



**Association of American Publishers<sup>1</sup>**  
**Statement Submitted for the Hearing Record**  
**House Judiciary Committee**  
**Subcommittee on Courts, Intellectual Property, and the Internet**  
**Nov. 26, 2013**

**Hearing on “The Rise of Innovative Business Models:  
Content Delivery Methods in the Digital Age”**  
**Nov. 19, 2013**

## **Introduction**

It is clear from the testimony submitted for the House Judiciary Subcommittee on Courts, Intellectual Property, and the Internet’s (“IP Subcommittee”) hearing on “The Rise of Innovative Business Models: Content Delivery in the Digital Age” that content and technology companies are working together to constantly provide consumers and businesses with more options for enjoying eBooks, movies, music, apps and other digital content. New figures regarding the contribution of the copyright industries to the U.S. economy released the same day highlighted the increasing demand for such content in the digital age with an industry-growth rate twice that of the general economy, adding over \$1 trillion in added value in 2012, and over \$1.7 trillion in added value when factoring in related industries, like the technology sector.<sup>2</sup>

Cross-industry examples from the witnesses’ written statements illustrated how intertwined content and technology are today. For example, Amazon has partnered with Netflix to provide the technological and digital storage capabilities to allow Netflix to “quickly deploy thousands of servers and terabytes of [digital content] storage within minutes” so that “users can stream Netflix shows and movies from anywhere in the world, including on tablets and mobile devices.”<sup>3</sup> At the customer level, Amazon’s

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<sup>1</sup> The Association of American Publishers (AAP) represents nearly 300 publishers, ranging from major commercial book and journal publishers to small non-profit, university, and scholarly presses.

<sup>2</sup> Stephen E. Siwek, *Copyright Industries in the U.S. Economy: The 2013 Report* (Nov. 19, 2013) ([http://www.iipa.com/copyright\\_us\\_economy.html](http://www.iipa.com/copyright_us_economy.html)).

<sup>3</sup> *The Rise of Innovative Business Models: Content Delivery Methods in the Digital Age: Hearing Before the Subcomm. on Courts, Intellectual Property, and the Internet of the H. Comm. on the Judiciary*, 113th Cong. (2013) (Testimony of Amazon.com at 4).

“Whispersync” technology “synchronizes, among devices registered to the same account, the furthest page read” to enable readers to easily resume reading their eBook wherever they left off.<sup>4</sup> The Motion Picture Association of America explained a similar service for movies, UltraViolet, which enables customers to “watch what they want, when they want, where they want,” by permitting customers to stream or download movies they’ve purchased and stored in UltraViolet’s free digital storage locker on any device registered to their account.<sup>5</sup>

Key themes for the future of innovative business models for digital content delivery were also apparent in the testimony submitted for the hearing, including: (1) the importance of on-demand access to content; (2) seamless portability across devices; and (3) new partnerships between content, technology, and consumers. Below, AAP provides a few examples to illustrate the diversity of the innovations in and around the publishing industry that respond to the unique demands for access to digital content produced within our three key sectors: Trade Publishing; Academic Publishing; and Professional and Scholarly Publishing, as well as a few examples that cut across these sectors.

It should be noted that AAP’s submitted statement is not intended as either an endorsement or critique of any of the examples of innovative business models provided, but rather is intended to illustrate the array of such innovative developments that are occurring in and around book and journal publishing under the current Copyright Act. The examples below include publisher-specific innovations as well as various partnerships between publishers, tech companies, libraries, and the government that respect the rights of copyright owners. Additionally, the notion of “innovative business models” in this statement deliberately has been extended beyond specific examples of what AAP member publishers are doing to include some specific examples of how others—besides publishers and even authors—are freely and enthusiastically creating innovative business models around the books and other content published by AAP members, including some that may compete with or otherwise offer alternatives to what publishers themselves are or could be doing. In this manner, the AAP statement should clearly demonstrate that, notwithstanding the assertion of increasingly expansive “transformative/fair use” exception claims and strident calls for Copyright Act revisions to loosen an allegedly over-restrictive statutory copyright law, the Copyright Act in its current form is not hindering third-parties in the creation, offering and delivery of a broad range of innovative services and uses involving published content which, with or without the need for permissions from rights holders, respect copyright. The examples below show that, even if publishing may be characterized as the “grandfather of the media industry,” it is widely and creatively embracing technology and inspiring innovation, and the book is anything but dead.<sup>6</sup>

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<sup>4</sup> *Id.* at 6. Another new feature that Amazon is exploring to allow customers to access content where, when and how they want it, is Kindle Matchbook, where customers who have previously purchased the printed version of a book from Amazon can purchase the eBook version for free or a significantly reduced price (capped at \$2.99). Amazon, *Kindle Matchbook*, [https://www.amazon.com/gp/digital/ep-landing-page?ie=UTF8&\\*Version\\*=1&\\*entries\\*=0](https://www.amazon.com/gp/digital/ep-landing-page?ie=UTF8&*Version*=1&*entries*=0) (last visited Nov. 26, 2013).

<sup>5</sup> *The Rise of Innovative Business Models: Content Delivery Methods in the Digital Age: Hearing Before the Subcomm. on Courts, Intellectual Property, and the Internet of the H. Comm. on the Judiciary*, 113th Cong. (2013) (Testimony of the Motion Picture Association of America at 3).

<sup>6</sup> Compare Richard Laermer, *Why Book Publishing is Dead*, HUFFINGTON POST (Aug. 24, 2008) [http://www.huffingtonpost.com/richard-laermer/why-book-publishing-is-dead\\_b\\_120336.html](http://www.huffingtonpost.com/richard-laermer/why-book-publishing-is-dead_b_120336.html) (resting his prediction of the publishing industry’s death on its lack of “forward thinking”) with Peter Osnos, *Why Book Publishing’s Doomsayers are so Wrong*, THE ATLANTIC (Oct. 15, 2013) <http://www.theatlantic.com/business/archive/2013/10/why-book-publishings-doomsayers-are-so-wrong/280491/> (noting that the “publishing [industry] had made an ally of technology and is, in many respects, thriving.”).

## **Trade Publishing**

### ***Online Bookstores***

As noted by the Copyright Alliance submission, Amazon and Google Play, as well as Barnes & Noble, provide consumers with a selection of millions of books to read instantly on their branded-e-reader devices or other tablets through apps.<sup>7</sup> Additionally, both Internet-only and traditional brick-and-mortar bookstores have embraced e-commerce by operating online storefronts, such as Books-a-Million, AbeBooks, Alibris, Book-Finder, and Powells, to make a wide selection of print books available to U.S. consumers in cities and small-towns alike, which allows these customers to comparison shop and ultimately buy the book at the lowest price, or from a preferred retailer, etc.<sup>8</sup>

### ***Subscription***

A recent study shows that streaming movies and shows on Netflix accounts for 28% of all Internet traffic.<sup>9</sup> This hugely popular subscription model for accessing digital content is now being made available for eBooks by the following two companies.

- Scribd.<sup>10</sup> In 2013, Scribd launched a subscription service for eBooks, allowing customers unlimited instant access to a vast library of eBooks for just \$8.99 per month. A number of AAP member publishers are adding their eBooks to this service, perhaps the largest partnership thus far being with Harper Collins, which has made its entire backlist available to subscribers and also makes its new releases available for purchase on Scribd. Publishers are interested in experimenting with the possibilities of this new business model, including Scribd's unique approach which blends access to eBooks with additional relevant user-generated content (e.g. papers providing character analysis, doctoral theses on the time period, court opinions, etc.) from its global library of some 40 million books and documents gathered from among its 80 million active users in 100 countries.
- Oyster. Also launching in 2013, Oyster's eBook subscription service was labeled by the Verge as "the Netflix for books" and provides subscribers with unlimited access to over 100,000 titles; and, apparently, these are not obscure titles, but, as reported by Wired "[r]eal stuff you've heard of, from real publishers"—all for just \$9.95 per month.<sup>11</sup>

### ***Pottermore (Yes, Harry Potter gets its own business model category)***

In April 2012, J.K Rowling launched Pottermore, an interactive site for Harry Potter fans to read new and unprinted content about the characters from the author herself, play games, and purchase the series in eBook format for the first time. Importantly, although the new eBooks are available on Amazon and

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<sup>7</sup> *The Rise of Innovative Business Models: Content Delivery Methods in the Digital Age: Hearing Before the Subcomm. on Courts, Intellectual Property, and the Internet of the H. Comm. on the Judiciary*, 113th Cong. (2013) (Submission for the record from of the Copyright Alliance at 3-6).

<sup>8</sup> See e.g., <http://www.powells.com/>; <http://www.booksamillion.com/>; <http://www.abebooks.com/>; <http://www.alibris.com/>; <http://www.bookfinder.com/>.

<sup>9</sup> Paul Resnikoff, File-Sharing Now Accounting for Less Than 10% of Internet Traffic, DigitalMusicNews.com (Nov. 12, 2013) <http://www.digitalmusicnews.com/permalink/2013/11/12/illegalfilesharing>.

<sup>10</sup> *The New Scribd*, SCRIBD.COM (Oct. 1, 2013) <http://blog.scribd.com/2013/10/01/the-new-scribd/>

<sup>11</sup> See generally, <https://www.oysterbooks.com/> (last visited Nov. 26, 2013); T.C. Sottek, *Oyster's Netflix-life Ebook Subscription Service Now Available for all iPad and iPhone Users*, THE VERGE (Oct. 16, 2013) (<http://www.theverge.com/2013/10/16/4846734/oyster-ebook-subscription-ipad-iphone>).

Barnes & Noble, etc. “they can only be bought from Pottermore... [enabling] Rowling...to keep much of the revenue”<sup>12</sup> and to maintain exclusive control over the digital versions of her works in an effort to combat piracy.

With regard to the interactive aspects of Pottermore, J.K. Rowling said the site “is a way for *Harry Potter* to live on in a medium that didn’t exist when I started writing books,” and hopes that it will inspire a new generation of readers to fall in love with the stories.<sup>13</sup> Furthermore, the tech community forecasted that “the interactive element of Pottermore [would] genuinely pave [] the way for other authors and creative teams to think beyond the realms of the printed page when it comes to devising e-books.”<sup>14</sup>

### ***Social Media***

Publishers and eBook retailers are also using social media to connect readers with authors, provide exclusive book previews, and increase discoverability of new and older works.

- Top Pins. Random House launched Top Pins in November 2013, as a partnership with Pinterest to use its first APIs (application programming interface) to promote eBook discovery. Random House will be able to “show what’s trending” on their site reflecting the interests of Pinterest's tens of millions of users.<sup>15</sup>
- Bookish. Founded in February 2013 by Penguin, Hachette and Simon & Schuster (and joined by 13 other trade publishers), Bookish connects readers with books and authors, offering inside information on upcoming books, personalized recommendations, and a seamless interface to share the user’s ratings and reviews of books on Facebook and Twitter.<sup>16</sup> Carolyn Reidy, President and CEO, Simon & Schuster, has noted that “Bookish utilizes the publishers’ deep knowledge of our titles together with cutting edge technology to help readers make informed choices, and we look forward to growing and evolving the site in the service of helping readers find books.”<sup>17</sup> And when readers find books on Bookish, the site’s partnership with e-commerce facilitator Baker & Taylor ensures that users can instantly purchase their selected book as a print or eBook edition.
- Goodreads. A free social networking platform for “book lovers,” Goodreads lets registered users post reading lists (creating a virtual bookshelf of current and future reads), reviews, and ratings and see other users’ bookshelves, reviews. etc. Users are also encouraged to “join a discussion group, start a book club, contact an author, and even post your own writing.”<sup>18</sup> Authors have added functionality to publicize their book signings, write a blog, share excerpts from their books, set-up book giveaways, and advertise their book to Goodreads’ 20 million readers.<sup>19</sup> Overall, the mission

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<sup>12</sup>Alison Flood, *Pottermore Conjures Harry Potter ebooks*, THE GUARDIAN (Mar. 27, 2012)

<http://www.theguardian.com/books/2012/mar/27/pottermore-harry-potter-ebooks>.

<sup>13</sup>Olivia Solon, *J.K. Rowling’s Pottermore Reveal: Harry Potter e-Books and More*, WIRED (Jun. 23, 2013)

<http://arstechnica.com/gaming/2011/06/jk-rowlings-pottermore-reveal-harry-potter-e-books-and-more/>.

<sup>14</sup>*Id.*

<sup>15</sup> *Random House LLC Launches Pinterest Top Pins on Select Sites; Publishers Boosts Discovery with Pinterest’s First Set of APIs*, PRWEB (Nov. 14, 2013) <http://www.prweb.com/releases/2013/11/prweb11334851.htm>.

<sup>16</sup>*Bookish Launches with High-Profile Exclusive Content* (Feb. 5, 2013)

<https://dl.dropboxusercontent.com/u/19827840/Media%20Page/Bookish%20Business%20Launch%20Release%20FINAL.pdf>.

<sup>17</sup>*Id.*

<sup>18</sup> *How it Works*, GOODREADS [http://www.goodreads.com/about/how\\_it\\_works](http://www.goodreads.com/about/how_it_works) (last visited Nov. 26, 2013).

<sup>19</sup> *Author Program*, GOODREADS <http://www.goodreads.com/author/program> (Nov. 26, 2013).

of the site is to “help [users] find new and interesting books by letting [them] see what [their] friends [favorite authors, coworkers, etc.] are reading.”<sup>20</sup>

- **BookLikes.** A company out of Poland, BookLikes is allowing users to “create a virtual bookshelf, reading timeline, and blog” and to “get 100% of the commission from sales made via the bookstore of their choice” based on their recommendations, which can sync with the user’s Goodreads and Facebook accounts to maximize the potential reach of their recommendations.<sup>21</sup>

### **Discoverability**

A recent Forbes article entitled *The Trouble with Finding Books Online and a Few Solutions*, noted that “the biggest obstacle for authors is discoverability – to rise above the noise and clutter and distinguish one’s work.”<sup>22</sup> Publisher- and retailer-driven social media is one part of the solution. Another part is getting to the heart of how people find things online—the search engines. One example is the Google Partner Program, the homepage of which states in bold: “Reach a new audience of readers with Google Books.”<sup>23</sup> Google Books is technically comprised of two programs, the Partner Program for publishers, and the Library Project for scanning the print collections at various libraries. A key distinction between the operations of these two programs, as explained in the recent *Authors Guild* decision, is that “in the Partner Program, works are displayed *with permission* of the rights holders.” *Authors Guild v. Google*, 05-cv-8136 (S.D.N.Y. Nov. 14, 2013) slip op. at 5. The judge in that case also pointed out the success of this permission-based program by highlighting that, as of 2012, some 45,000 rights holders have granted Google permission to display excerpts of over 2.5 million books. *Id.*

Specifically, for works still under copyright protection, Google *asks* publishers (and independent authors) to submit PDFs of their titles for inclusion in its index of millions of full-text copies of books. Once the book is indexed, Google’s algorithms can match user search inquiries with the books that contain the most relevant information and provide the user with a result that provides the title and author and short excerpts (“snippets”) containing the highlighted search terms for the relevant book(s).<sup>24</sup> And if a user clicks on the book from the search results, Google then provides the user with “a limited preview”<sup>25</sup> (the amount of which the publisher can control) and “links to bookstores and online retailers [that] make it easy for users to go from browsing to buying.”<sup>26</sup>

This partnership benefits both Google and publishers: Google gets to increase the depth of its index, making its search all the more definitive with the addition of each new book, and publishers get

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<sup>20</sup> *How it Works*, GOODREADS [http://www.goodreads.com/about/how\\_it\\_works](http://www.goodreads.com/about/how_it_works) (last visited Nov. 26, 2013).

<sup>21</sup> Judith Rosen, *Looking for the Next Goodreads: An Indie Quest*, PUBLISHERS WEEKLY (May 17, 2013) [http://www.publishersweekly.com/pw/by-topic/digital/retailing/article/57299-looking-for-the-next-goodreads.html?et\\_mid=618554&rid=234691150](http://www.publishersweekly.com/pw/by-topic/digital/retailing/article/57299-looking-for-the-next-goodreads.html?et_mid=618554&rid=234691150).

<sup>22</sup> David Vinjamuri, *The Trouble With Finding Books Online – And A Few Solutions*, FORBES (Feb. 27, 2013) <http://www.forbes.com/sites/davidvinjamuri/2013/02/27/the-trouble-with-finding-books-online-and-a-few-solutions/>.

<sup>23</sup> *Partner Program*, GOOGLE <https://www.google.com/googlebooks/partners/> (last visited Nov. 26, 2013).

<sup>24</sup> *Partner Program Tour*, GOOGLE <https://www.google.com/googlebooks/partners/tour.html> (last visited Nov. 26, 2013).

<sup>25</sup> Importantly, Google uses a variety of security measures to ensure that the full-text content publishers submit is not publicly accessible. “Users get a taste of your book—but only a taste. We scan the full text of your book because we want people to be able to search all its content. But users can only access a limited number of pages to determine whether they’ve found what they’re looking for. We understand that your books are valuable, so we treat them with special care. All the books you send us will be hosted on Google servers and protected by the same security as Google.com’s search data. To further protect your book content, printing and image copying functions are disabled on all Google Books pages.” *Partner Program Tour*, GOOGLE <https://www.google.com/googlebooks/partners/tour.html> (last visited Nov. 26, 2013).

<sup>26</sup> *Id.*

enhanced discoverability, sales opportunities, and previously unavailable market data, such as click rates on purchase links. Most importantly, the Partner Program provides an unprecedented public benefit, allowing any Internet user in the world to locate, browse, cite-check, and discover books with nothing more than an obscure reference to a footnote, dispensing with the need to know the title, author, or publisher, for that matter. In AAP's view, the Partner Program represents an example of an innovative business model that respects copyright while simultaneously providing all stakeholders in the digital content ecosystem with new benefits.

### ***Library eBook Lending***

The proliferation of digital devices has increased demand for eBooks, and in turn, the public demand for library lending of eBooks. To meet this latter demand, the major trade publishers (i.e., publishers of popular works of fiction and non-fiction) have each developed their own policies on library lending of eBooks, with significant variations in price and availability.

- Full-Catalogue Availability. As of May 2013, Hachette and Penguin are making their full catalogue of titles available to libraries to lend out in eBook form.<sup>27</sup> One example of the current business model for library eBook lending is Hachette's policy which makes eBooks "available for an unlimited number of circulations (one per user) at roughly 'three times the primary physical book price when first released'" and then roughly half that price a year after publication.<sup>28</sup> Recognizing the newness of the library lending business model, Hachette is committed to reviewing its model annually and continuing discussions with stakeholders like the American Library Association, which views full catalogue availability as "real progress" and recognition that "libraries play [a role] in bringing authors and readers together in the digital age."<sup>29</sup>
- CloudLink. In 2013, 3M launched CloudLink, a new eBook sharing feature which permits libraries to lend eBooks with a given consortium, provided the publisher has not expressly prohibited such sharing.<sup>30</sup> AAP has members that permit such lending and others that oppose such lending, but this diversity of licensing practices illustrates how copyright owners and users can experiment with market-based solutions to develop models that address their respective needs.
- Douglas County Model. Pioneering a new library eBook acquisition model, Douglas County Library director Jamie LaRue decided to cut out the middleman (distributors like 3M) and work directly with publishers to get better prices.<sup>31</sup> In fact, the Douglas County Libraries (DCL) developed their own dedicated platform for storing, publishing and lending eBooks in order to work more seamlessly with publishers and to "allow[] patrons to purchase the e-book outright" from DCL's platform.<sup>32</sup>

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<sup>27</sup>Andrew Albanese, *Hachette Makes Full E-book Catalogue Available to Libraries*, PUBLISHERS WEEKLY (May 1, 2013) <http://www.publishersweekly.com/pw/by-topic/digital/content-and-e-books/article/57049-hachette-makes-full-e-book-catalogue-available-to-libraries.html>.

<sup>28</sup> *Id.*

<sup>29</sup> *Id.*

<sup>30</sup> Matt Enis, MELSA, *3M Develop New eBook Sharing Feature Consortia*, LIBRARY JOURNAL: THE DIGITAL SHIFT, <http://www.thedigitalshift.com/2013/11/ebooks/melsa-3m-develop-new-ebook-sharing-feature-consortia/> (Nov. 5, 2013).

<sup>31</sup> Claire Martin, *'Douglas County Model' Gives Libraries New e-Book Leverage*, THE DENVER POST (updated Nov. 21, 2013) [http://www.denverpost.com/news/ci\\_24567880/douglas-county-model-gives-libraries-new-e-book](http://www.denverpost.com/news/ci_24567880/douglas-county-model-gives-libraries-new-e-book) (although recently updated, the statement in this article that four of the "Big Six" publishers do not make e-books available to libraries is no longer accurate, now all of the "Big Six" have library eBook lending policies).

<sup>32</sup> *Id.*

- Demand-Driven Acquisition.<sup>33</sup> Another new model for academic library acquisitions that is gaining popularity is Demand-Driven Acquisition (DDA). Under this model, publishers are working with libraries to help them purchase “only what is needed,” i.e., the particular monographs that the library’s patrons request. To do this, publishers are facilitating “free discovery” of titles, lower cost short-term loan acquisitions, and traditional purchase arrangements depending on the evidence of patron interest in a given title. A working group at the National Information Standards Organization (NISO) is currently devising best practices for implementing DDA on a broader scale.

### ***Self-Publishing***

The advent of the eBook capitalized on the power of the Internet to reach a global audience and gave writers a new opportunity to connect with that audience just by posting their writings online. Although it may seem counter-intuitive and against their interests, publishers are now lending their expertise to self-publishing services, providing authors with the tools they need to present their stories and ideas to the reading public in the best possible manner.

- Author Solutions. Penguin Random House recently acquired Author Solutions, self-described as the world’s leading self-publishing platform, to broaden its interaction with creative authors by providing design, editing, formatting and marketing tools for independent publishers, publishing partners around the world, exclusive opportunities to pitch ideas to Hollywood executives,<sup>34</sup> and generally making “publishing easy, affordable, and available to anyone—anyway, anywhere, anytime.”<sup>35</sup>
- CreateSpace/ Kindle Direct Publishing. As stated in Amazon’s submitted testimony, CreateSpace “provides inventory-free, on-demand physical distribution of DVDs, CDs, and books” and Kindle Direct Publishing allows authors to publish and distribute digital content globally through the Amazon Kindle store.<sup>36</sup> Publishers are partnering with existing self-publishing sites, like CreateSpace, to discover new authors. For example, Penguin co-sponsors the annual Amazon Breakthrough Novel Award contest, awarding the winners publishing contracts and \$15,000 advances.<sup>37</sup>
- Smashwords.<sup>38</sup> Billing itself as “the world’s largest distributor of indie eBooks,” Smashwords is a commercial venture that works with authors and publishers to publish and distribute eBooks to major retailers, including Apple iBooks, Barnes & Noble, Sony, Kobo and the Diesel eBook Store, and to major smartphone platforms via app providers such as Aldiko, Page Foundry, Kobo and Word-Player. Launched in 2008 based on the observation that the more traditional business models of some publishers prevent them from serving all authors by limiting their acquisition of books to

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<sup>33</sup> National Information Standards Organizations, *Demand-Driven Acquisition of Monographs*, NISO.ORG <http://www.niso.org/workrooms/dda> (last visited Nov. 26, 2013).

<sup>34</sup> *Hollywood Connections*, Author Solutions <http://www.authorsolutions.com/hollywood.aspx> (last visited Nov. 26, 2013).

<sup>35</sup> *About*, Author Solutions <http://www.authorsolutions.com/about.aspx> (last visited Nov. 26, 2013).

<sup>36</sup> *The Rise of Innovative Business Models: Content Delivery Methods in the Digital Age: Hearing Before the Subcomm. on Courts, Intellectual Property, and the Internet of the H. Comm. on the Judiciary*, 113th Cong. (2013) (Testimony of Amazon.com at 4).

<sup>37</sup> *Amazon and Penguin Group (USA\_ Name Gregory Hill and Jill Baguchinsky Winner of Amazon Breakthrough Novel Award*, CREATSPACE (Jun. 13, 2011) [https://www.createspace.com/Special/PRArchive/2011/20110613\\_ABNA\\_Winners.jsp](https://www.createspace.com/Special/PRArchive/2011/20110613_ABNA_Winners.jsp).

<sup>38</sup> *See generally, About Smashwords*, <https://www.smashwords.com/about> (last visited Nov. 26, 2013).

those which have “perceived commercial potential,” Smashwords employs non-traditional models for authorship, publishing, pricing and compensation in its distribution of eBooks and currently publishes 127,000 titles by 44,000 authors. Under its approach to distribution, all author contracts with Smashwords are non-exclusive, allowing client authors or publishers to retain all ownership rights to their works and publish them elsewhere. Smashwords provides authors and publishers free marketing tools and only distributes DRM-free works.

### ***Fan Fiction***

Fan fiction, where fans write their own stories based on the characters in books, TV shows, movies, and games, has grown in popularity with the advent of sites dedicated to social sharing of these follow-on stories. While these stories are generally posted for free, new opportunities to monetize these creative works are starting to emerge.

- **Wattpad.com.** Self-described as “the world’s largest community for discovering and sharing stories,” Wattpad.com’s platform connects its more than 10 million readers directly to writers who collectively have published more than 10 million free stories on the site, ranging from completely original content to fan fiction.<sup>39</sup> Highlighting the popularity of fan fiction, Wattpad.com now awards annual prizes, “The Wattys,” for Most Popular and On the Rise fan fiction in 11 categories including: Supernatural, Movies, Books, Comics, and, due to its immense popularity, Hunger Games, which gets its own category.<sup>40</sup> Publishers have also taken notice of the site’s original works, leading Simon & Schuster to publish Brittany Geragotelis’ “Life’s a Witch” and to team up with Wattpad to “expand upon the fanbase [she originally] created there by releasing exclusive Life’s a Witch content to [her] Wattpad fans.”<sup>41</sup>
- **Kindle Worlds.** In May 2013, Amazon announced the creation of a licensed platform for fan fiction writers to sell their creative works based on the books, movies, TV series, etc. for which Amazon has pre-cleared licensing rights from the original copyright owners.<sup>42</sup> Under this new business model, Amazon will pay royalties to both the original copyright owner and the fan fiction writer, creating a new way to monetize content for both as well as an opportunity for publishers to engage with their titles’ biggest fans. Amazon has also committed to working with copyright owners to “establish content guidelines that balance flexibility and openness for writers with what’s reasonable for” the copyright owner.<sup>43</sup>

### ***eBook Singles***

A new business model, made possible by the ease of digital eBook delivery, “eBook singles” involves selling quick fiction and non-fiction reads, usually “longer than a magazine article but shorter than a book,” and is attracting the likes of Stephen King (Simon & Schuster) and Janet Evanovich (Random

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<sup>39</sup> *About Wattpad*, WATTPAD, <http://www.wattpad.com/about> (last visited Nov. 26, 2013).

<sup>40</sup> The Wattys, WATTPAD <http://www.wattpad.com/wattys/terms> (last visited Nov. 26, 2013).

<sup>41</sup> Edie Ramer, *Wattpad—Wow! Follow Up Wattpad’s Writer Partnership Program*, HOW TO WRITE SHOP (May 21, 2012) <http://howtowriteshop.loridevoti.com/2012/05/wattpad-wow-follow-up-wattpads-writer-partnership-program/>.

<sup>42</sup> Press Release, *Amazon Publishing Introduces “Kindle Worlds,” a New Publishing Model for Authors Inspired to Write Fan Fiction—Launching with an Initial License of Popular Titles from Warner Bros. Television Group’s Alloy Entertainment*, AMAZON (May 22, 2013) <http://phx.corporate-ir.net/phoenix.zhtml?c=176060&p=irol-newsArticle&ID=1823219&highlight>.

<sup>43</sup> *Id.*

House) as well as self-published newbies.<sup>44</sup> For example, Thin Reads, launched in April 2013, is “the world’s first” content company focused exclusively on eBook singles.<sup>45</sup> Its site “features original reviews of [eBook] singles, interviews and profiles of authors writing [eBook] singles, and news and commentary about the e-book single market including an exclusive weekly analysis of the best-selling fiction and non-fiction [eBook] singles sold at Amazon.”<sup>46</sup>

## **Academic Publishing**

### ***eTextbook and Journal Rentals***

Offering significant cost savings to students and researchers, the following examples illustrate the various ways that academic and professional and scholarly publishers are offering books and journals through new rental models.

- Course Smart. Extensive partnerships between academic publishers and technology company, Course Smart, have led it to become the “number 1 [resource for] eTextbooks and digital course materials.”<sup>47</sup> These partnerships account for Course Smart’s extensive selection of digital content, which covers “over 90% of all textbooks in use today,” and its attractive pricing model offering eTextbook rentals at a substantial cost savings.<sup>48</sup> For example, students can have “access to as many as 6 eTextbooks for [150 days for] \$200.”<sup>49</sup>
- Wiley E-Texts.<sup>50</sup> Powered by Vital Source. Through a partnership with VitalSource technologies, Wiley makes available e-textbook versions of its textbooks. These are licensed directly from Wiley and are also made available through participating college bookstores. This format allows for both online and downloadable viewing, offers extended access beyond the length of the college course and provides functionality that enhances reading and studying. Key benefits include significant cost savings, portability as the content can be viewed from tablets and smart phones, note taking and sharing, full text searching, printing and copying. In addition, Wiley is investing in the development of enhanced e-textbooks designed to offer additional functionality and multimedia content that go beyond what is available in the printed textbook. Wiley also partners with VitalSource to provide institutionally-delivered content and solutions.
- DeepDyve. Leading professional and scholarly publishers, including Elsevier, Wiley, IEEE and others, are experimenting with the rental model for providing more affordable and tailored access to the latest journal content, with no embargo period.<sup>51</sup> DeepDyve allows anyone to rent full articles to

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<sup>44</sup> Jeffrey A. Trachtenberg, *E-Book Shorts Are on the Rise*, THE WALL STREET JOURNAL (Jul. 1, 2013) <http://blogs.wsj.com/digits/2013/07/01/e-book-shorts-are-on-the-rise/>.

<sup>45</sup> *About Thin Reads*, THIN READS, <http://www.thinreads.com/content/section/7/about-us> (last visited Nov. 26, 2013).

<sup>46</sup> *Id.*

<sup>47</sup> *See generally*, Course Smart, <http://www.coursesmart.com/> (last visited Nov. 12, 2013) (providing access to “over 90% of all textbooks in use today”).

<sup>48</sup> *See generally*, Course Smart, <http://www.coursesmart.com/> (last visited Nov. 12, 2013) (providing access to “over 90% of all textbooks in use today”).

<sup>49</sup> Chegg is a similar textbook rental site supported by many of AAP’s academic publishers, such as Cengage, Wiley, Pearson, and McGraw-Hill. *See generally*, <http://www.chegg.com/>.

<sup>50</sup> John Wiley & Sons, Memorandum on New Business Models for AAP (Nov. 22, 2013) (on file with AAP) (describing Wiley e-Texts).

<sup>51</sup> *Rent and Share from Thousands of the Top Scholarly Journals*, DEEPDYVE <http://www.deepdyve.com/> (last visited Nov. 26, 2013).

read on any device with an Internet connection for 30-days and up to 1-year, depending on the needs of the user, all at nominal rates.<sup>52</sup>

### ***Enhanced eTextbooks***

Publishers are partnering with tech companies or expanding their own in-house operations to take advantage of the opportunities for integrating media, interactivity, and other learning tools into eTextbooks to increase student engagement, motivation and productivity.

- Enhanced K-12 Core Curriculum.<sup>53</sup> Houghton Mifflin Harcourt’s partnership with education software provider Kno, Inc. delivers interactive, enhanced K-12 eTextbooks, including *GO Math!*, *Write Source*, and *Science Fusion*, for iOS, Android, Windows 7 and 8, and Web browsers to both the institutional and general consumer market. Features of these enhanced eTextbooks include: the functionality of highlighting, writing on and searching text, generating flash-cards, and taking notes, as well as additional elements of interactive videos, Smart Links, and 3D models that make the content more dynamic and engaging. Quiz Me features that let students test themselves within the book; and Kno Me learning analytics that allow students to track their learning behaviors in each digital textbook they use are also included features.

Schools can directly purchase HMH enhanced K-12 core curriculum content and use Kno as the distribution platform from which to easily assign, manage and monitor digital textbooks at an enterprise level, enabling schools to leverage their investments in content and technology.<sup>54</sup> At home, the HMH/Kno partnership gives children and parents access to HMH content via the Kno Reader, allowing them to supplement classroom learning with enhanced digital content, wherever and whenever they learn, and no matter which device they use.

- Ridgewood Public Schools. Academic publishers like Pearson are making big investments in enhanced e-textbooks to give schools an opportunity to “save money upfront and more money over the long run.” For Ridgewood Public Schools, which this year is making the switch to completely digital textbooks for “biology, Algebra I and II, art history and AP chemistry,” the great long-run value is that “you don’t pay extra for the updates,” which are included automatically, and get “multimedia extras, including lesson notes, activities and assessments.”<sup>55</sup>
- Access Suite.<sup>56</sup> Available on a subscription basis, McGraw-Hill Education’s online platforms incorporate the content of some of the leading textbooks in medicine, science, and engineering, including Harrison's Principles of Internal Medicine - the bestselling medical textbook in the world - as well as Schwartz's Principles of Surgery, Perry's Chemical Engineers' Handbook, and the

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<sup>52</sup> *Id.*

<sup>53</sup> Houghton Mifflin Harcourt, Email on New Business Models for AAP (Nov. 25, 2013) (on file with AAP) (describing Houghton Mifflin Harcourt’s partnership with Kno, Inc. to develop enhanced eBooks).

<sup>54</sup> One example of this collaboration in practice is HMH and Kno’s partnership with Broward County Public Schools, one of the largest public school systems in the country, as part of the District’s innovative Digital 5: Pathways to Personalized Learning (D5) initiative. See Press Release, *Houghton Mifflin Harcourt and Kno Partner with Broward County Public Schools on 1:1 Digital Implementation* (Oct. 31, 2013) <http://www.hmhco.com/media-center/press-releases/2013/october/Broward%20County>.

<sup>55</sup> Laura Herzog, *Digital Library to Lighten the Load in Ridgewood Public Schools*, NORTHJERSEY.COM (Jun. 10, 2013) [http://www.northjersey.com/news/210864541\\_Digital\\_library\\_to\\_lighten\\_the\\_load\\_in\\_Ridgewood\\_schools.html?page=all](http://www.northjersey.com/news/210864541_Digital_library_to_lighten_the_load_in_Ridgewood_schools.html?page=all).

<sup>56</sup> McGraw-Hill Education, Memorandum on MHE Digital Content Delivery Models – for AAP Submission (Nov. 22, 2013) (on file with AAP) (describing Access Suite).

McGraw-Hill Encyclopedia of Science & Technology. All of the platforms feature rich multimedia such as video and animations, and some include custom curriculum tools enabling professors to design course reading and learning, as well as testing and assessment.

### *Adaptive Content Solutions*

Beyond textbooks, or even enhanced textbooks, publishers are now able to provide schools with original content integrated into multimedia platforms that assess and adapt to each student's unique learning needs to offer increasingly effective learning tools on an individual student basis.

- ALEKS.<sup>57</sup> McGraw-Hill Education's web-based, artificially intelligent assessment and learning system designed for the K-12 and higher education markets uses adaptive questioning to accurately determine exactly what a student knows and doesn't know in a course. ALEKS then instructs the student on the topics he or she is most ready to learn and, as a student works through a course, ALEKS periodically reassesses the student to ensure that topics learned are also retained.
- LearnSmart Advantage.<sup>58</sup> This suite of digital products focuses higher education and K-12 students on the concepts that they need to learn. McGraw-Hill Education sells this suite's products on a subscription basis through institutions, academic departments and directly to students. LearnSmart is the most widely used and adaptive learning resource proven to boost grades and designed to strengthen memory recall and increase retention.
- WileyPLUS (with optional Orion and Blackboard integration).<sup>59</sup> WileyPLUS is a research-based online environment designed to facilitate effective teaching and learning. WileyPLUS builds students' confidence because it takes the guesswork out of studying by providing a clear roadmap regarding what to do, how to do it, and whether it was done right. With WileyPLUS, students receive the complete digital textbook, question assistance including links to relevant sections in their digital textbook, immediate feedback, and proof of progress. Integrated, multi-media resources — including MP3 downloads, demonstration problems, simulations, etc.— provide multiple study paths and encourage more active learning. Instructors receive media-rich course materials and assessment content.<sup>60</sup>

Additionally, WileyPLUS is now available with ORION, an adaptive learning experience that helps students build their proficiency on topics and use their study time most effectively. With Orion, instructors will also receive Instructor Dashboards and Reports, in addition to the media-rich course material and assessment content that is available with WileyPLUS. And, now the WileyPLUS and Blackboard integration delivers a unified course experience for instructors and students, providing seamless access to a rich collection of course-specific content from WileyPLUS directly within Blackboard Learn™. With direct access to WileyPLUS inside Blackboard Learn™, instructors can create a unified learning experience for their students.

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<sup>57</sup> McGraw-Hill Education, Memorandum on MHE Digital Content Delivery Models – for AAP Submission (Nov. 22, 2013) (on file with AAP) (describing ALEKS).

<sup>58</sup> McGraw-Hill Education, Memorandum on MHE Digital Content Delivery Models – for AAP Submission (Nov. 22, 2013) (on file with AAP) (describing LearnSmart Advantage).

<sup>59</sup> John Wiley & Sons, Memorandum on New Business Models for AAP (Nov. 22, 2013) (on file with AAP) (describing WileyPLUS, WileyPLUS with Orion and WileyPLUS with Blackboard integration).

<sup>60</sup> *Id.* (describing the media-rich Instructor content as including: Instructor's Manual, Test Bank, PowerPoint® Slides, Learning Objectives, Solutions Manual, Study Guide, Computerized Test Bank, Pre- and Post- Lecture Quizzes, and much more.)

## *MOOCs (Massive Open Online Courses)*

While most Massive Open Online Courses focus on non-commercial, open access to course content and instruction, commercial publishers are exploring new business models to participate in these endeavors. For example, Elsevier has agreed to provide edX – a non-profit online initiative created by founding partners Harvard and MIT, which offers interactive online classes and MOOCs from other universities – with Elsevier science and technology book content for MOOCs. EdX offers online learning to students on campus and to millions of people around the world with its open-source platform. Elsevier will provide textbook content online for free as part of the course materials and will offer those enrolled in the MOOC a discount to purchase the print or electronic version of the text.<sup>61</sup>

## *Research Tools*

In addition to individuals seeking to discover new books for their reading pleasure, students and researchers face a daunting task of finding relevant sources of authoritative information among the ever-expanding volume of articles, documents, and Wikipedia posts online. The following are examples of services that facilitate authoritative online research in unique ways:

- **Questia.**<sup>62</sup> Founded in 1998, Questia offers monthly, semester, and annual subscription fees for access to its entire library of over 9 million books and journals, Questia provides students with time-saving research tools and a multitude of resources for writing papers, leveraging its staff of librarians and search tools to help subscribers “research smarter, [and] faster.” For example, Questia allows note taking, multi-device access (via apps), and highlighting in addition to automatically generating bibliographic citations and providing writing tutorials.<sup>63</sup>
- **ORCID.**<sup>64</sup> Recognizing the problem of name ambiguity within scholarly research, publishers spearheaded an international effort to bring universities, research organizations, research funders and other associations together to create ORCID, an independent non-profit organization to “create and maintain a registry of unique research identifiers and a transparent method of linking research activities and outputs to these identifiers.” In addition to creating the identifiers, ORCID provides APIs to enable system-to-system communication and authentication “across disciplines, research sectors and national boundaries” using its identifiers, which are embedded in “manuscript submissions, grant applications, dataset deposits, doctoral thesis completion, and patent applications.”
- **DOI.** The Digital Object Identifier (DOI) System was proposed by the three major international publishing trade associations in 1996 and launched in 1998 to provide a “technical and social infrastructure for the registration and use of persistent interoperable identifiers for use on digital

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<sup>61</sup> Press Release, Elsevier, *Elsevier to Provide Textbooks for Five new edX MOOCs*, (Oct. 23, 2013) <http://www.elsevier.com/about/press-releases/science-and-technology/elsevier-to-provide-textbooks-for-five-new-edx-moocs>.

<sup>62</sup> *Take a Tour*, QUESTIA <http://www.questia.com/tour> (last visited Nov. 26, 2013).

<sup>63</sup> Similar or complementary services include Cengage Brain and ProQuest (describing its service as “enable[ing] users to quickly find just the right information...[and now] the company is currently rolling out the all-new ProQuest® platform, which moves beyond navigation to empower researchers to use, create, and share content—accelerating research productivity.” *See generally*, ProQuest <http://www.proquest.com/en-US/aboutus/default.shtml> (last visited Nov. 26, 2013).

<sup>64</sup> ORCID, Memorandum on ORCID Business Models Brief (Nov. 22, 2013) (on file with AAP) (describing ORCID).

networks.”<sup>65</sup> Now used by over 5,000 entities (e.g. publishers, movie studios, etc), over 89 million DOIs have been assigned to consistently identify articles, data sets, and other documents, and are increasingly being used at varying levels of granularity to identify parties, licenses, and new types of content from other copyright sectors.<sup>66</sup>

- CrossRef.<sup>67</sup> In partnership with the International DOI Foundation, scholarly publishers established CrossRef as a not-for-profit entity “with a mandate to make reference linking throughout online scholarly literature efficient and reliable, and develop other services that are best achieved through collaboration.”<sup>68</sup> Based on standardized data submitted by publishers (DOIs, metadata, and a URL), CrossRef has created a master database for reliably linking a publisher’s full-text article to its citation in other articles, providing researchers, librarians, secondary publishers and others with a way to automatically jump to the “page on the publisher’s website” showing the abstract with options for access or the full-text of that article if the researcher is a subscriber.

### ***Digital Course Packs and other Custom Permissioned Uses***

The following services offer clear examples of the various ways publishers are working with technology companies to provide on-demand access to the precise content desired by today’s students, teachers, and businesses.

- McGraw-Hill Create.<sup>69</sup> Create is a digital resource for higher education instructors, enabling them to customize course materials selected from thousands of textbooks, business cases, readings and articles.
- Custom College Plus/Off The Shelf.<sup>70</sup> Offering content from over 240 publishers, AcademicPub’s new automated coursepack service “allows schools to integrate any of its standing content licensing agreements” into a comprehensive database unique to the school, which ensures that professors are able to create customized digital or print-on-demand coursepacks with appropriate permissions (many pre-cleared for use) for their students and that students “get the lowest price” by avoiding any duplicate licensing agreements.
- Custom Select.<sup>71</sup> Wiley Custom Select simplifies content creation and streamlines delivery, putting instructors in complete control of the material they use to teach. Now, instructors have unprecedented flexibility to create custom tailored content in minutes. They can search and select content from an extensive collection of Wiley titles, arrange chapters in any order, remove pages or sections, and upload their own material. They can then customize the format, choosing the cover and output (print or eText, black-and-white or color printing, soft or hard cover binding). Finally,

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<sup>65</sup> The International DOI Foundation, *The DOI System* (Oct. 21, 2013) <http://www.doi.org/>.

<sup>66</sup> The International DOI Foundation, *Key Facts* (Nov. 22, 2013) <http://www.doi.org/factsheets/DOIKeyFacts.html>.

<sup>67</sup> CrossRef, *Fast Facts* (updated July 25, 2013) <http://www.crossref.org/01company/16fastfacts.html>.

<sup>68</sup> *Id.*

<sup>69</sup> McGraw-Hill Education, Memorandum on MHE Digital Content Delivery Models – for AAP Submission (Nov. 22, 2013) (on file with AAP) (describing Create).

<sup>70</sup> Calvin Reid, *New AcademicPub Service Adds Library Content Deals*, PUBLISHERS WEEKLY (Jun. 24, 2013) [http://www.publishersweekly.com/pw/by-topic/industry-news/libraries/article/57953-new-academicpub-service-adds-library-content-deals.html?utm\\_source=Publishers+Weekly&utm\\_campaign=35aea9afaf-UA-15906914-1&utm\\_medium=email&utm\\_term=0\\_0bb2959cbb-35aea9afaf-3](http://www.publishersweekly.com/pw/by-topic/industry-news/libraries/article/57953-new-academicpub-service-adds-library-content-deals.html?utm_source=Publishers+Weekly&utm_campaign=35aea9afaf-UA-15906914-1&utm_medium=email&utm_term=0_0bb2959cbb-35aea9afaf-3).

<sup>71</sup> John Wiley & Sons, Memorandum on New Business Models for AAP (Nov. 22, 2013) (on file with AAP) (describing Wiley Custom Select).

instructors have the ability to preview and submit the fully assembled content, review the instant price quote, and submit the project. If the instructor chooses print books, copies will arrive at the campus bookstore within a few weeks of the bookstore placing an order, ready for purchase by students. If the instructor chooses the eBook format, the project will be available online as a Wiley Digital Edition in a matter of days.

- RightsLink.<sup>72</sup> Copyright Clearance Center (CCC) offers global transactional and repertory licenses for traditional as well as digital uses to business, educational and governmental organizations. In addition, CCC has developed and currently operates RightsLink, an automated licensing facility that permits copyright rights holders to issue licenses to use their materials directly from the point of content on their own websites or elsewhere online. It also provides other rights awareness and management tools to both rights holders and users.

## **Professional and Scholarly Publishing**

### ***CHORUS***

In February 2013, the White House Office of Science and Technology Policy (OSTP) released a policy memo outlining a comprehensive and reasonable approach to increasing public access to research funded by federal agencies, while maintaining the sustainability of scholarly publishing.<sup>73</sup>

Clearing House for the Open Research of the United States (CHORUS). In the past year, publishers envisioned and incorporated CHORUS as a not-for-profit public-private partnership to help federal agencies provide public access to the peer-reviewed publications that report on federally funded research, while maintaining the sustainability of their various publishing business models. CHORUS is in active development with over 80 signatories, and a pilot involving publishers and federal agencies is currently underway.

CHORUS will provide readers with the full text of peer-reviewed articles, free of charge (after an embargo if applicable); ensure ongoing, long-term access to and preservation of these articles; support federal agencies in advancing science and promoting public access through a public-private partnership that minimizes government costs, as encouraged in the OSTP memo on public access; and, ensure continued innovation and sustainability in the delivery of scholarly communication.

Additionally, because publishers are in the business of disseminating knowledge, CHORUS' supporters understand the importance of investing in top-of-the-line digital infrastructure to support such dissemination. Therefore, CHORUS also includes a number of technical aspects to ensure its interoperability and support for further innovation, including:

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<sup>72</sup> Copyright Clearance Center, *RightsLink*, <http://www.copyright.com/content/cc3/en/toolbar/productsAndSolutions/rightslink.html> (last visited Nov. 26, 2013); see e.g., Press Release, Copyright Clearance Center, *The Economist Chooses RightsLink for Copyright Permissions for its Blogs*, (2012), [http://www.copyright.com/content/cc3/en/toolbar/aboutUs/newsRoom/pressReleases/press\\_2012/press-release-12-01-24.html](http://www.copyright.com/content/cc3/en/toolbar/aboutUs/newsRoom/pressReleases/press_2012/press-release-12-01-24.html).

<sup>73</sup> Executive Office of the President, Office of Science and Technology Policy, Memorandum, *Increasing Access to the Results of Federally Funded Scientific Research* (Feb. 22, 2013) [http://www.whitehouse.gov/sites/default/files/microsites/ostp/ostp\\_public\\_access\\_memo\\_2013.pdf](http://www.whitehouse.gov/sites/default/files/microsites/ostp/ostp_public_access_memo_2013.pdf); see also, AAP, *AAP Supports OSTP Policy Urging Collaboration in Public Access*, PUBLISHERS.ORG (Feb. 22, 2013) <http://publishers.org/press/95/>.

- A system to identify articles that report on or analyze federally funded research and a real-time dashboard for agencies, institutions and the public to demonstrate compliance and accessibility;
- An open API infrastructure to enable search and discovery through familiar search engines such as Google Scholar, Microsoft Academic Search, government and library search systems or new products and services;
- A framework to allow text and data mining tools to be applied across publishers' platforms under protocols protecting the user and the source content; and
- The use of existing and developing communication tools, resources and protocols for discoverability, search, archiving and preservation, including CrossRef, FundRef and ORCID.

### ***Investment in Preservation***

Below are two examples of how publishers and libraries are using technology and working together to ensure the long-term preservation of scholarly publications.

- **CLOCKSS**. A joint effort between the world's leading academic publishers and research librarians, CLOCKSS is a not-for-profit project whose mission is "to build a sustainable, geographically distributed dark archive with which to ensure the long-term survival of Web-based scholarly publications for the benefit of the greater global research community."<sup>74</sup> When content is no longer available from any publisher, CLOCKSS assigns a unique Creative Commons license to the "abandoned or orphaned" content to make it available for free.
- **PORTICO**.<sup>75</sup> Portico is among the largest community-supported digital archives in the world, working with publishers, libraries and funders to preserve digital publications so that researchers and students can access them if the publisher or other copyright owner stops distributing or providing access to them. This archive service is part of the non-profit ITHAKA organization, which helps the academic community use digital technologies to preserve the scholarly record and advance research and teaching through sustainable projects including JSTOR.<sup>76</sup>

Portico has been certified as a "trustworthy digital repository" by the Center for Research Libraries. It establishes agreements with content providers to ensure that it has the rights to preserve content and make it accessible when needed, and has developed a technological infrastructure that is designed to support long-term preservation and access. Publishers can name Portico as "a perpetual access mechanism to fulfill claims by Portico Participating Libraries who formerly purchased or subscribed" to their content, or establish a "triggering event" to allow such libraries to access the content through Portico when the content is no longer available online from the publisher or other sources.

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<sup>74</sup> See generally, CLOCKSS <http://www.clockss.org/clockss/Home> (Nov. 26, 2013).

<sup>75</sup> About Us, PORTICO <http://www.portico.org/digital-preservation/about-us> (Nov. 26, 2013).

<sup>76</sup> New to JSTOR? Learn More About Us, JSTOR <http://about.jstor.org/10things> (last visited Nov. 26, 2013) (describing its purpose as helping "university and college libraries to free space on their shelves, save costs, and provide greater levels of access...to scholarly content around the world and to preserve it for future generations.").

## **Cross-Industry**

### ***Print on Demand***

Without question, the Internet and e-commerce have made distributing eBooks as easy as clicking a button online. At the same time, the Internet has also made it much easier to distribute printed works on a global scale, for large and small publishers alike, due to print-on-demand capabilities.

- **Lightning Source**. Using the Internet and new printing technologies, Ingram, the largest distributor of print and digital books in the world, is now offering publishers print-on-demand distribution through Lightning Source.<sup>77</sup> Print-on-demand is making the book and journal publishing industry more efficient, cost-effective and green by reducing returns, pulping, overhead costs, shipping, etc.
- **Espresso Book Machine**. On Demand Books' Espresso Book Machine is the only print-on-demand technology currently able to produce a bookstore quality paperback with color cover, in any standard trim size, within minutes at the point of sale.<sup>78</sup> Through partnerships with Google, Lightning Source, and many AAP member publishers, including Harper Collins, Hachette, Penguin, and Macmillan, the EBM makes over seven million titles available for instant on-site purchase and printing, in bookstore and libraries around the globe (now, including, the DC Public Library). For AAP's member publishers, their partnership with the EBM helps eliminate shipping, returns, and pulping of unsold books. The EBM also helps independent authors self-publish their books, printing as many or as few copies as needed, and providing an opportunity to reach a global market by making their books available within the EBM content database.

### ***Accessibility***

The 2013 edition of the Accessible Publishing Best Practices Guidelines for Publishers sums up the importance of the intersection of digital publishing and accessibility in stating that “there is an unprecedented opportunity to be had in this key time for digital publishing to reach the widest possible audience” by implementing accessibility features uniquely available in eBooks such as text-to-speech translation, reflowable content, and different font sizes.<sup>79</sup> Publishers and disabilities advocates share the same ultimate goal of using digital formats to make commercial versions of printed works accessible to individuals with “print disabilities”<sup>80</sup> so that they can routinely acquire in the marketplace all manner of published works, covering the full spectrum of human interests, in the same manner as other consumers who do not have print disabilities, and enjoy them without having to depend upon regulatory measures for their availability.

The following examples illustrate AAP's efforts to help the publishing industry seize this opportunity to create readily accessible books and journals for the commercial market, while ensuring that still-needed regulatory measures for ensuring the availability of accessible format copies respect the interests of rights holders.

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<sup>77</sup> Ingram, *Print On Demand Distribution*, INGRAM CONTENT <http://www.ingramcontent.com/Pages/print-on-demand.aspx> (Nov. 26, 2013).

<sup>78</sup> Press Release, On Demand Books and DC Public Library, *DC Public Library installs Espresso Book Machine* (Aug. 5, 2013) [http://ondemandbooks.com/docs/ODB-DCPL%20press%20release%202008.05.13%20\(1\).pdf](http://ondemandbooks.com/docs/ODB-DCPL%20press%20release%202008.05.13%20(1).pdf).

<sup>79</sup> Sarah Hilderley, *Accessible Publishing Best Practices Guidelines for Publishers*, EDITEUR (Jun. 2013) [http://www.editeur.org/files/Collaborations/Accessibility/WIPO\\_v4.html](http://www.editeur.org/files/Collaborations/Accessibility/WIPO_v4.html).

<sup>80</sup> AAP uses the term individuals with “print disabilities” to refer to individuals with blindness, impaired vision or other disabilities that make it difficult or impossible for them to read printed works in a conventional manner.

- EPub3 Implementation Project. AAP coordinated this project, the goal of which is “to accelerate across-the-board adoption of the EPUB 3 format in the consumer market by identifying and implementing what stakeholders consider to be the core set of baseline features critical to the format’s acceptance. Among these features are greater interactivity for users, multimedia-enhanced content and expanded accessibility for people who are blind or have other print disabilities. Although each individual publisher will make decisions about introducing EPUB 3 titles on its own timeline, many anticipate introducing large numbers of EPUB 3 files into the marketplace beginning First Quarter 2014.”<sup>81</sup>
- TEACH Act. A collaboration between AAP and the National Federation of the Blind, the Technology, Equality and Accessibility in College and Higher Education Act directs the Access Board to develop accessibility guidelines for electronic instructional materials and related information technologies (tablets, e-readers, etc.) used in institutions of higher education. Publishers are happy to announce that the TEACH Act was introduced by Congressman Tom Petri (R-WI) as H.R.3505 on November 15, 2013, moving the industry one step closer to making accessible books and journals commercially available through mainstream markets.
- Marrakesh Treaty.<sup>82</sup> Progress towards the goal of commercial availability of readily accessible printed works continues. However, regulatory approaches to increase the availability of printed works in accessible formats are also capitalizing on the new capabilities of digital technologies to facilitate accessibility for individuals with print disabilities. The most recent and broad example of this regulatory approach is the June 2013 adoption by the World Intellectual Property Organization (“WIPO”) of the “Marrakesh Treaty to Facilitate Access to Published Works for Persons Who are Blind, Visually Impaired, or Otherwise Print Disabled.” In addition to providing direction to national governments regarding the adoption of appropriate exceptions in their national copyright laws to facilitate the production of printed works in accessible formats for use by individuals with print disabilities, the Treaty authorizes the exchange of accessible format copies of such works across national borders to increase their availability across the globe in a manner that takes into account the economic and technological differences among the world’s nations.

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<sup>81</sup>AAP, *AAP EPUB 3 Implementation Project*, PUBLISHERS.ORG <http://publishers.org/epub3implementationproject/> (Nov. 26, 2013).

<sup>82</sup>World Intellectual Property Organization, *Marrakesh Treaty to Facilitate Access to Published Works for Persons Who are Blind, Visually Impaired, or Otherwise Print Disabled*, (Jul. 31, 2013) [http://www.wipo.int/edocs/mdocs/copyright/en/vip\\_dc/vip\\_dc\\_8\\_rev.pdf](http://www.wipo.int/edocs/mdocs/copyright/en/vip_dc/vip_dc_8_rev.pdf).

## Conclusion

AAP appreciates this opportunity to provide the House Committee on the Judiciary, Subcommittee on Courts, Intellectual Property and the Internet with this illustrative overview of the innovative business models and methods of delivering digital content in and around the publishing industry in the digital age. We look forward to continued engagement with the Subcommittee as it undertakes future hearings on other copyright issues.

Sincerely,



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