provide more thoughts on this if your committee is interested.

I would suggest that you remove the word *monograph* from this document. According to the *OED*, apparently it once had a relatively precise meaning: in the nineteenth century it meant, in natural history, a separate treatise on a single species, genus, or group. Nowadays, *Webster's* 11th defines it as "a learned treatise on a small area of learning; *also*: a written account of a single thing." This is not a fair or accurate description of scholarly books in the humanities and social sciences.

I would suggest that the call to journals for transparency in accounting extend to university presses--and that this mean transparency to their faculty oversight (typically the faculty Editorial Board), not just to their point of oversight in the administration.

Copyright

I find this document and its supporting material (including Lessig's Web site), confusing. A basic misunderstanding seems to be at work--namely, the assumption that copyright is in "content," when it is in fact in "expression." For most work in the humanities there is some difference, however fluid, between the two, and the existing provisions for fair use, though they need to be scrupulously supported, work reasonably well. If for some scientific work the existing provisions for fair use are not working, yes, of course one should examine this.

It is historically correct that in the eighteenth century copyright law was originally intended to prevent a monopoly on information or findings ("content"), but since then copyright law has evolved in just the opposite direction--as an extension of authors' right to control the use of their work. If authors want to surrender that at this point, as Lessig seems at times to suggest--maybe fine.

I think it is a weakness of this document not to spell out more clearly what is meant by "open access" and what the pro's and con's of that might be.
[**end Tartar comments**]

UCSF Senior Library Staff

Submitted 1/18/06

Evaluation of Publications in Academic Personnel Processes

We discussed how we might assist faculty in assembling review material by developing a website that brings together resources such Sherpa (to find copyright policies for journals), the ISI Impact Factor resource, etc. Other systemwide possibilities including highlight publishers policies through UC e-links but we thought there might be considerable resource implications.

Journal Publishing

Julia Kochi, the person who manages the UCSF Library collection purchases/licenses thought that one of the major issues not mentioned in the Background section was the growing number of new journal titles, generally in very specialized areas. For example, every time we turn around

Nature has a new son or daughter and faculty immediately ask us to license it for UCSF site unseen. It seems (without any study) that this is more a problem with commercial publishers than societies. The other comment in this paper is with Ideal Journal Publishing Practice #4 - Avoid Monopoly Pricing. The other practices refer specifically to publishers - this one seems more targeted to universities and a little out of context. I know we struggled with this one so don't have specific suggestions on how to reword. Finally, we in the library world need to do a better job in letting faculty/students know why we select one publication over another - what are criteria are in order to encourage/support best practices.

Scholarly Societies

Going back to an issue in #2 it seems to us for the health sciences that the commercial publishers are focusing their efforts on increasing the number of new titles through increasingly specialized areas. We're not clear about the role of scholarly societies in these new specialized publications (have they ceded this area to commercial publishers by default?) and possible long term implications Again this may take more study.

Copyright

In talking about ways to support faculty one thought is to see if we can include the right for faculty to transfer the first right and to retain other rights as part of the license we sign with publishers. That would make it easier for faculty comply. The longer term issue is how we manage those rights - ie. how do we know who has retain rights, etc when faculty are no longer around. One idea was to see if someone like NLM would include rights policies as part of their descriptors for an article.

We also agreed that we need work with respective campus senate committees to promote the issues outlined in these documents.
[**end UCSF comments**]

University Librarian non-UC

(Submitted 1/30/06)

Scholarly Book Publishing

I like the fact that the paper The Case of Scholarly Book Publishing recognizes the impact that high journal prices have had on book publishing and how that has particularly affected humanities and social sciences disciplines. Many people do not realize the impact high journal prices have had on book publishing and this paper summarizes this issue very well.

Journal Publishing

The paper Scholarly Societies and Scholarly Communication is excellent and I like the conciliatory tone. I would like to share this paper with some society leaders from my institution as soon as the papers are publicly available, as I think it will help them to understand the issues better.

Copyright

The copyright information is excellent. The Case of Scholars Management of Their Copyright - I don't think I've seen anything else that so succinctly summarizes the copyright issues and clearly outlines what the authors can do to address the problems with copyright. As soon as this paper is publicly available I will share it with my institution s copyright committee, as I think it will be very useful to them in educating the faculty about the issues involved and what actions they can take.

I have one question related to the copyright paper Appendix II. Current UC Copyright Policy. How does the statement &and is otherwise consistent with the United States Copyright Law, which provides the university ownership of its employment-related works relate to the

government purpose license for those faculty whose funding comes primarily from federal agencies, such as NIH? I m not a lawyer and copyright law is so confusing & I know the copyright law gives universities ownership of employment-related works, but I m trying to figure out how this relates to the government purpose license (45 CFR 74.36), which says that the federal government has the right to obtain, reproduce, publish or otherwise use the data first produced under an award (grant, etc.), and has the right to authorize others to receive, reproduce, publish, or otherwise use such data for federal purposes, etc.. The newly-proposed (not yet approved by Congress) American Center for CURES Act of 2005 (S.2104) uses this license as the justification for requiring that federally funded researchers deposit their articles in PubMed Central within six months of publication. NIH has not enforced the government purpose license before (that I know of), and I've known the license existed and mentioned it casually to some researchers here, but I've never really seen much in print (until researching it!) related to this. I guess my questions for you are How does the statement in the UC copyright policy mentioned above relate to the government purpose license, does the UC copyright policy refer to the government purpose license, and does or should UC (as well as the rest of us) educate our faculty about the license (in addition to educating them about university rights under the copyright law).

General

The inclusion of examples and many references to sources for further information are very useful.

The papers recognize that the problems with the current system are not just economic ones. The emphasis on the benefits of taking advantage of new technologies to improve the current system of publishing is a good approach.

In summary, thanks again for giving me the opportunity to review the UC Academic Senate s white papers related to scholarly communication. They clearly outline roles that stakeholders (authors/faculty, librarians, publishers, societies, etc.) can play in helping to improve scholarly publishing. I found them to be very informative and think that they will be very useful not just to UC, but to others who are trying to address scholarly publishing issues.
[** end University Librarian – non-UC comments**]

Suggested Corrections – Phrasing, Punctuation, etc.

Evaluation of Publications in Academic Personnel Processes

In the paragraph preceding the Conclusion paragraph on page change *citated* to *cited*.

Journal Publishing

1. Change the first numbered item from:
Seek only the copyrights necessary for first publication.
to:
Seek only those rights necessary for first publication.

This revision would bring the statement into line with language in the paper "The Case of Scholars' Management of Their Copyright." As you know, if you retain copyright, you would give a license to the publisher to publish; if you assign copyright to the publisher, you can retain a license for specified uses of the material. Thus, one does not get a limited copyright, which is the implication of the statement in the draft.

2. Change the heading of paragraph no. 1
to *Seek only those rights necessary for first publication*. In the paragraph itself, change the word *copyrights* in the last sentence to either "*rights*" or "*copyright rights*." There is only one copyright in a given work, although there are various copyright rights that are a part of the copyright.

Copyright

In the first full paragraph on page 2, change from:
When fewer institutions can afford the publications that carry the results of UC research, it will be read and used by fewer members of the research community.
to:
When fewer institutions can afford the publications that carry the results of UC research, they will be read and used by fewer members of the research community.

Copyright proposal

In the last sentence of the 2nd paragraph change from:
No income will accrue to the Regents, the University or the Academic by this non-exclusive copyright license.
to:
No income will accrue to the Regents, the University or the Academic Senate by this non-exclusive copyright license.
[**end suggested corrections**]