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From the University Presses -- On the Author's Addendum

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From the University Presses — On the Author's Addendum

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It has long been a tradition in scholarly publishing for authors to transfer all rights to the publishers of their articles and even their books. The reason is simple: academic authors do not live on the income generated by their scholarly publications, if they generate any income at all, and with much else to absorb their attention, they have not been motivated to bother about dealing with all the small matters of business that are connected with the myriad of rights that fall within copyright, such as responding to requests for permission to reproduce an article in a coursepack, to quote a passage that is lengthy enough not to be covered by "fair use," and to deal with foreign publishers seeking translation rights, just to name a few. Nor are authors familiar with the procedures for registering their copyrights, and few want to take the time to learn. Hence scholarly publishers have come to assume the role of serving as the author's agent for these purposes, and they have professional staff trained to know what normal business practices are and what rates to charge for various kinds of uses. This tradition contrasts sharply with another tradition that exists in trade publishing, where most authors are represented by literary agents who have the knowledge equivalent to that of trained publishing staff and can act on the author's behalf in negotiating the sale of subsidiary rights. The difference, of course, is that many trade-book authors do live on the income from their writing, including the potentially large income that can come from successful sales of book club, movie, TV, audio, and foreign translation rights.

Owing to the perceived "serials crisis" that librarians became concerned about as far back as the late 1960s when the first serious studies of the impact of journal price increases (especially in STM fields) on library budgets were undertaken, however, there has been a growing movement fueled primarily by libraries' budget problems to "take back the copyrights." As the standard argument goes, scholars produce the intellectual property embedded in their articles, then give it away to publishers, who in turn charge increasingly steep prices to libraries to buy it back. Since scholars also provide peer review at no charge to publishers, the perception is that the publishers' business is being partially subsidized in this way by university faculty, allowing them to generate even higher profit margins than they would otherwise be able to achieve. With their backs to the wall, librarians have fought back, principally through their associations, to lobby for changes in copyright law and, more recently, to educate faculty to manage their own intellectual property more responsibly in the best interest of higher education as a whole, as they see it. This long struggle took a new

turn in 2005 when a number of initiatives began to coalesce around the idea of encouraging or even requiring faculty to retain certain rights when they sign contracts with publishers. The question to be asked is whether the use of an author's addendum, at least as now formulated, is truly in the best interest of higher education, all things considered. And, in particular, what is the likely effect of this new practice going to be on university presses?

How the Author's Addendum Was Developed

As it often has been in the arena of scholarly communication, the **University of California** was among the pioneers in this effort. Its Academic Senate appointed a Special Committee on Scholarly Communication, which produced a number of white papers in December 2005. (<http://www.universityofcalifornia.edu/senate/committees/scsc/reports.html>). One paper proposed that all faculty, in signing contracts, "transfer to publishers only the right of first publication, or at a minimum, retain rights that allow postprint archiving and subsequent non-profit use." It also urged that "faculty shall routinely grant to the Regents of the **University of California** a limited, irrevocable, perpetual, worldwide, non-exclusive license to place the faculty member's scholarly work in a non-commercial open-access repository for purposes of online dissemination and preservation on behalf of the author and the public." This proposal was later slightly modified to define the "scholarly work" affected by the policy as that "published in a scholarly journal or conference proceedings." Also added was this provision: "Faculty may opt out of this requirement for any specific work or invoke a specified delay before such work appears in an open-access repository." The Academic Senate's Assembly endorsed this proposal as thus modified on May 10, 2006. Feedback received from the various UC system campuses over the following month, however, revealed a strong preference for an opt-in approach instead of the opt-out mechanism included in the original proposal. And a survey of over 1,100 UC faculty released in August 2007 showed that, for most faculty, there was a disconnect between their attitudes and their behavior, with many expressing concern about changes in the system of scholarly communication but most acting as they always have with respect to their publishers and not believing it to be their problem but someone else's (<http://osc.universityofcalifornia.edu/responses/activities.html>).

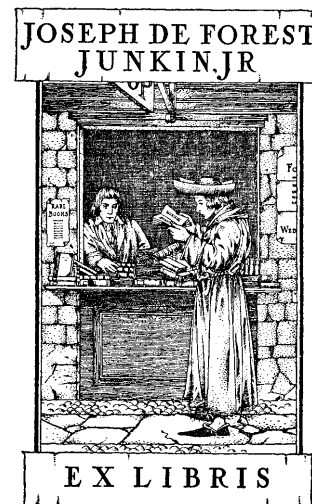
The **MIT** library also was an early pioneer and in January 2006 released its Copyright Amendment Form, which "enables authors to continue using their publications in their academic work; to deposit them into **DSpace**; and

to deposit them into any discipline-based research repository (including **PubMed Central**, the **National Library of Medicine's** database for NIH-funded manuscripts)." (<http://info-libraries.mit.edu/scholarly/mit-copyright-amendment-form>). The reference to the **NIH** here is an acknowledgment that much of the impetus for the move to devise and implement an author's addendum came from the fierce struggle over the legislation to mandate deposit of articles supported by **NIH** funding into **PubMed Central** and the even broader open-access proposal embedded in the **Federal Research Public Access Act of 2006**.

Strong support for **FRPAA**, as publicly voiced in an open letter from the provosts of the Committee on Institutional Cooperation (the Big Ten plus Chicago) in July 2006, carried over to the CIC provosts' endorsement later in 2006 of its own version of the author's addendum, which was very similar to **MIT's** form in retaining certain nonexclusive rights for authors to make use of their works in their teaching and research activities and to post them on their personal Websites, their own institutional repositories, and any disciplinary or funding agency sites connected with their research (<http://www.cic.uiuc.edu/groups/CICMembers/archive/Report/AuthorsRights.shtml>). The major difference is that the CIC addendum specifies a delay of six months after publication before any posting of the "final published version" of the article to a publicly accessible site. As of March 17, 2008, faculty senates at nine of the twelve CIC universities had officially endorsed use of the addendum, which in the CIC version is entirely voluntary, not mandated by any opt-out approach. By far the most thorough discussion of the author's addendum and the problems it is meant to address is provided on the Website of the **University of Wisconsin's** library, which established an Office of Scholarly Communication and Publishing following a faculty senate resolution in 2005 to help educate faculty about issues in scholarly communication (<http://www.library.wisc.edu/scp>).

Other major promoters of the author's addendum have been the **Association of College and Research Libraries** through its Scholarly Communication Toolkit, **SPARC**,

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and **Science Commons**, the latter an offshoot of **Creative Commons** that focuses particularly on the needs of scientific communication. **ACRL** provides information in its Toolkit about the background of the crisis in scholarly communication, recent changes in the system including the “big deal” approach of commercial publishers to selling journal content of which **ACRL** is very critical, the increasing consolidation of the industry, and new alternatives for disseminating scholarship and managing copyrights (<http://www.ala.org/ala/acrl/acrlissues/scholarlycomm/scholarly-communicationtoolkit/toolkit.cfm>). With their own versions of an author’s addendum already developed, **SPARC** and **Science Commons** joined in a further effort in May 2007 to provide new online tools “to simplify the process of choosing and implementing an addendum to retain scholarly rights.” (<http://www.arl.org/sparc/media/07-0517SC.html>). These include the **Science Commons** Scholar’s Copyright Addendum Engine, which offers four versions a scholar can choose to use, among them the **MIT** form (<http://scholars.sciencecommons.org>). Another innovation was a combination of **SPARC**’s Author Addendum and **Science Commons** Open Access-Creative Commons Addendum into a new Access-Reuse Addendum, which “will ensure that authors not only retain the rights to reuse their own work and post them on online depositories, but also to grant a non-exclusive license, such as the **Creative Commons** Attribution-Non-Commercial license, to the public to reuse and distribute the work.” And, in addition, **Science Commons** offers two other addenda, titled “Immediate Access” and “Delayed Access.” Even more recently, on March 17, 2008, **ACRL** joined with **SPARC** in making available a two-minute video focusing on authors’ rights management for use by librarians in helping to persuade faculty to use the author’s addendum (<http://www.arl.org/sparc/media/08-0317.html>).

A significant number of other universities have adopted one or another version of the author’s addendum, sometimes tweaking it in minor ways. The **Boston Library Consortium** of nineteen libraries adopted the version developed by **MIT**, a consortium member (<http://www.blc.org/authorsrights.html>). The **University of Pennsylvania** endorses sample contract language formulated by **Stuart Shieber** of **Harvard University**, who was the leader of the move at his own university to mandate open access for articles written by members of the Faculty of Arts and Sciences, which accepted the policy in February 2008 with much fanfare (http://www.library.upenn.edu/scholcomm/sc_Harvardcontract.html). **Deborah Gerhardt**, a professor of law at the **University of North Carolina** at Chapel Hill and director of its Intellectual Property Initiative, prepared a version for use by **UNC** faculty (<http://www.hsl.unc.edu/Collections/ScholCom/UNCAuthorAgreement.cfm>). Other universities promulgating the use of



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such addenda include **Cornell**, **Dartmouth**, and **Washington University** in St. Louis.

Why Are University Presses Concerned?

Does a publisher need to worry about the development and use of the author’s addendum? Yes, I believe there are several reasons for publishers to be concerned. I shall speak here primarily from the standpoint of a director of a university press that publishes journals, but no doubt many of the problems I identify will be problems for any publisher.

Explanations of the “Crisis” Are Incomplete and One-Sided

One reason is simply that the justifica-

tions offered for the use of such addenda are frequently incomplete or misleading in their characterizations of the nature of the crisis and the current practices in the industry. For example, the article titled “Copyrights and the Paradox of Scholarly Publishing” by **R. Michael Tanner** (accessible here: <http://www.cic.uiuc.edu/groups/CICMembers/archive/Report/AuthorsRights.shtml>), provost at the **University of Illinois** at Chicago, on which the **CIC** provosts drew heavily in formulating their statement accompanying the author’s addendum, reviews the “elements of the publication cycle” but misses the fact that many journal publishers have adopted sophisticated and expensive editorial management systems

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to facilitate the whole peer-review process, thereby vastly increasing the efficiencies with which both the faculty who edit the journals and the publishing staff who oversee production do their respective jobs. There is also no recognition here of other value added by publishers, such as the use of XML coding to allow repurposing of the content (essential, for example, if access to articles is ever to happen through hand-held devices like eBook readers and mobile phones) and the addition of digital object identifiers (DOIs) to permit cross-linking between citations and sources through **CrossRef**. All of this costs money and can easily be seen to have contributed to the increase in journal prices at a rate greater than inflation. Not mentioned by **Tanner**, or indeed in any of the other places where background on the STM crisis is provided, as contributing to higher than inflationary subscription prices is the sheer growth in the volume of research published, which has meant either adding more issues to journals or increasing their length. The percentages of price increases are never given in terms related to the rate of increase in number of pages published, which is less driven by publishers' desire to publish more than it is by faculty's need to publish more. This is not to argue that all criticism of subscription price hikes is unwarranted, but it is to say that much of the criticism does not identify the full range of factors explaining the increases.

Characterizations of Publisher Practices Are Outdated or Misleading

The same may be said of the characterizations of publisher practices, which tend to portray publishing contracts as denying authors practically any reuse rights at all, even for their own teaching and research. If there have ever been contracts or policies so completely one-sided, I do not know about them, and I doubt that any examples exist in university press publishing. Our standard journal contract at **Penn State** has long included language making clear that authors have the right to reuse their articles, after publication, in any future works of their own without charge. And when authors began to ask about posting their peer-reviewed articles on personal Websites and institutional repositories, we obliged by allowing them to do so. Other university presses have similar policies, as do many commercial and society publishers. Significantly, on March 10, 2008, the **International Association of Scientific, Technical & Medical Publishers** issued a Statement on Journal Publishing Agreements and Copyright Agreement "Addenda" (<http://www.stm-assoc.org/documents-statements-public-co>) to make clear that "authors already have many of the rights sought in copyright addenda." To be specific, "standard journal agreements typically allow authors: to use their published paper in their own teaching and generally within their institution for educational purposes; to send copies to their research colleagues; to reuse portions of their paper in further works or book chapters; and to post some version of the paper on a pre-

print server, their Institutional Repository or a personal Website (though sometimes not for the weekly news-oriented science or medical magazines, for public health and similar reasons)." STM has also issued a set of guidelines for best practices in the reuse of quotations and other materials that has been endorsed so far by twelve publishers, including the **American Chemical Society, Elsevier, Institute of Physics, John Wiley & Sons, Oxford University Press, Sage Publications, Springer, and Taylor & Francis**. These guidelines allow for reproduction of two figures (including tables) from a journal article or five figures per journal volume (unless a separate copyright notice identifies a third party as copyright owner) and use of single text extracts of less than 100 words or series of text extracts totaling less than 300 words for quotation, in all media and future editions, without the need to seek any permission, so long as the reproduction is for "scholarly comment or non-commercial research or educational use."

Anyone can consult the **SHERPA/Romeo** site (<http://www.sherpa.ac.uk/romeo.php?all=yes>) to verify, to the extent that the information on this site is up-to-date and reasonably comprehensive, whether the claims in the STM statement are true for the vast majority of publishers now. It would behoove those organizations promoting the author's addendum to conduct this kind of review, otherwise their claims will be overreaching and not reflect current reality. Some sites have not even been updated in quite a while. **ACRL's** Scholarly Communication Toolkit, for instance, gives January 4, 2006, as the last date on which it was revised. (It does not, therefore, even acknowledge the existence of the **AAUP** Statement on Open Access, which was issued in February 2007.) Scholars themselves would be properly criticized if they made assertions based on such outdated information. Organizations that claim to represent their interests should hold themselves to the same standards.

Where the addenda diverge most crucially from the policies that most publishers follow is the version of the article that is allowed to be reused. No one seems to have a problem with the author's use of preprints for teaching and research and for posting to Websites, both personal and institutional. A great many publishers also permit such reuse for the article as revised after peer review. But many publishers draw the line at allowing reuse of the article in its final published form, although some permit its use for the author's own immediate teaching and research purposes and for internal use at the author's university. Most do not permit posting of the final published version on publicly accessible Websites, however, immediately or even after some delay. The **NIH** policy itself does not mandate posting of the final published version, and in any event does not require posting of any version before a delay of twelve months. The reason most publishers resist posting of the archival version is very simple: unless they publish on an open-access model, they have an investment in the final processing of an article to protect, which provides sufficient incentive — so publishers believe — for libraries to continue subscribing to their journals,

either directly or through aggregators like **Project Muse**. If the practice of posting the archival versions were to become widespread in institutional repositories, it would not make any rational economic sense for libraries to maintain subscriptions because search engines could locate any given article on those repository sites or on the sites of discipline-oriented organizations that might harvest the metadata from the institutional repositories to provide one-stop shopping for their constituents. For **Penn State**, the undermining of **Project Muse** would be disastrous as two-thirds of our revenue for our journals operation comes from this source now and all but our few society-owned and membership-based journals could not survive without this income.

The Assumption Is That "One Size Fits All"

One problem with many of the proposed addenda is that they do not distinguish between STM and other types of journals. The rationale for the author's addendum is clearly based on the alleged serials crisis in STM publishing, but the application of the addendum is not restricted in any way to the STM arena. It is proposed, in fact, as a "one size fits all" solution. The **MIT** addendum provides for posting of the "final published version" immediately upon publication of the article in the journal. The **SPARC** version goes one step farther in requiring the publisher to give the author, within fourteen days after publication, an electronic version of the article (such as a PDF) that preserves "final page layout, formatting, and content." The new **Harvard** addendum adopts this provision also. The **CIC** agreement does grant a delay of six months, but insists that the "final published version" must be made available for multiple reuses thereafter. A delay of six months would be problematic even for many journals in science; for journals in the humanities and social sciences, it would hardly suffice to keep them in existence. The research published in these journals is very rarely so time-sensitive that a delay of six months in having access to it would much damage the advancement of scholarship in these fields. These journals generally cost only a fraction of what STM journals cost, so perhaps some of the largest research universities would still feel obliged to continue their subscriptions. As the vast majority of other libraries would likely be content to have access to these journals after six months, either the big universities would need to pay a lot more to keep the journals in existence, or the journals would have no choice but to adopt some kind of open-access business model if they wanted to stay alive. In the short term, in negotiating such addenda, I predict that many publishers will either strike out the clause demanding the right to immediate or delayed posting of the archival version or else charge a fee to make those articles available open access, thus adopting a hybrid model for their journals. The latter approach would result in exchanging one kind of problem for authors for another, as they would then need to locate a source of funding to pay the fees. Is this a result the organizations sponsoring these addenda even contemplated? I suspect not, as

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there is no mention of this possibility anywhere in the information on their Websites.

Nonexclusive Rights Are Insufficient for Publishers to Protect Their Investments

Several of the proposals, including the one put forward by the **University of California**, suggest that publishers only really need non-exclusive rights to conduct their business. One of the two alternative addenda recommended by the **University of Pennsylvania** (borrowing the formulation of **Harvard's Stuart Shieber**), for instance, grants the publisher only a non-exclusive license to publish the article and reserves for the author "all other proprietary rights including copyright and patent rights." But under U.S. copyright law the holder of a nonexclusive right has no standing to sue for infringement. This proposal, therefore, asks publishers to sacrifice any ability to protect the investment they make in publishing articles. The copyright that the publisher owns in the journal as a "collective work" does not suffice to give publishers the leverage they need to combat piracy, which is a profound problem internationally. Without some kind of exclusive right in the articles themselves, a publisher could not prevent, for instance, a competing publisher from selecting articles to republish in another collective work, whether another journal or an anthology. Authors themselves would have no incentive to oppose such additional distribution of their articles; indeed, they would likely benefit from the greater exposure. Turning over just nonexclusive rights to their publishers, then, would leave the publishers defenseless against all kinds of theft that would undermine their business.

Most of the addenda, it is comforting to report, do acknowledge the need to grant publishers exclusive rights, if not the entire copyright, and they phrase the retention of rights by the authors in terms of nonexclusive rights. Under this arrangement, both authors and their publishers can, for example, give permission for reproduction of articles in coursepacks and charge for it, or not, as they wish. The **SPARC** addendum is defective in this respect, however, as it refers just to "rights" retained by the author, without specifying whether they are exclusive or nonexclusive. The distinction is crucially important because, for instance, if the "right to prepare derivative works from the article" is exclusive to the author, the publisher would be denied a considerable range of business opportunities, including the right to authorize translations.

The Opt-Out Approach Is Problematic

Another difference between the addenda is language to the effect that if the publisher does not sign the addendum but goes ahead and publishes the article, the mere publication itself will constitute acceptance of the terms of the addendum. The **SPARC** version contains this language in clause seven: "However, if Publisher publishes the Article in the journal or in any other form without signing a copy of this Addendum, such publication manifests

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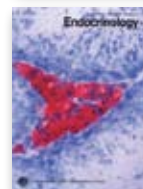
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Publisher's assent to the terms of this Addendum." The **Harvard** addendum contains similar language. This kind of language is noticeably absent from some other such addenda, however, such as the **CIC** addendum or the **UNC** addendum. Usually, contracts have to be signed to be legally binding, or at a minimum there has to be proof that a "meeting of the minds" occurred. This is the implication I read into the advice **Kenneth Crews** gives on Indiana's Website: "Be sure to obtain confirmation that your amendments to the agreement are received and accepted. Many times, publisher agreements are sent to the creator already signed by a representa-

tive of the publisher. Changes made to the agreement after it has been signed by the publisher must be approved by the publisher. Otherwise, there is no 'meeting of the minds,' and therefore, no valid agreement. Be sure to get approval from the publisher to any such changes in writing" (http://www.copyright.iupui.edu/nego_doc.htm). It is unclear what the legal status of such an opt-out provision is. If an author were to take a publisher to court over such an addendum, would not the author be obliged at the very least to provide proof that the addendum actually was sent and received by the publisher, for example, by a receipt

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from a certified or registered mail delivery? A publisher surely cannot be held to have given even implied consent to an addendum without having seen it!

Does the Addendum Apply Just to Journals or to Edited Books Also?

One final difference is that some of the addenda restrict their application to use of articles published in journals or, at most, conference proceedings, whereas others extend the application to chapters in edited volumes. Thus the CIC addendum explicitly refers to articles as they appear in a "Journal, Anthology, or Collection." Most other addenda either refer only to articles in journals or else are ambiguous, as is **Harvard's** new policy.

Is the Distinction between Commercial and Noncommercial Use Viable?

Besides their differences, the addenda do all share the approach that distinguishes, in one way or another, commercial from noncommercial use, perhaps following the lead here of **Creative Commons**, whose most popular license relies on just this distinction. It is puzzling, however, that so much weight should be placed on this distinction, partly because **Larry Lessig**, the progenitor of **Creative Commons**, himself repudiated the validity of the distinction in his 2001 book, *The Future of Ideas*. **Lessig**, commenting on **Jessica Litman's** suggestion for "recasting copyright as an exclusive right of commercial exploitation," avers that, while an idea worth exploring, it rests on shaky ground because "the Net itself has now erased any effective distinction between commercial and noncommercial" (p. 258). One can only wonder why **Lessig** allowed this questionable distinction to be built into the **Creative Commons** license. It indeed "rests on shaky ground." Consider, for instance, whether the author's right to reuse an article in research allows sharing it with an employee of a for-profit corporation, let's say, **Texaco**. We all remember that a judge ruled that, even though the researchers at **Texaco** were photocopying articles for their use in research, the ultimate use was for "commercial" purposes. Or what about an author who wants to allow a university press to include an article in an anthology. Is this "commercial" even though the press is nonprofit and its mission is educational? Does it make a difference whether the anthology turns a "profit" or whether the volume's editor receives any royalties? Also remember that five of the thirteen judges who ruled in the MDS case felt the photocopying done by a commercial copyshop to be "fair use" because the ultimate use of the copied materials was for educational purposes. So, evidently, even judges can be confused about where to draw the line between commercial and noncommercial uses. The distinction, I fear, is about as difficult to define as it is to decide whether any given use of a work is "fair." This does not augur well for clarity in the application of the author's addendum.

The Digital Gap between Books and Journals Will Widen Further

Apart from specific criticisms of the addenda as written, and questions about their rationale as inaccurately reflecting current practices in the publishing industry, I have three other reservations that relate to the systemic repercussions of adoption of the author's addendum. Although the CIC addendum incorporates at least edited volumes within its scope, the general thrust of the effort is to widen the digital divide still further between journals and books. Apparently because they believe authors have some greater financial stake in their books than they do in their articles, the proponents of the author's addendum do not attempt to encourage authors to renegotiate their book contracts with the aim of carving out a large swath of reserved rights. It is already true that vastly more content from journals is available electronically than from books, via open access or otherwise, and the effect of the author's addendum will be to widen this gap even more. There is, of course, no intellectual justification for carving up the terrain of scholarship in this way, and it is a huge disservice to authors of books, and to those areas of scholarship where books play a predominant role in a way they do not in science, that their writing in books should be so limited in accessibility compared with their writing in journals. Universities, however, seem either not to be bothered by this growing gap or else just stymied in what to do about it. For university presses at least, the financial rationale for the gap is not based on fact. I can cite many examples of journal articles published by our press that have earned their authors vastly more income from licensing reuse than the author of a typical monograph ever realizes from royalties (if, indeed, royalties are offered at all).

Presses Will Be Denied Revenue and Need More Financial Support

A second systemic effect of the author's addendum, if it were to be accepted by publishers without further amendment, is to curtail an important stream of revenue that now supports scholarly publishing. Once articles are posted for public access online, and when authors themselves reserve rights to grant permission for secondary uses (as in coursepacks), the market for such uses is likely to decrease markedly, if not disappear altogether (as teachers, for example, can simply point their students to URLs for articles). Income from subsidiary rights now helps support journals, and the surplus that journals often provide to their publishers in turn helps support publication of scholarly monographs, very few of which ever succeed in covering their costs. Depriving presses of this income, therefore, can only exacerbate further the plight of monograph publishing, forcing presses to rely even more than they do now on estimates of sales potential in making decisions about what books to accept. **ACRL's** Toolkit notes that "fewer specialized monographs are being published" as a result of the drain on library budgets to pay for costly STM journals offered in the "big deals," but it shows no awareness of the probable effect of reserving rights to authors in making this problem even

worse. So, while benefiting authors of journal articles by encouraging or requiring adoption of the author's addendum, universities will inevitably be harming authors of monographs. This is yet another instance of the common practice in universities of robbing Peter to pay Paul: the overall costs in the system do not change, they merely get shifted from one sector to another, or from one set of universities to another. Presses, to continue publishing monographs, will require even greater subsidies if they are to continue providing this service to scholarly communication, and as a result that small handful of universities that support presses will bear an even heavier burden of financial responsibility to keep the system operating. Is this shifting of resources sensible? Is it fair to increase "free riding" even further? Has any administrator even thought about the repercussions of centralizing costs more while benefits are dispersed ever widely?

Presses Will Have Increased Costs in Negotiating Contracts

A third systemic effect will be to increase the burden on the staff of university presses who will need to spend more time negotiating changes in contracts and setting up systems for tracking variations across contracts that can affect how various subsidiary rights are handled. Presses use contracts with standard language approved, usually, by university attorneys or outside counsel, and the use of such contracts helps a press operate efficiently. As presses are confronted with more requests to consider addenda, and as these addenda themselves differ in terminology and scope, each contract will end up needing to be negotiated individually and, in some instances no doubt, legally vetted and approved by counsel. (Ironically, the same lawyers who were consulted by universities to create the addendum may be asked by presses to consider how much of the addendum can be accommodated, placing them in an interesting conflict-of-interest position.) Once the changes are made, they will need to be recorded in a database that will have to be consulted every time the press is approached with a request for permission or sale of a subsidiary right. The increased costs entailed for presses in coping with this extra complexity will need to be covered either by increases in the prices for the press's publications or by additional support from the parent university. As one press director wryly observed, "Oddly, the very folks who are complaining loudest about the costs of journals think they can somehow lower those costs by making publishers sink a lot more time and money into the rights and permissions process. Someone has to pay for that time. The complainers will be very sure it shouldn't be them. But inevitably it will be them."

Are Presses Part of the Problem or Part of the Solution?

I note, with some irony here, the closing paragraph of the CIC provosts' statement: "The CIC Provosts recognize the complexity of the issues involved in publication, but are nonetheless committed to helping our faculty make the most of their work. For further discussion of

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From the University Presses from page 70

these issues, or for help in assessing options for the publication of particular works, members of our faculty are encouraged to consult with academic deans, campus counsels, university librarians, or academic staff in the provosts' offices." What about the publishers that exist on every CIC campus? Admitting as they do that publishing issues are complex, the provosts, one might have expected, would have advised faculty to consult the experts on campus who know the most about publishing. Either the provosts have little respect for the expertise of their own professional publishing staff, or they simply consider us as part of the problem rather than part of the solution. One can hardly draw any other conclusion from such a conspicuous omission of press employees from this list of campus personnel who are qualified to advise faculty about publishing. Needless to say, presses were not consulted about the CIC author's addendum in its preparation, nor given any formal opportunity to comment on it after its promulgation. We are presented with this as a fait accompli and expected to adjust our own business practices to it, however much accommodating it will cost us in extra expense and reduced revenue, with no indication that our financial shortfalls will be offset by any increase in operating subsidy.

Is the Author's Addendum a Solution to a Problem or Just Another Problem?

To sum up, the author's addendum is (1) misleading to the extent that it is based on an incomplete understanding of the causes of journal price inflation, (2) superfluous in recommending reuses that are already allowed under most publishers' policies, (3) too blunt an instrument for dealing with the many important differences that exist between publishing in the sciences and publishing in the humanities and social sciences, (4) insufficient for protecting publishers' investments to the extent that some versions recommend giving publishers only nonexclusive rights, (5) legally questionable insofar as it relies on an opt-out procedure for publishers' acceptance, (6) confusing when it relies on unviable distinctions like commercial

versus noncommercial use, (7) troubling to the degree that it fosters an even greater digital divide between book and journal content, and (8) systemically reallocative because it will undermine an important source of revenue for supporting journal and monograph publishing by university presses, complicate the process of negotiating contracts with authors, and thereby increase the financial burden for the universities that currently support presses. Is this, then, really a solution to a problem or just another problem? Surely, there must be a better way of achieving the aims of wider distribution of scholarship, which is after all the basic mission of a university press, than to set up an antagonistic relationship between faculty and university presses that will have to be mediated ultimately by university administrators and their lawyers. 🍷

Rumors from page 59

Speaking of the Google effect, did you see that the venerable *Encyclopaedia Britannica* is going wiki? It is "about to launch a new initiative ... [t]he main thrust ... [of which] is to promote greater participation by both our expert contributors and readers. Both groups will be invited to play a larger role in expanding,

improving, and maintaining the information we publish on the Web under the *Encyclopaedia Britannica* name as well as in sharing content they create with other *Britannica* visitors. A complete redesign, editing tools, and incentive programs will give expert contributors and users the means to take part in the further improvement of *Encyclopaedia Britannica* and in the creation and publication of their own work." *Britannica* further states: "*Encyclopaedia Britannica* will continue to form the core base of knowledge

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