

Transfer and Use of Bibliographic Records

Library and supplier viewpoints

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There is much uncertainty about what institutions are entitled to do with the bibliographic records they receive. There is not an easy answer to this complex problem, as the major restrictions result from the contracts that libraries have with suppliers, rather than IPR, and there is no standard contract (even for an individual supplier).

This is an information paper for librarians and those responsible for bibliographic records. It is a publication from the JISC-funded website "Transfer and Use of Bibliographic Records: Guidance on Legal Issues" which has been developed to help clarify and advance your understanding of what you are legally entitled to do with the bibliographic records which you hold within your institutional library catalogue.

Who are the suppliers of bibliographic records?

The main suppliers of bibliographic records are discussed in the RIN report "Creating catalogues: bibliographic records in a networked world". They can be categorised by the role they play in the supply chain, and can be summarised as:

- **Publishers:** they create basic bibliographic data as the basis for sales catalogues and related information on their web sites. They generally do not supply records directly to libraries, although direct supply is more common for e-books than for other content.
- **Intermediaries:**
 - **Aggregators:** consolidate data from publishers and add to records to make them "library quality" (eg Nielsen and BDS). This also includes ERM vendors and agents (eg Serials Solutions, ExLibris and SWETS) that aggregate e-journal bibliographic records.
 - **Library suppliers:** some library suppliers (eg Coutts and Dawsons) supply metadata as a supporting service for their core business of selling content. They take feeds from aggregators and also direct from publishers.
 - **Bibliographic utilities:** provide a mechanism for sharing records, and provide records for import into a local LMS. This includes commercial utilities who take data from aggregators (eg Talis Base) and library-membership organisations that rely heavily on the records supplied by its members (eg OCLC, RLUK).
- **Libraries:** this includes national libraries such as the British Library, which creates and collects data from a variety of sources and makes authoritative records available through a variety of channels (eg the BNB). Also, HE libraries that catalogue unique content or upgrade other records.
- **End-users:** who contribute content such as reviews, tags and corrections (note that end users as suppliers are not represented below).

Do suppliers have consistent views to what a library can do with records?

No. Whilst most suppliers of bibliographic records agree that there is no IP in records that contain "factual" information, they take different approaches to imposing restrictions in the licences they offer. Suppliers generally wish to impose as few restrictions as possible, but their approach is aligned to their particular business model. For example, restrictions depend on whether the supplier considers the value to be in the service they are supplying, or the bibliographic records themselves (in which case they are likely to be more restrictive).

To complicate the situation further, suppliers do not generally issue a standard licence – they are negotiated on an institution-by-institution basis (often by previous staff), and can be buried within contracts for other services. It should also be noted that suppliers often have to pass on licence restrictions from their own suppliers and have concerns about their own liability, similarly to institutions.

Most suppliers are in agreement that the transfer of supplier records of a library's holdings is acceptable but the transfer of the entirety of a suppliers' database to another party is not acceptable – this would essentially be re-supply of their service.

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What are libraries doing at the moment?

Libraries purchase bibliographic records for three main reasons: resource discovery, stock management and collection management. Whilst these activities do not necessarily require libraries to transfer bibliographic records of their own holdings outside their institution, some libraries do so:

- to support resource discovery;
- for the “good of the academic community”;
- for search and retrieval.

These specific use cases are accepted as normal practice by most suppliers, and are widely undertaken by institutions. Also, the conversion of bibliographic records from one format to another is generally accepted as normal practice by suppliers.

Why are libraries concerned?

The bibliographic record ecosystem has been “stable” for many years, largely due to a community spirit of mutual trust and respect, and there are no known legal challenges to libraries relating to their transfer of supplier records. However, it is an extremely complex area which makes libraries wary and can result in institutions taking an unnecessarily risk adverse approach (ie no transfer of records) or limiting their activities to uploading records to union catalogues such as RLUK. Some of the complexities and issues are discussed below.

Complex contracts

Libraries are likely to have numerous contractual relationships with suppliers of bibliographic records, each negotiated separately and containing confusing terminology. What are supply, use, re-use, re-supply of catalogue records and what do they mean? What do “commercial use” and “non-commercial use” mean for a library? Does the fact that institutions indirectly benefit financially from the transfer of library records (*ie* excellent research attracts research grants; excellent teaching resources attract fee-paying students) make them legally vulnerable? Libraries may also have very limited legal support to fall back on which puts them in a difficult situation.

Difficulty in understanding what suppliers want

Contracts are written from a supplier’s viewpoint, and libraries may not understand why certain restrictions are imposed and where there is room for negotiation.

Bad press

Concern was sparked in November 2008 by OCLC when it proposed a new (and potentially more restrictive) policy for the use and transfer of WorldCat records. This was much publicised in the press, and the overwhelming negative reaction from the community resulted in the revocation of this policy (www.oclc.org/us/en/worldcat/catalog/FinalReport_ReviewBoard.pdf).

New opportunities from Web 2.0 and UGC

The digitally networked world, Web 2.0 and shared services open up new possibilities for the transfer and aggregation of bibliographic records which licence terms do not yet adequately reflect. Generally it is not the record that is of interest to libraries, but the services that it can facilitate (*eg* supplying records to a commercial services such as Google for discovery) but this is not currently clear. This lack of clarity can lead to confusion and concern amongst libraries, and may result in libraries not taking advantage of new possibilities.

Libraries also have concerns around the inclusion of User-Generated Content (UGC), such as reviews in bibliographic records (*ie* content that contains a creative and could be subject to copyright).

Libraries as suppliers

Libraries may also be concerned about bibliographic records that they have created. What are other parties doing with their records, are other parties benefitting financially from the transfer of these records, and do restrictions need to be put in place to ensure rightful recognition or financial benefit for institutions?

Finding out more

If you would like to find out more about this topic, please go to the “Transfer and Use of Bibliographic Records” website www.jisclegal.ac.uk/Projects/TransferandUseofBibliographicRecords.aspx.