Access policies and licensing issues in research libraries

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Abstract

Purpose – This paper discusses the importance of incorporating licensing issues in access policies for electronic resources in research libraries. The implications for patron understanding of basic legal issues and the role of the library in managing and acquiring these resources are investigated and discussed.

Design/methodology/approach – A survey of various research libraries was undertaken to examine what is provided to patrons in terms of conditions of use for electronic resources. Literature relating to the management and provision of electronic resources was examined.

Findings – It was found that few libraries provide key licensing information to their patrons. This has important consequences in terms of the patron's lack of awareness of restrictions on use, as well as the costs, complexity, and consortial involvement in acquiring these resources.

Research limitations/implications – A comprehensive international review of the trends and practices of research libraries regarding access policies and licensing issues would build upon this paper's findings.

Practical implications – Library patrons are not receiving adequate information about the resources they are using. If more research libraries would consider what licensing information is made available to patrons, there could be changes in patron understanding and perception of the library. This will impact the profile of the library in academia, and the changing role of librarians in collection development in the digital environment.

Originality/value – The paper will be of value to research libraries involved in the acquisition, management and delivery of electronic resources to its patrons, and to librarians involved in collection development and management.

Keywords Licensing, Collections management, Research libraries, Electronic media

Paper type Viewpoint

With the widespread acquisition of databases, e-journal collections, and other digital materials, libraries have had to grapple with the issue of developing appropriate policies for use. A recent report by ARL (Kyrillidou and Young, 2003) indicates that the expenditures for electronic resources in research libraries has shot up by almost 400 percent between 1994/1995 and 2001/2002. Equally significant is the finding that spending on electronic journals accounts for 26 percent of serials expenditures as of 2001/2002. I would suspect that the figure today is certainly higher than this. Given these numbers, it is evident that designing appropriate access policies has become an important issue.

Most, if not all, academic institutions have articulated policies regarding the use of computer facilities, including software, hardware, and networked infrastructure. These policies discuss the permitted uses (within the context of learning, teaching, and research) and the restrictions that are imposed. These restrictions often refer to security issues, unethical and illegal uses, computer etiquette, and the obligations of the institution and the individual. Libraries have adopted access policies as a means of balancing individual rights with the library's mission to provide open access to information to all of its patrons. J.T. Orick writes that:

> Establishing well-defined access policies will help to clarify who has access to the Internet, under what conditions, for what purposes, and with what restrictions. Policies should consider how to integrate the new technologies and how its use reflects the objectives and values of the library (Orick, 2000).

Most libraries also have policies on copyright to guide patrons on what they may or may not do with different types of copyrighted material in their jurisdiction. This is sometimes included in the access policy, or it is elaborated as a separate policy.

The linking of policy development with objectives and values appears self-evident, but I think we need to ensure that policies for access to digital resources actually accomplish this. An access policy needs to reflect our motherhood objective of providing the widest possible access coupled with an understanding of what is not permitted, such as systematic copying or dissemination of licensed content to an unauthorized person. As teaching technologies such as WebCT and Blackboard evolve, it is important to ensure that licensed material can be integrated into course delivery and support.

However, there are many examples of academic libraries that do not integrate their access policy with the conditions of use as defined by license agreements. The license sets out the terms and conditions by which the institution acquires (usually a lease) material to make accessible to its clientele. It

defines the obligations of both parties, and as a contractual agreement it is legally enforceable. As Mary Case has put it:

> As responsible agents for an institution, librarians must negotiate licenses that address the institution's needs and recognize its obligations to the licensor (Case, 1997).

One of the obligations of the licensee (i.e. the institution acquiring access or ownership) is to take "reasonable means" or "best efforts" to inform its patrons about the restrictions involved in using the licensed material. License agreements often refer to these phrases in describing the obligations of the institution.

There are examples of libraries that do this particularly well. Yale is a model example. It provides an "Appropriate use of Yale University Library's electronic resources"[1] that outlines the issues in a clear and comprehensive manner, with references to copyright law and the university's information technology policy. As well there is a separate page, "Permitted uses of online resources"[2]. This provides a link to key licensing information – such as ILL permission, course and reserve packs, and walk-in use – for each digital resource. This is an admirable way of making license agreements tangible and immediate to the needs of the patron. The California Digital Library offers the complete texts of their license agreements for online perusal[3]. Columbia University provides an awareness of licensing issues within the context of collection development strategies in "Digital libraries"[4]. The University of Texas at Austin, in its "Digital library collection development framework"[5] emphasizes goals and priorities in relation to collection development strategies, and touches upon licensing issues as well.

Providing an access policy via the library web site indicates to the publisher or vendor that the library is serious about educating its user community about access restrictions in relation to collection management, just as libraries have defined and posted copyright policies to inform and sensitize their patrons on this major issue. This is all the more important when one considers students who believe that all information is available on the internet, free of charge. The access policy can be one means of educating the student population about the fallacy of such media-driven thinking. It can also foster an awareness of the scholarly communications process by emphasizing the research value of the digital content being licensed. Moreover, as the open access movement gains momentum, some patrons may assume that all digital resources acquired by the library are free of charge. An access policy can counter this belief with an explanation of the commercial sources of information and the restrictions involved.

An access policy can accomplish several other purposes. It can help patrons understand that their favorite database or e-journal is available because the library has signed an agreement with a publisher or vendor based on specific terms and conditions. It can create awareness of the fact that librarians have new roles such as negotiating with publishers, to ensure that the range of patrons' needs is being met. As the partnership between faculty and librarians continues to develop in academia, the visibility of this role can only improve our image on campus. A survey published by the Special Libraries Association (SLA) a few years ago reflects the changing roles of librarians:

> Librarians foresee their role evolving to that of consultant and planner, where they facilitate the delivery of end-user information through the corporate network (i.e. manage the content, train end-users, deal with more complex inquiries). At the strategic level, they could play an important role in managing the knowledge resources of the organization (SLA, 1998).

Six years later, these words certainly have a prescient quality since librarians are embracing the role of consultant and planner in an environment of increasing complexity and opportunity. A well-crafted access policy should create an awareness of the roles of knowledge management and strategic planning, since the acquisition of digital resources requires an amalgam of decision making and planning. In academia, this can lead to the library being seen as central to how the educational mission is developed, embraced, and linked to the future. In today's knowledge-based economy, this indicates the new and critical role of the library within the institution. New research tools are increasingly heuristic in allowing the patron to mine content, explore their own associations of ideas, develop linkages between resources, and ultimately generate new knowledge. This has resonance at the institutional level, as Wendy Pradt-Lougee explains:

> ... we see the library becoming more deeply engaged in the fundamental mission of the institution – i.e. the creation and dissemination of knowledge – in ways that represent the library's contributions more broadly and that intertwine the library with the other stakeholders in these activities. The library becomes a collaborator within the academy, yet retains its distinct identity (Pradt-Lougee, 2002).

Access policies have a role to play in how this collaboration is perceived and understood. On a practical level, students and faculty need to understand who are authorized users of digital resources and why they cannot disseminate content to unauthorized users. The policy can convey the message that unauthorized use is illegal could potentially lead to the cancellation of the agreement and withdrawal of access. The implications for research, scholarship, and learning are plain to see. For students and faculty, this can lead to the realization that they have responsibilities in how they use these resources, and the consequences for inappropriate use.

Students, and likely many faculty, often assume that the library owns the material made available in its collections, regardless of the format. Many libraries offer a hybrid approach that emphasizes ownership of content where possible and access/leasing where necessary, even if staff have misgivings in relation to the preservation mission of libraries. Given the variety of business plans and strategies of publishers, and the costs involved in acquiring perpetual access, this flexibility is now integral to the research library's paradigm of service delivery.

This basic understanding of the access versus ownership issue can lead to awareness of other issues, for example that commercial use is generally prohibited. Placing educational or scholarly use in counterpoint with commercial use can help sketch the context in a language that patrons can understand. Large sums of money are invested annually in digital resources; collection management strategies in recent years have developed a keen appreciation of patron expectations for availability of online content. For students and faculty, learning that millions of dollars are spent every year can be an eye-opener; it can and often does lead to a growing appreciation of the library's role.

The role of the consortial environment can also be mentioned in such a policy. Few, if any patrons of an academic library would realize the time, energy, and complexity involved in acquiring digital resources with a consortium of other libraries. Explaining that many of these

resources are acquired consortially can lead to greater awareness and appreciation of the library's collaboration and complex relationships in managing its collections and developing a research infrastructure for future generations.

Copyright restrictions in using and reproducing material can also be integrated into such a policy. For example, in the Canadian context, one can indicate that authorized users may download, copy and print single copies of a journal article (and not the entire issue) for personal, scholarly, or educational research. It is important for users to understand that license agreements are separate from copyright legislation and afford different rights and obligations. Links from the access policy to the copyright policy (if they are separate) would help illuminate the context. If copyright matters are difficult for us to grasp, imagine the first year student fresh from high school! For students needing to know what they can and cannot copy, and for faculty needing to know how to make library materials available to their students in print and electronic form, this is essential. In Canada, for example, the copyright legislation has undergone several phases of review in recent years. Students and faculty need to know that copyright legislation still does not include any "fair dealing" provisions for the reproduction of digital material and that permission is required. In the US, the highly-charged issues surrounding the Digital Millenium Copyright Act make it imperative to link copyright and new technology with access issues.

Vendors of integrated library systems, as well as information providers, are developing electronic resources management modules. This is emerging as a key component to the managing of digital content for integrating various types of information relevant to serials, cataloguing, interlibrary loans, and the payment unit, and will require much collaboration between different units in order to function effectively. Equally important, this module can allow the user to be aware of important licensing provisions for electronic collections made available by the library, such as subscription term, perpetual access, e-reserves, as well as better defining the relationships between aggregators/publishers and the resources they provide to the library. The access policy becomes more central as our public interfaces become more transparent in describing to users the context in which resources are offered. As this context becomes more understandable to our patrons, we have to ensure that our communications and policies keep pace.

In summary, access policies are animated by the goals and values of the institution they serve. They should highlight the collections and service issues that guide the library in its decision-making. By developing an access policy that integrates licensing issues with a collection development strategy, the library can shed light on the implications of acquiring digital resources from commercial providers. In particular, the patrons can become sensitized to the permitted uses of these materials, the fact that large sums of money that are invested in acquiring and making them accessible, and that many resources are acquired with consortial partners to achieve better terms and conditions than could be obtained by an individual institution. It is important to educate patrons that licensing of digital resources is grounded in the selection criteria for pertinence to curriculum and research needs. All of these factors can be invaluable in developing the partnership role of the library with the faculty, students, and administration. A growing awareness of the library's role in managing knowledge to meet the goals of the institution can only be to our advantage. Moreover, as institutional repositories become seen as viable and strategic vehicles for managing knowledge, our ability to shape access policies and work with academic partners will become even more important in the future. Ultimately, our access policies need to be a dynamic reflection of how we underpin the educational mission of the institution. As the universe of scholarly online resources dizzily expands, access to collections becomes an exciting and growing challenge.

Web resources

1 www.library.yale.edu/about/app_use.html
2 www.library.yale.edu/journals/licensing.html
3 http://libnet.ucsd.edu/cdl/licenses.html
4 www.columbia.edu/cu/web/services/colldev/digital-library.html
5 www.lib.utexas.edu/admin/cird/policies/subjects/framework.html

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