



## CALIFORNIA STATE UNIVERSITY, LONG BEACH

### UNIVERSITY LIBRARY

Aug. 1, 2016

Thomas H. Allen  
President and Chief Executive Officer  
Association of American Publishers  
455 Massachusetts Ave. NW Suite 700  
Washington, D.C. 20001

Dear Mr. Allen,

Thank you for your letter regarding Mr. Gardner, but I believe your strident criticism of him is based on some fundamental factual inaccuracies. Gabriel Gardner, a faculty member at California State University Long Beach, along with his co-author Carolyn Caffrey Gardner, a faculty member at California State University Dominguez Hills, were on an American Library Association (ALA) panel on the future of interlibrary loan in June because of their research that was published in a 2016 article in *College & Research Libraries*, a major—and open access—journal in the field of library science. Their article, "Fast and Furious (at Publishers): The Motivations behind Crowdsourced Research Sharing," is based on a survey of users of peer-to-peer research-sharing services on the frequency of, and the motivations behind, their use of these services. They conclude that these services "go beyond document delivery to the legal bedrock that is our current copyright and intellectual property systems." So, contrary to your allegations that the researchers provided "public encouragement" of services such as Sci-Hub, their research points out the very real problems with this type of crowdsourcing.

To be clear, neither Mr. Gardner, the University Library, nor the University promote or condone illegal activity, particularly copyright violation. Instead, Mr. Gardner's research points out problems faced by libraries, researchers, and publishers and how some researchers are enabling websites such as Sci-Hub to circumvent the measures taken by libraries to uphold their copyright licenses. Freedom of research is fundamental to academia and to your industry. As you say on your website, AAP "invest[s] in the ideas and careers of our authors and scholars, providing support and protecting their rights, so they can share their unique perspectives with the world." That is exactly what Mr. Gardner was, and is, doing with his research, which the university wholeheartedly endorses.

Besides the legal cautions in the *C&RL* article, Mr. Gardner has been quoted on #icanhazPDF, and in the 2015 *Conference Proceedings* of the Association of College & Research Libraries as saying that such peer-to-peer sharing is "ethically dubious" and "often violate[s] commercial database terms-of-service (ToS) and/or copyright." Specifically, regarding the ALA annual conference panel, "Resource Sharing in Tomorrowland a Panel Discussion about the Future of Interlibrary Loan," your paraphrase of Mr. Gardner's statements is taken very much out of context. If you listen to the recording of his presentation, he says that Sci-Hub's actions are "massive piracy" and "totally illegal." To an audience of librarians, he was suggesting that librarians need to try the service to see how easily Interlibrary Loan and authentication systems can be bypassed.

However, the larger issue here is that the academic publishing model has become unsustainable. Like many university libraries, the library budgets at California State University Long Beach and the California State



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University generally cannot sustain annual price increases of 3% to 10% by many of your organization's members. Journal subscription prices are a key part of the reason that extra-legal services, such as Sci-Hub flourish. As you know, the music industry and the movie industry have faced similar challenges. One substantial difference with scholarly journal publishing, however, is that the "artists," the scholars who conduct the research and write the articles, receive no monetary compensation. As the Copyright Clause of the U.S. Constitution states, the purpose of copyright is "To promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries." Rarely do AAP members give their authors such rights.

We would hope that AAP would want to be part of the solution to unsustainable academic publishing models. Instead of fighting legislation such as Fair Access to Science and Technology Research Act (FASTR), or criticizing researchers who are shining a light on a very real publishing dilemma, AAP could use its considerable clout to promote new scientific publishing models. After all, as AAP describes it, the organization's historic role is to "promote literacy, defend freedom of speech, advance scientific progress, and stimulate the intellectual and cultural discourse that is central to a healthy democratic society."

Sincerely,

Roman Kochan, Dean of Library Services  
University Library  
California State University, Long Beach

Cc: