

Linda Frederiksen, Joel Cummings, Lara Cummings and Diane Carroll. "Ebooks and ILL: Licensed to Fill?" Journal of Interlibrary Loan, Document Delivery and Electronic Reserves. 21(3), 2011. 117-131. <http://www.tandfonline.com/doi/abs/10.1080/1072303X.2011.585102#>

### **Ebooks and Interlibrary Loan: Licensed to Fill?**

Increasingly, libraries of all types and sizes are now adding electronic book (ebook) titles to their collections. A survey was used to explore the implications of ebook licensing and interlibrary loan use. Among academic libraries in the United States a widespread preference for handling print books was found along with a need for more information about ebook interlibrary loan rights at one's own institution and a means to identify format type available from potential lending libraries.

Keywords: Interlibrary loan, ebooks, licensing, electronic resource management (ERM), fair use

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## **Introduction**

Each year, academic libraries purchase print and electronic resources in support of the educational and research missions of their parent institutions. In the mid-1990s, this responsibility expanded to include the acquisition and collection of digitized books. First introduced more than 40 years ago with Project Gutenberg, these electronic monographs, or ebooks, are now produced and readable on a variety of computers and other electronic devices. Despite early marketing campaigns by publishers and aggregators, widespread adoption of either web-based or downloadable book formats by college and university libraries did not immediately occur. Many libraries were slow to embrace the ebook format due to initial problems with functionality, integration into library catalogs, and pricing structures (Gibbons, 2001). Concerns by librarians about the online reading experience as well as awareness, acceptance and use of digital content may also have slowed an early adoption rate (Lynch, 2001). More recently, questions surrounding license terms, digital rights management (DRM), circulation caps and interlibrary loan privileges have also received attention (American Library Association, 2011; Farkas, 2011).

Notwithstanding these concerns, it appears that a tipping point between print and electronic monographic titles has been reached. Libraries of all types and sizes are increasingly adding electronic book titles to their collections. In 2008, academic libraries in the United States held nearly 102.5 million ebooks compared to less than 7 million in 2003-2004 (National Center for Education Statistics, 2009). It is expected that this number will continue to increase in the next 2-3 years (Johnson, Levine, Smith & Stone, 2010).

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The revolutionary change in format from print to electronic books does not, however, alter one of the primary functions of libraries to preserve and share the documentary works of human civilization. Interlibrary loan is one of the key methods by which these materials are shared between libraries and thereby provided to the scholars, researchers, students, and other patrons that each library supports. It is also an important component in ebook license negotiation. Currently, some ebook titles that are discovered and requested by patrons come with interlibrary lending rights but others do not. Interlibrary loan staff may be unaware of the terms and conditions under which this electronic content can be used and shared. Further, while some ebooks are made available through a platform which makes interlibrary lending possible, such as Springer eBooks, the means to actually do so may be untried or overly complicated. As a result, interlibrary loan rights and privileges that were well understood and fully exercised in the print environment may now be underused, due to uncertainty about what is permissible or possible.

### *Background*

At X State University (XSU), a land grant university located in the X, ebook purchasing began in 2000 with a NetLibrary<sup>TM</sup> collection. XSU has been purchasing both ebook collections and individual titles since that time. In 2009, the libraries entered into a licensing agreement with two additional ebook aggregators. Unlike NetLibrary<sup>TM</sup>, interlibrary loan rights were negotiated with this new generation of ebook providers. Currently, license terms are mapped into the integrated library system's Electronic Resource Management (ERM) License Record

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making knowledge of interlibrary loan rights available on a title level from the public catalog (OPAC).

In early 2010, interlibrary loan units at XSU began receiving borrowing requests for monographic items held at XSU that existed in an electronic only format. Based on the understanding of licensing restrictions under the NetLibrary™ agreement, the initial response to these requests was to cancel them in our system and thereby release them to the next potential lender. After discussion among collections and interlibrary loan staff, it was discovered that daily processors were often unaware that permission or restriction use statements for electronic content were readily available through ERM. A broader investigation into what other libraries were doing and how these complex issues became the focus of an exploratory survey the authors designed to elicit more information surrounding awareness of current ILL practices and ebook lending

### Literature Review

It is not surprising that the question of access to electronic content has attracted a great deal of attention in recent years. In addition to publications extolling the advantages and benefits of ebooks (Long, 2003; Raskino *et al.*, 2008; Renner, 2008) there is a growing body of literature focusing on description and comparison of various modes of access, formats and/or readers (Behler & Lush, 2011; Tees, 2010). Additionally, several recent studies looked at the challenges of electronic content adoption, integration and management by libraries of all types (Duncan, 2010; Hodges, 2010; Macicak & Schell, 2009). For a good general overview of ebooks in

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academic libraries see ARL Spec Kit 313 (Anson & Connell, 2009), Tedd (2005), and Nelson (2008).

Several authors have specifically looked at the relationship between ebooks and ILL. In 2004, Garrod examined some of the factors that might impact ebook lending, including digital rights management (DRM) systems that protect publishers but severely limit library usage. Three years later, Gee (2007) described the benefits and challenges of working with ebook commercial collections and called for better methods of either loaning or renting ebooks through interlibrary loan. In 2008, an article by Woods and Ireland described a collaboration between the Canada Institute for Scientific and Technical Information (CISTI) and the book distributor Ingram to create and provide an affordable cost model for loaning ebooks through ILL.

Only a few studies have taken a different approach and looked at licensing and access issues. A project between the European Center for Nuclear Research (CERN) and Ebook Library (EBL) offered a model that included interlibrary loan and which, it was hoped, would have a "better birth than electronic journals." (Vigen & Paulsen, 2003). And, while ebook access does not precisely replicate the ejournal experience, it does in many ways parallel it, with publishers providing varied allowances for ILL. Lynn Wiley's 2004 article on publisher restrictions on document delivery from licensed electronic journals raises the question of awareness of licensing and its effect on subsequent use of materials by interlibrary loan departments.

More recently, Delquié and Polanka (2011) stated "libraries would like to continue to lend their books to other institutions and not be restricted by DRM" but few changes have been made in license agreements to make this a reality. The recent HarperCollins decision to control

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the number of ebook title uses before the license expires served as a wake-up call for many librarians who began to see the effect restrictive licenses could have on resource sharing (Hadro, 2011; Sheehan, 2011).

### **Methodology**

During the fall of 2010, the authors prepared a set of 11 questions (see Appendix) using SurveyMonkey, an online survey software instrument tool. A hyperlink to the questionnaire was distributed to the interlibrary loan community through an invitation to participate email message. The message and two follow-up reminders were sent to ILL-L, a discussion forum for anyone with a professional interest in interlibrary loan, document delivery and resource sharing. The list represents a broad sample with more than 2000 current subscribers in all library types and sizes, with the majority located in the United States. A total of 185 survey responses, or about 9% of all subscribers, were received and tabulated.

### **RESULTS**

The highest responses from the 185 completed surveys were from academic libraries (80.5%), followed by special, public, and community college or vocational school libraries (8.6%, 7.6%, and 3.2%, respectively.) Four libraries identified as "other" including one health system library, two state government libraries and one hospital medical library, were merged into the special library category.

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Responses by size of the population served and the type of institution are depicted in Table 1.

[INSERT TABLE 1]

Table 1: Survey responses by type of institution and size of population served.

To establish current interlibrary loan practices, respondents were asked if their library would fill requests for print book chapters and under what circumstances. Of the 183 responses, 179 libraries (98.7%) filled requests for print chapters and only 4 libraries did not (Table 2).

[INSERT TABLE 2]

Table 2: Lending practices for print copies

Generally, if the print book was available, libraries followed long-established fair use guidelines for reproduction (Gassaway, 2010) and a copy of the chapter would be sent (67%). Mitigating factors included the length of the chapter, the percentage of the book or the decision to send the entire book as a loan. Comments in this section helped to explain the reason for the multiple responses. Fair use guidelines, circulation status of the book, the need-by date, the time required to scan or copy the requested material, and the cost of postage where taken into consideration when deciding whether to copy the materials or perhaps send the entire books as a loan. Decisions may also have varied based on the requestor's academic status, the intended use, workload and staffing.

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The survey then asked if participants requested book chapters for users. Again, the majority (85%) of respondents did so while some 15% did not (Table 3). Public libraries and community colleges or vocational school libraries were less likely to provide this service than academic or special libraries.

[INSERT TABLE 3]

Table 3: Borrowing practices for book chapters

The 147 respondents that do request book chapters for patrons were then asked if they knew if the book chapter they were requesting was from a print or electronic version and if so, did format influence their selection of potential lenders. Only 44% of the time did the participant know the format of the book from which a chapter would be requested while 42% responded they know sometimes and 14% said they did not know. Uncertainty was based on whether the lending library had attached their holdings to the correct format of the book in OCLC. Only one respondent indicated they would knowingly send a book chapter request to a library with an internet or electronic holding attached and another 24 answered that the format did not matter. 83% indicated they would most likely send their request to the library with the print holding (Table 4).

[INSERT TABLE 4]

Table 4: Borrowing practices for requests based on format

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In the comments section, concern was expressed about the inability to obtain books or book chapter as libraries purchase electronic only books that may not have interlibrary loan rights.

The direction of the survey questions then moved towards ebook ownership and lending practices for ebook chapter requests. As evidence of the growing popularity of this format, approximately 92% of the 185 respondents answered that they owned ebooks and the remaining 8% (15 responses) indicated they did not. Of the 185 participants who held ebooks, 169 answered the question of whether their ebook licenses permitted them to use the electronic book to fill interlibrary loan requests for book chapters.

As seen in Figure 1, very few libraries have been able to negotiate interlibrary loan rights for electronic books with only four libraries (2%) answering that all ebook licenses allow interlibrary loan and 52 libraries (31%) responding that none of the ebook licenses allow interlibrary loan. Some libraries (n= 45) have been able to negotiate interlibrary loan rights on some of their ebook licenses (27%) while 40% of the libraries (n=68) do not know the permission of the ebooks license or have not considered this question yet.

[INSERT FIGURE 1]

Figure 1: Lending practices for ebook chapters

Respondents who answered that some or all of their ebook licenses allow interlibrary loan were then asked how the ebook chapter requests were handled. The majority of libraries (66%; n = 77) either filled or sometimes filled the request depending on technical or fair use

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issues (22%; n= 77). The remaining libraries indicated that they did not fill the request (12%; n = 77). Four respondents indicated they have not received any requests for ebook chapters yet.

For those libraries that did not lend ebook chapters, a series of follow-up questions was asked to gain a better understanding of reasons for non-fulfillment of requests. Of the 91 libraries that did not lend ebook chapters, 73% answered they did not have a reasonable workflow to verify interlibrary loan rights, whereas 27% of the respondents stated they simply would never lend an ebook chapter (Table 5).

[INSERT TABLE 5]

Table 5: Reasons for non-fulfillment of ILL requests for ebook chapters

Comments attached to this question indicated that libraries would like to see more information about ebook licenses added to ERM systems. Several mentioned the number of requests for ebook chapters was too minimal to develop a workflow or that they only held ebooks which do not allow interlibrary loan. Frustration with the technical difficulty of printing or downloading ebook chapters was a recurring theme among the respondents.

When asked how they would respond to an interlibrary loan ebook chapter request, 57 of the 83 respondents answered they would cancel the request (Table 6).

[INSERT TABLE 6]

Table 6: Lending practices for ebook chapter requests

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Several respondents indicated they would respond with "Cancel" or "Cancel Conditional" after an effort was first be made to investigate the license and fill the request if the license terms permitted.

The final part of the survey requested comments about experiences with interlibrary loan and ebooks. Several themes emerged:

- Libraries are reluctant to send a chapter request when the holdings appear to only be in electronic format.
- Some licenses may permit loaning of the entire electronic book but there is no established workflow or technical knowledge to do so.
- It is time consuming to find out which ebook providers allow interlibrary loan when there is no ERM.
- There are numerous technical challenges of printing from ebooks such as page limits and standardized workflow.
- A concern was expressed about the demise of interlibrary loan if libraries don't advocate for lending rights on electronic books.
- Finally, the idea was voiced that librarians need to be more aggressive about negotiating interlibrary loan rights for ebooks

### **Discussion**

Survey respondents came from a broad range of institution sizes, with small to large libraries well represented in the questionnaire. However, with more than 80% of the respondents

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representing academic libraries, the results are perhaps of more interest to this population than special or public libraries.

Table 2 indicates a possible preference for handling print materials for interlibrary loan rather than ebook interlibrary loans. If the lending library was able to copy from a print source, it was more likely (67%) they would do so rather than try to copy from an ebook. On the opposite side of the interlibrary loan process, however, the majority of the respondents, 85%, indicated that they would request ebook chapters for their library users. The requesting library's interlibrary loan staff was often uncertain about the format of the book chapter owned by the lending library when initially requesting materials. Despite respondents indicating they would for the most part avoid sending a book chapter request to a library holding the ebook format (82.8%), at least some of the time they would be unaware of the format (56%) (see Table 4). This suggests that it is regular practice to request book chapters without being aware of format type.

Part of the reservation about sending chapter requests to libraries that hold the ebook format could simply be a lack of certainty over whether another library has interlibrary loan rights to lend ebook content. As seen in Figure 1, only 2.4% of respondents indicated that all of their ebook licenses included interlibrary loan rights, while 26.6% responded with a qualified affirmative that some ebook licenses permit interlibrary loans, and 30.8% with a definite negative that no ebook licenses permitted interlibrary loans. Notably, 40.2% responded with "don't know or have not considered this question yet." This reaction suggests that the collections and licensing units of the library may not have communicated information about ebook licensing

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to interlibrary loan personnel or that there is a lack the workflow, technology or personnel to effectively communicate this information to the relevant personnel. Additionally, basic considerations along with the practical realities of a functioning library i.e circulation status and usage of staff time, play an important role in the interlibrary loan staff's decision-making process. Based on current understanding of fair use guidelines, for example, many libraries commented that they would look at the portion of the book or the number of pages in a book chapter to be copied or scanned when determining whether to send a chapter or not.

When considering lending ebook chapters, in an environment where interlibrary loan staff are able to determine that interlibrary loan rights are permitted for an ebook chapter, a much different perspective emerges: with 88% willing to loan ebook chapters under these circumstances with some portion of these respondents reserving a qualified willingness to lend ebooks depending on platform and technical challenges. Only 12% responded they would decline based on the lack of internal workflows to loan ebook chapters in this idealized situation. However, it is important to note that reasonable workflows to lend ebook chapters are not the norm (Table 5), with many respondents indicating they would never lend an ebook. Instead, most would cancel an ebook chapter request.

From this set of responses, it seems clear that one of the major barriers to the interlibrary loan of ebook chapters or even complete ebooks is the lack of knowledge about license permissions, both at the borrowing library and at the lending library. This gap combined with technical and platform issues and a lack of internal workflow signifies the need for discussion to be held in libraries and with publishers to accommodate emerging ebook formats.

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### Solutions:

*Internal Communication.* From the survey results it is evident that individual libraries need to make resource sharing rights more visible in the workflow by putting communication methods in place for distributing information about ebook licenses. Currently lack of visibility may be because ERM products have not yet been widely adopted or they are being used primarily only by those in technical services and collection development for their job functions. Interlibrary loan staff may not have access to the portions of these tools that are most relevant to them. Increased interoperability between ERM products, the OPAC and interlibrary loan software (such as ILLiad) would greatly enhance this communication.

*External Communication.* The survey results also indicated that interlibrary loan rights for ebooks need to be clearly communicated not only within individual libraries but also among libraries. In the print environment, where fair use and ILL rights are commonly understood, the exchange between libraries of borrowing and lending requests for materials is well-established. With the introduction of licensing for online content the *lingua franca* now appears somewhat fractured. Confusion, misunderstanding, or lack of knowledge about interlibrary loan rights for ebooks is a matter for discussion at professional, administrative and staff processing levels. Further research is needed to determine how many interlibrary loan requests are denied or go unfilled based on format and licensing terms and the long-term effect these actions may have on cooperative resource sharing.

*Platform requirements.* While it is reasonable to say that some ebook publishers and aggregators allow interlibrary loan of ebook chapter, it is not true of all current ebook vendors.

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To facilitate the functional requirements for lending of ebooks through interlibrary loan, the authors suggest that ebook providers reconsider overly restrictive DRM protocols that severely limit modes of access to either full or limited content. In addition to enabling a more streamlined process for providing chapter copies, a technical standard for interlibrary loan of ebook as returnables might also provide a lending library with the ability to turn off access to a licensed ebook and the ability to turn on access for a requesting library, who would then share the ebook with its own patron. The ebook should be available in the broadest practical range of computer devices the borrower might use. Access to the ebook would be restored to the lending library's users at the end of the specified loan period. Springer ebooks, an example of this model, are typically licensed with ILL rights that mirror print monographs and have been successfully interlibrary loaned. Additionally, the Colorado Alliance of Research Libraries (CARL) has lent ebook chapters published by Springer Verlag among the eight libraries in its consortia with Springer ebook packages employing a file transfer mechanism called yousentit.com (G. Machovec, personal communication, June 2, 2010).

### **Conclusion**

For many librarians, there is now a sense of inevitability about the transition to ebook collections (Spiro & Henry, 2010). But, what is the future of interlibrary loans of electronic monographic materials in this rapidly evolving environment? Currently both EBL and Ebrary are offering short-term borrowing services for their aggregation of ebooks, which permits library users to access an increasing quantity of monographic literature at lower prices than purchasing

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or using traditional interlibrary loan. These short-term loans can then be set up by libraries to be immediate or relatively instantaneous.

At the present time, there does not appear to be a general shared consensus for interlibrary loan uses of licensed electronic books either by staff at a single library or among libraries. Librarians and staff are aware of the significant differences between licenses for various electronic resources and are concerned that, as yet, there is no simple way to discern what might be covered, permitted, restricted or forbidden. There is also a growing perception that this lack of understanding may impair a library's future ability to support research, teaching and learning.

To improve this situation, it is important for librarians to work with vendors and providers to negotiate licensing terms that support fair use and provide broad access to electronic materials. Librarians must also develop a code of best practices for using ebooks in an interlibrary loan environment; one that both clearly explains licensing limitations and asserts the principles of fair use. Education about licensing terms for electronic books is needed at all levels of the library – from management negotiating those terms to the staff who process ILL requests.

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## **Appendix**

Greetings.

As more electronic books are added to individual library collections, questions about interlibrary loan rights and permissions are also emerging. This short survey is intended to gather data about how libraries are responding to both borrowing and lending requests for information contained in electronic book formats. Please fill out one per library. Thank you for your time.

1. What type of institution are you?
  - a. Academic library
  - b. Public library
  - c. Community College/Vocational School Library
  - d. Special Library
  - e. Other – Please describe
  
2. What is the approximate size of the population your institution serves?
  - a. More than 100,000
  - b. Between 50,000 – 99,999
  - c. Between 25,000 – 49,999
  - d. Between 10,000 – 24,999
  - e. Between 5,000 – 9,999
  - f. Less than 5,000
  - g. Specialized population – Please describe

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3. If you receive a request for a book chapter and you own the print copy of the book, how do you respond to the request (please check all that apply):

a. If we own the print book and it's on the shelf, we send a copy of the chapter requested

b. Depends on the length of the chapter

c. Depends on the percentage of the book

d. Send the entire book

e. No, we do not send book chapters

f. Other factors that influence your decision:

4. Does your library have ebooks in its collection?

a. Yes

b. No

5. Do you request book chapters for your users on interlibrary loan?

a. Yes

b. No

6. When you send the interlibrary loan request, do you know if the lending library owns the print or electronic format of the book?

a. Yes

b. No

c. Sometimes

d. Other – Please describe

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7. Would knowing the format of the book change where you send the interlibrary loan request?
  - a. Yes – We would send to library with print holding
  - b. Yes – We would send to library with electronic holding
  - c. No – The format does not alter where we send the request
  - d. Other – Please describe
8. Do your licenses permit you to interlibrary loan ebook chapters?
  - a. Yes, all
  - b. Yes, some
  - c. No
  - d. Don't know/I have not considered this question yet
9. Please select the statement below that best fits your institution:
  - a. We have no reasonable workflow to verify license ILL rights
  - b. We would never lend a chapter from an ebook
  - c. Other – Please describe
10. How would you respond to an ILL request for an ebook chapter?
  - a. Cancel
  - b. Cancel Conditional
  - c. Other – Please describe
11. If you determine that the license permits you to lend the ebook chapter, do you:
  - a. Yes, fill the ILL

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- b. Maybe, depends on the platform and technical challenges
- c. Respond no, we don't have workflow established
- d. Other – Please describe

12. Please let us know if you have anything else you would like to add regarding your experiences with interlibrary loan and ebooks.

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