

Some Thoughts On Licensing

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Allow me to steal a few minutes of your time as you work your way through this latest issue of the Letter of the LAA. I'd like to briefly address a subject that I'm increasingly involved with and one that I suspect is going to be of growing importance to libraries everywhere (soap box mode on). I am referring to licensing, particularly of electronic products.

These days, I find that a surprising amount of my time at the University of Calgary Library is devoted to negotiating licenses for electronic materials, especially e-journal licenses. This has caused me to give much thought to the issue of licensing practice and how libraries of all types, shapes, and sizes are dealing with licenses.

Let's begin by going back in time to the deep, distant past of the mid-1990s. In those days, print materials dominated library collections and electronic products were relatively few in number. When libraries purchased items, they were received, catalogued, put on a shelf and that was all; the relationship between a library and a publisher ended at that point. There were some exceptions to this, of course, such as when a publisher demanded, as a condition of sale, that a book be handled in a certain way (e.g. Key Contacts and Contacts Influential directories could not be photocopied so some libraries glued the volumes to tables) but there were not many of these situations.

The arrival of Web-based, remotely-accessed electronic products altered this picture dramatically. Instead of simply buying and shelving, libraries now subscribe from a distance to e-journals, e-books, fulltext indexes, and other "e-items", with the use of these products governed by licenses that formally establish the relationship between licensor (publisher) and licensee (library). Everything from how many patrons can use an electronic product simultaneously to whether or not licensed materials can be emailed to dispute mechanisms (and much more) are normally covered license agreements.

What this means is that licenses deal with important stuff and, consequently, requires attention. Though some licensing experts say that every license should start with a blank piece of paper, the reality of the matter is that libraries usually work with the licenses that are supplied by the publishers. In most cases, these licenses are written from the licensor point-of-view and would create publisher-advantageous situations if left unchanged. In order to produce licenses that are more equitable and include the elements that libraries need to adequately serve users, the license must be negotiated. There are very few occasions when a library can sensibly sign a license without requesting changes or at least asking

questions about the document. Accordingly, negotiation takes time (maybe minutes, maybe hours, maybe months), energy, and skill. Though library workers are frequently stressed for time and licensing practitioners are relatively few in number in the library world (I don't think libraries are lacking in energy, though!), we are fortunate in that libraries purchase most electronic products consortially (e.g. through TAL, through a regional system, etc). This means that for most libraries, license negotiation is carried out centrally, thankfully relieving most libraries of the chore. However, libraries are still responsible for being aware of and adhering to the conditions established in licenses. As well, sooner or later, every library will have to face a license negotiation individually; not every electronic product will be purchased consortially.

To conclude, I invite everyone working in libraries to give licenses and licensing practice a little more consideration. Even if licensing negotiation is occurring in the background, at a consortial level, and isn't on your radar at all, recognize that it exists, that it takes time and effort to do correctly, and that it may involve you some day.

On a related note, for those who are already involved in licensing practice or who have some introduction to the issues, the Association of Research Libraries (ARL) will be presenting their Advanced Licensing Workshop from June 14-16 in Victoria, BC, just before the CLA conference. The Council of Prairie and Pacific University Libraries (COOPUL) is a sponsor of this event. Canadian law that relates to licensing will be a special feature of this workshop, which normally covers American law only. I have attended this workshop and, though not inexpensive, it presents a great amount of information and provides a step-up to a higher level of licensing practice. More information can be found at www.arl.org/scomm/licensing/advlic04.html.

For those interested in introductory instruction, there are some options available. To mention a few, ARL regularly presents a web-based introductory licensing course; see www.arl.org/training/licensing.html for more information. Lawyer Lesley Ellen Harris often presents a variety of licensing workshops (LAA sponsored two of these a few years ago); see www.copyrightlaws.com. Lesley has also written a basic licensing book, **Licensing digital content : a practical guide for librarians** (ALA, 2002). Other learning opportunities dealing with licensing also appear from time to time.