

Ensuring Legal Use of Electronic Content

You have just signed a license agreement for accessing an electronic database. You know that the use of the database is subject to certain terms and conditions as set out in the license agreement. What are your obligations, however, in informing others - the *end users* of the database -- about those terms and conditions? Are you now the “copyright police”, required to monitor each search, access, download or print-out, from the database? Or are you merely required to educate the end users about the terms and conditions of use and to inform them that they are responsible for their own actions and legal uses of the licensed database. Or do you have any obligations at all? Your first source for answering the question about your obligations is in the license itself.

Read the License

Look for clauses in the license that set out any licensee/library obligations. For example, there may be a clause to the effect that you will notify your patrons and other authorized users about the terms and conditions of the license. How will you do this? Will you require all end users to read a copy of the license prior to accessing the database? Likely, a summary of the terms and conditions would be more helpful, written in plain English, perhaps with some specific examples of what is permitted under the license. It would be helpful on this summary to include a contact name where further questions could be quickly and easily asked. And you will get many questions. Questions such as:

- Can I email a PDF copy of an article to a patron?
- Can I post an image from the licensed database on our library’s intranet or website?
- Can I print a copy of an article I access?
- Can I forward a copy of an article to another librarian in our library?

And if your answer is no to these questions, you will inevitably get the question: Why not? And in some cases the “but-I-could-with-the-print-version” reply. For instance, *why can’t I forward all the articles from a particular periodical to all the librarians in our library -- isn’t that the same as circulating the print periodical?* (This may put you or perhaps your legal counsel in the position of explaining the term “systematic copying.”)

Educational Initiatives

However you approach it, ensuring legal use of licensed electronic content is not easy and must be dealt with on various levels. The first step may be providing to your end users a strong basis about copyright law. A license agreement is a legal contract based upon copyright law. Your next step may be discussing how permissions work, and how license agreements set out specific terms and conditions of use.

If you have several licensed databases and periodicals, you may provide an educational seminar from time to time about how licensing content works in libraries, how a contract is adhered to, and what terms and conditions are often found in digital license agreements. That way, your end users have a solid understanding of the legalities of using electronic content, and will understand some of the specific limitations on that use under each particular license.

If you do not feel qualified to teach such a seminar, many organizations offer online courses and this is also a popular subject in many library conference sessions.

Copyright Warnings

Another manner in which you could educate end users about legal uses of licensed content is to include copyright information on each reproduced article or item in the database (e.g., content owner's name and email address.) In fact, the content owner may place this on each item, so that it is automatically there for view by the end user.

Wherever and whenever access to the licensed content is made available, patrons and other end users should be explicitly warned about copyright law and license agreements. For example, a copyright notice should be posted near a computer terminal from where the database may be accessed. Where access is remote, a copyright notice should appear prior to granting access to the content. The wording of such a notice may be agreed upon in advance by the content owner and the library.

In addition, the library should make information on copyright law and license agreements easily accessible to all users, via its own website, intranet, as a listing of links to other websites, and/or on a shelf in the library.

Using some sort of DRM or digital rights management may also help ensure proper use of the licensed content. This may include keeping content behind a password protected site and using encryption. Some find this a good method while others find DRM burdensome and making it difficult to quickly access licensed content.

Having a "go to" person is handy too. This way, where the license is either unclear, or the activity involved is not specifically addressed in the license, the end user has somewhere to go, and someone to talk to. This "go to" person may be a fellow librarian, a person who is experienced in negotiating and interpreting license agreements, and can provide a quick practical answer. Generally a legal opinion is not necessary and approaching a lawyer for each question may be tedious, slow and expensive. It's well worth a librarian stepping up to the plate and becoming a part or full-time Copyright Librarian to manage various copyright and licensing issues in your library.

Conclusion

Ensuring legal use of licensed content is a multi-facet task. It involves understanding the license your library has signed, being able to explain the license terms in plain English, and support from your senior management (both for budget and time) in training end users about your licenses. This will result in greater confidence in how your end users use your licensed content and perhaps greater use of the content, providing extra value and use of your licensed content. And, of course, all your actions will lead to legal uses of licensed content.

Lesley Ellen Harris is a lawyer, author and educator on copyright and licensing matters. The 2nd ed. of her book, *Licensing Digital Content: A Practical Guide for Librarians*, is now available through ALA Editions at <http://www.alastore.ala.org/>. Lesley maintains a blog that provides librarians and others with answers to their copyright questions, see www.copyrightanswers.blogspot.com.

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