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LIBER Licensing Principles for Electronic Information

by ALEX C. KLUGKIST

As we all know most publishers - joining in with new IT-developments - are nowadays actively working on digitizing their publications and storing these documents on their own computers or those of others, in order to distribute them electronically or have them distributed. They are making them available for use, until now in most cases only as a supplement to the printed versions.

Publishers are working on or are considering - with or without the intervention of libraries - activities such as storage, disclosure and provision of access that traditionally belong to the field of work of libraries. By using the new scope that information technology offers, they try to defend their position in the field of information and, if possible, to strengthen it.

Unfortunately the cost of digital information is not any lower than than printed information. On the contrary, the cost is generally even markedly higher. Many commercial publishers offer electronic versions of their journals for sale only in combination with the printed ones, and request for these electronic versions a rise in subscription price that varies with each publisher, but usually exceeds 10%. It should be noted that a small number, together with some learned societies, have decided (temporarily?) to avoid a rise. Some publishers - and not the smallest ones - when negotiating licences demand a number of supplementary conditions that do not facilitate the decision about closing such licences.

For that reason the university libraries of the UKB (the Dutch Association of University Libraries, the Royal Library and the Library of the Royal Dutch Academy of Sciences) and the GBV (Gemeinsamer Bibliotheksverbund: the German Association of Research and University Libraries in North and Middle Germany) decided in 1997 to publish licensing principles in order to define a common policy and formulate some general principles to meet the publishers' strategy with respect to access to electronic journals and license agreements. These principles were broadly acknowledged by research libraries

inside and outside the Netherlands and Germany. They played an important part in the drafting of the Licensing Principles of the International Coalition of Library Consortia (Statement of Current Perspective and Preferred Practices for the Selection and Purchase of Electronic Information).

Because the situation of research libraries in Europe strongly resembles the Dutch and German one, LIBER (Ligue des Bibliothèques Européennes de Recherche, id est: the European Association of Research Libraries) drafted an European version of the Dutch-German Licensing Principles at her Annual General Conference in Paris, July 1998. This draft was endorsed by LIBER at her General Assembly in Prague on the 9th of July 1999.

These guidelines are available on the Website of LIBER: <http://www.kb.dk/liber>. Some elements are:

- Libraries should be able to give their students and researchers access to electronic information independent of their whereabouts;
- Libraries will make fair use of electronic information and will take care that this information will not leak away through the Internet. Access will be denied to unauthorized persons;
- Stipulations by publishers preventing libraries from cancelling subscriptions in order to be able to obtain electronic journals on fair conditions are rejected;
- A subscription to a printed journal should also lead after a short transition period to free access to the electronic version;
- An electronic journal should be made available at a much lower price than the printed journal if a library wants to subscribe exclusively to the electronic version.

It is clear that exclusively joint positions on an international level can be successful in influencing the prices for digital (and printed!) information and determining the conditions to realize access to scholarly information on an affordable basis.

LIBER requests all her members to follow these principles and to make them widely known in their own working environment and their own countries.

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LIBER LICENSING PRINCIPLES

Guidelines and checklist for university, research and national libraries in Europe formulated by LIBER, the Ligue des Bibliothèques de Recherche Européenne.

Current Situation

- For many years now, libraries have been suffering under the „journals crisis", facing not only a constant increase in the number of journal titles but also a structural increase in the prices of journals varying from 7 to 15% a year.
- In order to deal with this development, libraries have:
  - tried to increase their budgets in various ways;
  - developed a policy of cancellation of titles and
  - decreased their budgets for new books, which has caused severe impoverishment of the collections of many libraries.

It is clear that this is actually a dead-end street since limited increases in library budgets can in no way keep pace with the price developments of scholarly and scientific information.

Opportunities

- Libraries welcome the developments that are made possible by information technologies, in particular the accessiblity of electronic information through the Internet.
  They perceive this development as an important opportunity
  - to improve international communication between researchers;
  - to provide efficient end-user access to relevant products of scientific work in electronic form;
  - to create more cost-effective access to scholarly and scientific journals.

Obstacles

- In addition to the structural problems, mentioned above, libraries are noticing significant trends as some publishers try to erect barriers to the

storage and access of information, and present license agreements for the electronic access to journal titles in which additional fees are requested, document delivery is hindered, and non-cancellation clauses are introduced.

- The library position in copyright law in the digital age is being threatened. The rights libraries have in the printed environment are being challenged by the publishers.
- Some publishers are building large databases with „their" materials. A possible scenario is the provision of direct end-user access to this information, at prices that go far beyond the current Inter Library Loan prices. This could endanger the free flow of information, scientific communication, and public education.
- In many cases, the technical concepts of publishers (and their intermediaries) are not (yet) compatible with each other and neglect the need for an integrated, homogeneous and supplier-independent access to information.

Preamble

- Libraries recognize the role of publishers in printed and electronic publishing, and expect in their turn that the role of the libraries will be recognized by the publishers.
  Both in the printed and in the digital environment, there is a need to maintain a balance between the rights of authors, of copyrightholders and the larger public interest, particularly education, research and access to information, as reflected in the Berne Convention (WIPO Copyright Treaty).
- The use of electronic information can reduce publication costs, facilitate distribution, and improve scientific communication.
  Currently libraries and publishers are in a transition phase that requires considerable investments, both by libraries/universities and by publishers. Libraries are willing to cooperate with publishers to develop electronic publishing.
- Cooperation between libraries and publishers should be encouraged in order to stimulate optimal dissemination of scientific information in the electronic age and to develop acceptable conditions and arrangements for electronic publishing with long-term application.

The Library Approach

LIBER wishes to to define a common policy and formulate some general principles for the European university, research and national libraries in order to meet the publishers' strategy with respect to access to electronic journals and license agreements. This policy and these principles are fully in accordance with the ICOLC principles, which LIBER fully supports. The policy and principles formulated by LIBER especially meet the European situation.

I. General principles

1. Libraries in Europe will act on a national or an international level and in changing compositions act as consortia / closed user groups in negotiation with the publishers and intermediaries.
   The members of the consortia will only enter into new bilateral or multilateral agreements with publishers in line with these principles.

2. The consortia / closed user groups aim at providing electronic access to the scholarly journals they currently subscribe to.
   For that purpose, they are prepared to make license agreements with publishers.

3. Priority will be given to the digital format acquisition of those resources which offer economies of scale by benefiting the largest number of faculty and students.

4. Libraries intend to keep as many (printed and/or electronic) subscriptions as possible, but will from now on not accept non-cancellation clauses or comparable conditions.

II. Access and Use

5. Libraries should be able to provide access to their students, faculty and supporting staff, irrespective of where they are located, and to their other regular and registered users on-site.

6. Licenses should permit the „fair practices" of all information for non-commercial, educational, instructional, and scientific purposes by authorized users, including unlimited viewing, downloading and printing, in agreement with the provisions in current copyright law.

7. Libraries should be allowed to make print, fax or E-mail copies of the data delivered by the publisher for non-commercial interlibrary lending purposes, within the fair-practices guidelines/the legal copyright regulations. They are prepared to discuss specific conditions for interlibrary lending in the electronic environment.

8. The libraries will not provide external users, not being members of the licensee's institution, off-site with open access to full-text materials delivered by publishers.

9. The license agreement should include permanent rights to information that has been paid for, including reimbursement if a journal that initially was included in the agreement is subsequently cancelled.
   One copy of the files may be preserved by the licensee for archiving and for use in perpetuity.

III. Storage, Formats and Integration

10. Publishers are asked to deliver the electronic files of the full text journal articles/journals to which the participating libraries of the consortium subscribe. The data will be stored according to the preference of the individual library: locally, distributed at servers of the consortium partners, centrally at a server designated by the consortium partners or at a publisher's server, or in a combination of these possibilities.

11. The licensed content should be accessible from all currently supported computing platforms and networked environments; this access must be based on current standards as used by libraries (e.g., Z39.50).

12. The electronic data (bibliographic data, abstracts, and full text) should be delivered in formats: e.g., real PDF, HTML, or SGML, according to the preference of the libraries.

13. Licenses should not limit the libraries' right to integrate the data into their local infrastructure and information services.

14. Libraries are not in favour of proprietary solutions by publishers or intermediaries. They emphasize a distinction between content and presentation, a separation of data and applications, in order to have full opportunities to integrate the electronic data with current library services both at a central level and at a local level.

IV. Services and Costs

15. Libraries expect publishers and intermediaries to deliver the bibliographic data and abstracts of the journals they subscribe to to the libraries/ the consortium of libraries/the libraries of the closed user group in electronic form.
In the information age, the electronic delivery of these data can be considered as an integral part of a regular „journal subscription/electronic license".
These data should, in principle, be provided without additional costs.

16. The electronic data (bibliographic data, abstracts, and full-text) should preferably become available prior to the printed edition but at least simultaneously.

17. If the electronic files are required in addition to the printed version, the consortium members are prepared to temporarily pay a modest additional fee for the electronic files of the journals they subscribe to, if the electronic version contains information with a clear added value compared with the printed version.

18. If libraries only want to have an electronic license and give up the paper subscription to the journal, the maximum price should in general not exceed 80% of the printed subscription price.

19. In addition to electronic license agreements, the consortium libraries/the libraries of the closed user group are prepared to discuss other possible service levels such as

    - the flat-fee purchasing of a pre-selected number of articles from an identified list of less frequently used journal titles, and
    - transactional (pay-per-view) delivery of articles from infrequently used journals.

V. Information on Use

20. The anonymity of individual users and the confidentiality of their searches must be fully protected.

21. It is imperative that a license agreement with publishers guarantees individual libraries the right and the opportunity to monitor the use and to

gather the relevant management information needed for collection development.

22. The libraries of the consortium are prepared to share this management information on a global level with publishers.

VI. Others

23. A license agreement should require the publishers to defend and indemnify the libraries, not holding them liable for any action based on a claim that use of the resource in accordance with the license infringes any patent or copyright of any third party.

24. License agreements based on these consortium principles should be governed by appropiate national law.

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