US Consortial Licensing:
Good Lessons, Hard Lessons, Warning Lessons[*]

David Kohl
Dean for Libraries, University of Cincinnati, 640 Langsam Library, United States

ABSTRACT

My task today is to talk with you about US consortia and their experience in licensing access, principally electronic access, to the journal literature. In particular, I will be discussing how these library consortia – publisher deals are put together and what lessons we're learned in the US. Since some of you too may have done some deals I'd be very interested to hear about your experiences as well. So I hope you'll feel free to stop me if you have questions or wish to make comments. Just raise your hand so I'll know you want to say something.

As we begin, it may be useful to remind ourselves what consortia are. They are the creations of and agents for libraries – libraries who have cooperatively come together to share the risk and cost of exploring new ways of doing things. Probably most of us are familiar with the covered wagon trains used by Americans to explore and settle the American West. These were cooperative enterprises by individual farmers, settlers and businessmen to reduce the cost and risk of moving westward. Today's library consortia are similarly cooperative enterprises for exploring, mapping, and taking up productive residence in the newly emerging world of digital information. These libraries have assigned their present day consortial agents, their wagon trains, three main tasks: reducing the price of library information resources (primarily journal costs), sorting out intellectual property issues, i.e. the control, distribution and ownership of data and literature, and helping deal with technology, i.e. both understanding its possibilities and limitations and implementing it. The first of these three goals has received the most attention from consortia through their focus on licensing digital information and is the focus of today's class, although all three goals are intertwined, making it impossible to address one without to some extent addressing the others.

My plan this morning is to talk primarily about consortial licensing goals and their implementation. While the number and variety of US consortia is enormous, their licensing goals break down into just two different approaches about which there is currently a tremendous debate not limited to the US. Clearly, which goal you choose affects the kind of deals you can do. I will illustrate the issues of this debate by outlining the approach taken by two US consortia -- the California State University system and OhioLINK. I will conclude by briefly calling to your attention a few key documents, tools and web sites which I think you will find useful in licensing and negotiating. If there is time and interest during discussion, we can talk about some of the hard won practices which US consortia have managed to make

---

standard parts of US licenses – ILL, walk-in use, perpetual access, management data, security definitions, etc.

LICENSING GOALS AND THEIR MODELS

There is considerable discussion among librarians over the issue of selection versus mass purchase. For years libraries have dealt with the reality of limited acquisitions budgets by being selective in the journals which they have purchased. This was considered responsible budget management. And this traditional approach has carried over into how many libraries deal with the emerging digital world. One of the earliest, clearest and actually best examples of applying this approach to the world of electronic information was the California State University consortium.

THE CALIFORNIA STATE UNIVERSITY MODEL

The libraries of the California State University system operate as a consortium of 23 campuses, 344,000 students and 19,000 faculty (Note: Confusingly, this is a different group of universities from the University of California system which includes such well known libraries as Berkeley, UCLA, etc.). The CalState libraries are all similar in that they are medium-sized libraries in academic institutions devoted to both teaching and research. Their main goal in licensing journals is to provide electronic access to the journal literature they already have and secondarily to reduce or control the costs of providing access to journal articles.

Their approach has been to identify all the journals to which a majority (15 or more) of their libraries subscribe, i.e. a common core group of journals, then to seek a third party vendor, i.e. an aggregator, to provide them to the CSU libraries in electronic format. The electronic format will allow the libraries to provide greater access to the titles (at times when the library is not open, to users at home, to users in offices or dorms) and by acting together, i.e. through a consortial purchase, they hope to pressure the publishers to be reasonable about prices.

A quick summary of results is as follows: Their survey identified 1,279 journal titles that 15 or more libraries owned. Of these 907 titles (71%) were available in electronic format. Of these, vendor bids only covered between 600-700 titles. Seven vendors initially submitted proposals; four survived the first review; and two, EBSCO and OCLC, were selected to jointly provide approximately 600 journals. No one aggregator was able to provide a significant core of the desired journals so it was necessary to select two who could provide journals with the least overlap. The cost of providing these journals in electronic format has not been formally reported other than the comment from Evan Reader, instigator of the project, that added costs for adding an electronic version of a journal has ranged from zero dollars per journal to 25% over print subscription price per journal. The generally accepted wisdom is that the CSU consortium is paying a 10-15% surcharge overall for their electronic access to selected journals.

There are several notable points here. First, although CSU has expanded access in the sense that this subset of electronic journals is more widely available to their patrons, they have not

increased the overall number of journals available to their patrons. Secondly, note how the use of aggregators reduced the number of titles which could be provided. Not only was it necessary to use two aggregators to get a reasonable number of electronic journals, but since aggregators don't own the journals and their contracts with publishers typically run a year at a time, they have historically had problems consistently providing all the journals. Thirdly, note there are no cost savings, only a cost increase. Fourthly, keep in mind their assumption that the library knows what the patron needs and wants. This has remained intact as an operating principle – a dubious assumption as we shall see.

THE OhioLINK MODEL

An alternative approach has been taken by OhioLINK. Although OhioLINK consists of only academic libraries, it is a huge range of academic libraries. There are large research libraries such as Ohio State University with 50,000 students and a $9,000,000 collection budget down to small community college teaching libraries such as Belmont Technical College with 1,150 students and a collections budget under $200,000. And in-between are libraries of all sizes. In addition, some OL libraries are government supported while others are privately funded. In short, OhioLINK libraries are not only very diverse, but represent the whole range of US academic libraries – public and private, large and small, research and teaching.

The key difference between the CSU consortium and OhioLINK, however, is in goals. The OhioLINK consortium not only wanted to provide the advantages of digital journal access to journals already received, but also wanted to significantly increase the number journal titles available to OL libraries. Let me show you why this was important by showing you some statistics which, in my experience, libraries rarely show. Usually libraries brag about how many journal subscriptions they have or, nowadays, complain about how many journals they've cancelled. What one seldom sees is what proportion of the relevant journal literature they actually provide to their patrons. Painting with an admittedly broad brush, OhioLINK identified 18 significant publishers for the academic market (4,016 journal titles) and compared current holdings of 13 core OhioLINK libraries against this larger, generally desirable group of titles. Only Ohio State University held more than half of the titles and it was a bare half at 53.2%. University of Cincinnati followed with 38.7% of the titles and the percentages drop rapidly after that. On average, Ohio academic libraries (excluding 2-year institutions) were individually providing access to less than 25% of the potentially desired journal literature. Even ILL, and I remind you that it is a relatively costly solution for libraries at $30.00 an article, would not solve a gap of this size. A new approach was required.

Out of this discovery of an "access gap", a further look at traditional buying patterns led to another discovery. This was the realization that the serials problem facing libraries was not a lack of money, but how that money was being used. A review of library spending, both in Ohio and throughout North America, showed that lots of new money was being spent, but it was buying less. The problem for libraries was not a lack of money, but how little value in terms of access they were getting. Here too, let me show you the figures. The first is what OhioLINK libraries were spending on a major publisher's journals (almost a 2 million dollar increase) followed by a chart of the number of journals we were getting during the same time period (a decline of almost 500 titles). Expenditures increased, the number of titles received declined. Association of Research Libraries figures for North America for serials show the

same pattern.

The real problem was clearly not a lack of new money – consider how much new money was being spent each year. The real problem was to find a way to use these <u>already substantial increases</u> in expenditures to increase Ohio's access to the journal literature. Ohio librarians were quite willing to continue spending more money; they just didn't want to spend it to buy fewer journals.

Consequently, the OL libraries developed a new model of journal purchase which took advantage of the new opportunities and possibilities of the electronic environment. After a period of negotiation with Academic Press, quickly followed by an almost identical deal with Elsevier, Ohio librarians came up with what might be called the OhioLINK model of journal deals – a model which substantially increased both access and the bang we were able to get for our dollars. The deal was a consortial deal; in OhioLINK's case a statewide deal.

We offered, at a minimum, to pay the sum of all members' present print subscriptions plus an agreed upon annual inflation rate plus a no revenue reduction pledge for the contract period. With some publishers a small electronic journal supplement was also included. In other words, although each deal was unique in its details, the bottom line guarantee to publishers was a non-eroding subscription base and an increased revenue stream.

For this we requested the continuation of each member's print subscriptions plus access to <u>all</u> of the publisher's journals in electronic format for <u>all</u> members of the consortium. While we realized this represented a rather wide casting of the collection net (mass purchase rather than title by title selection), we knew there were also, for each institution, a number of desired journals we would pick up. More importantly, both sides came out ahead. OhioLINK members: 1) expanded access to the journal literature, 2) established control over inflationary costs, 3) provided universal ownership to a common resource (i.e. overcoming the print world issue of who actually gets to keep the commonly purchased item), and 4) reduced ILL costs. The publishers also gained: First, this deal stopped the steady cancellation of journals titles. Second, they increased their overall revenue stream. Third, they increased visibility of their journals through wider distribution. And fourth, they were able to establish predictability and stability in their market.

What is remarkable is how well this model works for both publishers and libraries. The publisher increases his revenue while only giving up a part of his market which is probably never going to buy his product anyway. This is a significant point. Allowing increased access to the libraries doesn't cannibalise potential sales since the libraries weren't buying the journals in the first place. Further, the costs of providing access to many copies of electronic versions of the journals also doesn't increase for the publisher in any significant way after the first electronic copy. In other words, the cost difference to the publisher in providing access to the second copy versus providing access to the 100th copy is negligible. Thus the publisher is giving up very little in order to increase overall revenue, stop the erosion of annual cancellations, establish market stability/predictability and increase the visibility of their journals.

As you have seen, the OhioLINK libraries continue to pay a little more but effectively get a huge increase in journal titles. Let me illustrate the power of this approach. First, consider the

increase in subscriptions which this model provides. Academic Press publishes 175 titles. Before the contract OhioLINK libraries had 1,140 subscriptions to these titles; after the contract the libraries had the equivalent of 9,100 subscriptions for an additional annual cost of $110,000 (total annual cost of $1.1 million). For Elsevier's 1,150 titles, OhioLINK libraries increased from 3,600 subscriptions to the equivalent of 59,800 subscriptions for an additional annual cost of $700,000 (total annual cost $7 million).

Another way of looking at these deals is to consider what happens to the per journal cost. Before our deal with Academic Press, OhioLINK libraries were paying an average cost per AP title of $964.91; after the contract even with the 10% increase for electronic journals that average cost had dropped to $132.97 per title. The Elsevier contract had equally dramatic results, going from $1,944.44 per title to $128.76 per title. This, of course, is a consortial view. For individual libraries, the reduction is variable. Those with very few subscriptions end up with incredibly low average costs, while those with the most subscriptions have smaller savings. The important point, however, is that even the largest libraries, OSU and UC, reduced their average costs by approximately half since they each had only subscribed to approximately half of Elsevier's journals.

It's a powerful model which is not only more suited to the electronic world than the traditional model, but which allows libraries and publishers to work together and both come out ahead. We have since done additional deals with other publishers – a partial list is on the screen. Talks with a number of other publishers are continuing. All told, Ohio academic libraries, through co-operative buying, are now spending just over 19 million dollars a year on such deals. For the University of Cincinnati Libraries our share runs around a quarter of our total acquisitions budget. It is a major commitment, but the payoff in terms of expanded journal access, both for OhioLINK and UC is tremendous. Every library has at least doubled their journal access from each publisher for a roughly 10% increase in expenditure. For the state as a whole we have added literally a combined total of over 100,000 new serials titles to libraries' collections. And, of course, publishers once again have a growing, increasingly lucrative market.

The only cloud on the horizon was a small but persistent rumbling from non-OhioLINK librarians and even some of our own faculty wondering why would we want to subscribe to all those journals. After all, we weren't "selecting" the journals, we were just adding them in mass lots. As people pointed out to us more than once, getting a bargain on something you don't need (or particularly want) is no bargain at all. So we began to take a look at the use data for electronic journals in a systematic way. Specifically, we wanted to compare use of the newly available titles with the ongoing use of our original, carefully selected titles. In both cases the data came from the use of electronic journals.

RESEARCH CONTEXT

The data we looked at were article downloads on a state-wide basis. By downloads we do not mean necessarily printing the article off, but simply clicking on the icon which causes the full article to be displayed, i.e. a step beyond the viewing of the abstract. This article could then be read on the computer screen or printed off or both in its entirety. Such an action, this click, would constitute one use or download.

Over 3,500 journal titles are currently available in full text electronic as a result of these package deals. The titles we looked at came from a variety of major publishers through a series of data snapshots. The publishers are listed on the screen.

Use, as measured by article downloads, started strongly and built rapidly – starting with 2 to 3,000 downloads per week and rising to 45,000 weekly downloads last winter. Keep in mind that there are two growth drivers: not only are patrons becoming more aware of and comfortable with electronic access, but OhioLINK is substantially increasing the article universe with the addition of new publishers and titles. The growth shows no sign of slowing and as we enter our fourth full year, the cumulative number of article downloads has topped 2,000,000 articles.

Who are using these articles? It is probably useful for me to remind you that the 79 OhioLINK libraries include all of Ohio higher education and so is probably fairly representative of North American higher education generally. As you might guess, looking at these very substantial use patterns – millions of downloads and a full range of academic institutions and patron types -- we have learned a number of interesting things.

FINDINGS

The first is that not all journal titles and, indeed, not all publishers are equal in their usefulness to the academic community. Please keep in mind that we are not talking here just of university or college or community college use, but of all higher education use in the state of Ohio. In our first snapshot using 1999 data what we found was a difference from the old 80-20 rule of journal use. Rather than 20% of the journals accounting for 80% of the use, we found that it required almost forty percent of the titles to account for 80% of the downloads or use. As you can see, this was an absolutely consistent pattern for not just one or two but all five commercial publishers studied. At the extremes, as you can see, are the really heavily used titles where 1-2% of the titles account for the first 10% of the downloads and the much bigger group at the other extreme where it takes about 50% of the titles to account for the last 10% of the downloads. This greater than expected asymmetry suggests interesting implications for collection building -- particularly in a resource constrained environment. Both libraries and publishers alike may want to revisit their commitment to such a large group of low-use journals. A quick look at a second snapshot showing the figures for the year 2000, and including even more article downloads and more publishers, confirms this use pattern.

Secondly, looking at the article downloads through the perspective of proportional use, i.e. the number of articles made available by each publisher divided by the number of downloads from that publisher grouping, we see considerable differences among publishers. The range runs from very sparse use of the article universe, approximately 2 articles out of a hundred used in a six-month period for the American Physical Society to just over 50 articles out of a hundred downloaded for Wiley. Of course we need to keep in mind that popularity and importance can be two very different things.

The third point is that articles do not seem to be, by and large, fungible -- a fancy way of saying interchangeable. Rather the idea that a journal title represents a kind of natural

monopoly, that a journal article is unique and irreplaceable seems to be confirmed by the reality that adding access to the titles of a new publisher does not decrease the use of titles provided by other publishers. Each publisher seems to have their own level of use which is not affected to any great extent by the articles/titles provided by another publisher. Here too our follow-up snapshot from a year later including more publishers (but not Elsevier) shows more complexity but the same independent pattern. It will, of course, be interesting to see if SPARC changes this.

The fourth point, and the main purpose of our study, is the most interesting and suggestive. How important is selection title by title? We took several camera shots of the data. When we looked at the 865,000 articles downloaded in June 1999 through May 2000, and compared articles downloaded from titles already held in each library versus titles not previously held in that library, we were astonished. Overall, 58% (502,000 articles) were downloaded from titles not previously held at that institution while only 42% were from titles already available on campus. Our next year's data on significantly more downloads showed exactly the same percentage. We were getting more use from non-selected, than selected journals.

Even breaking the data down into more discrete chunks by looking at individual institutional data for an April 1999 - March 2000 period, the basic finding remained intact although the picture become more complex. When only university communities were considered, for example, the average percentage of article downloads from not previously held titles dropped from 58% to 51%, with the three largest universities, Ohio State University, University of Cincinnati, and Case Western Reserve University revealing even lower non-selection rates of 31%, 44% and 46% respectively – a perfect inverse relationship to size of print holdings. And when only the smaller four-year and two-year community colleges were considered (not shown) the percentage of downloads from not previously held journals rose above 90% with many approaching 100%. There is, in short, an almost perfect correlation between size of library collection and use of not previously selected journals. The smaller the original collection, the more proportional use was made of not previously available journals.

While it may be flattering to consider that the larger library staffs and more sophisticated faculty of the Universities allows them to do a better job of selection than their smaller counterparts, the more elegant and straight-forward explanation appears to be that it is the size of the collection which matters. In other words, large institutions do a better job of meeting their patrons' needs simply because they are able to provide a larger proportion of the journal literature, not because they have a better selection process.

But we're getting ahead of ourselves. Our first, and somewhat alarmed, conclusion therefore was that our selection process was seriously flawed. After all, on an overall basis, the journals which had not gone through a rigorous title-by-title selection process appeared to be generating more use than our carefully selected purchases. Even the data at the major universities where downloads of articles from selected journals exceeded 50% was not particularly reassuring. Our first thought was that perhaps continued use of print copies was a confounding factor. It could be argued that the relatively low use of digital versions of the already held print journals resulted from continued use of print copies (which was not measured and so not factored in). Further investigation is clearly called for. Nevertheless, front line librarians actively involved with their patrons are likely to be skeptical that print use of currently held titles will turn out to be a major factor. Our main use of the journal literature

is by students -- undergraduates because there are so many of them and graduate students because their per capita use rates are so high. And students have almost entirely abandoned use of the stacks. When power failures or other mischance have brought down our online systems, the students simply leave the library. When library staff point out that much of the material remains available through conventional print sources, the inevitable reply is a casual "we'll wait for the system to come back up". And even that most traditional group of patrons, faculty, seem unlikely to account for significant print use. Not only are they a relatively small proportion of the academic community with modest use of the library journal collection, but in fact the anecdotal evidence suggests that they too are actively embracing digital journal access.

Returning to the data once more proved helpful. When we broke the data down even further to title by title comparisons and looked, for instance, at the average number of downloads of titles previously held at UC (i.e. selected titles) versus the average downloads of the new titles (i.e. purchased by lot) we were somewhat relieved. Downloads from selected journals at UC averaged 51 per title while downloads from non-selected journals averaged 23 per title. So, if individual selected titles get more use than non-selected titles, how can the overall use of non-selected titles be so large?

The answer is that although selected journals were used, on average, more heavily by patrons than non-selected journals, our selected journals simply did not cover enough of the potential journal universe which patrons wanted and needed. The reason newly available non-selected journal use was so high was simply that they represented the majority of the journals now available to most library patrons. Remember that first study pointing out that statewide only around 25% of the potentially useful titles were held in state institutions and the answer becomes blindingly clear. Adding the remaining 75% , even at a lower per capita use rate, adds so many new journal titles that the use of non-selected titles swamped use of selected titles.

Just exactly how much expansion in title use can be seen by comparing the number of previously existing subscriptions receiving at least one download versus the number of newly available electronic titles receiving at least one download. Even at OSU with the largest number of print titles previously available (1,253 titles) the number of new titles used represented a doubling (2,501 titles) of access. The reality, therefore, was not that we had selected the wrong journals originally, but that we had not selected enough journals. There is, in short, a huge pent up demand for access to the journal literature and the solution is not better selection, but broader access.

Let me simply add that other consortia are now reporting similar data. The clearest replication of the OhioLINK experience to date has been HEAL-Link, the Greek academic library consortium. Negotiating deals on the OhioiLINK model, HEAL-Link data, although still preliminary, shows a similar pattern – a huge expansion of journal access and patron use, with 62% of the downloads from journals not previously available to library patrons.

OL MODEL CONCLUSIONS

What conclusions can we draw from the OhioLINK model? First, you make better use of your money by getting more bang for your buck. As we have seen, the cost per journal title declines substantially. Secondly, you increase access to the journal literature dramatically – in OhioLINK's and HEAL-Link's case by thousands of journals. Thirdly, the increased access to the formerly unavailable journal literature shows that patrons use it and use it heavily. There is a huge demand for this literature and if it is made available, it will be used. Fourthly, by dealing directly with the publishers you eliminate all the problems and limitations of dealing with aggregators.

So, two approaches to choose from. The traditional approach is title by title selection, paying additional money for digital access to a limited number of journal titles. The newer (OhioLINK) approach is mass purchase, increased value for money spent, and using the digital environment to vastly expand patron access to journals – access which, contrary to expectation, is not only used, but very heavily used.

TOOLS AND SOURCES

Before I conclude I wanted to make sure you knew about some tools and resources available to you as you continue to build your consortium and negotiate new contracts with publishers.

Probably the most valuable organization for you in dealing with publishers is the International Consortium of Library Consortia. Begun as a North American consortium of consortia in 1998, it expanded into an international organization by joining together first with an active consortial movement in Great Britain and Northern Europe and shortly thereafter the Greeks, Australians, Chinese joined.

The ICOLC meets three times a year; twice a year in North America in the spring and fall and once a year in Europe in late November or early December. The first European meeting in 1999 was held in Cranfield, England, the second was held in Berlin, Germany the following year and the third is scheduled for Helsinki, Finland this November. The next North American meeting will be held in Portland, Oregon in the spring.

ICOLC is a completely voluntary organization with no dues or costs other than those of attending meetings. It has three main useful elements: meetings, listserv and policies. The meetings, limited to 2-3 representatives from each consortium are devoted primarily to sessions with publishers where they outline proposed pricing models and policies which are then critiqued by the assembled librarians. The exchange is what is called in diplomatic talk "free and frank discussions", i.e. nobody pulls any punches although everyone has remained very civilized during the process. A running summary of the days meetings is posted every night to all members of the listserv so even people who can't attend can stay up to date.

The second key element of ICOLC is the listserv. This is where considerable discussion goes on among librarians about offers and contract elements made to them by publishers. Since librarians are very open with each other, it makes it very hard for publishers to "divide and conquer" while making it much easier for librarians to keep a united front in those areas

where it makes sense to do so. As many people as wish to from any ICOLC consortium may sign up for the "consort" listserv.

The third element, an emerging one, is standard or agreed upon policies, sample contracts, RFP's, links to other consortia and the like. There are three important web sites you should know about. The first is the ICOLC public web site housed at Yale University. This includes a list of all ICOLC members, notes from previous meetings and significant documents such as the "Guidelines for Technical Issues in Request for Proposal (RFP) Requirements and Contract Negotiations, January, 1999" and "Statement of Current Perspective and Preferred Practices for the Selection and Purchase of Electronic Information". These and other standards are having a considerable influence on the publishing community. Last month, for example, Gale reported at the IFLA Pre-Conference on Consortia that its management information package is fully compliant with ICOLC guidelines.

The second is the member "shadow" web site housed at OhioLINK. This site is reserved for consortia members only. It includes working documents of many consortia and links to the working areas of consortial sites. For example, by linking to the CIC homepage you may access a document called "Standardized Agreement Language" which defines terms and language for use in negotiations and contracts with vendors. Although not an ICLOLC document, it could be very helpful.

The fourth element is super-consortial deals. The ICOLC serves as a facilitating mechanism for putting together really large deals involving multiple consortia. There have been a number of such deals. The first was essentially a North American deal. The contract was with Lexis/Nexis for Academic Universe and was a significant event, including as it did 53% of the US colleges and universities, more than 600 institutions involving some 23 consortia and 3.7 million full time students, signing a single contract. The second, and likely even larger deal is with Oxford University Press for the Oxford English Dictionary. This latter deal, by the way, has a significant international dimension to it involving as it does a number of British and European consortia and may be laying the groundwork for full fledged international consortial deals in the very near future.

CONCLUSION

Well, it's been a long afternoon. We've looked at underlying issues such as how a consortia's choice of goals and model are likely to affect their approach to negotiation and licensing and how a new approach (the OhioLINK model) seems to be more productive and in tune with the new digital reality. We then briefly discussed tools and aids available to you which should assist and simplify your contracting activities. For years, consortia have been serving libraries and publishers well; I hope this information proves useful in developing and strengthening your consortium if you are a librarian and understanding how to work with them if you are a publisher. Good luck and thank you for your attention.