

# Chapter VIII

## The Evolution of License Content

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### ABSTRACT

*The terms of licenses for electronic resources have changed in the past decade as librarians and publishers strived to reach common ground. A review and analysis of thirty-five licenses in effect prior to 2000 and their 2006 counterparts reveals how licenses evolved to meet the licensing principles set forth in recent years by the American Association of Law Libraries, the International Federation of Library Associations, and the NorthEast Research Libraries. Thirteen aspects of licenses were analyzed in the study. Eight aspects have evolved in the spirit of the principles, and four have not. The remaining aspect has not evolved as part of a license, but has emerged as a preferred business practice outside the license agreement that is in keeping with the practice the licensing principles encourage. The results of the analysis indicate that efforts in the library community to encourage the development of licenses that meet the needs of most libraries are having a positive impact.*

### INTRODUCTION

The need for licenses for electronic resources that are acceptable to publishers, vendors, and librarians is substantial. As the number of licensed electronic products increased in the 1990's, librarians began to gain expertise in understanding license terms, legal requirements, and appropri-

ate procedures for entering into a legal contract between a publisher and the library or its parent organization. Library associations began to create lists of licensing principles in order to educate their members and take a formal position on many of the common issues encountered in the licensing negotiations. The three most recent sets of licensing principles from the library community have

a great deal in common. Have the principles and the support they have garnered within the library community had an impact on the way licenses have changed over time? This study reviews 35 licenses in existence prior to 2000 and their counterparts in 2006 in an effort to answer the question.

## **BACKGROUND**

The negotiation of licenses for the acquisition of or access to electronic content has been challenging the academic library community for over a decade. Various professional associations and individual universities have developed documents to state the needs and requirements for licenses that are acceptable by individual research institutions and library consortia. These documents have been revised over time to reflect the changing understanding and requirements of the community.

In the United States, work in the library community regarding licensing principles for electronic resources first came to fruition in June, 1995 by the Electronic Publishing Licensing Agreements Subcommittee of the Publisher/Vendor-Library Relations Committee of the Association for Library Collections and Technical Services, a division of the American Library Association. The Massachusetts Institute of Technology developed its “Licensing Principles for Electronic Materials” in December of 1995, followed quickly by the University of California’s “Principles for Acquiring and Licensing Information in Digital Formats” in May of 1996, the University of New Mexico’s “Guidelines for Licensing E-Products” in November of 1996, and California State University’s “Principles for Acquisition of Electronic Information Resources” in December of 1996. In 1997 the Association of Research Libraries led a joint effort with the American Association of Law Libraries, the American Library Association, the Association of Academic Health Sciences Libraries, the Medical Library Association, and the Special Libraries Association to develop a

set of national principles (Schottlaender, 1998). These principles were known as the “Principles for Licensing Electronic Resources” (Association of Research Libraries [ARL], 1997).

Similar work was in process in Europe and elsewhere during the same time period. In 1997, the Dutch Association of University Libraries and the German Association of Research and University Libraries in North and Middle Germany drafted a set of licensing principles that provided a basis for the International Coalition of Library Consortia to develop a “Statement of Current Perspective and Preferred Practices for the Selection and Purchase of Electronic Information” in the spring of 1998 (International Coalition of Library Consortia [ICOLC], 1998). More than 80 consortia worldwide had adopted the ICOLC document by May, 2000. The European Association of Research Libraries, known as LIBER, drafted its own set of principles in July, 1998 (Klughist, 2000). This document is known as the LIBER “Licensing Principles” (Ligue des Bibliothèques Européennes de Recherche [LIBER], 1998).

More recently, the International Federation of Library Associations prepared a set of “Licensing Principles” in 2001 (International Federation of Library Associations [IFLA], 2001). The American Association of Law Libraries (AALL) developed a set of “Principles for Licensing Electronic Resources” in 2004 that was built upon the earlier collaborative work that the AALL had performed in 1997 with other U.S. library associations (American Association of Law Libraries [AALL], 2004). The NorthEast Research Libraries (NERL) consortium in the northeastern United States maintains a current set of “licensing guidelines” that the group uses to provide guidelines for vendors and NERL members as they negotiate licenses for electronic content (NorthEast Research Libraries [NERL], 2006). The California Digital Library of the University of California system has created a “Checklist of Points to be Addressed in a CDL License Agreement” that calls attention to areas of licensing that

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