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Book Review of Universities and Copyright Collecting Societies

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Universities and Copyright Collecting Societies. By Dinusha Kishani Mendis. The Hague: T.M.C. Asser Press, 2009. Pp. xvii, 258. ISBN: 978-90-6704-298-7. UK. £:38.00; US\$85.00.

Copyright law in most countries provides automatic, long-lasting monopolies over creative works to their authors. To reduce the transaction costs involved in requesting, receiving, and paying for copyright permissions, authors have joined into collective copyright management organizations. These organizations provide a centralized place for users of copyrighted material to pay for and receive the licenses they need to legally use the materials. The license fees are then distributed to the publishers and authors.

In this book, Dinusha Kishani Mendis, a Lecturer in Law at the University of Central Lancashire, UK, examines the relationship between these copyright licensing organizations, or copyright collecting societies, and UK institutions of higher education. His conclusion is that while copyright collecting societies are an efficient mechanism for distributing copyright licenses, their largely monopolistic hold over the copyright permission market has enabled them to charge educational institutions too much while not giving

schools needed flexibility in their licenses. He also argues that the societies are not transparent in their distributions to authors, preventing authors from knowing if they are receiving fair remuneration for their creative work. Mendis proposes that the UK higher education system move to a model based on the Higher Education Resources On-Demand project that enables more flexible educational access to copyrighted materials and that academic publishing in journals be funded through publishing fees paid out of research funds. The scholarly literature would then be largely open access, with reproduction permissions handled through a blanket license that permits educational reproduction, digitization, and use in course packs.

Much of the book details the history of copyright and its effect on higher education. The first hundred pages walk the reader through the birth of copyright law as we know it in the Statute of Anne and how colleges and universities adapted to copyright as higher education dramatically expanded in the 1960s. Using cases from Australia, the UK, and Canada, Mendis then explores the factors courts consider when deciding when schools are liable for copyright infringement by students and staff. Mendis discusses relevant cases, legislation, and government reports in close detail.

Mendis then turns his attention to copyright collecting societies, explaining how obtaining copyright permissions on a case-by-case basis imposes prohibitive transaction costs. The need for an efficient means of gathering needed licenses led to the development of centralized societies that can take advantage of economies of scale. Mendis argues that while these societies have gained near monopolist control of the copyright licensing market in their respective countries, adding competing societies to the market is unlikely to save schools money because transaction costs would increase by dealing with multiple organizations.

Mendis contends that collecting societies do not adequately benefit the authors whose work the societies license. He offers the UK Copyright Licensing Agency (CLA) as an example, delving into the CLA's annual reports to show that the society's accounting and reporting practices make it difficult for authors to understand how royalty fees are collected and disbursed. Rather than working for the interests of educational institutions or scholarly authors, collecting societies seem to benefit the academic and corporate publishers that produce monographs and journals.

The penultimate chapter seems to be a digression on open access to scholarship, reviewing the serials crisis in libraries and more liberal copyright licenses. However, this final thread is tied together with Mendis's proposal that more scholarly publishing be made open access and paid for with publishing fees taken out of research funding. These proposals seem to be directed at government and major private research funding bodies and the UK

higher education consortium that negotiates blanket copyright licenses with the CLA.

The book provides a thorough history of UK copyright and higher education and would be a useful resource for researchers exploring these topics. Mendis thoroughly lays out the procedural history of legislative, judicial, and administrative decisions and completely documents his sources with footnotes. An extensive bibliography and tables of cases and legislation round out the volume.

The primary weakness of the book is that the generous use of large block quotes and sentences in the passive voice interrupts the text's flow and distracts the reader from the book's arguments. Notwithstanding this weakness of presentation, the book is most suitable for collections focusing on European and comparative copyright law. Researchers looking into European higher education are also likely to find material of interest.

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