

## Licensing Principles, Consortia and Practical Experiences

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### INTRODUCTION

Tilburg University in the Netherlands was the first university in Europe to enter into a license agreement with a publisher. After a year of discussions on technical, organizational and legal issues an agreement was signed between the university and Elsevier Science in December 1993. This agreement covered about 110 Elsevier journals to which the library subscribed.

In 1999, Tilburg University Library defined as its goal for the year 2001 to have 50% of its journals available in electronic form and to deliberately move from print to electronic. These goals were set later than expected in 1993.

When the first digital library programmes were developed and published in the 1980s, the expectation was that the digital library would solve a lot of the problems libraries were facing in the printed environment. Access would be provided to extensive information sources that would no longer necessarily be stored in the local library. Access would become more important than ownership and would be possible any time, any place.

The digital library also promised to play an important role in solving the „journals crisis.”

The expectation was that the concept of the digital library would offer an opportunity to provide efficient end-user access to scientific work, and would lead to more cost-effective solutions for access to journals.

The question is whether this can be realized and what libraries are actually doing to find these „cost-effective solutions.”

The process of moving towards full-text electronic services is fascinating but more complicated than expected. The transitional period is time-consuming. Many aspects have to be taken into account such as easy access, standardization, authorisation, security, storage and archiving, multiple and personal subscriptions, licensing issues, budgets, and user acceptance. All these organisational, technical, financial, and legal issues have to be

considered if a library wants to enter into consortia agreements with respect to the primary information in electronic form.

Our preliminary experiences at Tilburg University with electronic subscriptions were the following:

1. It takes a lot of time before the new services are discovered, accepted, and integrated in the daily work and practice of the researcher: innovation takes time.
2. The critical mass is far too limited. The current journals can only satisfy a small group of researchers. We recognize that the interest of our researchers is very diverse and that available titles can only meet the full needs of some of them.
3. Users complain about the time span between the availability of the printed journal in the library and the late availability of the electronic files in the database. A regular time span of six weeks is discouraging.
4. Technical problems, especially with printers, different formats and legibility on the screen, can also be an impediment to full use.

Additional experiences of Tilburg University library were that:

- licensing is time consuming and rather expensive;
- local storage is expensive and can only be seen as a temporary activity of our library;
- one of the most positive aspects is that the library is obtaining valuable management information on the usage of the electronic files. This information can play a significant role in future collection development.

#### THE TRANSITION FROM PRINTED TO ELECTRONIC JOURNALS

In 1997 and 1998, Tilburg University - in cooperation with Maastricht University - studied the use of printed and electronic journals by researchers of the two institutions. This project focused on three disciplines: medicine, law, and economics.

The key questions were:

- How do academics use printed journals?

### *Licensing Principles, Consortia and Practical Experiences*

- How do academics use electronic journals (frequency, journal titles, search methods, browsing vs. printing)?
- What is the impact of the emergence of electronic services on the use of journals?

In January 1999, a report was presented to the Steering Group IWI (Innovation of Information Services), a national platform of Dutch Universities that stimulates and sponsors digital library projects in the Netherlands (<<http://cwis.kub.nl/~dbi/publicat/index.htm#measuring>>).

One of the conclusions of the report was that the speed with which the transition from printed journals to electronic journals is made varies substantially. „A move to offer the best read economic journal titles only in electronic form is definitely discussable in the economic research community; the law researcher is not yet ready for such a move”.

An important outcome also was that researchers would like to see one user interface for accessing a range of heterogeneous electronic material. A simplified method of access would greatly promote the use of electronic journals.

Researchers identified the limited number of titles available in electronic form as the main obstacle for the full use of electronic journals.

#### CURRENT SITUATION

The experiences at Tilburg University and the user survey confirmed that the transition from print to electronic is a relatively slow process.

The current transitional period also has other characteristics:

- 50% of the medium-sized and smaller publishers are still reluctant to move to electronic. Four university libraries with core collections in economics - Tilburg University, the London School of Economics, the Universitat Autònoma de Barcelona and the European University Institute in Fiesole - identified 110 top journals (not published by Elsevier or Kluwer) to which they wished to provide electronic access in the framework of the EC project Decomate II. It turned out that only 50% of these journals was actually available electronically (<<http://www.bib.uab.es/decomat2>>).
- The existing electronic journals are far from innovative. In general, we are dealing with an electronic representation of the printed journals without additional features and services. The full capabilities of electronic publishing are not yet being used, there are only a few examples of journal

articles structured as compound multimedia documents linked with other relevant electronic information sources.

- Journals in electronic form are still quite expensive, libraries have not yet seen a reduction of costs. The current prices are also an impediment for the acquisition of electronic journals and for the transition from print to electronic.
- The information business is very much influenced by mergers and acquisitions. Examples are the acquisition of Ovid by Kluwer, the acquisition of Springer by Bertelsmann and the merger of Swets and Blackwells. The market is in turmoil and there is tendency towards bigger publishing houses, intermediaries and aggregators, who employ a wide range of activities and are not as specialized as they used to be. There is often a combination of content ownership, the capability of adding value to the content, technological capabilities, and the control of gateways to the endusers.
- At the same time, we see many bottom-up initiatives with respect to electronic publishing from researchers, societies, universities and libraries that can be a fundamental threat to the traditional information chain.

The overall conclusion is that the availability of electronic information has not yet solved the journals crisis. Other initiatives and changes are needed to meet with this fundamental problem.

#### LIBRARIES AND LICENSES

Libraries that want to offer electronic access to journal articles are currently facing a new phase in the „journals crisis.“ They see that the current electronic service are not reducing costs but are creating new financial constraints leading to choices with respect to collection development.

Although this situation is recognized by libraries all over the world, the position of libraries is, in general, rather weak. There is a lack of organisation, due to the great diversity of libraries and the effects of national borders and national policies.

The reasons are that librarians often fail to explain the situation to their users, who determine the content of the library, or that they are afraid or unable to make unpopular decisions. There is often a gap between the expectations and demands of the users and the financial and managerial problems involved.

## *Licensing Principles, Consortia and Practical Experiences*

The publishers, on the other hand, act globally. They cross borders and offer basically the same licensing agreement in Toronto as in Bielefeld. They still rely on the fact that their top editors are the best promoters of their journals and that tenure still very much depends on regular publication in top journals.

It should be a logical step for libraries to improve their international contacts, to exchange experiences, and to cooperate with each other on these critical issues. This would be a good starting point to respond to the global activities of the publishers.

### LICENSING PRINCIPLES

In the Summer of 1997, my German colleague, Elmar Mittler and I drafted a set of Licensing Principles, entitled „Guidelines and Checklist for Libraries.“ These principles were accepted by the Dutch Academic libraries and a number of German libraries in October 1997 and subsequently published (<<http://cwis.kub.nl/~dbi/english/license/licprinc.htm>>).

In these guidelines, the Dutch and German libraries defined a common policy and formulate some general principles in order to meet the publishers' strategy with respect to access to electronic journals and licensing agreements.

Some important elements were:

- focus on the „Fair use“ principles;
- no access will be provided to external users off-site;
- generating copies for Interlibrary loan should be allowed;
- a guarantee of archiving and use in perpetuity;
- libraries should be able to integrate the data with their local system and services;
- an allowed 7.5% of additional costs for electronic files for a short transitional period;
- in case of an electronic-only license, the cost would not exceed 80% of the printed subscription costs.

This initiative was warmly received by many librarians and library organisations. One of the effects was an international meeting in The Hague with representatives from the American Consortium of Library Consortia and the British SCONUL and CURL libraries.

The decision was made to establish an International Coalition of Library Consortia (ICOLC). In April 1998, the „Statement of Current Perspectives and Preferred Practices for the Selection and Purchase of Electronic Information“ was edited by Alan Hirshon, accepted by the COC at the Atlanta meeting, and published (<<http://www.library.yale.edu/consortia/statement.html>>).

The ICOLC guidelines are being supported by all consortia in the US and by consortia in Canada, Australia, Europe, South Africa and China.

The current situation in Europe is that there are approximately 20 consortia working in most of the European countries: this is in itself a good reason for organizing a European Conference of Consortia under the ICOLC umbrella. This event will take place on the 10<sup>th</sup> and 11<sup>th</sup> December 1999 in Cranfield, UK (<<http://www.cranfield.ac.uk/library/icolc>>).

#### PROBLEMS AND QUESTIONS IN LICENSING ELECTRONIC INFORMATION

Although there are guidelines which are accepted by the „library community“, various problems still exist and are governing the negotiation process with publishers.

The most important issues are:

- the provision of access to the electronic information by non-registered users on-site;
- the use of the electronic files to generate electronic copies for electronic document delivery to other university libraries;
- guarantees on the permanent storage and archiving of the information and the conditions for access in perpetuity;
- the separation of electronic data and the applications. Several publishers desperately want to provide only access to „their“ material in their preferred manner of form;
- seamless linking between bibliographic data acquired from intermediaries and the full text from different publishers in order to provide an integrated access to heterogeneous information;
- the price...

I would like to stress that the pricing issue is, of course, of great importance but it should not overshadow the other issues. From my point of view, the

manner in which access to the electronic information will be provided is critical. I would strongly recommend libraries and consortia not to proceed with the provision of non-integrated access to different publishers and intermediaries. I would like to emphasize a distinct preference for one point of access to heterogeneous information coming from different sources with facilities for cross-searching journals from different publishers.

This goal can be achieved by relying on solutions from one particular aggregator (SwetsNet, Pica, Ebsco, OCLC), by creating consortium solutions (OhioLink, Decomate project) or by implementing local solutions with the advantage of integrating journal information with other relevant local sources. If a library wishes to offer tailor-made service to its end-users a non-commercial, local or consortium, approach still seems to offer the best opportunities to do so.

Other questions are:

- What should the scope of the license agreement be? Various publishers prefer to make agreements involving all of their journals. Some libraries have agreed to this, while others have chosen to focus solely on their own holdings. Libraries used to emphasize the selection of information and collection development as one of their major tasks.  
Basically I would like to focus a license agreement on the content we really need.
- A very critical issue is whether or not to accept deals from publishers which imply that the library guarantees the number of subscriptions or rather the value of the current subscriptions over three years. In that case a low fee can be negotiated. The problem is that this policy obliges library is to cancel journals from other publishers which can lead to an unbalanced collection development.
- Should we make use of intermediaries to enter into license agreements with the publishers? In the UK, the NESLI project chose Swets in combination with Manchester Computing as their national intermediary for making license agreements with the publishers.
- The advantage of using intermediaries is that it is certainly more efficient. It is very time consuming and complicated to make separate agreements with hundreds of independent publishers. But there are also disadvantages. It creates extra costs, and more important, the intermediary is not the owner of the content. The intermediary is not a direct partner of a university as producer and consumer of content, which will make it more complicated to directly discuss future developments in the relationship between libraries and publishers and to develop a new balance of interests.

#### DEVELOPMENTS WITH RESPECT TO LICENSING PRINCIPLES IN THE NETHERLANDS

In the Spring of 1998, a discussion was started in the Netherlands between representatives of the universities and Dutch publishers (including Elsevier Science and Kluwer Academic) with respect to Dutch Licensing Principles.

As a result, a covenant was signed by the Scientific and Professional Publishers of the Dutch Publishers Association and the IWI Steering Group, representing the Dutch universities (<<http://www.surfbureau.nl>>).

The important features of this agreement were:

- authorised users should have wide-ranging and unrestricted access to information;
- publishers will accept the walk-in use of electronic files by clients who are not formally affiliated with the university;
- the universities will not permit external users outside the library to have access to the electronic information provided by the commercial publishers;
- experimentation will start with respect to electronic document delivery (within the framework of Interlibrary Loans between Dutch universities) generated from the electronic files of the licensed journals.

In June 1998, Karen Hunter, Senior Vice-President of Elsevier's Science, responded to the ICOLC statement and referred to the fact that the licensing principles of Dutch and German libraries „led to a series of constructive discussions in the Netherlands and the likelihood of agreement on new experimentation.“

An important breakthrough was announced in Elsevier's policy with respect to Interlibrary Loan in the electronic environment. In their new ILL policy, Elsevier permits the use of licensed electronic files as a source for printed copies which can be sent to other non-commercial libraries. Electronic delivery is not (yet) included in this new policy.

Currently, Dutch libraries are starting to use the agreement, and they are changing their national Interlibrary Loan provision and local applications in order to run the trial with electronic delivery based on electronic files. The libraries will monitor the effects of these facilities on the use of ILL which, of course, is of great interest to the publishers.

This experimentation is partly overshadowed by the growing number of new licensing agreements between libraries and some publishers, which simply allow electronic interlibrary loans generated from the licensed electronic files.

#### CONSORTIUM EXPERIENCES IN THE NETHERLANDS

Consortium experiences in the Netherlands are rather diverse, and a clear pattern still has not emerged. Nevertheless, progress has been made over the last two or three years, although no governmental financial support is involved. In many other countries, this kind of support has obviously enabled negotiations with publishers and helped libraries to force a breakthrough with a number of vendors.

Evaluating the Dutch experiences in negotiating with publishers and vendors over the last two years, some important impediments can be identified:

- the desire of the Dutch libraries to focus on license agreements that comply with the licensing principles discussed earlier;
- the expectation that prices for „electronic only” can be substantially lower than the print subscription price;
- important differences between the scope and profile of the Dutch university libraries;
- the focus on titles (content) which are really needed and not on publishers who offer package deals and try to encourage libraries to buy titles they do not need.

#### NEW CONSORTIUM APPROACH IN THE NETHERLANDS

The review of the current consortium and licensing situation should lead to the development of a new policy and reinforcement of the cooperation between the Dutch university libraries.

It will be necessary to focus on the major issues in the information chain and not solely to on the details of various offers of publishers and vendors. This means that the process of the development of the digital library might be more complicated in the short term, but it would not make sense to create an impossible situation by making long-term unaffordable agreements.

If this slowed down the development of the digital library, it would not only jeopardize the future role of libraries in the information chain, but also the role of publishers. The development of electronic scholarly communication and the increase of Internet resources and free electronic journals will not wait for libraries and publishers to come to an agreement. It is in the interest of both libraries and publishers to reach a fair and useful compromise.

A useful and user-oriented agreement requires that publishers use open standards and provide access to their files in such a way that a seamless integration within the local and national infrastructure is possible.

A cornerstone in the policy for the next years will be the completion of a comprehensive overview of the journal collections of the Dutch university libraries. This information will provide the basis for the definition of the content we would like to license in electronic form. Subsequently, the conditions (licensing principles, technical access issues, formats, quality, management information, price) will be defined. A negotiation team will be given a mandate based on these guidelines.

#### RECOMMENDED LIBRARY STRATEGY

It is wise to continue building strong consortia, but it would be silly to only focus on licensing agreements with publishers. Alternatives to „traditional“ journal publishing are being discussed worldwide among researchers and are gradually being put into practice.

All university libraries should support the initiatives of their own researchers with respect to electronic publishing, stimulate Web publishing, and support international scholarly communication. Although there is still a long way to go, it may offer a solution to the current journals crisis.

On the basis of our experiences over the last few years, our strategy in the Netherlands should have five basic components:

1. to make the core journals available electronically through fair licensing agreements with publishers;
2. to identify unreasonable price increases publicly, inform our faculty, and stimulate the cancellation of subscriptions if there is no proper balance between quality, relevance, use, and price;
3. to support electronic publishing by our own researchers and encourage our universities in Internet publishing;
4. to facilitate discussions on copyright and copyright transfer within the academic institution;
5. to intensify international cooperation between libraries.

It is essential that libraries adopt this combined strategy. To rely only on Internet publishing by academics would be foolish and would fail to take the current situation and the information needs of users into account. If licensing is the only focus, the current journal crisis will continue, and libraries will be

prevented from finding more cost-effective solutions to the fundamental expectations of the digital library, such as:

- speeding up the process,
- improving service,
- improving scholarly communication,
- reducing costs.

A combined strategy can bring the discussion with publishers to a higher level and can increase awareness of the fact that university staff members are not only consumers of information but producers and reviewers of this information as well.

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