

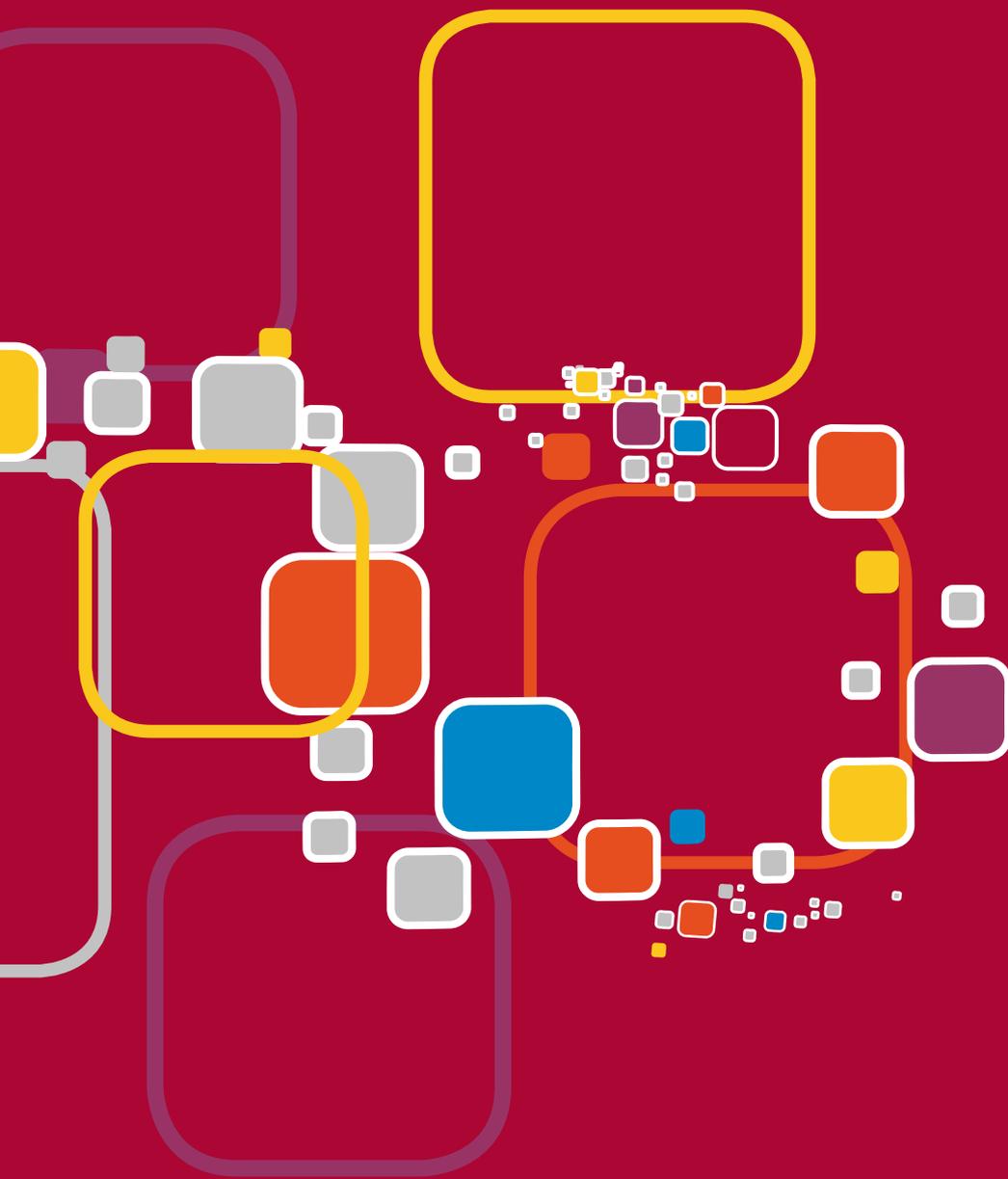
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DIGITAL BUSINESS MODELS



IFRRO Study Papers



1. INTRODUCTION

In March 2009 the IFRRO Board established a Business Models Task Force (BMTF) to prepare for the establishment of an IFRRO Business Models Forum (IBMF). As a part of the work the BMTF asked for two surveys to be conducted, one on digital mandates from authors and publishers to RROs and one on the digital licensing by RROs. The results of these surveys were subsequently collected under the headings Higher Education, Libraries, Public Administration, Schools and Corporations.

This paper sets out a summary of the main findings and trends for digital mandates and licensing in these areas and constitutes a snap shot of the situation in late 2009. Updated information on digital licenses issued by IFRRO members can be found on the IFRRO Members Only web-site at <http://www.ifrro.org/content/samples-digital-licensing-agreements-and-repertoire-exchange-agreements>.

2. OVERALL FINDINGS

The surveys confirmed that RROs are being increasingly mandated by their members to cover digital uses and that these mandates are being translated into licenses.

The licenses tend to cover analogue to digital copying (mainly scanning), copying from born digital material and downloads from, for instance, the internet. Not surprisingly scanning and copying from electronic originals are more frequently covered than internet downloads. Also the traditional users such as schools, universities and higher education and corporate are the targets of most licenses.

However it is clear that the demand for more purely

digital copying such as digital storage and use in presentations, white board projections and preparation of course packs and virtual learning material is presenting RROs with new opportunities to ensure that their members' material is both well disseminated and reimbursed. Increasingly, too, there is a recognition among users, beyond the academic and business communities, that there is a need for licensing. Public Administrations, both at the national level and regionally (such as in Europe), accept that mass copying without payment is no longer acceptable. The licensing of libraries is also on the increase and, within Europe, the Europeana and ARROW projects will make such licensing easier and extend it to orphan and out of print works.

3. THE QUESTIONNAIRES

Both the mandates and licensing questionnaires contained three sections with identical headings and similar structures:

- Digitisation (e.g. scanning) from a hardcopy
- Copying from an original in electronic format
- Licensing downloads from internet and similar sources

Each of these three sections was divided along a vertical axis between non-transactional and transactional licensing.

Each of the three sections was also divided along a horizontal axis by a variety of uses, of which the following were contained in both surveys:

- Printing out a hard copy for internal use
- Printing out a hard copy for external use
- Posting to password protected internal networks
- Projection to whiteboards
- Inclusion in presentations
- Document delivery (internal)
- Document delivery (external)

It is possible to identify some trends in the five areas of mandates and licensing covered by the questionnaires.

4. MANDATE/LICENSING EVALUATIONS

Schools

What is mandated?

The same number of respondents answered the two questionnaires so it can be assumed that all responding RROs with mandates for schools also had licenses.

What is licensed?

Analogue to digital (printing or scanning from a hard copy) is the most frequently licensed with a reduction for digital to analogue (printing from an electronic original) and further for digital uses of born digital or digitized material (download from the internet). Licensing from own content databases or via redirection to rightholders' databases is relevant only to a selected number of RROs and is currently not common practice.

Licensing basis

A little more than half of respondents to "schools" were voluntary license RROs whereas Legal License is represented by under a third of RROs and Extended Collective Licensing by not quite one fifth.

Types of Licenses

Repertoire/blanket licensing was more wide spread than transactional licensing.



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Types and areas of uses

- **Scanning from a hard copy:**
The most frequent uses are inclusion in Power Point, projection to whiteboards and printing out of a hard copy and the posting to internal networks. This is followed by document delivery with inclusion in course packs as the lowest use. Clearly there is a need for access to learning material in the (primary/secondary) school sector but course packs and document delivery are not as relevant at this level as the possibility to make use of direct electronic presentation tools.
- **Copying from an original in electronic format:**
The highest response rate is for the printing out of a hard copy and the posting to internal networks. Inclusion in Power Point presentations and projection to smart/white board is also often covered, whereas document delivery and storage in a virtual learning environment seems to be less relevant for the licensing of schools.
- **Download from the internet**
The most frequent use of internet downloads licensed by RROs is for the printing out of a hard copy. However other uses allowed include posting to internal networks, projection to smart boards and inclusion in Power Point.
- **Redirection to rightholders' database**
Around a third of RROs licensed redirections to rightholders' database in some form. Only 3 RROs licensed use in the form of projection to white boards and inclusion in Power Point via redirection to rightholders' database.
- **Own content database**
This form of usage was clearly more common in voluntary licensing.



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Universities and Higher Education

What is mandated?

Mandates were more prevalent for digitisation of non-digital originals than for copying born digital or internet downloads. Mandates exceeded what was actually licensed - licensing represented approximately 90% of the figures reported for mandates.

What is licensed?

Printing of hard copies for single copy use was the most licensed activity regardless of source origin. Posting to password protected internal networks, projection on whiteboards and inclusion in Power Point presentations were the next most often covered by the licence.

As usage moved from analogue to digital (printing or scanning from a hard copy) via digital to analogue (printing from an electronic original) to digital uses of born digital or digitized material (download from the internet), the number of RROs including this in their licences declined.

Licensing basis

Licensing of digitisation and 'document delivery' (emailing as an attachment), regardless of the source of the copy, is more often on a voluntary basis, whereas the use of downloads from internet and similar sources is licensed more often under models which include statutory provisions (Extended Collective Licence and Legal Licences). Licensing of copying from originals in digital formats is more balanced between voluntary licensing and models backed by legislation and depends on the type of use.

Type of Licenses

Licensing of content was mainly "repertoire/blanket" with licensing on a transactional basis being more frequent in higher education than in schools, predominantly through voluntary licensing (rather than Legal Licensing and Extended Collective Licensing). Licensing under statutory provisions was mainly through redirecting for certain uses.

Types and areas of uses

Printing of hard copies for single -copy use was the most licensed activity regardless of source origin. Posting to password protected internal networks, projection on whiteboards and inclusion in Power Point presentations were the next most often covered by the licence.

- **Scanning from hard copy:**
This was general among reporting RROs for both printing of hard copies for single copy use and for inclusion in course packs and posting to password protected internal networks;
- **Copying from original in electronic format.**
Licensing was mainly for printing single copies though use in Power Points and course packs came a close second;
- **Download from internet:**
Just under half of reporting RROs licensed this;
- **Own-content data base/redirection to right-holders:**
Licensing from own content database or via redirection to rightholders' database was relevant only to a selected number of RROs and was not a common practice but could be in relation to course packs.

Higher Education is the sector in which most value is given to the reading and formal referencing of primary sources. This means that course packs largely made up of original copyright material (chapters and journal articles) were in demand for many courses and rights to create them by copying were valued. In respect of digitised material, Virtual Learning Environments (VLE) in universities/higher education also figured highly in RRO licences.

Public Administration

What is mandated?

Overall, the mandate held by reporting RROs for the government sector was not as broad as other sectors. For example, in relation to digitisation and posting to password protected networks, 87% of reporting RROs had this mandate in the university sector, 65% in the schools sector, 57% in corporations, and only 52% in government. This trend was consistent across the various types of usage and sectors in the mandates survey.

What is licensed?

Some 60-64% of responding RROs licence digitisation or copying from an original in electronic format for the purpose of printing out a hard copy in government administration and corporations for internal uses. Around 50% also include downloads from internet and similar sources in the licensing schemes and 30%-40% allow the printing out of hard copies for ad hoc external use.

In some countries no distinction was made between government and non-government, so government departments were licensed on the same terms as other big corporations. In others, there was government licensing but on almost identical terms to corporate.

Licensing basis

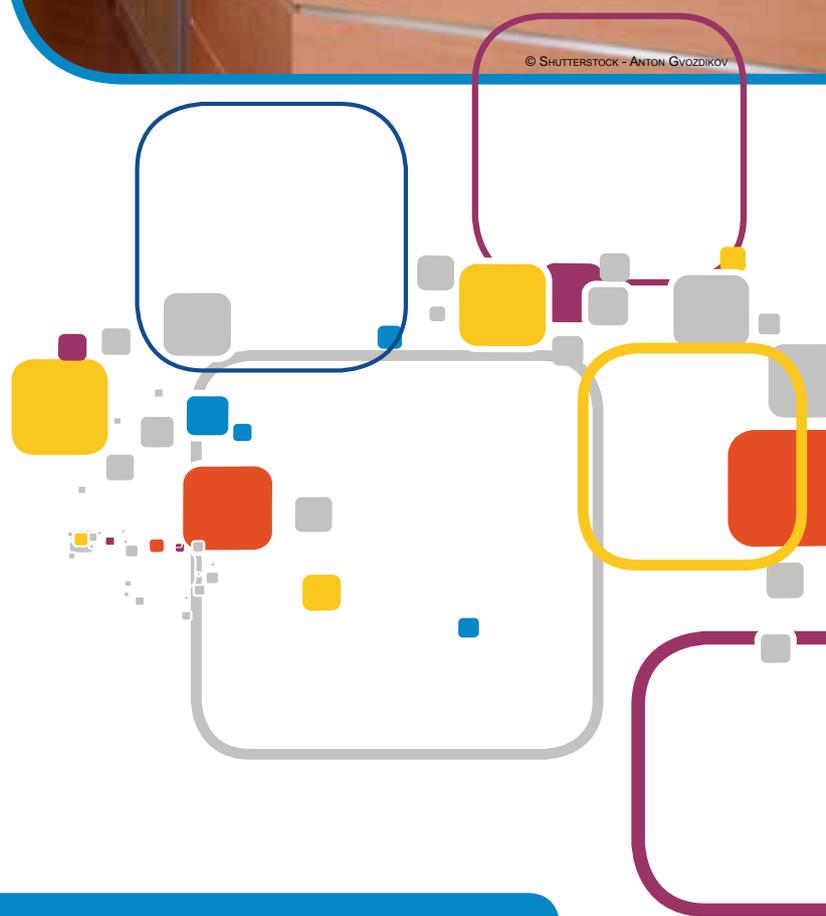
Licensing of public administration is predominantly under voluntary licensing schemes.

Type of Licenses

Licensing under blanket licensing schemes prevails.



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Types and areas of uses

- **Scanning from hard copy:**
This is mainly for printing a hard copy for single use, but around 50% also licensed posting to password protected internal networks and internal document delivery;
- **Copying from original in electronic format.**
This is mainly for printing a hard copy for single use, but over 50% also licensed posting to password protected internal networks and internal document delivery;
- **Download from internet:**
Around half licensed printing of hard copies for single copy use;
- **Own-content data base/redirection to right-holders:**
This was not generally licensed.



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Private Corporations

What is mandated?

Most of the reporting RROs that have gathered mandates for digital licensing had been able to turn those mandates into new licensing models for corporate users in their countries.

What is licensed?

Reporting RROs had been more successful at obtaining mandates and licensing internal dissemination of works than they have for external dissemination.

Licensing basis

Licensing is predominantly under voluntary licensing schemes.

Types of licenses

Significantly fewer RROs were mandated for and engaged in transactional licensing than non-transactional. Those that licensed transactionally mostly derived those mandates through voluntary agreements with rightholders. Voluntary agreement was the most used method, but not the only one, for acquiring non-transactional mandates as well.

Types and areas of uses

- **Scanning from hard copy:**
This is mainly for printing a hard copy for single use, but 60% also licensed posting to password protected internal networks;
- **Copying from original in electronic format.**
This is mainly for printing a hard copy for single use;
- **Download from internet:**
Just under half licensed printing of hard copies for single copy use;
- **Own-content data base/redirection to right-holders:**
This was not generally licensed.

Libraries

Library privileges

Many countries have exceptions for certain library use (library privileges) in their copyright legislation that allow for reproduction without remuneration, e.g. reproduction for preservation or safety purposes, but also for copying to patrons for private/personal use.

Statutory licenses

There are countries that have statutory licenses that allow for e.g. copying for private or personal use or research in the library premises, but on the condition that such use is remunerated, and some RROs are collecting such remuneration.

Different types of libraries

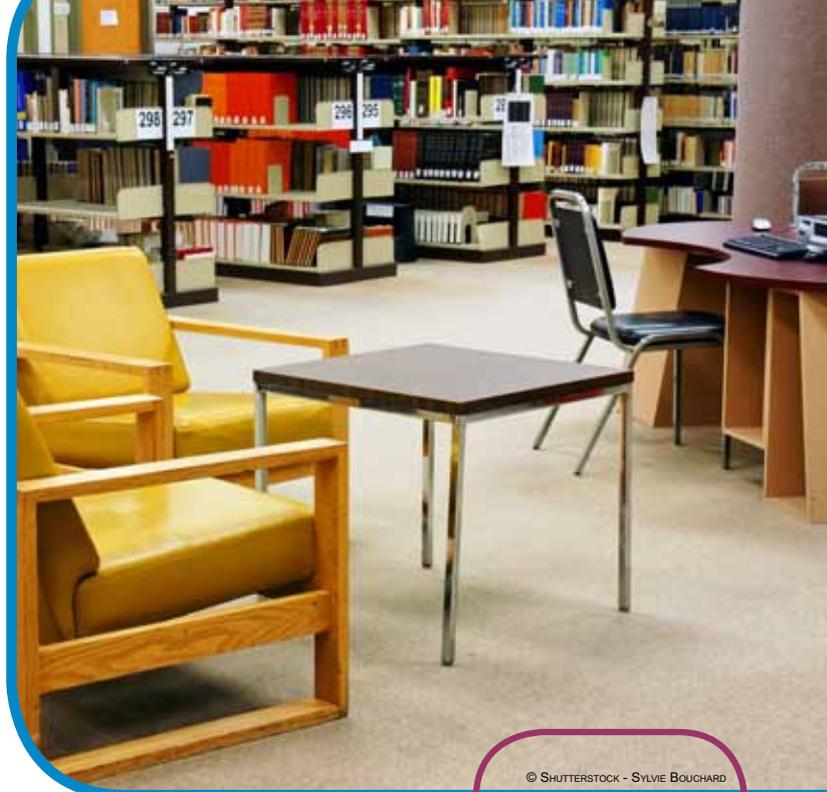
Higher education and other school libraries were in most cases covered under the license of the educational institution. Private libraries of corporations might, like other departments of the corporation, be covered by the corporation's license allowing copying for internal use.

Employees in public libraries might similarly be covered by their owner institution's agreement regarding copying for their own internal use. However, copying and making available works to the public (outside what was allowed according to the law), was seldom included in such agreements, and the public library had then to be licensed separately for such use.

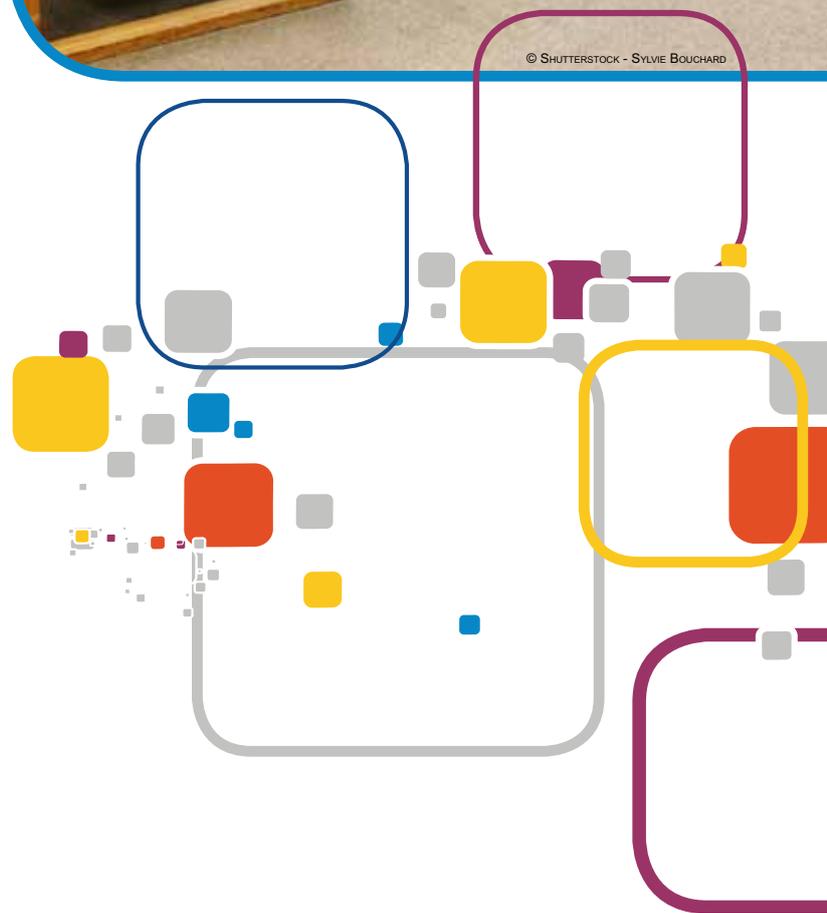
Voluntary licensing of public libraries

Some responding RROs were mandated by their rightholders to license public libraries, but the activities seemed to be in an early phase. There were examples of licensing of analogue copying, but also of digital copying and delivery of protected material, as well as of making material available on the internet.

RROs can, of course, not gain individual mandates from rightholders to orphan works, but some licenses had indemnity clauses to deal with possible claims from non-represented rightholders. The agreements might also be under a legal licence or supported by extended collective licenses, with the consequence that orphan works and out-of-print works were included on the same terms as all other published works.



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5. REM COMPLIANCE

In 2007 IFRRO agreed the IFRRO Principles for the Operation of Digital Repertoire Exchange Mandate (REM) and IFRRO recommended to its members that they follow these guidelines when an RRO that has a collective licence covering digital rights wishes to add repertoire from other countries.

The REM Principles offer RROs international permission from authors; visual artists; publishers to actively seek mandates at inter/national level for managing and ex-

changing digital repertoire. They require that rights be exchanged on a voluntary basis and that they be remunerated on the basis of actual use.

The responses by RROs to the questionnaires indicate that most of their mandates are indeed REM compliant though sometimes they have to adapt to local legislation. Only in the area of Public Administration mandates did a number of established RROs report that their government mandates were not REM compliant.

6. EXAMPLES



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Schools Licensing

Norway (Kopinor) – Extended Collective License

In 2008 Kopinor signed an agreement with The Norwegian Association of Local and Regional Authorities (KS). It was an interim arrangement until the expiry of the current agreement. The interim arrangement has now been extended to last until 2012 while statistical surveys are being conducted.

The agreement covers primary and secondary schools.

Due to the fact that it is an Extended Collective License it also covers the total repertoire both from analogue and digital sources. License agreements (e.g. with vendors of

electronic academic journals) have to be respected. It does not cover audio/audiovisual works.

The license allows scanning, downloading, use in LMS/VLE, interactive whiteboards etc. It also allows printouts. The license is only for educational/internal use.

France (CFC) - Voluntary license

In 2006 CFC signed a three-year agreement that covers the whole education sector: primary, secondary and HE with the Ministry of Education. It was an agreement on the principle of remuneration for digital uses. The parties agreed on a lump sum payment to cover digital uses, allowing time to run studies. The price was: 1 146 000€ per year for books and 290 000€ per year for periodicals. CFC had discussions with the representatives of rightholders to determine uses and set limits. The license allows presentation in class rooms, digitisation, digital uses on intranet and on extranet accessible to students. The limits are 20% of a book, 5% of a school book and 10% of a periodical.

To understand and measure user needs and practices CFC conducted some studies:

- A qualitative study on digital uses by students in relation of their studies
- A survey on 482 students from 8 universities on their practices with internet and digital content they receive from teachers
- A Qualitative study on teachers' behaviours and uses
- 70 interviews in 10 universities
- A Quantitative study on digital uses of copyright works in relation pedagogical uses

Next step – change in the law:

When implementing the 2001/29/EC Directive France introduced a legal exception for digital uses in Education. So now CFC has to determine the extent of the exception as stated in the law and after that to negotiate a compensation for the exception with the counterpart.

Switzerland (Pro Litteris) - Legal licence

In Switzerland permission for certain uses of digital copying is granted by law. The rightholders have a right to remuneration. Personal use is free of charge (no equipment levy).

The legal licence covers all educational institutions. Tariffs are negotiated between ProLitteris and associations representing the educational institutions. Tariffs are subject to ratification by the Federal Arbitration Commission and include scope and conditions of use.

The license covers scanning, downloading, storage and dissemination of digital copies on the schools' internal networks for internal inforamory and documentation purposes. The license covers all uses of a work by a teacher in a class. It also covers distance learning.

The license covers copying from paper to digital and from digital to digital (born digital). It only covers excerpts of works. The excerpted portion is not defined.

Collection for public schools and universities is centralised with the Association of Swiss Public Schools and Universities (ASPS). A contract has been signed between ProLitteris and the Association. The collection is based on government statistics.

The payment is a lump sum per scholar/student and it includes copies made by teachers, students and the school administration.

Higher Education Licensing

The case histories that follow indicate that the issue of greatest concern at HE-level at the time of the survey was copying for course packs. University lecturers valued this type of copying because it allows them to create a course of reading that is specific to their own particular teaching programme. At less academic institutions it is also a way of ensuring weaker students actually do read something. Rightholders, on the other hand, are more concerned about course packs because of the potential to 'cherry pick' from books that might otherwise be bought by students, textbooks especially.

The cases below illustrate different stages in the evolution of course pack copying and solutions to it that are influenced by the context copyright regime:

Hong Kong (HKRRRLS) - Voluntary Licence

Under the HKRRRLS scanning and photocopying licence, a work can be scanned for an identified course of study and placed on a network (by a process of authentication which, at the time of login, identifies each user whether by user name or password or by some other equally secure method) which can be downloaded only by identified students (and the respective teaching staff) on that course of study.

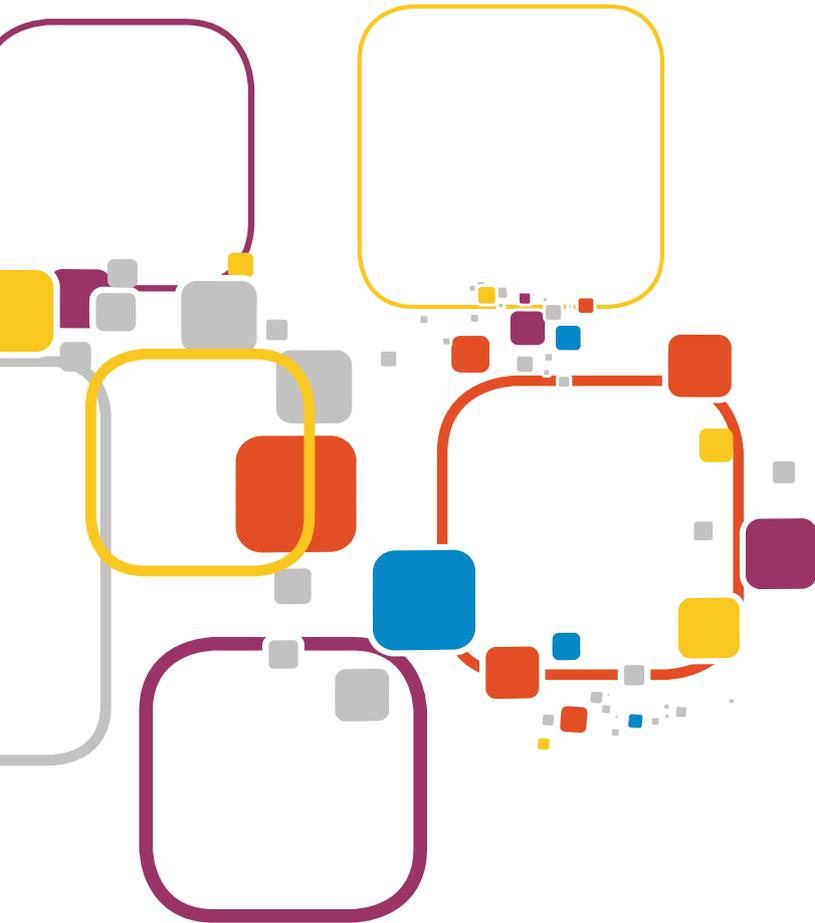
Those students may keep a personal copy but no authorisation is given for any further copying by the student. Scanned copies are to be removed from the course collection if an identical course of study is not likely to be repeated the following academic year. A person should be designated by the university for the purposes of making, or causing the making of, scanned copies and placing them in a course collection.

The copying limit is one article from any issue of a journal, and 10% or a chapter of a book, whichever is the smaller.

Switzerland (ProLitteris) - Legal Licence

Switzerland has a non-voluntary licensing system – rightholder consent is not required for licensing and distribution of licence fees. However, rightholders assign their digital rights to ProLitteris despite the legal licence for licensing in Switzerland (legal licence) and for licensing in other countries based on a special mandate. ProLitteris's licences concern only extracts of works. Publishers sell direct licences to universities outside of the scope of the legal licence of article 19 and 20 of the Swiss Copyright Law e.g. whole works.





Scope of digital licence

- Scanning, downloading, storage and dissemination of digital copies on internal networks for internal information and documentation purposes
- All uses of a work by a teacher/lecturer in class;
- also distance learning
- Copying from paper to digital and
- Copying from digital to digital (born digital)
- But only excerpts of works – size of excerpts is not defined

Central negotiation

- Licensing, pricing and payment of fees for public schools and universities is centralised with the Association of Swiss Public Schools and Universities (ASPS)
- A contract has been signed between ProLitteris and the Association:
 - Fee based on government statistics
 - Lump sum per scholar/student including a rebate of 35% for uses in schools
 - Includes copies made by teachers, students and the school administration

Contract with ASPS

- Collection is done by the Association (ASPS) as agent for ProLitteris
- ASPS levies payments annually from the 26 cantonal education boards and all universities
- Discount of 16% covering ASPS's administrative expenses
- The licence is restricted to digital copies produced and disseminated in Switzerland
- Uniform conditions of use in reality

Canada (Access Copyright) - Voluntary licence

Access Copyright has decided to work closely with its HE sector as well as its rightholders to provide a service that universities will value that will support their HE licence.

In 2009, the current Access Copyright HE licence consists of:

- General photocopying licence – there is a non-transactional licence for FTES to cover all ad hoc photocopying plus;
- Transactional course pack copying licence – photocopying, scanning and copying digital originals for inclusion in print or digital course packs charged per page per student; universities are charged at the end of the year for all copying reported; reporting is poor with many entries incomplete/inaccurate.

Effective January 1, 2010 all FTEs will be able to photocopy, scan, post and email content within a secure post secondary network under a tariff filed with the Copyright Board of Canada. The tariff also includes the ability to create print and digital course packs.

Access has developed a@e, a secure portal ('one stop shop') that provides:

The following for Higher Education Institutions:

- Searchable database of copyrighted content from a variety of sources
- Immediate rights clearance for copying within Access Copyright HE licence terms
- Validated reporting of what's been copied; the system will track usage automatically saving on admin time
- Ability to upload other material on HEI's exclusive server space, including digitised copyright content/other licensed content and lecturer-generated material e.g. lecture notes
- Creation of high quality print and (from later this year) digital course packs
- Immediate access to multi-publisher content in digital format

And the following for rightholders:

- Content delivery channel targeted to primary market users
- Customized pricing for use of content
- Control over how much content can be accessed
- Reduced costs of in-house rights management clearances
- Fair compensation for use

- Reduction in piracy
- Efficient invoicing and thereby, timely royalty distributions

Norway (KOPINOR) - Extended Collective Licence

KOPINOR launched its first digital licence for Higher Education in 2009. For 2009-10 there is an interim arrangement allowing digital uses so that these can be measured through statistical surveys and a new agreement made in 2010.

Current licence

- Blanket licence, based on the extended collective licence scheme.
- Model licence negotiated and approved by the Norwegian Council of HE. All HE institutions in Norway have signed.
- License both digital (including websites) and hard copy for ad hoc copying; licence does not as yet include digital course packs/material from reading lists.
- Copy limits: 15% or one chapter/article from books
- Subordinate to any direct agreements with rightholders, including site licences.
- Usage: HEIs "buy" approx. 167 million copyright protected pages per year (2009). 20 % of the protected pages are used in course packs.
- Charge a fee per student based on a per page fee of NOK 0.445. For 2010 the fee is NOK 376.41 per student in universities and research colleges. NOK 246.37 per student in polytechnic/non research HE institutions. NOK 309.08 per employee. Invoice twice a year.
- Two components: 1. General digital licence – total repertoire from analogue and digital sources (including websites) for internal use only; uses include scanning, downloading, presentation in LMSs and VLEs, and on interactive whiteboards, PowerPoint and printing out. 2. Course pack copying (print delivery only).

Business model

- The university or college is the customer
- Pay per access (Course Pack price x students attending the course)
- Subscription model to cover overheads and special orders

- Option to pass on costs to student
- Option to recover subscription cost

Pricing

- (Rights per page + delivery fee per page) x impressions
- Fees or subscription costs are added (Special orders 1-3)

- Re-use and copying from specified electronic and online titles published in the UK and countries with which CLA has agreed a digital bilateral

- Storage of articles on a secure intranet for up to 30 days

The licence also includes the copying of artistic works, such as photographs, illustrations, diagrams and graphics, where they are contained within the publication being copied.

Norway (KOPINOR)

The Norwegian government license includes the State administration (including the Armed Forces), the courts and the Storting (the Norwegian parliament) and also municipalities and county municipalities' administration, which includes educational use in the primary and secondary school sector.

The agreements are blanket licenses: all published works of all categories are included. The user may copy 15% or a maximum of 25 pages from a book or similar publication. There are no limitations for copying from periodicals (except scientific journals) or from internet-material that is freely available. The agreements allow copying from analogue to analogue, analogue to digital, digital to analogue and digital to digital. Copying has to be for internal use (e.g. e-mail to colleagues, posting on intranets etc), not copying in the form of a publishing activity (e.g. making available works on the internet), nor digital copying of newspapers, but photocopying, print-outs and copying for projection purposes is allowed. KOPINOR assists in individual clearance of rights outside the limitations of the blanket licence.

Denmark (COPYDAN)

COPYDAN licenses less than 50% of government institutions. In the case of businesses and government administration Copydan Writing has been approved by the Danish Ministry of Culture to enter into agreements on the exploitation of works limited to copying to analogue. Businesses and government administration can photocopy as well as make print outs from the internet within COPYDAN's general licensing limitations which are 20 % maximum 20 pages per publication.

However businesses and government are to some extent digitally covered by direct products such as press clippings and media surveillance through companies such as InfoMedia.



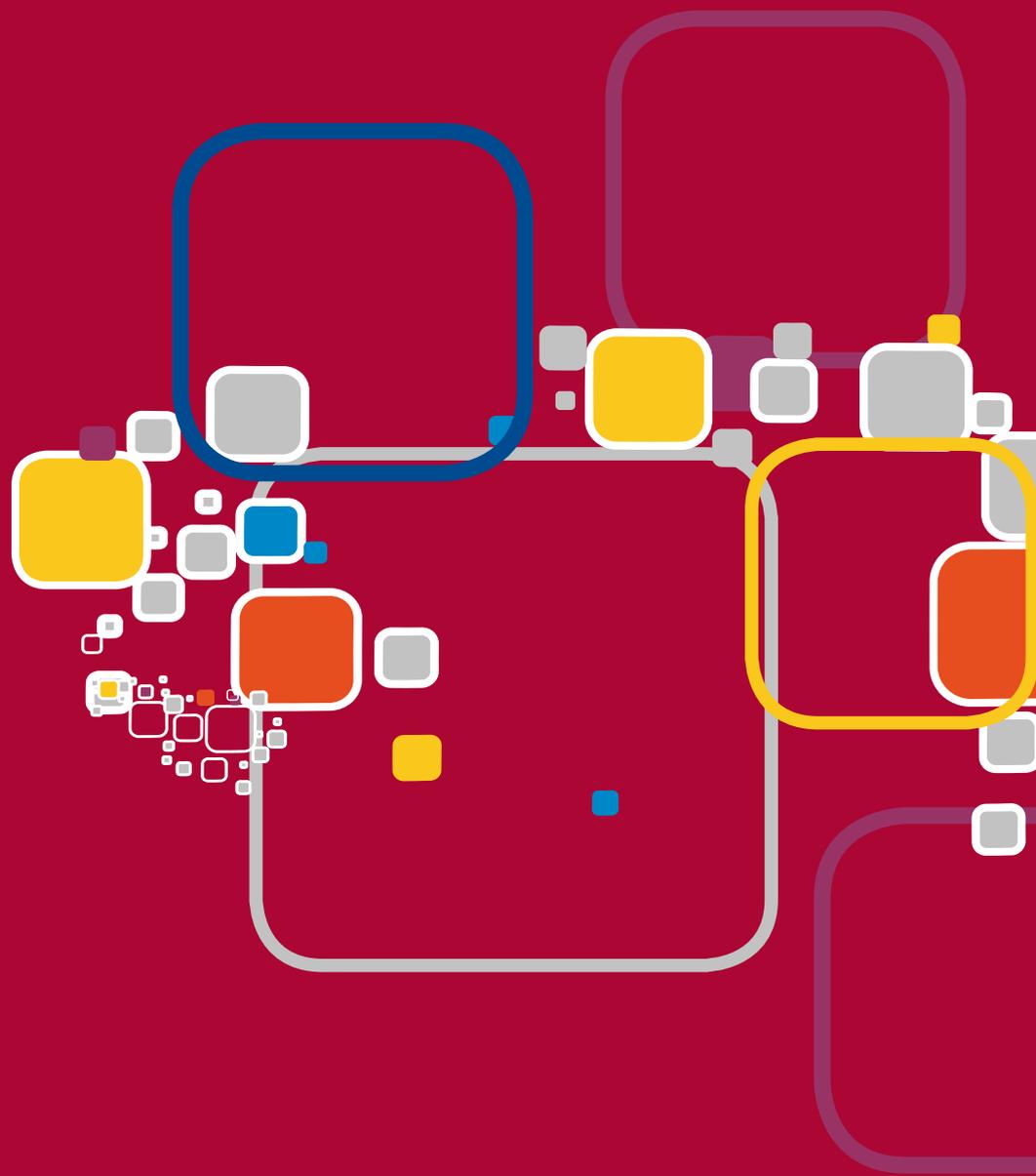
Administration Licensing

UK (CLA)

CLA's Public Administration license is a voluntary scheme with a 5%/1 chapter/2 articles copying limit. It allows copying from paid-for digital originals (i.e. not websites/webpages) as well as photocopying and scanning.

Specifically the licence permits:

- Photocopying from titles published in the UK and most major overseas countries
- Scanning from titles published in the UK and specified titles from countries with which CLA has agreed a digital bilateral



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