

**Policy:** 421

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**Subject:** Licensing Policy

**Approved by:** LMAC

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## **General Statement**

One of the major roles of the Libraries is the acquisition and/or licensing of electronic resources to support the University of Manitoba's mission of teaching, learning and research. The Libraries negotiate licenses that address the university's needs and recognize its obligations to the licensor. This policy applies to both subscribed resources and free Internet materials (e-journals, websites) that are incorporated into the UML online catalogue and/or the E-Library menus, for which a license is required. It does not include the purchase or site licensing of software to be run on PCs, Macs or time-sharing computers, which are handled by LETS. For policy and procedures related to selection and provision of access to Internet Materials, see CAP Policy 422.

## **Definition of Electronic Resources**

An electronic resource is defined as any publication, database, indexing source, or service made available over the Internet, on CD-ROM, on tape or on any other electronic medium.

## **Review Process**

Designated Collections Management and Electronic Resources staff will be responsible for the licensing of electronic resources. A review of the resource and its license will be conducted with the sponsoring unit. Note the following:

- The Coordinator, Collections Management is responsible for reviewing and negotiating licenses; it is important that one person is responsible for this work for the purpose of consistency
- Electronic Resources is responsible for ongoing monitoring of access to electronic resources according to the license agreements
- A single license is negotiated for the entire University, including the Collège universitaire de St. Boniface
- Bibliographers and/or unit heads are responsible for content appropriateness (see CAP 422 "Guidelines for Selection of Internet Materials"), which may include comparison with similar resources already licensed as well as monitoring when deselection is appropriate

- Electronic Resources will check that the electronic resource is not already available or being negotiated via consortia arrangements with CRKN, COPPUL or MLCI or other consortia of which UML is a member
- The license agreement sets terms that will best serve the community, whether they are on or off campus
- The best price is negotiated
- University Counsel will be consulted whenever necessary
- The resource is evaluated for systems compatibility

### Licensing Procedures

Any bibliographer or unit head may evaluate an electronic resource as a possible purchase within the Libraries as part of ongoing selection and review. When the decision is made to pursue the acquisition/licensing of the resource, the following process will be followed:

- 1) Review of the resource with Electronic Resources staff regarding pricing, level of access and content.
- 2) Identification of which budget will pay for the resource: a unit library's or the Associate Director's. Transfers of funds from the unit library to the E-Library budget are normally required for ongoing management.
- 3) The Coordinator, Collections Management will review the terms of the license, and negotiate new terms if needed. Advice from the University Counsel may be required in unusual situations.
- 4) The Director signs the negotiated license.
- 5) Electronic Resources sets up the ongoing subscription, and pays for the subscription according to the fund ID specified.
- 6) In unusual circumstances where a unit library wishes to restrict access to its users only, steps 1 and 3 through 5 should be followed. ***The unit library in this case should consult LETS regarding the set up of proxy service for the resource.***
- 7) Electronic Resources will maintain a central file on all electronic resources the University of Manitoba Libraries licenses or subscribes to, including those that only allow restricted access (e.g. Faculty of Law only). Electronic Resources will archive all completed license agreements.

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Collections Management Checklist for Licensing

**A. University of Manitoba's (UM) Rights:**

(should all be yes or at least “not mentioned”)

- Does the license allow printing, downloading, and copying for scholarly purposes?
- Can the resource be used by all UM students, faculty, researchers, staff and walk-in users?
- Is interlibrary lending allowed with the resource?
- Is creation of course packs and electronic reserves allowed?
- Is UM granted perpetual access to the information for which it has paid?
- Does the vendor grant permission to a third-party archival system's software to collect and preserve the information/materials (for example LOCKSS)?
- Is UM allowed at least 30 days to mend any breach of contract of which it is guilty?
- Does UM have the right to terminate a contract with at least 30 days notice if the provider breaches the contract?
- Does UM have the right to a pro-rated refund in the case that the provider breaches the contract?
- Does UM have the right to collect its own internal use data?

**B. UM's Responsibilities and Other Matters:**

(should all be no or at least “not mentioned”)

- Is UM required to make other than “reasonable” efforts to notify its users of use restrictions?
- Does the license indicate the terms are subject to terms in another license (including a click-through license whether mentioned or not?)
- Does the use of a proposed authentication system present a barrier to access by authorized users?
- Does the agreement expose the institution to liabilities arising from third parties (students, faculty, staff, walk-ins) who are not party to the agreement?
- Is UM required to keep the terms of the agreement confidential?

**C. Vendor Responsibilities:**

(should all be yes or at least “not mentioned”)

- If the terms of the agreement are subject to change, is UM given 90 days notice of any changes to the terms of the license?
- Does the vendor agree to specific performance warranties (e.g. “available 24-hours, seven days a week, 99% of the time) and to pay the penalties in the case of failure to meet these levels of agreed upon performance?
- Does the vendor give UM notice of any suspected or alleged use violations and give UM “reasonable time” to solve the problem? Reasonable time should be at minimum 30 days.
- Does it give UM basic use data? Does the vendor usage data comply with COUNTER and SUSHI standards?
- Is the vendor required to respect the confidentiality of personal use information?
- Does it hold UM blameless for any misuse of the information obtained from the resource by authorized users?
- Does the vendor provide rights regarding the transfer of electronic journals from one publisher to another (i.e., covering perpetual access for paid content on titles transferring in, and making every reasonable effort to provide for ongoing access to UM for those titles transferring out)?

**D. Content and Other Issues**

(yes is desirable)

- If electronic content has print counterparts, is the electronic available before the print and is it a true equivalent (i.e. does it include all editorial content, images, supplements)?
- Is the publisher of the electronic resource a member of CrossRef?
- Is the vendor’s or publisher’s server available 24-hours, seven days a week, 99 percent of the time?
- Is the cost of electronic subscriptions for journals less than the cost of print subscriptions?
- Is UM guaranteed a price reduction or refund if significant journal/database/web site content is removed from access (i.e. important titles removed or total content reduced by 10 percent)?

- Is UM allowed the option of using subscription agents for both print and electronic journals?
- Does the agreement allow authors who submit scholarly content to publishers to self-archive and/or deposit their works in institutional, subject-based, national or other open repositories or archives and to use their work for other scholarly and educational purposes?

**(no is desirable)**

- In terms of linking, is the use of a provider's front-end or gateway required for access to either journal titles or articles?
- Is the maintenance of print subscriptions required in order to access the electronic product?