

Of Lending and Licensing

Introduction

Lending materials to other libraries is a part of librarians' DNA. Copyright law and standard practices standardized and formalized library lending policies for decades. However, librarians now license much content electronically where usage is dictated not by copyright law but by licensing terms. Access to information does not imply the right to lend as it did in years past.

The Good News

The good news is that many publishers acknowledge that librarians should retain similar rights for electronic materials as what is inherent in print materials. However, this is not always the default position of all publishers and vendors. Often, lending rights for electronic content are contingent upon librarians asking for them when negotiating a license agreement for access to content.

Suggestions

So what should you do as someone who works in interlibrary loan but has nothing to do with licensing? Here are a few practical suggestions:

1. **Find out who licenses your library content** and meet with them to discuss the following:
 - a. **Find out if they are requesting lending rights** when negotiating licenses. 75% of libraries do not even attempt to negotiate special language in licenses for lending.¹
 - b. **Offer example language for licensing lending privileges.** You can find such language at the PDF available at http://link.jaredhowland.com/licensing_language (pp. 2–3).
 - c. **Find out if they track license terms** using an Electronic Resource Management (ERM) system or other method and find out how you can access this information. 43% of libraries collect this information.² If license terms are not recorded, encourage them to start collecting and sharing in any way possible (spreadsheets, databases, commercial or open source ERM systems).
2. **Do not, as a policy, prohibit electronic lending.** 23% of higher education institutions prohibit electronic lending. Instead, work with your licensing person to find ways to streamline finding out whether or not something can be lent electronically.
3. **Work with cataloging to make sure records of electronic content that can be lent are loaded into OCLC.**
4. **Deflect all requests for journals from which you do not have rights to lend** either by simply omitting those journals in your batch upload to OCLC modifying or through modifying your MARC holdings records sent to OCLC:
 - a. MARC Holdings record, fixed field 008
 - b. Modify the 20th indicator to 'b' for Will Not Lend
 - i. e.g., 8312254p####6###3###baeng0831017
 - ii. see <http://www.loc.gov/marc/umh/UMHpt7-9.html> for more details

¹ Survey of Library Database Licensing Practices — 2011 Edition: p. 98

² *Ibid.*: p. 96