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## From the University Presses -- How to Establish a Research Agenda for Scholarly Communication, Part I: A Paranoid View

Sanford G. Thatcher

*Penn State Press*, sgt3@psu.edu

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**QUESTION:** For bulletin boards in a public library's children's area, is there any restriction on posting graphics found on the Internet or copying them from books?

**ANSWER:** Yes, there are restrictions. One of the rights of copyright owners is the right of public display. So, copyrighted graphics and illustrations from books and those found on the Web should not be reproduced for public display without permission of the copyright holder. There is an exception for displaying books and book jackets, but not for reproducing them for display. Section 109(c) of the *Copyright Act* states: "...the owner of a particular copy lawfully made under this title, or any person authorized by such owner, is entitled, without the authority of the copyright owner, to display that copy publicly, either directly or by the projection of no more than one image at a time to viewers present at the place where the copy is located." So, enlarging graphics or illustrations from a book or reproducing them from the Internet for a bulletin board in a public library requires permission. Placing the original book jacket on display is not a problem.

Had the library been in an elementary school, the display may have been permitted if it was part of instruction under Section 110(1).

**QUESTION:** Playing music recordings for dance classes at a college is a very common practice. Should the school pay royalties for this? What about dance schools? How does copyright apply to dance clubs with a disc jockey?

**ANSWER:** Sound recordings do not have public performance rights except for digital transmission of the recordings, but the musical compositions embodied on the recording do have performance rights. Educational institutions have an exception for the performance of musical works in the course of instruction under Section 110(1) — dance classes in the college are permitted to use recorded music as a part of instruction. Private dance schools that use music recordings are not eligible for the exception and must pay royalties to **ASCAP**, **BMI** and **SESAC** for music registered with them. Dance clubs (nightclubs) also pay royalties for the performance of music, whether they have a DJ or just play CDs. 🐾

## From the University Presses — How to Establish a Research Agenda for Scholarly Communication, Part I: A Paranoid View

Column Editor: **Sanford G. Thatcher** (Director, Penn State Press, USB 1, Suite C, 820 N. University Drive, University Park, PA 16802-1003; Phone: 814-865-1327; Fax: 814-863-1408) <sgt3@psu.edu> [www.psupress.org](http://www.psupress.org)

Just as I was beginning to think I was running out of things to say in this column, the **ACRL** obliged by issuing a report in early November on "*Establishing a Research Agenda for Scholarly Communication: A Call for Community Engagement.*" This is the product of a special meeting convened on July 21 by the **ACRL's Scholarly Communications Committee** co-chaired by **John Ober** and **Joyce Ogburn**. Besides these two, the assembled group included **Karla Hahn (ARL)**, **Charles Henry (CLIR)**, **Heather Joseph (SPARC)**, **Suzanne Lodato (Mellon)**, **Clifford Lynch (CNI)**, **Kara Malenfant (ACRL)**, **Meredith Quinn (Ithaka)**, and consultant/facilitators **October Ivins** and **Judy Luther**.

I am going to respond to this report in two parts. The first I call "*The Paranoid View*" as it represents my immediate, gut-level reaction and may help librarians understand how this report will be viewed by some publishers who share the kinds of concerns to which I give voice in this first part. The second part to follow I will call "*The Sympathetic View*" because it comes from discussions I had with a number of people with whom I shared this version including **Karla Hahn** (who visited **Penn State** recently) and my **Penn State** librarian colleagues, **Nancy Eaton** and **Michael Furlough**, who opened my eyes to other dimensions of librarianship I had not seen so clearly before and thus provided a fuller context for me to understand what underlies this report. (I also benefited from reading the draft of an article by **Furlough** forthcoming in *College & Research Libraries* and an article to which **Karla Hahn** referred me on the evolution of peer review.) This kind of successful collaboration itself may bear out the hopes expressed by the report for more "community engagement." As you read on, though, remember that this immediate response will appear in some ways grumpy and defensive. In *Part II*, I will try to restore some balance.

It is a very well-informed group that the **ACRL Committee** convened, but one cannot help wondering in light of the report's subtitle if it really makes sense to

create such an agenda without wider participation at the outset. Though people like the two consultants and **Clifford Lynch** know a great deal about how publishing works, nevertheless there are noticeably absent from this group any direct representatives of three major stakeholders in the system of scholarly communication: university administrators, faculty, and presses. It is true that the report itself acknowledges "the limitations of this singular brainstorming effort" (p. 16) and calls for "community efforts" to refine and expand the agenda. And **Joyce Ogburn** herself, having heard of a skeptical comment I made to press directors on the **AAUP** listserv, extended a special invitation to university presses: "We would welcome input from the UP community regarding particular points to which presses would like to contribute or any additional research questions that could be added." This invitation is much appreciated. Still, as one of my colleagues recently observed, they "welcome our responses to the questions and issues they've framed, but it never occurred to them we might have something interesting to say about how they get framed in the first place, or even about what questions are worth asking."

A case in point is the lengthy section at the end devoted to "*Public Policy and Legal Matters.*" Anyone familiar with the debates about copyright will immediately recognize that the agenda set forth here reflects the viewpoint of librarians about fair use and the other issues discussed here, as in this claim: "Our current environment may be undermining the intent of fair use provisions as works of research and scholarship shift from print to digital formats..." Actually, university presses can agree with this statement, but only if it is interpreted also to mean that the digital environment has unleashed major new threats to the revenue streams of presses through the expansive interpretations of fair use embedded in the operation of many e-reserve and course management systems — obviously, not the meaning intended in this report. The unabashedly positive comment about the **Google Books Library Project** also is clearly a library-centric viewpoint.

Particularly telling is this admission: "Libraries may not have the requisite experience and expertise in assembling copyright services to assist authors to incorporate others' material



in their own creative work and to help authors manage their own copyrights" (p. 15). Well, yes, and there is a reason that is so: this is a function that traditionally has been handled in universities by presses, which by necessity have staff with considerable copyright expertise as they bear responsibility on behalf of their universities to advise authors about what fair use allows them to do, to register copyrights with the **Library of Congress**, to license copyrighted material to third parties for reprinting, translation, etc., and to initiate legal action when copyrights are infringed. In most universities, in fact, there is more expertise on copyright issues located in the university press than in the counsel's office, which has a myriad of legal issues to deal with and cannot afford to specialize in copyright, or the intellectual property office, whose attention tends to be focused almost exclusively on patents. To the extent that libraries have expertise, it naturally is focused on issues that represent users' interests, not the interests of faculty in their roles as rightsholders.

In suggesting the need for "new investments in copyright expertise and service," the report completely ignores the already existing expertise on the some eighty campuses in the U.S. where presses reside. Why do libraries not want to collaborate with presses in this arena? The following comment provides the answer: "With regard to public policy, universities and their libraries need to gauge their commitments to scholarly communication policy interventions and to make investment decisions about their advocacy efforts," with reference to such issues as open access mentioned in the next sentence (p. 15). But is there any good reason to assume that librarians' views on copyright should solely determine what university policies should be? Where is the "balance" in that, if the differing viewpoints of faculty and presses are just ignored? It is, in fact, true that librarians have driven the agenda of many universities on copyright, as evident in the positions universities have taken on **FRPPA** and other proposed legislation. Presses, understandably, do not have the influence on these issues that librarians do, but it is more surprising that faculty have often been silent since their interests are directly at stake, though often conflicted as they play the roles of authors and users simultaneously.

The fact is that universities cannot escape the reality of having to arrive at a complex view of copyright if they are to reflect fairly the many different constituencies on campus that have a stake in copyright policies. Any agenda in this arena that has a chance of mobilizing campus-wide support must engage the full range of these stakeholders. Ten years ago I would have doubted myself that reasonable consensus could be reached in this contentious arena. But my experience as a member of the **Task Force on Intellectual Property Policies and Procedures at Penn State**, which deliberated over several years to produce a report in May 2000 out of many discussions among groups

representing the library, the press, the administration, and the faculty, proved that such consensus is possible. I served on a **Software, Copyright, and Data Rights subcommittee** chaired by the dean of the library (who is now my boss) tasked with the responsibility to craft policies concerning such controversial issues as fair use and copyright ownership (regarding, for instance, courseware produced by faculty), and I was very pleasantly surprised at how well we were able to work through our differences to arrive at a document we could all agree upon.

The slant in this section of the report provides a clue to an underlying theme of the report as a whole, which pervades it without

ever being explicitly acknowledged. Librarians have been threatened sooner and more immediately than publishers by the disintermediation that the Internet makes possible, perhaps in most stark form by the challenges that **Google** and **Wikipedia** have presented to librarians in their roles as facilitators of search for useful sources of information and for the information itself. Publishers, especially those like university presses that offer the still indispensable service of peer review (for books, at least), have been spared the need to justify their existence in the digital age in quite the same way librarians have, with the result that librarians have been more actively looking for

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alternative roles to fill than publishers have, or at least to redefine their traditional roles in the light of new challenges and opportunities in the digital environment. Throughout this report the agenda being created clearly has a broader purpose in identifying new or redefined roles for librarians to prepare themselves for. Consider, for example, the emphasis on the need to be concerned about “investments in and management of cyberinfrastructure” because this is “urgent and important for libraries to redefine and assert their role in the creation, dissemination, and preservation of scholarship” (p. 5). Preservation, of course, has long been recognized as a chief function of libraries, but what about “creation” and “dissemination”?

The report places an interpretation on these functions that seems to go well beyond what librarians have typically undertaken to be their roles in supporting scholarship. Cyberinfrastructure, it turns out, is crucial in part because it enables “large-scale, collaborative research” of the kind that has been typical in the sciences but rare in the social sciences and rarer still in the humanities. In the next section, on “*Changing Organizational Models*,” the report candidly admits that “libraries are taking on the role of publisher” and outlines ways in which knowledge communities in cyberspace existing as “virtual organizations,” which often have “no explicit, permanent authority to disseminate, document and archive the virtual organization’s output,” present new opportunities for libraries to insert themselves into the research process — hence the need “to determine the investment required to create and maintain a virtual organization dissemination or ‘publication’ service” (pp. 6-7).

The agenda becomes clearer in the next section on “*How Scholars Work*” when it is urged that “more understanding is needed about how scholars create knowledge and how libraries can participate in the process.” Even though “the sciences have long used team approaches to research questions” without any direct assistance from librarians, it now seems important for librarians to involve themselves in this process and “to match up scholars to each other and to tools and methods.” It is recognized that this is a “new role,” but what is it about the digital age that suddenly requires librarians to become so intimately involved in the research process itself in these ways? No explanation is provided. But the need does not stop here; it includes a new role in pedagogy, too: “Libraries must improve the availability of materials for courses taught in an online environment, increase their involvement in the technology and techniques of online teaching, and offer services that match the needs of online courses” (p. 7). One might assent to the first of these claims, as e-reserves can be seen as a natural extension of print reserves, but the second and third would seem to take librarians into territory where they have never ventured before, nor been expected to do so by their universities.

The theme continues in the following sec-

tion on “*Authorship and Scholarly Publishing*” where questions are raised about the cost-efficiency of traditional models of access-controlled publishing and their suitability for the new, more informal modes of scholarship that are emerging, including blogs, wikis, and other types of collaborative and interactive media. We need, the report says, to “research and develop authoring tools, publishing templates and open source software packages for scholarly discourse, teaching and publishing” (p. 10). (The scope of the “we” that appears frequently in the report is sometimes ambiguous, but in context more often than not it appears to connote librarians more than any other group, since it is after all a group of librarians and their consultants who wrote the report.) “Similarly, institutional repositories may have the potential for evolving into platforms for more sophisticated means to manage and disseminate digital scholarship” (p. 9) — IRs generally being the responsibility of libraries, of course. And, as if to emphasize that older functions now should be given lower priority, the recommendation is made to “explore models that effectively shift funding from collecting published works to supporting new forms of content and its dissemination” (p. 10).

The next section on “*Value and Value Metrics in Scholarly Communication*” takes this questioning of traditional published scholarship further by suggesting that new communication practices like “open notebook science” and “open data” might be at least as valuable or even more so in advancing scholarly research, and that “libraries should adopt a stronger role that more directly advances scholarly research beyond satisfying tenure and promotion practices” for which traditional publications are needed. Staking a claim to this new territory of “informal scholarly communications,” the report asks: “How can librarians better characterize and measure the contributions of these informal communications, and thereby make wise decisions about organized access to them?” (p. 11). But, surely, as even the report admits, such modes of informal communication have long been going on in scholarly communities as they have used the phone, letters, first offprints and later photocopies, to share information about ongoing research. Why is there suddenly a need now to devise new metrics to measure its value and to create means for “organized access” to it? Is the creative process, now that it is digital, more open to tracking and monitoring, and does that change itself justify libraries in asserting a claim on helping with its validation and preservation in a way never attempted before? The report observes that traditional “publications are the minutes” of scholarship while “the presentations, preprints and letters

and other informal communications are the conversations of science” (p. 11). Perhaps the history of science requires some preservation of the latter as its raw materials, but the agenda outlined in the report goes so far as to suggest that the latter may be even more important to preserve than the former — surely, a radical shift in the traditional role of libraries. How radical this is becomes even clearer in the section on “*Preservation of Critical Materials*” as the report suggests that future access needs will “require us to document and preserve the research processes that produced the content, their provenance and underlying assump-

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***“Libraries must improve the availability of materials for courses taught in an online environment, increase their involvement in the technology and techniques of online teaching, and offer services that match the needs of online courses”***

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tions, in addition to machine-readable and human-readable forms of the content itself” (p. 13). And, to support this shift in priorities, we should “study the potential cost savings of reducing the acquisition, processing and shelving of print books and journals to reallocate funding to digital content and creation” (p. 14). This is digital-mania run amok.

In “*Adoption of Successful Innovations*” the report notes that “publishers are often uncomfortable with taking the risks inevitably associated with innovation” and thus libraries should “act as change agents to accelerate the spread of useful developments” and they should work at finding “mechanisms to encourage or reward publishing in alternative channels, the creation of large datasets, scholarly software, and other new modes of scholarly activity” (p. 12). A nice idea, but where does the money come from? Publishers like **Elsevier** and software companies like **Athyphon** seem to have no compunctions about spending lots of money to innovate, and they always seem to be far ahead of anything developed by universities themselves. I read recently, for example, that college email systems, which some universities pioneered in creating, are now being outsourced to **Google** and **Microsoft**, privacy concerns notwithstanding.

Accepting the agenda as set by the **ACRL** report, with respect both to its characterization of the need for policy reform in “legal matters” and its resetting of priorities toward a greater role for libraries in the research processes and dissemination of their results as well as its support for modes of informal communication over formal publication, cannot help striking many of us in university press publishing in the same way the **ACLS** report on cyberinfrastructure came across to us — in the pungent phrase of the **AHA’s Robert Townsend**, as “inviting us into a dialogue about the arrangements for our own funerals.” So, while I trust some of my press colleagues will accept **Joyce Ogburn’s** invitation to offer constructive com-

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# And They Were There

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## Reports of Meetings — 27th Annual Charleston Conference

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**Issues in Book and Serial Acquisition, “What Tangled Webs We Weave,” Francis Marion Hotel, Embassy Suites Historic District, and College of Charleston (Addlestone Library and Arnold Hall, Jewish Studies Center), Charleston, SC, November 7-10, 2007**

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Charleston Conference Reports compiled by: **Ramune K. Kubilius** (Collection Development / Special Projects Librarian, Northwestern University, Galter Health Sciences Library) <r-kubilius@northwestern.edu>

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**Column Editor’s Note:** Thank you to all of the conference attendees who volunteered to become reporters, providing highlights of so many conference sessions. Check for more reports in upcoming *ATG* issues. Also, visit the **Charleston Conference Website** for session handouts and discussions. The entire **2007 Charleston Conference Proceedings** will be published by **Libraries Unlimited / Greenwood Publishing Group**, available in fall 2008. — **RKK**

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### Preconferences — Wednesday, November 7th, 2007

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**Navigating the eBook Landscape (Part 1)** — Presented by **Audrey Powers** (Librarian/Research Services & Collections, University of South Florida), **Linda Gagnon** (Sr. Vice President of eContent Integration & Business, Yankee Book Publishing), **Jay Henry** (Manager of Online Products & Director of Business Development, Blackwell / ECHO), **James Gray** (CEO & President of Ingram Digital Group, MyiLibrary), **Danny Overstreet** (Library Services Consultant, Southeast Region, NetLibrary), **Kari Paulson** (President, EBL, Ebook Library, EBL)

Reported by: **J. Michael Lindsay** (Biomedical Library, University of South Alabama, Mobile, AL) <jmlindsay@bbl.usouthal.edu>

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Given the multitude of pricing models, access models, and sources for electronic books, there are many variables that librarians must consider in selecting these resources. The morning session of this pre-conference focused on providing fact based comparisons and demonstrations from a variety of vendors of electronic books. New trends discussed included

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ments on the report’s detailed recommendations, I don’t hold out great hope for much progress to ensue from this initiative. (There are so far on the wiki site accompanying the report just two pro forma comments, which doesn’t augur well for a true engagement of many other parties in this effort.)

There has got to be a better way to move forward in a truly collaborative way. I keep thinking myself of how fruitful the two meetings co-sponsored in the late 1990s by the **ACLS**, **ARL**, and **AAUP** were in promoting discussion of the future of scholarly communication: “**The Specialized Scholarly Monograph in Crisis, Or How Can I Get Tenure If You Won’t Publish My Book**” (September 11-12, 1997) and “**New Challenges for Scholarly Communication in the Digital Era: Changing Roles and Expectations in the Academic Community**” (March 26-27, 1999). The latter conference was also co-sponsored by the other **AAUP (University Professors)** and **CNI** as well. The effort was made in planning both these events to ensure that librarians alone, or publishers alone, or administrators alone were not setting the agenda with the faculty as silent partner on the sidelines. All of these groups were well represented at these meetings. We need to revive that approach if we are to have any chance of forging a consensus that will enable the academic community to make real progress in meeting the challenges that lie ahead. 🌱

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perpetual access models. While these allow libraries to avoid annual subscriptions to books, there is generally a maintenance fee involved. File format is another important issue; some eBooks require reader programs to function correctly. Other important considerations include the inclusion of **MARC** records for electronic books and restrictions on use of content: can users copy and paste content or download it? User access can vary from username/password access, to access limited by number of simultaneous users to full **IP** authentication. After providing a basic map of the current eBook terrain, this session provided a glimpse into the future. eBooks of the future can provide not only text and images, but audio and video content, with interactive capabilities. Print on demand features will allow users to request books be printed when needed. Controversially, collection development in the future will be pushed down to the user level; allowing library users to select materials as needed.

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**Serials Resource Management** — Presented by **Buzzy Basch** (President, Basch Subscriptions)

Reported by: **J. Michael Lindsay** (Biomedical Library, University of South Alabama, Mobile, AL) <jmlindsay@bbl.usouthal.edu>

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Managing serials in the modern environment is complicated by numerous factors. This afternoon session focused on describing this environment from many perspectives, and detailing approaches for managing serials in an environment of constant change. A problem that libraries face is demand from users for non-owned journals. One library uses a rapid **ILL** service to deliver needed articles with a 24 hour turnaround time. Consolidation and price increases in the publishing industry have prompted libraries to form consortia, helping to control prices for members. One presenter put the number of large publishers at 2,000, while smaller society and independent publishers number from between 30,000 to 50,000. A subscription agent representative detailed his point of view that consortia focus not on judging quality resources, but on controlling prices. Further, the use of consortia has had a massive effect on use, making journals available that might not have been noticed under other arrangements. Another speaker detailed how free and open access journals can be a great asset, but are often not listed in library journal lists, and many of the best are not even listed in major indexes, such as the *Directory of Open Access Journals*. Consortia level use analysis was another important technique detailed in this session.

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**Navigating the eBook Landscape (Part 2)** — Presented by **Audrey Powers** (Librarian/Research Services & Collections, University of South Florida), Referex: **Eugene Quigley** (Elsevier, Regional Sales Director), Safari Tech Books: **Todd Fegan** (ProQuest, Vice President of Publishing), SpringerLink: **Cynthia Cleto** (Global Manager for eBooks), Credo Reference: **Jeffrey LaPlante** (Senior Vice President and Co-Founder), Knovel: **Sasha Gurke** (Sr. Vice President and Co-Founder)

Reported by: **Ramune K. Kubilius** (Northwestern University, Galter Health Sciences Library) <r-kubilius@northwestern.edu>

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“Navigating the landscape” was a fitting description for the afternoon  
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