



THE ASSOCIATION OF AMERICAN UNIVERSITY PRESSES

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September 10, 2008

The Honorable John Conyers
Chairman
U.S. House Judiciary Committee
Washington, DC 20515

The Honorable Tom Feeny
U.S. House Judiciary Committee
Washington, DC 20515

The Honorable Robert Wexler
U.S. House Judiciary Committee
Washington, DC 20515

The Honorable Darrell Issa
U.S. House Judiciary Committee
Washington, DC 20515

Dear Chairman Conyers and Representatives Feeny, Issa, and Wexler:

I am writing on behalf of the Association of American University Presses (AAUP) to express our strong support for your sponsorship of the *Fair Copyright in Research Works Act*. This very important bill will ensure that future actions by the federal government will not diminish the copyright protection currently accorded to scholarly works whose research may be federally funded, in full or in part, but whose publication, in any medium, requires that significant value be added, and paid for, from other sources.

AAUP has 116 members in 42 states, the District of Columbia, and Puerto Rico. All are nonprofit publishers who collectively publish more than 10,000 scholarly books and 650 journals each year. On average, 90% of their operating revenue comes from their publishing operations, the vast majority of it from sales of the books and journals they publish, and only 10% as a subsidy from their parent institutions.

This very strong reliance on marketplace funding has built a robust and flourishing system of university press publishing unmatched anywhere else in the world. In essence, this system provides the capital that permits AAUP members to add value to what they publish; those value-added activities include the selection and editorial development—which includes but is not limited to peer review—of high-quality scholarly work, the intensive and often hidden labor that goes into its preparation in the format or formats best-suited for the efficient use of its readers, and all the processes involved in making it available to those readers through libraries and bookstores, on-line vendors and websites, in the United States and throughout the world. All of these activities require the employment of trained professional staff, and a significant cash investment in whatever medium is selected for delivery, be it ink-on-paper, web-based, or both.

Copyright is the legal foundation that permits recovery of those costs and investment in publishing new work. Weakening copyright protection through federal mandates that publications resulting from government-funded research be made freely available undermines that foundation and threatens the very system that makes such work of high value in the first place.

The question of what publishers bring to the table when they publish scholarly work was addressed this spring when Senator Specter asked the Archivist of the United States, Allen Weinstein, to prepare a plan for the electronic dissemination of the Founding Fathers' Papers. In his report Mr. Weinstein said

In the course of preparing this plan, we focused on two options for providing online access to the complete Papers of the Founders in a timely fashion. The first option would be to have the Government scan the completed volumes and publish them online directly. The second option, which we recommend, is to help accelerate existing online publication efforts.

The "publication efforts" that he recommends supporting are the extensive work done and investment made in preparing the editions and developing a suitable electronic platform for them by, among others, the university presses at Virginia, Harvard, Princeton, Chicago, Yale, and Columbia. The Archivist's full report, *The Founders Online*, is at <http://www.archives.gov/nhprc/publications/founders-report.pdf>.

Stanley N. Katz, Director of the Princeton University Center for Arts and Cultural Policy Studies, Chair of the Board of the Papers of the Founding Fathers, Inc., and a past-President of the American Council of Learned Societies, has also cogently addressed this issue:

Intellectual property requires at least some degree of protection if the public interest in the production and preservation of crucial scholarly information is to be sustained. I am a supporter of both online scholarship and public access to scholarship, but I am also a supporter of academic presses and nonprofit journals, and I fear that we are seeing the emergence of a movement to privilege access in a manner that will threaten our capacity to freely create and preserve knowledge.

Professor Katz's paper, *Why There's No "Free Lunch" on the Internet*, is at http://www.princeton.edu/~snkatz/papers/SIPA_speech.pdf.

The members of AAUP strongly support open access to scholarly literature by whatever means, so long as those means include a funding or business model that will maintain the investment required to keep older work available and continue to publish new work. However, trying to expand access by diminishing copyright protection in works arising from federally-funded research is going entirely in the wrong direction, and will badly erode the capacity of AAUP members to publish such work in their books and journals.

The *Fair Copyright in Research Works Act* will allow the government and academic community to continue to work effectively together to support research and scholarly publication. Thank you for your support of this important bill, and for your attention.

Sincerely yours,

Peter Givler
Executive Director

Cc: Members of the House Judiciary Subcommittee on Courts, the Internet, and Intellectual Property