AAU PANEL PRESENTATION

CHARLES B. LOWRY, PH.D.

EXECUTIVE DIRECTOR, ASSOCIATION OF RESEARCH LIBRARIES

CAO Session Details:

Date: Monday, September 12, 2011

Time: 8:30 a.m. – 10:00 a.m.

Location: Surf and Sand Resort, Pelican Room
                          1555 South Coast Highway
                          Laguna Beach, CA 92651

Session Description:
Scholarly Communication: Can the Academic Community Agree on a Common Path Forward?
The rapid development of digital communications is changing dramatically the scholarly publishing landscape. The stakeholders in the scholarly publishing community are differentially affected by these developments. These differences have generated conflicts that impede a collegial, collective effort to chart a balanced course forward. This session will focus on the perspectives of university administrators, librarians, and publishers on how the academic community can collaborate to address the challenges and exploit the opportunities that digital communication provides for enhanced support of scholarship.

Moderator: Rodney Erickson, Executive Vice President and Provost,
                 The Pennsylvania State University

Panelists:
                 Peter Givler, Executive Director, Association of American University Presses
                 Charles Lowry, Executive Director, Association of Research Libraries
                 Crispin Taylor, Executive Director, American Society of Plant Biologists

Introduction:

        I want to begin by establishing a few *bona fides* that perhaps will give you a sense of what axes I may be grinding. Yes, I'm an association executive director and ARL is organizationally like AAU with institutions not people as members. I have a

history PhD specialty in Colonial America and a MLS degree—both from AAU institutions. Like many of you, I've had a career as an academic circuit rider, both as a faculty member and administrator, most recently at the University of Maryland and before that Carnegie Mellon. I've been the dean or director in five of the six academic libraries I've worked in since 1974. With colleagues I've established and edited a professional journal for the American Library Association and a peer review journal with the Johns Hopkins Press. I look pretty good on paper, but by one measure, my career has been a failure. With a single exception, by the end of my tenure, every library I have run was purchasing less scholarly information than it was when I began, and that in spite of a considerable success in growing fiscal resources at a rate in excess of inflation. This may not surprise you. What will is that I am not here to make the case for more money for libraries (something you hear regularly), but rather to look ahead suggesting how we might tackle the challenge of changing the landscape that explains a lot of your library's fiscal challenges, but more importantly how we might address those practices and systems that are part of the way we transmit new knowledge but run counter to our purposes.

I agree with the underlying presumption of this panel's topic—we need to chart a new path forward. Were we to able design a scholarly communication system from scratch, I do not believe it would resemble the one we have but for two features—it would employ a scheme of vetting for quality and it would emphasize the value of openness in support of the exchange of scholarly information. At the same time, I question that all publishers can or will voluntarily come together with universities and libraries and agree on a system that makes sense, and I'll point to obstacles that stand in the way. I believe these lie in the inherent contradictions in the present system of scholarly communication that, in my view, is suffering from entropy and badly endangered. An entropic social system slowly winds down and begins to evince the signs of atrophy that mean it cannot effectively do its job. Such a state may be comfortable for a time; indeed, it really may be the normal state of human affairs. But, it is not a responsible way for us to work, and makes long-term

success impossible. On the other hand, I do believe there are steps that research universities should take. A key value of the research university community is the broad dissemination of the results of scholarly inquiry and discourse, which is essential for higher education to fulfill its long-standing commitment to the advancement and conveyance of knowledge. This is mission critical.

You are all familiar with the scholarly communication landscape I am going to describe, but I hope dramatizing the implicit contradictions will point to a "path forward." I cannot help but oversimplify this complex landscape in the time I have. This very complexity makes analysis about strategy going forward difficult and means that consensus is challenging even for the 126 members of ARL who have a very direct interest. Ten years ago, this conversation would have been considerably different than today when we are entering the final stages of a revolution in how we transmit the results of research scholarship and how we look at the full life cycle of scholarly output. In simplest terms there are three separate systems that interact with but are independent of one-another. They are badly out of sync internally and in the ways they interact.

Intellectual Property—Law and Practice

First, the system of intellectual property law has evolved through legislation and practice to comprehend fundamentally different, really contradictory purposes. I am going to ignore patents and trademarks and confine myself to US copyright for which the original term fixed by Congress in 1790 was fourteen years after which works passed into the public domain. There have been four extensions of the copyright term in the last two centuries. Most recently, the 1998 act extended terms to life of the author plus 70 years and for works of corporate authorship to 120 years after creation or 95 years after publication, whichever endpoint is earlier. This law, also known as the Sonny Bono Copyright Term Extension Act, or pejoratively as the Mickey Mouse Protection Act, effectively "froze" the advancement date of the public domain in the United States for works covered by the older fixed term copyright rules. The entertainment industry lobbied heavily in favor of this

extension.

I guess 95 years is better than forever, but for the purposes of academic scholarship, not much. My point is simple—the copyright protection given to commercial interests by the 1998 act makes absolute sense for the entertainment industry. However, for the exchange of scholarly information this is an absurdly long term that detracts from the fundamental values of our community for the widest possible dissemination of the products of research. Term is but one of a set of complicated issues that includes a far longer list—fair use, first sale doctrine, educational use, library exceptions, idea *vs* expression dichotomy, compilations and sweat of the brow doctrine, and transformative use, not to mention the differences between copyright for media and print, a distinction that is blurring in the world of networked information. There is usually no more than one person on your campuses able to speak intelligently about (but I won't say understand) this complex legal environment. What should we advise faculty who want to share research and use it in the classroom or students who want to use copyrighted materials for purposes of entertainment and education? Asking them to become copyright experts is certainly not the answer.

Publishing—Its Not Print Anymore

The second system is the world of scholarly publishing, if one can call it a system. It still evinces legacy characteristics deeply rooted in the world of printed books and journals from which it is evolving. It is international in reach and may be divided into distinct sectors quite different from one another. It emerged at the end of the 19th century and was first highlighted by the broad establishment of associations with their dual purpose—serving as a forum for the disciplines and as an outlet for journal and to a lesser degree monograph publishing. It was and is supported by member dues and publication sales principally to academic libraries. In this country the first university press *was* founded in Cambridge in 1636, but most are of 20th century vintage and the greatest number of these are small operations that depend on partial subvention from institutional budgets.

Commercial scholarly publishing by contrast, particularly for STM journals, includes the kind of enterprise that Robert Maxwell (born Jan Ludwik Hoch) invented— please excuse my speaking ill of a dead entrepreneur (some might say predatory) and of an extinct company, but the Pergamon phenomenon really became the model for commercial STM journal publishing after WWII. "Pergamon is often regarded as the prototype [commercial] scientific journal publisher that pays authors nothing, pays editors a pittance and increases prices at a significantly greater rate than the cost of living." http://ketupa.net/maxwell.htm. This type of publisher gets a lion's share of the money research libraries spend annually on information and has a negative impact on the other publishing sectors as licenses for "big deals" lock in blocks of materials at guaranteed rates. These publishers are answerable not to us, but to their shareholders. Given that, they behave in a perfectly rationale manner, but in large measure have become a threat to the survival of the not-for-profit association publishing and university press publishing sectors. To some degree, I believe, we (that is, universities, libraries and faculty) are to blame.

Research Universities

Thirdly, much, perhaps most new knowledge is the product of scholarship in research universities. As you well know, the resources of these institutions are committed to research through their investments in people and capital and are partially subvened by extramural funding of research. The products of that research are, to a great extent, given to publishers and purchased back by their libraries. IP functions are a central consideration but institutional policies have usually focused on patents and trademarks. The general practice is for faculty to retain copyrights to their published works, but these are routinely signed away as part of the bargain with publishers and pass out of control of the authors. We have only begun to grapple with datasets and other products of the life cycle of the research process that may have long-term utility. In a nutshell, what control there is of copyrights has been lodged with individual decisions by faculty whose legitimate primary concerns are career advancement and making their research known. I believe this leads to

tens of thousands of individual IP decisions made on the path of least resistance. Moreover, the role of peer review and the appointment-promotion-tenure process together sustain the current model. They could as well sustain a different model that served research universities better. I am aware that the obstacles to changing these practices are enormous.

My co-panelist Peter Givler has provided a good sense of the position of University presses to which I cannot add much. Presses are found in many but not all research universities. In recent years, many institutions have considered closing their presses or insisted that they be completely self-supporting. Need I say that scholarly monographs are subject to increasingly small press runs and at best are a break-even proposition. These presses suffer from the tragedy of the commons, since many research institutions don't have presses, and exploit others that do by avoiding responsibility for book publishing. When these presses publish journals, generally they are not in STM disciplines and are few in number. They do not return large profits.

Libraries must be considered integral to this system. For the last three years ARL has been surveying the impact of the economic downturn on its members by gathering data on budgets at the beginning of the fiscal year. Our normal statistical reporting is for end-of-year expenditures. Clearly their capacity to acquire information has been diminished during this time, for some dramatically. Nonetheless, the total fiscal resources of ARL members devoted to the acquisition of information is not trivial—amounting to over $1.4 billion in FY2009-10. This is a substantial resource devoted to supporting the higher education scholarly communication system.   On the other hand, the diminished financial capacity of the research library to invest in the big package scholarly journal deals has occurred just as the major electronic publishing initiatives for scholarly monographs are finally coming to the market. This unprecedented period of contraction has focused the mind of research library leaders to make renewed efforts to find solutions to long-term deleterious trends in the cost of information they acquire. For instance,

resisting the historical practice of cannibalizing other parts of the budget (e.g., monographs) to pay for large cost rises in STM journals. Similarly, we are witnessing a change in the willingness to license the "Big Deal" packages; hard bargaining where price rises are concerned; and a refusal to sign non-disclosure agreements in licenses. Such actions are vital, but in a sense they are retrospective rather than prospective.

Conclusion—Choosing the "Path Forward"

I would like to think that we can bring together all the stakeholders from these three sectors and invent a new system of scholarly communication from scratch to replace the one we have, one that supports the core values of research universities—given the sometimes contradictory purposes of stakeholders and since we do not have a *tabula rasa,* this seems unlikely to me. What we can do is to emphasize collective and collaborative actions that will advance the agenda of positive change for the players represented here today. I think that any new system will evolve from what we now have and will have a number of moving parts. I have a few exemplars in mind, but note that there's no single action that can transform the landscape. Above all, I believe most transformative actions must have a strong collective or collaborative element.

Any thinking about the future must put in high relief the changes that our research institutions face in the form of research innovation. We need to understand the increasing relevance of the research data and cyber-infrastructure, to the work of scholars. It is equally important to stress the inability of our collective efforts to preserve the electronic scholarly record and the web based evidence on which it will rely—there's much to be done to correct this. I can only reference other trends—international research collaboration, multidisciplinary work, and new fields of study that require new outlets for scholarly communication. Equally critical is a vigorous discussion about how to reshape the appointment-promotion-tenure process to support changes in the landscape. This

includes the ways in which we set the value of research. For instance:

- Diversifying the measures of quality of research so that Journal Citation Reports of "impact factor" is not the only measure, and include for instance citation and use counts, and Hirsch's h-index;

- Developing a more holistic view that recognizes the full life cycle of research, not just the end products; and

- Considering the value to our institutions of IP in the form of copyright by emphasizing the retention of rights through mechanisms like Creative Commons licensing and deposit in institutional repositories.

Research institutions already have vigorously initiated one important part of the path forward that emphasizes a key value of sharing—that is open access strategies. OA certainly began as a clarion call from the scientific community beginning with Harold Varmus at NIH and the first Berlin Conference in 2003. ARL has worked hard since to support OA with many other academic library partners through SPARC. However, I want to emphasize the heartening trend that OA is really being led by our universities—the evidence?

- At least 22 US institutions including AAU Members Columbia, Duke, Emory, Harvard, Kansas, MIT, and Stanford, have established faculty approved OA policies. These are supported by the recent founding of the Coalition of Open Access Policy Institutions. It will "collaborate and share implementation strategies, and advocate on a national level." For those who have not, it is time to engage faculties in a discussion about a deposit mandate on your campuses.

- 27 AAU institutions and numerous others have endorsed the Federal Research Public Access Act (FRPAA), which will extend the NIH posting policy to other Federal agencies and has the potential to enable the maximum downstream use of the investment in research. Continued support from you for the passage of FRPAA is essential.

- There are today over 1,700 open access repositories on campuses

worldwide that provide the infrastructure investment that allows widespread posting of research results. Supporting them is vital.

But there are additional opportunities to act. This November the Berlin9 conference will be held in the US for the first time and ARL is among the co-sponsors. The conference series, which has occurred annually since 2003, convenes leaders in the science, humanities, research, funding and policy communities around the Berlin Declaration on Open Access to Knowledge in the Sciences and the Humanities. Over 300 leading international research, scientific, and cultural institutions from around the world have signed the declaration, but too few in North America.

In publishing, there are today over 6,000 OA journals, many NFP's but some from commercial presses as well. As time has passed many have achieved solid to high impact factors, as imperfect a measure as that may be. PLos Biology and PLos Medicine are among the highest in their respective sub-disciplines. Three of the largest biomedical research funders (Hughes, Wellcome Trust and Max Planck) have just announced the creation of a new OA journal that is likely to have a high impact. High value must be placed on OA journals in the APT process.

OA is but one opportunity. At present ARL with our AAUP colleagues has a joint working group that meets regularly and aims to identify collaborative experimental publishing projects that may establish a long-term working partnership between research libraries and university presses. Our recent report, "Publishing Support for Small Print-Based Publishers: Options for ARL Libraries," is the summary of a project to investigate how research libraries can provide support to print-only publishers, particularly small campus journals, in order to ensure permanent digital access to their content. Since its founding a dozen years ago, we have had a partnership with BioOne a global, not-for-profit collaboration bringing together scientific societies, publishers, and libraries to provide access to critical, peer-reviewed research in the biological, ecological, and environmental sciences. It publishes electronically 167 titles from 125 publishers, including I might add the

American Society of Plant Biologists. We've worked hard in cooperation with CERN and SPARC to jump start SCOAP[3], which is a new model for scholarly communication for key disciplinary journals proposed by a scientist in high energy physics.

Within our libraries, the most salient trend is what my colleague Jim Neal at Columbia calls "radical collaboration"—the creation of permanent robust inter-institutional activities that increase capacity yet do not cost more. These new models for building shared collaborative infrastructure are only just beginning to take shape. National print repository efforts, Hathi Trust and the 2CUL project come to mind. Similarly, we are on the verge of a major shift in collecting that will be a vital part of any scholarly communication system that takes shape in the future. So long as scholarly communication was conducted through print media, it made sense to acquire as much as possible and preserve it in many campus libraries. The migration to electronic will have profound effects on everything from access decisions (no longer called acquisitions) to preservation (and there are some great big dangers in this last). Research libraries are also finding the need to take on new roles—data preservation, combining with their presses, collecting the Web. Given this, ARL has established the 21st Century Research Library Collections Task Force. It is charged to articulate an action plan for the future of research library collections and some of the emerging functions related to content managed by research libraries in a digital age.

These strategies may help us articulate that common path forward, but I would say in closing that any truly transformational change that moves us towards a more rationale system of scholarly communication must involve the members of the AAU.