CONTRACTS, COPYRIGHT AND COST: NEGOTIATING E-JOURNALS INTO THE CORPORATE ENVIRONMENT

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The era of electronic publishing not only requires a redefinition of the roles and services of players in the value chain of the industry, but also evaluation and adjustment of copyright law and legislation. Corporate libraries have their own specific issues to deal with in the electronic environment. This paper suggests how to get the best results.

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E-journals

Since the mid-nineties, we have seen ever growing numbers of Internet-based, full-text journals from major publishers. Generally, such titles have been electronic versions of publishers' existing print journals and offered either as a print and electronic package or with the option to subscribe only to the electronic version. By the end of 1998, according to the ARL Directory, the number of e-journals was estimated to be close to 5,000. Major publishers' initiatives worth mentioning in this respect are Academic Press IDEAL, Springer LINK, Elsevier Science ScienceDirect and Wiley InterScience. E-journals give libraries the opportunity to offer users enhanced services such as desktop access, 24-hour access, search capabilities, multimedia enhancements, usage data and speed of access.

Next to these e-journals, there has been a significant growth in the supply of full text electronic databases, such as H.W. Wilson Full Text databases and UMI ProQuestDirect. These packages of electronic full text material are usually offered on CD-ROM (for local storage) or via the Internet from the publisher's server or a host server.

Negotiating contracts

General law and legislation do not provide the tools to define effectively the limitations of the use of electronic products. One of the key questions is whether existing provisions on intellectual property rights adequately respond to the developments in the information industry.

Moreover, the delay in the implementation in national legislation of the European Copyrights Directive and the discussions on the adoption of the European Directive on the Protection of Databases[1] as well as the discussions on the adoption of the WIPO Copyright Treaties[2] indicates that there is no international consensus between publishers, users and national legislative authorities on the

interpretation of international copyrights in general and on the aforementioned directives in particular.

Consequently, to fill the loophole in existing legislation, licence agreements become a major issue when subscribing to electronic publications. A complicating factor is the question of which legislation is applicable to such agreements, since the information industry is an international one.

Publishers' and users' points of view strongly diverge on these matters as a result of conflicting interest: protection against unauthorized exploitation of information as opposed to free access of information.

There have been various library initiatives to stress the customers' point of view in this. Most notable are the International Coalition of Library Consortia (ICOLC) Statement (1998), which is built on the Dutch and German academic libraries Licensing Principles (1997), and the Licensing Principles for Electronic Publications/Require-ments from the Pharmaceutical Industry (1998).

The corporate environment

In practice, as well as in (trade) publications, much attention is being paid to the academic community dealing with e-journals, while corporate libraries have their own specific issues to deal with in the electronic environment. Research amongst customers at Swets Subscription Service identified a number of important characteristics of the corporate environment. First, the issue of security. Many corporates in highly competitive environments (e.g. pharmaceutical companies) have a firewall in place and may be looking for intranet/extranet solutions rather than Internet solutions. Second, many multinationals need special multi-site, 'global' licences and prices. No standard contracts and prices can be applied, nor can consortium policies that many publishers are now developing easily be applied. Third, many corporate libraries need to present more of a 'business case' to their management in order to introduce e-journals. In the academic world many experiments are being conducted and often European funding is available for such projects. Following from this, and the fact that again we are often dealing with a highly competitive situation, it comes as no surprise that there is far less co-operation between corporate libraries than between academic libraries. A fifth characteristic is

the type of publication: in a corporate library we see more non-STM and less static collection policies. Last, the type of service expected from a supplier: speed is everything, credit card / corporate purchasing card usage is a requirement, and acquisition is not necessarily through a library.

Management issues

The setting described above gives a clear indication of the management issues (and cost drivers) at stake when negotiating e-journals into the corporate environment. We can distinguish four main areas:

1 dealing with different publishers for pricing issues;

2 dealing with different publishers for licensing issues;

3 technology, infrastructure and systems, and

4 role of the library.

1. Dealing with different publishers for pricing issues

Pricing models for e-journals come in many, many varieties and publishers still change their pricing policies regularly in search of the best models. Whilst the dominant method used by publishers for charging for electronic journals is the traditional subscription model, some larger publishers opt for packaged deals for all their electronic titles for longer periods, with fixed annual price increases, where libraries may not be allowed to cancel print subscriptions for the duration of the contract or where print subscriptions are offered at a discounted rate. Other publishers offer the print and electronic version of a title as a package, where the electronic part may come at a surcharge or may be included in the print price. Advantageous prices for 'electronic only' are quickly outweighed by higher VAT rates applicable to electronic services in many countries. New pricing models are emerging, for example for supplying to users, who are non-subscribers, access to individual articles in payment of a pay-per-view fee (transaction-based pricing).

With acquisition not necessarily through a central library, with complex international organisational structures and special wishes for payment (e.g. credit card), dealing with hundreds to thousands of different publishers and their

specific pricing policies, life can get very complicated for a corporate customer.

2. Dealing with different publishers for licensing issues

The diversity amongst publishers continues when it concerns licence agreements: definitions, terms and conditions, and library obligations may vary considerably. Perpetual access, access to electronic backfiles, archiving and inter-library loan (ILL) are major issues with regard to usage and user rights. In the UK the JISC/PA Group Model Licence was developed and that same group has also done some work on Fair Dealing and ILL in an electronic environment. One of the objectives of NESLI (National Electronic Site Licence Initiative) in the UK has been to develop a model licence. A lot of work has gone into arriving at a document with which all parties are happy and it remains to be seen how many publishers will be able to work with it without significant change.

As the supply of electronic material and thus the numbers of these agreements grow, libraries will increasingly be faced with licence administration and management, as well as negotiation of these licences. Often, especially for multinational companies, unique situations need to be covered by licence agreements, in an environment where copyright laws have not yet been established and where, for reasons of confidentiality, sharing of experiences between corporations is often limited.

3. Technology, infrastructure and systems

From focus groups at Swets Subscription Service, from the results of the TULIP project (Elsevier Science) as well as the SuperJournal project (in the UK), it is shown that there is a need for a single source for acquiring, managing and accessing e-journals. The most important requirements for electronic journal services are a critical mass of journals, easy access and timeliness. The fact is that publishers offer a variety of different systems and interfaces and many titles from non-STM publishers, that may be relevant to the corporate library, are not available electronically yet as individual e-journals in a timely manner.

Characteristics of e-journals and e-journal aggregator systems is that they are Web-based. For corporate libraries having to guarantee a secure environment and seeking to develop a

service for their end-users behind a firewall or in an intranet/extranet, practice shows that this can cause significant difficulties.

4. Role of the library

The SuperJournal project concluded that users want fast and easy access to a wide range of quality journals that are up-to-date. Electronic journals are resulting in fewer visits to the library, but e-journals are no replacement for the library which offers other benefits. Users perceive electronic journals as a replacement for the process of getting a journal article quickly without visiting the library. Research at Loughborough University Department of Library Studies into the use of e-journals at Glaxo showed that there are important new roles for the library in an electronic environment, when arranging for an e-journal aggregator system. It was found that information staff play an increasingly important role in filtering and sifting information for users, to help them deal with the new 'overload' of information. Another conclusion was that information staff increasingly take on the role of trainer, helping users navigate their way around new electronic systems and services.

What are agents doing to help?

Subscription agents have always played a key role in supporting libraries in the acquisition and management of print serials. They offer a single point for journal orders, for claims for missing and damaged issues, for annual renewal of all subscriptions and for minimising the processing of invoices and payments. Over the years many of the agents have developed a wide range of extra services to support the core function of processing and maintaining annual subscriptions to journals. Building on these, many agents have developed sophisticated e-media services, including new services relating to the contents of journals (centered around the provision of electronic data on the tables of contents of key scholarly and research journals); information services, such as checklists, subject lists and title comparisons, e-media catalog, trial management, and technical support, helpdesk and training.

Agents are strongly placed to provide electronic journals services. They have close links with the library community, their trading relationships

with publishers are long established, as are payment and financial systems.

Mediation between corporate library and publisher

While originally there seemed to be a trend for publishers and libraries to have increasing direct contact for arranging deals for e-journal, practice has shown that agents can play a significant role in the mediation between library and publisher. They can help to determine what it is the library wants in terms of titles and publishers, participating sites, and usage requirements. The agent can assist by analysing the paper holdings of previous years, as many publishers require this in determining the electronic licence fee. The agent can play an important role as a channel for communication (in local language) between the various international sites of the customer and between the customer and the publisher.

For licences agents' services to libraries would include maintenance of an up-to-date database of publisher options and prices; the availability of individual publisher's licence agreements and forms; liaising with publishers regarding changes to the agreements, for example, in relation to new title requirements or additional libraries/sites joining the deal; handling renewals of licences; acting as a distribution point for passwords and IP numbers; providing general advice on contracts and licensing, and assisting with access.

Publishers can similarly benefit from moving some of the routine administrative work of licensing to agents and in particular those tasks involved in direct communications with libraries. Agents are already actively involved in licence administration through their CD-ROM and Internet services and will build on this knowledge and expertise.

E-journal aggregator systems

As e-journals become available in growing numbers, the larger agents have developed WWW services to acquire, manage and access e-journals. These interfaces all claim a 'single source' idea, to solve administrative problems such as multiple passwords and URLs to work with. Typically there are a number of components available to the subscribing sites, such as administrative modules including usage statistics, searching facilities

across titles from different publishers and browsing modules. Examples of such services are Electronic Journal Navigator by Blackwell's and SwetsNet by Swets. These systems are based on arrangements with publishers to include their titles in the agent's system, and not all publishers are signed up yet. So even though the systems are marketed as 'single source', this is not (yet) entirely true. Also the expected use may vary from customer to customer and even though very enhanced search methods are offered, a researcher may want to start with his or her topic reference database or online catalogue. To establish a true single source product it is necessary to be able to connect everything with everything. Swets has developed 'multi-level linking technology' to enable integration of primary and secondary information resources and to facilitate access to those resources from customers' preferred interfaces such as Web OPAC's and abstracting & indexing databases.

As technology advances, solutions are being developed for dealing with firewalls and intranet/ extranet requirements of (corporate) libraries. When no solution can be found for arranging secure access to WWW aggregator services, agents can offer local solutions in full text electronic databases. These packages of electronic full text material are usually offered on CD ROM for local storage. The agent can help in selecting the most appropriate product (based on the holdings information of the customer); in installing and networking the electronic database locally; with technical support, and with processing and maintaining annual subscriptions (administrative efficiency).

How to get the best results

The key question dealt with in this paper was 'negotiating e-journals into the corporate environment – how to get the best results'. From research and experiences at a one of the world's leading subscription agents with many corporate customers, we can draw the following conclusions:

1. *Clear objectives and division of responsibility:* a library should choose to either work directly with a publisher or to work via an agent. If an agent is chosen as intermediary, it should be clearly

defined what should be achieved by when, and who is doing what.

2. *Communication:* as there are usually more people involved at each of the three parties in these complex arrangements (the customer, the publisher and the agent), clear lines of communication should be established. Keeping each other informed of actions undertaken, and reporting at set times is crucial.

3. *Do not set unrealistic time scales:* licences for electronic access cannot be arranged overnight, especially when dealing with complex situations (for example, global, multi-site access or special security set-up). Make realistic plans and measure progress all the way through.

4. *Realistic assessment of each others' negotiating stance:* the impartiality of an agent is key for the success as mediator between customer and publisher. However, it also means that the agent will not negotiate on behalf of one of the two parties; the added value of the agent is as mediator in the process (with extensive knowledge of the market situation), in offering aggregator systems for access and management of e-journals and in offering administrative efficiency.

When there is direct contact between libraries and publishers, both should be very much aware of each other's situation. Unrealistic expectations of the outcome of the deal will not speed up the process and is definitely no guarantee for success.

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