
Today's News

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Librarians and Publishers Try Out a Plan to Simplify Negotiations Over Electronic Resources

By [DAVID GLENN](#)

For many college librarians, the annual process of placing orders and negotiating licenses for online journals and other electronic resources is far too cumbersome and time-consuming.

"Part of the problem is that libraries often negotiate different license agreements with each entity that provides them electronic content," says Deborah R. Gerhardt, copyright and scholarly-communications director of libraries at the University of North Carolina at Chapel Hill. Each license can contain dozens of intricate provisions: Are faculty members permitted to place journal articles on electronic course reserve? Under what circumstances, if any, will off-campus users have access to the material?

Those licenses can take many hours to draft and negotiate, Ms. Gerhardt says -- which means that orders for new journals can sit on a librarian's desk for weeks. Small colleges and publishers, she adds, often lack the legal resources to maneuver through the licensing process.

But relief may be on the horizon. Several weeks ago, a coalition of librarians and publishers began to experiment with a radically simplified method of purchasing electronic materials. Libraries and publishers can now agree to use the "Shared E-Resource Understanding," or SERU, a five-page document that lists a few dozen stipulated points. (For example: "The subscribing institution will employ appropriate measures to ensure that access is limited to authorized users and will not knowingly allow unauthorized users to gain access.")

The experiment grew out of meetings in 2005 and 2006 that were arranged by the National Information Standards Organization, a nonprofit group that develops standards for the indexing and storage of both traditional and digital library materials. Eight publishers and 21 library systems are participating in a six-month pilot project, which began on June 20. (Ms. Gerhardt is one of the 14 members of the project's working group.) Participating publishers include BioOne, an aggregation of open-access science journals, and the journals divisions of Duke University Press and the University of Toronto Press.

Joining the project "was a no-brainer for us," says Kimberly Steinle, library-relations manager at the Duke press. "There's certainly a great deal of trust between libraries and university presses because our missions are quite similar."

Not all of Duke's journals are involved, Ms. Steinle says, but "we hope to move all of our titles to SERU at some point." Some relatively high-priced collections and mathematics journals, she explains, will not join the system during the pilot phase.

The complex licensing agreements that plague libraries "were created 10 years ago, in an era of big

publishers, when the Internet seemed new," says Judy Luther, president of Informed Strategies, a consulting firm. Ms. Luther is co-chair of the SERU working group. Now, she says, libraries and publishers are more comfortable with the digital environment, and they feel less need to protect themselves with fortresses of legalese.

Libraries and publishers that use the shared understanding also pledge to deal with one another in good faith -- preferably out of court -- if any disputes arise. As the project's creators see it, the document is not a license or a contract. When libraries and publishers use the system, the intent is that the only legally enforceable contract will be a short, simple purchase order.

But skeptics wonder whether the legal model makes sense. "I have been asking questions and have not gotten anything resembling a satisfactory answer," says Joseph J. Esposito, a former chief executive of *Encyclopaedia Britannica* who is now president of Portable CEO, a consulting firm in California. He has participated in heated discussions of the SERU on Liblicense, an e-mail list for librarians.

Mr. Esposito agrees that the process of negotiating licenses is cumbersome and says the SERU experiment "may be a great idea." But the legal specifics need further explication, he argues. "Are we supposing that this is a set of recommended guidelines that people can take and paste into a license and then sign? Or are we saying that there is going to be a purchase order that says, Our entire agreement, except for price, is going to be captured on a statement at this particular Web site, and that's all? I presume that that would be legally enforceable if you say, Look online at document X."

Ms. Luther replies that the project defines the agreement as something other than a license in part because many public colleges are required by their state governments to include certain provisions in their contracts. "That precluded the idea of creating a standard license, because we're up against contract law," she says. "So as soon as we discovered that, we realized that we could not create a simplified license. The only way around that was to not have a license at all."

The point of the SERU, Ms. Luther says, is to create a simple verbal contract and a set of norms so that "you wouldn't reach litigation."

"You're dealing with an environment of trust," she says. "So if there are issues, you come to the table and discuss them. This is not a litigious environment, and typically publishers don't sue their customers. I think that's why publishers have ultimately decided that it would be all right to try this."

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