Evaluación de la BEIC

Términos de referencia para las negociaciones con las editoriales

"Producto "d"

INFORME FINAL

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Introducción - el marco

1. INTRODUCCIÓN - EL MARCO

1.1. The purpose

The purpose of this study was to look at the state-of-the-art in e-journal licensing with the objective of updating the CINCEL Licensing Terms of Reference (TDR) that is sent to publishers as part of the negotiation process. The TDR outlines CINCEL's technical, usage, legal and financial requirements for licensing e-journals. The TDR was last updated in 2008 with a partial update under this consultancy in December 2010..

This study also reviewed issues and solutions that are of the utmost importance to a consortium and to its members for continued access to content. These are discussed in Section 2.

1.2. The methodology - interviews and benchmarking

Interviews were done with the e-journal negotiating teams from JISC Collections in the UK, the California Digital Library of the University of California system, the Canadian Research Knowledge Network (CRKN), and the FCLA (Florida Center for Library Automation) in the US.

Interviews were also conducted with selected directors of sales of e-journal aggregators to get the points of view from the other side of the negotiating table.

In addition, *benchmarking* of the CINCEL terms was done with the model licenses of the above mentioned institutions to produce an updated CINCEL TDR which forms a separate part of this report.

The [SERU](#) guidelines (a NISO (National Information Standards Organization) [Best Practice for Electronic Resource licensing](#) and the [model license](#) (effective May 2008) found on the [Liblicense](#) site

were also consulted for additional terms but were not used in the benchmarking.

The site http://www.licensingmodels.org/ offers various models based on the JISC model. This site is managed by John Cox Associates Ltd., the company that works with JISC to develop model licenses for JISC. This site was also consulted but not used in the benchmarking since the JISC license is based on this site.

The CINCEL terms are a set of requirements that define the service but do not stipulate any preferred or required legal wording or legal conditions. The model licenses, on the other hand, stipulate legal wording and clauses in addition to service and technical requirements for the e-journal service to be delivered by the publisher.

It was noted that all the model licenses address the same issues with few exceptions. It appears that libraries and consortia have standardized on the functionality required from publishers in using e-journals.

The major differences in the licenses really comes down to the legal wording and to the legal terms.

1.3. The environment - knowing your users and how they use content

In negotiating licenses for e-journals it is critical to understand the users and their environment. This means measuring actual usage (searches and downloads) of journals by the users, knowing how the content is used by them, how it is accessed virtually (Web site, Google) and physically (library, campus office), and with what kind of device (workstation, mobile).

These parameters affect the conditions and prices that need to be negotiated with the publishers. They also set the priorities of the consortium or institution for the negotiations.

Las negociaciones - elementos críticos

2. THE NEGOTIATIONS - CRITICAL ELEMENTS

2.

2.1. Critical issues for content

All consortia surveyed have model licenses which they ask publishers to sign. Publishers do sign a consortium's model license when the deal is large, otherwise publishers ask that the publisher contracts be signed. Some publishers have background contracts with other parties that do not permit them to sign a model license offered by a consortium.

In the case of CINCEL, it is recommended that CINCEL require the publisher to answer each item of the Terms of Reference checklist with the corresponding section of the publisher's license where appropriate rather than ask the publisher to reply freely to each requirement. The license text is really all that matters. The sections of licensed text will also let CINCEL know which areas of the license need to be further negotiated to meet CINCEL requirements.

Certain areas of the licensing terms are critical to the on-going functioning of the consortium and of its Member institutions. These are described in more detail in this report. They are:

- *Individual Institution rights* - the rights to post-cancellation access, to preservation and to materials created from the licensed content. The consortium must make sure that the agreement retains the rights of the individual member institutions.

- *On-going access, post-cancellation access or perpetual access* - defined as access to content subscribed to once the subscription has been cancelled or is not renewed.

- *Preservation* - access to content subscribed to but that has disappeared entirely from the publisher's site. Examples are titles no longer published and supported, or transferred to another publisher.

- *Institutional repositories* - increasingly institutions are building repositories of their intellectual content and authors part of the institution are required to deposit their works into the repository.

- *Open Access publishing* - this gives wider distribution of an author's work and increases the chances of being cited.

- *Confidentiality clauses* - this prohibits consortia and individual institutions from sharing licensing terms and costs with each other.

- *Managing title list changes* - Titles moving between publishers and title deletions in an online environment is one of the principal sources of frustration between publishers and librarians.

In the case of on-going access and preservation, it is important that the consortium make sure that the **rights to access are with each member institution.**

2.1.1. ON-GOING ACCESS, POST-CANCELLATION ACCESS OR PERPETUAL ACCESS

This situation applies if the consortium cancels a subscription or does not renew. In general, publisher licenses offer on-going access at no additional fee. Some do charge an "access fee", such as Elsevier which charges a fee of the order of US $0.08 to US $0.10 per article downloaded from the titles and years of the institution's subscription.

Some publishers provide on-going access at their discretion and do not give the institution the option of selecting the access conditions. *The Wiley contract with CINCEL states "Wiley, in it's discretion, will either continue online access to the same material on Wiley's server or provide an archival copy in the electronic medium*

selected by Wiley, at a reasonable cost-based fee." This leaves the consortium exposed to having to search and pay for a technological solution for local mounting of the content should Wiley decide to "**provide an archival copy in the electronic medium selected by Wiley".** This is a dangerous position to be in. The consortium should always be in the position of defining the post-cancellation access.

PRESERVATION

E-journal preservation **is** retaining content that was subscribed to but is no longer available for whatever reason.

2.1.2. THIRD PARTY SOLUTIONS TO POST-CANCELLATION ACCESS AND PRESERVATION

LOCKSS, CLOCKSS and Portico are three recognized solutions.

LOCKSS is a solution to post-cancellation access and _locally_ hosted preservation, while CLOCKSS and PORTICO are preservations solutions hosted on _distributed hosts_ around the world.

Each of these services has reached agreements with publishers for legal access to harvest and preserve the content on the publishers servers. It is thus important for the consortium to know which publishers have reached agreements with which one of these services, and to campaign for publishers they would like to see part of the service.

Below is a list of publishers in the BEIC that have agreements with each of the services:

Elsevier .... Portico
Springer .... LOCKSS, Portico
Wiley-Blackwell .... Portico
Oxford University Press ....LOCKSS, Portico
American Chemical Society .Portico
Annual Reviews ....Portico
Science Magazine ....No agreements
Nature Collection .... Portico

LOCKSS

LOCKSS (Lots of Copies Keep Stuff Safe) is a non-profit organization based at Stanford University Libraries in California. It is an international community initiative with users world-wide. It has negotiated legal rights for preservation to over 6,700 e-journal titles from over 450 publishers. A library installs the LOCKSS software called a "LOCKSS Box" on a server at the library's institution. The LOCKSS software then begins to harvest the library's subscriptions from the publishers sites over a period of time. The harvesting of an entire library's subscription can take between one and two years because publishers only permit a slow rate of harvest.

A LOCKSS Alliance is a group of libraries that each have LOCKSS installed. The alliance shares the content so that there are multiple copies of content in geographically dispersed locations.

Post-cancellation access
Normally a publisher provides post-cancellation access at no cost. Searching is done either on the publisher's site or through another index such as Google Scholar or a database. The content comes from the publisher's site.

If a publisher puts conditions to access that are not favorable to the library or to the consortium (e.g.. charging for post-cancellation access, a maintenance fee, or providing an archival copy instead of permitting on-line access), the content will come from the library's LOCKSS Box. Searching is still done in the usual way to get the article reference, for example on the publisher's site, a database, Google Scholar, a Mega-index and so on.; however the full text will come from the library's LOCKSS Box server.

The LOCKSS Box itself does not have an integrated search interface.

Preservation

If the publisher's content is no longer available (eg. canceled titles, publisher no longer in business) , content comes from the library's local LOCKSS Box.

Pricing

Libraries and consortium outside of the United states are asked to contact Vicky Reich, Director of the LOCKSS Program, at vreich@stanford.edu, for a personalized quote.

CLOCKSS and Portico

These two are preservation solutions hosted on distributed hosts around the world. Access to the content is triggered by four specific events:

- Publisher is no longer in business of publishing or is no longer providing access to published content, and rights to content have not been transferred to another publisher or entity;
- A title has been discontinued and has not been transferred to another publisher or entity;
- Back issues no longer available and the rights to the content have not been transferred to another publisher or entity;
- Catastrophic and permanent failure of a publisher's platform.

The preserved content is held on servers specifically designated by the CLOCKSS and PORTICO services to the task of holding the preserved content. This contrast to the LOCKSS service where the content is held locally in the library's local server.

CLOCKSS (Controlled LOCKSS) is a not for profit joint venture between the world's leading scholarly publishers and research libraries to ensure the long-term survival (digital preservation) of Web-based scholarly publications.

PORTICO is a digital preservation service provided by ITHAKA, a not-for-profit organization which also provides the JSTOR service.

Pricing

Pricing for Portico can be calculated using the forms at the following Web site: http://www.portico.org/digital-preservation/join-portico/for-libraries/

Pricing for CLOCKSS is found in the table below. Consortial discounts are available by contacting info@clockss.org .

Libraries Materials Budgets	Annual Contribution
Under $1 million	$450
$1 - 2 million	$600
$2 - 3 million	$1,200
$3 - 4 million	$1,800
$4 - 5 million	$2,400
$5 - 7 million	$3,000
$7 - 9 million	$4,200
$9 - 11 million	$5,400
$11 - 13 million	$6,600
$13 - 15 million	$7,800
$15 - 20 million	$9,000
$20 - 25 million	$12,000
Over $25 million	$15,000

2.1.3. INSTITUTIONAL REPOSITORIES, SELF-ARCHIVING

Universities are maintaining repositories of the intellectual output of their faculty. The interests of the university and the public must be balanced with those of publishers.

Generally an author will sign an agreement with a publisher transferring the rights to the work. The university's responsibility is to make sure that its authors do not sign publisher agreement that conflict with university policy on its institutional repository. Both authors and the institution

should know if they retain the right to self archive their work or not.

The issue of rights also come up when a library or a consortium licenses content from a publisher. The licenses usually state that the publisher holds the rights to the content. This language restricts placing articles in an institutional repository that are a part of the institution's intellectual output and that have been published in a commercial journal.

The consortium or library should request changes to the publisher's contract to allow for articles to be deposited in a repository and accessed according to the institution's policy. the consortium can also view the publisher's current degree of commitment to self-archiving on the Sherpa Partnership site (see further below).

Examples of wording to permit self-archiving and archiving in institutional repositories can be found in the model licenses of other consortia. The SURFdiensten consortium in the Netherlands has the following clause in its model license for Users rights:

> *Those parts of the Licensed Material that were produced by employees working for the Institution may be deposited in the institutional repository of the Institution and on the personal web pages of the employee concerned only in their **non-published form**.*

It then goes on to define who has access to the repository as per the institution's policy. To clarify, it further states that:

> *"The Licensed Material provided under this Agreement is all in published form and therefore subject to copyright and may not be deposited in any institutional repository."*

The Knowledge Exchange model agreement (see p. 50) has similar wording but extends to course packs and other derivatives of a publisher's content. The model agreement states " *deposit in perpetuity the learning and teaching objects as referred to in Clause 3.1.3.4 in Repositories*

operated by the Institution and in the United Kingdom in the JORUM Repository. The access and use of such learning and teaching objects shall be governed by the terms and conditions of the applicable repository;

The Knowledge Exchange is a co-operative effort that supports the use and development of Information and Communications Technologies (ICT) infrastructure for higher education and research. The Knowledge Exchange partners are:

Denmark's Electronic Research Library (DEFF) in Denmark
German Research Foundation (DFG) in Germany
Joint Information Systems Committee (JISC) in the United Kingdom
SURFfoundation in the Netherlands

The Knowledge Exchange partners express a common vision based on their four national strategies: 'To make a layer of scholarly and scientific content openly available on the Internet.'

The Sherpa partnership in the UK is a consortium of institutions that have built and manage a combined open access institutional repository. It has a Spanish search interface to its database of publishers and journals that support the different levels of archiving in repositories according to the color codes (copied from the Sherpa Web site) below:

Sherpa color codes

ROMEO colour	Archiving policy
green	can archive pre-print *and* post-print or publisher's version/PDF
blue	can archive post-print (ie final draft post-refereeing) or publisher's version/PDF
yellow	can archive pre-print (ie pre-refereeing)
white	archiving not formally supported

2.1.4. PUBLISHER OPEN ACCESS PUBLISHING

Institutions whose authors publish in commercial journals under the Open Access option should keep track of the institution's expenditure on Open Access which can be used by the library or consortium to negotiate better subscription fees or better institutional Open Access publishing fees .

Not many, if any, publishers keep track of how many Open Access articles per institution are published in their journals. This can be asked for at the time of negotiation of the license.

2.1.5. CONFIDENTIALITY CLAUSES

Some publishers do include confidentiality clauses which prevent the consortium from comparing terms with other consortia or individual libraries. The confidentiality clauses normally survive the termination of the license.

The Springer license signed with CINCEL in 2008 has such a confidentiality clause in Section 9.2.

These clauses should be struck out of future licenses to permit the consortium to do free comparisons with other consortium and libraries.

2.1.6. MANAGING TITLE LIST CHANGES - THE TRANSFER INITIATIVE

The Transfer Code of Practice is an international standard established in 2006 under the auspices of the UK Serials Group. It was created to address the challenges caused by the growing number of titles moving between publishers. This movement of titles has been one of the principal sources of frustration between publishers and librarians, and between publishers themselves.

[The Transfer Code of Practice v2](#) along with the [Supplementary Information](#) is a set of standards that would apply whenever a journal is transferred from one publisher to another. The

Code is concerned primarily with online content and not with print.

The Code provides a protocol for electronically managing title transfers, subscription lists, access, DOI's and for properly notifying subscribing libraries.

Libraries should subscribe to the Transfer Notification List at https://www.jiscmail.ac.uk/cgi-bin/webadmin?A0=transfer to receive automatic emails of title changes posted by publishers that participate in Transfer. These changes are also posted in the Transfers Notifications Blog at http://www.uksg-transfer.blogspot.com/

Publishers are asked to post information regarding journal transfers to the Transfer notification list within four weeks of signature of the new publishing contract or four months prior to the effective date of transfer, whichever is the later. The Transfer Code of Practice recommends that the Transferring Publisher takes responsibility for providing this information, however submissions to the Transfer notification list are accepted from Transferring or Receiving Publishers.

Five of the eight publishers in the BEIC are Transfer Compliant - Elsevier, Nature PG, Oxford University Press, Springer and Wiley-Blackwell. A complete list of [Participating publishers](#) is found on the Web site of the UK Serials Group.

JISC is preparing a communication to society publishers on the issue of transfers, the impact on libraries and on users, and how societies can help by negotiating their publishers' participation in Transfer. This will be ready for publication in September of 2011 and will be shared with others.

A consortium or library should ask in the negotiations if the publisher is Transfer Compliant and, if not, motivate it to become so.

Transfer is very helpful to a library and to a consortium; nevertheless there is still work and follow-up to be done in managing title changes.

2.1.7. ALTERNATIVES TO A SUBSCRIPTION - ACCESS TO NEW ARTICLES

When a subscription with a publisher is cancelled and the library or consortium still wishes to access new articles at reasonable cost, three good options are:

- The publisher's Pay-per-article option where the user pays for each article downloaded.

- Document delivery services such as CISTI (Canada), British Library Document Supply Service (UK), Reprints Desk (USA), and SUBITO (Germany).

- The OCLC ILL service which provides an article delivery service in addition to regular Inter-library loans.

Many libraries in Latin America are very satisfied with the OCLC ILL service for article delivery. The COMUT article delivery service of IBICT in Brazil is a national document delivery service for obtaining articles. Those articles that cannot be found in a library in Brazil are requested via the OCLC ILL service. COMUT sends about 80 article request a month through the OCLC ILL service. Of those, 70 are fulfilled and 60 of them are fulfilled without any cost for the article. Some articles arrive in a matter of hours electronically. Those that have to come by mail can take as long as a month.

The cost of the OCLC ILL service depends on the number of articles requested. In general it ranges from US $2 per request to US$0.60. This excludes the cost of the article itself, if any. There are groups of libraries in the OCLC ILL service that offer articles at no cost on a reciprocal basis.

2.2.   Usage statistics - Third Party Solutions

Usage statistics are one of the most important elements to have well prepared prior to negotiation for a subscription renewal.

It is a time consuming process to collect the statistics. There are some tools which makes the process simpler.

The JISC consortium in the UK is releasing a statistics portal for its members and will make it available to other consortia. The terms have not yet been defined. The statistics are harvested from SUSHI compatible publisher sites and put into the portal.

Below are examples of some of the statistics produced.

Institution JR1 and JR1A Reports
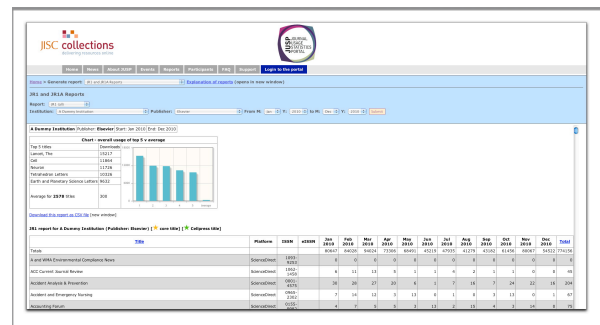
Institution summary of publisher usage
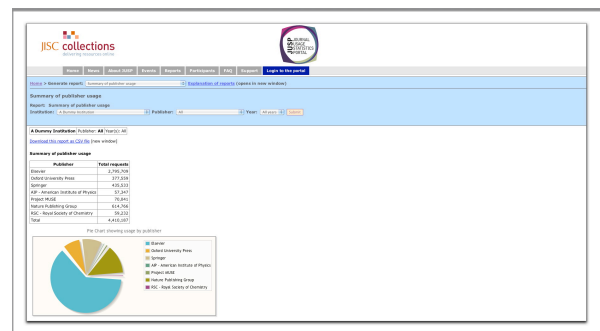
Publisher usage by title and year

MinCyT in Argentina states to have a statistics portal although time did not permit follow-up.
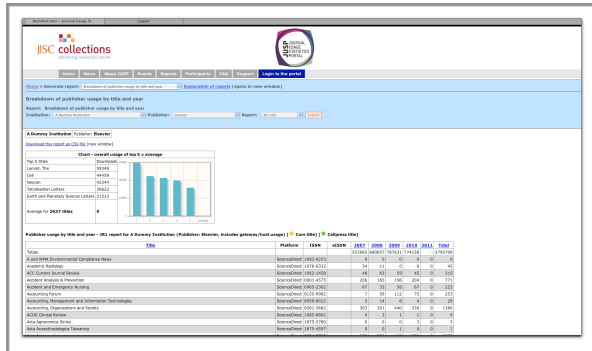
Vendors also provide usage statistics gathering tools for a price. This report did not survey those tools.

2.3. Individual institution access rights in the Consortium

A consortium should make sure that in the license the individual institutions maintain their rights to on-going and archival access, along with any other rights to the contents subscribed to.

Negotiating Tips

3. NEGOTIATING TIPS

3.1. Negotiating tips - consortium point of view

Negotiations require each side to be well prepared. Some points stood out in the interviews with the consortia as being very important to have before going in to a negotiation.

- Be as professional and as well informed as are the publishers. Publishers prepare usage statistics and satisfaction surveys prior to going into a negotiation. It is important that the consortium do so as well, and in the greatest detail possible. It is also critical to set the objectives for the negotiations with the members of the consortium. What is it that is essential? Is it price? Is it OA publishing? Is it flexibility in access off-campus and usage of the materials? What issues are flexible and which ones are not? The CRKN (Canadian Knowledge Resource Network) has set up a **Negotiations Resource Team** which establishes the objective of the negotiations with the publishers.

- Libraries must stand firmly behind the consortium during the negotiations. This means that the consortium must communicate effectively and frequently with the libraries to keep them informed of the process and of intermediate results, problems or issues.

- National consortia such as JISC Collections in the UK and CRKN (Canadian Resource Knowledge Network) start preparing for negotiations at the beginning of the year and conclude in September/October of the same year. For large publishers, preparations can begin as much as 18 months in advance of the subscription renewal. In one case it took 24 months (2 years) for a consortium to close with Wiley-Blackwell.

- Time should be spent negotiating with the major publishers with the most usage. These publishers have really good data on usage by each institution and use it to their advantage in negotiations.

- Consortia are increasingly working with publishers to keep price increases in line with reality and in line with budget increases of libraries or consortia. Although publishers are still trying to increase rates by 5% or more, libraries and consortia are pushing back to get a rate that is more closely linked to budget and usage. Publishers seem to be accepting this but still need to be pushed to do this.

- Publishers interests lie in expanding their customer base, or in selling related services to consortia members. This can be a bargaining tool to achieve a lower subscription price in return for the publisher gaining access to sell other services.

- An important negotiating point is on-site training of users by the publisher. This can be used when further pricing reductions are difficult to achieve, or in lieu of price reductions.

- The discussion list **LibLicense** based at Yale University is a good source for issues and comments on licensing electronic content. Publishers monitor this list and do get involved as well. The **ICOLC** list (International Coalition of Library Consortia) is a good way to find others around the world who have similar issues. It is a private list for ICOLC members only.

- It is important to have language in the license to bring in new members.

3.2. Negotiating tips - vendor point of view

Some points stood out in the interviews with e-journal vendors and aggregators as being very important for library consortia to have before going in to a negotiation with either a publisher or a vendor or an aggregator.

- The consortium should be prepared with the correct list of titles they subscribe to. Publishers or vendors do not always have accurate lists. This is a common problem in the industry. If the consortium comes to the table with a correct list and the other side does not have a correct list or has no list at all, then the consortium may gain a psychological advantage in the negotiations.

- The consortium should know clearly how much is spent on each of the subscriptions and have those numbers at at hand, including trends in price increases and changing of content.

- The consortium should study what the publisher offers and ask libraries in the consortium what content they want. They should also ask other consortia of their experiences with the publisher and/or the aggregator or vendor.

- If the consortium cannot negotiate with the people at the table from the publisher or aggregator, it should go higher up in the publisher's hierarchy. This generally yields results. Searching for support on the **ICOLC listserv** or on the Liblicense site from other consortia with similar issues with the publisher or aggregator can be very helpful.

- When it comes to pricing, these were the more common negotiating strategies mentioned:

- Multi-year deals which generally give better pricing and lower price increases.

- Determine what is the base the publishers uses for calculating prices. If it is FTE, work on

defining a realistic FTE based on reality. For example, base FTE on the number of researchers rather than the entire student body.

- Negotiate price on actual usage and price per download. An interesting strategy of interest to both sides is to negotiate price adjustments only if usage goes above or below a certain range. This puts pressure on the publisher to work at increasing usage and at the relevance of the titles to the consortium.

- Bring in new users at the same price to increase the publisher's market share.

3.3. Challenges in negotiations

These issues came up consistently in the interviews as challenges in the negotiations.

- A lack of consistency in the publishers licensing agreements is a great cause for frustration. This makes it difficult to compare different publisher offerings. It also makes it difficult for a library to manage a variety of licenses and leads to pressure to manage all e-resources on the most restrictive license for sake of simplicity. JISC Collections is developing a license comparison tool to assist in the negotiations. Other large or national groups, including JISC, have developed model licenses which publishers generally sign with amendments to take into consideration a each publisher's situation.

- Title list changes are an issue and actually seem to be an industry problem. Publishers do not generally notify the libraries in a timely fashion of title additions or deletions, nor do they adjust pricing. Consortia usually have to monitor the lists themselves and get in touch with the publisher, or campaign the publisher to join the Transfer initiative..

- Consortia are increasingly interested in Open Access publishing by their academic communities in the publishers journals.

This publishing activity is useful to know because it reflects a contribution to the journals by the members of the consortium.

Some consortia use this to leverage a lower subscription price on the journals or to negotiate a lower Open Access article submission price to the journal; others see this as supporting local intellectual output. In any case, consortia want to make sure they are not double-paying for a journal that has OA contributions from their members.

Having said that, publishers appear to have a difficult time in providing good statistics to consortia of how many OA articles are published by consortia members.

An example of a price reduction was offered by one of the consortia interviewed.. A publisher offered a general discount of 10% on the subscription if the Open Access contributions by the consortium members exceeded 10%.

• Standards compliance is a development issue at the publisher's end, so it cannot always be demanded by the consortium. Smaller publishers have more difficulty keeping up with standards because of their smaller development budgets.

• Keeping license requirements up to date to take into consideration changing technologies, user requirements and trends in the industry is a constant challenge.

• Limiting liability, in other words, if one institution pulls out of the contract that it should not affect other members.

Benchmarking de las licencias de los consorcios

4. BENCHMARKING - CONSORTIAL LICENSES

The CINCEL terms of reference for publishers was benchmarked against the following model licenses:

- the JISC Collections Individual Institutional license Model NESLi2 Licence for Journals (http://www.jisc-collections.ac.uk/Global/ModelNESLi2Licencefor2011agreements.doc) and the JISC Collections consortial license Model JISC Collections – Publisher Contract (http://www.jisc-collections.ac.uk/Documents/JCContractJune2009). JISC was established by the UK Higher and Further Education funding councils to support the procurement of digital content for education and research in the UK. JISC administers more than 7.000 subscriptions, and more than 200 license agreements from over 100 publishers on behalf of the 672 educational and research institutions.

- The Canadian Resource Knowledge Network (CRKN) model license (http://www.crkn.ca/sites/default/files/CRKNModelLicenseAgreementJan06.pdf). CRKN undertakes large-scale content acquisition and licensing initiatives in order to build knowledge infrastructure and research capacity in Canada's universities. It collaborates with 75 university members and provides access to over 900,000 researchers and students.

- the Florida Center for Library Automation (FCLA) Licensing Guidelines (http://fclaweb.fcla.edu/uploads/cdygert/Licensing_Guidelines.pdf). FCLA contracts e-resources for all public universities in the state of Florida in the USA.

- the California Digital Library (CDL) CDL standard license agreement (http://www.cdlib.org/gateways/vendors/docs/Model_License_LATEST_Revised_10-08a.rtf) , the Technical guidelines for vendors (http://www.cdlib.org/gateways/vendors/guidelines_technical.html) of the University of California system in the USA.

Comparisons were made in each of the following categories:

- Authorized users
- Walk-in users
- Access
- Permitted uses of content
- Post-cancellation access and preservation
- Open Access (OA) Publishing
- Institutional Repositories
- Title transfers and title elimination, and
- General

The comparisons excluded legal and financial terms since they vary from country to country.

The CINCEL Terms of Reference (TOR) for publishers used in the 2008 negotiations was quite complete yet required refinement to the details such as of post-cancellation access, preservation, title transfers, OA publishing, repositories and permitted uses of content. It also required some updates to reflect new institutional needs, new technologies and new methods of managing information.

The first updated version of the TOR and the Preliminary version of this report were submitted December 27, 2010 for negotiations in early January 2011 with the four publishers renewing in 2011 - Oxford University Press, Springer, Annual Reviews and Wiley-Blackwell. The main additions to the first updated version of the TDR were Open Access publishing, permitted uses of content and Institutional Repositories.

It was suggested in the Preliminary Report that a survey be done with institutions members of CINCEL to gauge how users actually access and use the content in research and in teaching to get an understanding of what the priorities should be

in the Terms of Reference and in the corresponding negotiations with publishers.

The companion to this final report is the Final TOR with the same date as this report. The updated TOR is based on the experiences with publishers in the January - March 2011 round of renewal negotiations. The real possibility of a subscription cancellation presented itself during the negotiations and this lead to some very serious considerations of the impact this might have on the CINCEL consortium. As a result, this report addresses in detail the critical elements to the on-going functioning of the consortium and of its Member institutions. It provides additional requirements on publishers to protect the interest of CINCEL and its members, and provides solutions to issues that arise from the cancellation of a subscription.

Each of the following tables (Table 1 to Table 8) represents one of the categories for comparison. The first column contains a summary of the terms in the license of the consortium under the category. The second column contains the relevant extracts from the license to support the summary in the first column.

Table 1 - Authorized users

Consorcio y términos	Extractos relevantes de la licencia
JISC LICENCIA MODELO • **Each institution of the consortium and:** • **Students** • **Staff/faculty (permanent, temporary or retired)** • **Any teacher who teaches Authorized Users** • **A contractor of the institution** • **A Walk-in user** • **No geographic limits**	An individual who is authorized by the Institution to have access to its information services (whether on-site or off-site) via Secure Authentication and who is: a current student (including undergraduates and postgraduates); a member of staff (whether permanent or temporary including retired members of staff and any teacher who teaches Authorized Users registered in the United Kingdom); a contractor of the Institution; or a Walk-In User. Note: There is no geographical limitation.
CRKN LICENCIA MODELO • **Each institution in the consortium and:** • **Students** • **Staff/faculty (permanent, temporary, contract, adjunct, formal affiliation or visiting basis)** • **A Walk-in user** • **Geographic limits not explicitly mentioned**	Each Member and each employee, including faculty, of the Member (whether on a permanent, temporary, contract, adjunct, formal affiliation or visiting basis) and individuals who are currently studying at the Member, who are permitted to access the Secure Network from within the Premises or from such other places where Authorized Users work or study (including but not limited to Authorized Users' offices and homes, halls of residence and student dormitories) and who have been issued by the Member with a password or other authentication and such other users as are identified on Schedule 1 Secure network - A network (whether a standalone network or a virtual network within the Internet) that is only accessible to Authorized Users and Walk-in Users approved by a Member whose identity is authenticated at the time of log-in and periodically thereafter consistent with current best practice, and whose conduct is subject to regulation by the Member..
FCLA LICENCIA MODELO • **Each institution in the consortium and:** • **Students** • **Staff/faculty (full-time and part-time students, residents, researchers, employees and independent contractors)** • **A Walk-in user (individuals using computer terminals within the library facilities)** • **No geographic limits**	Authorized users should be defined by their affiliation with the university regardless of their geographic location or campus. Users at all geographic locations and/or campuses that report to the university as their administrative head are considered part of a single site. Each library on a multi-library campus will make every effort to negotiate access for patrons according to this definition.("Authorized Users" shall mean faculty, full-time and part-time students, residents, researchers, employees and independent contractors of Customer affiliated with Customer's locations listed on Attachment __ ("Participating Institutions") and individuals using computer terminals within the library facilities at the Participating Institutions permitted by the Customer to access the "Service". "The authorized site consists of all geographic locations and/or campuses that are identified in the agreement as the Licensee. All authorized users who have right of entry to the network are granted access regardless of their physical location."

Table 1 - Authorized users   21

Consorcio y términos	Extractos relevantes de la licencia
CDL LICENCIA MODELO • **Each campus in the network and:** • **Students** • **Staff/faculty (full-time and part-time students, residents, researchers, employees and independent contractors)** • **A Walk-in user (individuals not affiliated with the institution and using computer terminals within the campus facilities)** • **No geographic limits**	Full and part time employees (including faculty, staff, and independent contractors) and students of Licensee and the institution of which it is a part, regardless of the physical location of such persons.

Table 1 - Authorized users   22

Table 1a - Walk-in users

Consorcio y términos	Extractos relevantes de la licencia
JISC LICENCIA MODELO • **Any user that is allowed to access the services from within the physical premises of the Institution. Off-site access not permitted.**	Walk-In Users are persons who are allowed by the Institution to access its information services from computer terminals or otherwise within the physical premises of the Institution. For the avoidance of doubt, Walk-In Users may be given access to the Licensed Material by any wireless Secure Network. Walk-In Users are not allowed off-site access to the Licensed Material.
CRKN LICENCIA MODELO • **Any user that is allowed to access the services from within the physical premises of the Institution. Off-site access not permitted.**	Individuals other than Authorized Users, whom a Member has permitted to have occasional access to the Secure Network at a computer workstation physically located on the Member's Premises.
FCLA LICENCIA MODELO • **Any user that is allowed to access the services from within the physical premises of the Institution. Off-site access not permitted.**	individuals using computer terminals within the library facilities (as well as occasional on-site walk-in users.
CDL LICENCIA MODELO • **Any user that is allowed to access the services from within the physical premises of the Institution. Off-site access not permitted.**	Walk-ins. Patrons not affiliated with Licensee who are physically present at Licensee's site(s) ("walk-ins"). Incidental, walk-in use in UC facilities by non-affiliated, unauthenticated users must be permitted. The University is required by law to allow such access.

Table 2 - Access/Authentication

Consorcio y términos	Extractos relevantes de la licencia
JISC LICENCIA MODELO ● **Via UK Access Management Federation technology (Shibboleth), by IP or username/ password provided by the Institution**	Access to the Licensed Material is by UK Access Management Federation compliant technology, Internet Protocol ("IP") ranges or by a username and password provided by the Institution or by another means of authentication agreed between the Publisher and the Institution.
CRKN LICENCIA MODELO ● **Unlimited use. Web, password and IP.**	Unlimited use of the Licensed Materials on the Publisher's Server via the World Wide Web. User authentication mechanisms supported are password, IP addresses/ranges.
FCLA LICENCIA MODELO ● **A Secure Network.**	"The Publisher agrees to grant to the Consortium the non-exclusive and non-transferrable right to give Authorized Users access to the Licensed Materials via a Secure Network for the purposes of research, teaching, private study, and other uses in accordance with U.S. Copyright Law."
CDL LICENCIA MODELO ● **Unlimited access. Access via IP. Proxy servers permitted.** ● **Shibboleth**	IP Addresses. Authorized Users shall be identified and authenticated by the use of Internet Protocol ("IP") addresses provided by Licensee to Licensor. The use of proxy servers is permitted as long as any proxy server IP addresses provided limit remote or off-campus access to Authorized Users. Vendors are strongly urged to implement Shibboleth in order to enable a timely transition away from IP-authenticated access. The University of California campuses are members of the InCommon Federation and prefer to work with vendors that are also members of InCommon. Unlimited Access. Subject to the terms of this Agreement, Licensee and its Authorized Users shall have unlimited access to the Licensed Materials.

In the United States, InCommon provides a secure and privacy-preserving trust fabric for research and higher education institutions, and their partners. An article in EDUCAUSE written in 2006 describes how it works.

InCommon is based on Shibboleth. InCommon is now recommending a hybrid of Shibboleth (a single sign-on solution for accessing on-campus and off-campus resources) and EZproxy (widely deployed among libraries).

The UK Access Management Federation, similar to the InCommon initiative in the US provides a single solution to accessing online resources and services for education and research. It uses the standards based Shibboleth software, developed by the Internet 2 community in the United States.

Table 2 - Access/Authentication   24

Both the UK and the US authentication initiatives allow users identify themselves locally with their home institution, then pass only relevant and necessary attributes to the resource, maintaining privacy as necessary.

For example, if a student wants to access resources at another institution, the student can authenticate at the home institution. Shibboleth will act as the bridge between the home institution and the authentication mechanisms at the other institution.

Table 2 - Access/Authentication 25

Table 2a - Standards

Consorcio y términos	Extractos relevantes de la licencia
JISC LICENCIA MODELO • **W3C Web standards(includes Web Accessibility (WAI) for older users, users with disabilities)** • **OpenURL** • **Project Transfer for title transfers** • **COUNTER compliant statistics** • **Compatible with SUSHI for harvesting into the JISC Usage Statistics Portal** • **Archive in one of LOCKSS, CLOCKSS, and/or PORTICO archival solutions.** • **Shibboleth (see Table 2-Access)**	Use all reasonable efforts to meet the **W3C standards** (www.w3.org/WAI/Resources/#in) Use all reasonable efforts to meet the **Open URL Standard** (www.niso.org/kst/reports/standards?step=2&gid=&project_key=d5320409c5160be4697dc046613f71b9a773cd9e). Use all reasonable efforts to keep to the **Code of Practice of Project Transfer** (www.projecttransfer.org) to ensure that journal content remains easily accessible by Institutions and their authorised users when there is a transfer of material between parties, and to ensure that the transfer process occurs with minimum disruption Use all reasonable efforts to give the **link-resolver vendors** and A-Z vendors the following information about each title in the Material on a monthly basis. Title , ISSN or eISSN Previous title, if appropriate Previous ISSN or eISSN, if appropriate First volume and issue made available as part of the offer or, if volume and issue are not available, first year, final volume and issue or year and URL. Provide the **link-resolver vendors** with the algorithm or syntax for constructing an article-level link from an article's metadata within the Material. Further information about this industry standard can be found at: http://www.uksg.org/kbart/s5/guidelines Provide the Institutions with fully **COUNTER-compliant** usage statistics every three months (www.project counter.org) Implement the **Standardized Usage Statistics Harvesting Initiative (SUSHI)** protocol (http://www.niso.org/workrooms/sushi). Allow the J**ournals Usage Statistics Portal** (http://www.jusp.mimas.ac.uk/about.html) to collect usage statistics (SUSHI compliancy) on behalf of the Institution and display them to the Institution via the Journals Usage Statistics Portal.; **Archive the Licensed Material** in at least one of the following archiving solutions *Portico, Clockss* or *Lockss*

Consorcio y términos	Extractos relevantes de la licencia
CRKN LICENCIA MODELO ● **Interoperability with prevailing Web browsers including at a minimum, the most recent two major releases.** ● **Publisher has adequate capacity and bandwidth to support the usage.**	use reasonable efforts to ensure that the Server has adequate capacity and bandwidth to support the usage by the Consortium and Authorized Users and Walk-in Users at a level commensurate with the standards of availability for information services of similar scope operating via the World Wide Web, as such standards evolve from time to time over the term of this Agreement. use reasonable efforts to ensure that Licensed Materials will be accessible and interoperable with prevailing Web browsers including at a minimum, the most recent two major releases (current release and one release prior) and all the associated subsets.
FCLA LICENCIA MODELO ● **Publisher has adequate capacity and bandwidth to support the usage.** ● **COUNTER compliant statistics that adhere to the ICLOC Guidelines.** ● **CONTU Guidelines are used by member libraries for ILL** ● **Prefer that publisher participate in LOCKSS for archival solutions (see Table 4, FCLA).**	"Licensor shall use reasonable efforts to ensure that the Licensor server or servers have sufficient capacity and rate of connectivity to provide the Customer and its Authorized Users with a quality of service comparable to the highest current standard in the on-line information provision industry. (Reimbursement for substantial downtime) Licensor should use best efforts to provide the Licensee with COUNTER-compliant usage statistics (http://www.projectcounter.org) that adhere to the ICOLC Guidelines for Statistical Measure of usage of Web-Based Information Resources "Guidelines for Statistical Measures of Usage of Web-Based Information Resources " Academic libraries are committed to the application of CONTU guidelines in our practice for all formats, and believe they provide adequate protection for the electronic environment as well. "Licensee may supply through interlibrary loan a copy of an individual document being part of the Licensed Materials by post, fax or secure electronic transmission 6 for the purposes of non-commercial use. Specifically, copies may be made in compliance with Section 108 of the Copyright Act of the US."

Consorcio y términos	Extractos relevantes de la licencia
CDL LICENCIA MODELO • **Publisher has adequate capacity and bandwidth to support the usage, with 99% availability outside of scheduled maintenance.** • **compatible with all major authentication methods, platforms, major browsers and recent versions of this and supporting software.** • **Shibboleth (see Table 2, Access)** • **Portico preferred for preservation** • **Preservation repository used by publisher should be compliant with emerging standards such as OAIS** • **All full text of publishers members of CrossRef should have a DOI** • **Record export compatible with citation software such as Endnote and RefWorks** • **OpenURL** • **Z39.50, SRU or SRW, NISO Metasearch XML Gateway protocol** • **Regular monthly statistics that conform to the COUNTER Code of Practice for Journals and Databases** • **Web pages compatible with Apple, Blackberry and Android platforms** • **PDF's that display on mobile platforms should have one column or ePub formatting.**	Resources should be served by high-speed machines on networks with large bandwidths. Resources should be accessible 24 hours a day, 7 days a week, with 99% end-user availability outside of scheduled maintenance and 98% total availability including scheduled maintenance. Vendors are strongly urged to implement Shibboleth in order to enable a timely transition away from IP-authenticated access. The University of California campuses are members of the InCommon Federation and prefer to work with vendors that are also members of InCommon. IP-access authentication via campus proxy servers or VPN client software. At a minimum, vendors should test their products to ensure compatibility with the EZProxy software and with Cisco and Juniper WebVPN. As an alternative to vendor-hosted perpetual access, a vendor can partner with a trusted digital preservation repository. Portico is the University of California's preferred archival partner. The preservation repository should comply with the emerging standards for digital preservation such as the Open Archival Information System (OAIS) Reference Model. In addition, vendors should be familiar and comply with Trustworthy Repositories Audit & Certification (TRAC): Criteria and Checklist. Vendors should be aware of the NISO MetaSearch Initiative and the following protocols: 1. Z39.50 2. SRU (preferred) or SRW 3. NISO Metasearch XML Gateway (MXG) protocol (based on the NISO-registered SRU protocol) 4. Proprietary XML gateway Comply with the OpenURL standard Vendors should provide regular monthly statistics that conform to the COUNTER Code of Practice for Journals and Databases The CDL needs a commitment from publishers that are CrossRef members that all of the full text that is available on their web sites has a corresponding metadata record in the CrossRef database. The CDL prefers to contract with vendors who are willing to provide record export formatting that is compatible with the citation management products in general use by UC faculty, students and staff, for example, RefWorks and Endnote. Resources should be tested and compatible with all major authentication methods, platforms, major browsers and recent versions of this and supporting software. As of May 2010, this is defined as: ☒ Platforms and OS Versions: Macintosh OS X 10.4 and above, 64 and 32 bit; Windows 7, Vista, XP; Linux. Browsers: Internet Explorer 7 and above, Firefox 3.0 and above, Safari 3.2 and above, Google Chrome 4 and above. ☒ Supporting software: Java, Adobe Reader, Adobe Flash. Vendors should prioritize development of mobile web sites over client applications. ☒ Web pages should be tested and compatible with the primary browsers available on the Apple, Blackberry and Android platforms. PDFs displayed on mobile platforms should have one column and/or be compatible with epub format for resizing.

Table 3 - Permitted uses

Consorcio y términos	Extractos relevantes de la licencia
JISC LICENCIA MODELO ● **Search retrieve, display and view, download, print.** ● **Electronically save parts of the material** ● **Print out single copies** ● **Course packs** ● **Create other formats such as Braille** ● **Virtual learning environments** ● **Incorporate materials in assignments and portfolios, theses, dissertations, and make reproductions for personal and Library use.** ● **Publicly display or perform parts of the material at seminars, conferences, workshops or similar events** ● **Save/deposit in perpetuity parts of the material in repositories where access is limited to only Authorized Users.** ● **Text mining and data mining** ● **ILL** ● **Make single copies at request of Authorized users.** ● **Make and distribute copies for promotion, testing or training purposes**	Allow Authorized Institutions to: - provide integrated access and an integrated article author, article title and keyword index to the Licensed Material and all other similar material licensed from other publishers; - supply to another library in the United Kingdom (whether by post, fax or secure electronic transmission provided the electronic file is deleted immediately after printing) a single paper copy of an electronic original of an individual document; - provide single printed or electronic copies of single articles at the request of individual Authorised Users; - display, download and print parts of the Licensed Material for the purpose of promoting or testing the Licensed Material or for training Authorised Users; - make and distribute copies of training material as may be required for the purpose of using the Licensed Material in accordance with this Licence; Allow Authorized Users for Educational Purposes only to: - access the Licensed Material by Secure Authentication in order to search, retrieve, display and view the Licensed Material; - electronically save parts of the Licensed Material; - print out single copies of parts of the Licensed Material; - incorporate parts of the Licensed Material in printed and electronic course packs to be used in the course of instruction and/or in virtual learning environments hosted on a Secure Network. Authorised Users must specify the title and copyright owner of the Licensed Material used in the course packs. Course packs in other formats, such as Braille, may also be offered to Authorised Users; - incorporate parts of the Licensed Material in printed or electronic form in assignments and portfolios, theses and in dissertations ("the Academic Works"), and to make reproductions of the Academic Works for personal use and library deposit. Reproductions of the Academic Works can be provided to sponsors of those Academic Works. Authorised Users must specify the title and copyright owner of the Licensed Material used in the Academic Works. - publicly display or publicly perform parts of the Licensed Material as part of a presentation at a seminar, conference, or workshop, or other similar event; - save and/or deposit in perpetuity parts of the Licensed Material in electronic repositories operated by the Licensee and/or by an Authorised User on a Secure Network. Access to and use of such repositories shall be limited to Authorised Users; - use the Licensed Material to perform and engage in text mining/data mining activities for academic research and other Educational Purposes.

Table 3 - Permitted uses   29

Consorcio y términos	Extractos relevantes de la licencia
CRKN LICENCIA MODELO ●**Make copies by means of caching for increased retrieval efficiency.** ●**Search retrieve, display and view, download, print.** ●**Provide single printed copies upon request** ●**Electronically save parts of the material** ● **Course packs** ● **Electronic reserves** ● **Create other formats such as Braille** ● **Distribute single copies of individual articles to other users in a class.** ● **Virtual learning environments** ●**ILL**	- Make such local electronic copies of part of the Licensed Materials by means of caching as may be necessary solely to ensure efficient use of such materials by Authorized Users and Walk-in Users. - Allow Authorized Users and Walk-in Users to have access to the Licensed Materials including an integrated author, article title and keyword index of Licensed Material, from the Server via the Secure Network. - Provide single printed or electronic copies of single articles upon request to individual Authorized Users. - Allow Authorized Users to have access to the Licensed Materials through the Member's Electronic Learning Environment. - Display, download or print the Licensed Materials for the purpose of internal marketing or testing or for training Authorized Users. - Authorized Users and Walk-in Users, subject to clause 6 below, may: - Search, view, retrieve and display the Licensed Materials. - Electronically save parts of the Licensed Materials for personal use. - Print single copies of parts of the Licensed Materials. - Distribute single copies of individual articles or items of the Licensed Materials in print or electronic form to other Authorized Users; for the avoidance of doubt, this sub-clause shall include the distribution of a copy for teaching purposes to all individual student Authorized Users in a class at a Member. - Nothing in this Agreement shall in any way limit the ability of the Consortium, Authorized Users and Walk-in Users to engage in or conduct any activity that would not constitute an infringement under Canadian copyright laws, in respect of a copyrighted work. SUPPLY OF COPIES TO OTHER LIBRARIES (ILL) 4.1 Members, subject to clause 6 below, may supply to a library of a non-Member (whether by post, fax or secure transmission, using Ariel or its equivalent, whereby the electronic file is deleted immediately after printing), for the purposes of research or private study and not for Commercial Use, a single paper copy of an electronic original of an individual document being part of the Licensed Materials. COURSE PACKS AND ELECTRONIC RESERVE "Licensee and Authorized Users may use a reasonable portion of the Licensed Materials in the preparation of Course Packs or other educational materials." Course packs in non-electronic non-print perceptible form, such as audio or Braille, may also be offered to Authorized Users who, in the reasonable opinion of the Member, are visually impaired.

Table 3 - Permitted uses   30

Consorcio y términos	Extractos relevantes de la licencia
FCLA LICENCIA MODELO • **Any and all uses permitted by national copyright law** • **Course packs** • **Course reserves** • **Permit charging to recover costs for copies.** • **ILL**	"Nothing in this License shall in any way exclude, modify, or affect any of the Consortium's or any Member's statutory rights under national copyright law." According to copyright law, fair use of a copyrighted work may be made for "purposes such as criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship or research". Many license agreements limit use of licensed content to research, scholarship and teaching. and such agreements should be reworded to include all uses according to US Copyright law. "Licensee may supply through interlibrary loan a copy of an individual document being part of the Licensed Materials by post, fax or secure electronic transmission 6 for the purposes of non-commercial use. Specifically, copies may be made in compliance with Section 108 of the Copyright Act of the US." COURSE PACKS "Licensee and Authorized Users may use a reasonable portion of the Licensed Materials in the preparation of Course Packs or other educational materials." COURSE RESERVES "Licensee and Authorized Users may use a reasonable portion of the Licensed Materials in print or electronic format in connection with specific courses of instruction offered by Licensee and/or its parent institution." COMMERCIAL USE "For the avoidance of doubt, charging administrative fees to cover the costs of making permitted copies is not prohibited

Table 3 - Permitted uses   31

Consorcio y términos	Extractos relevantes de la licencia
CDL LICENCIA MODELO ●**Any and all uses permitted by the Fair Use Provisions of United States and international copyright laws** ●**Make copies by means of caching for increased retrieval efficiency.** ●**Search retrieve, display and view, download, print.** ●**Electronically save parts of the material (create a copy)** ●**Permit charging to recover costs for copies.** ●**Text/data mining** ●**Print out single copies** ●**Course packs** ●**Course reserves** ●**Scholarly sharing** ●**ILL** ●**Classroom use** ●**Make a usable preservation copy of the materials.**	Licensee and Authorized Users may make all use of the Licensed Materials as is consistent with the Fair Use Provisions of United States and international copyright laws. In addition, the Licensed Materials may be used for purposes of research, education or other non-commercial use as follows: Display. Licensee and Authorized Users shall have the right to electronically display the Licensed Materials. Digitally Copy. Licensee and Authorized Users may download and digitally copy a reasonable portion of the Licensed Materials. Print Copy. Licensee and Authorized Users may print a reasonable portion of the Licensed Materials. Recover Copying Costs. Licensee may charge a reasonable fee to cover costs of copying or printing portions of Licensed Materials for Authorized Users. Caching. Licensee and Authorized Users may make local digital copies of the Licensed materials in order to ensure efficient use by Authorized Users by appropriate browser or other software. Collections of Information. Licensee and Authorized Users shall be permitted to extract or use information contained in the Licensed Materials for educational, scientific, or research purposes, including extraction and manipulation of information for the purpose of illustration, explanation, example, comment, criticism, teaching, research, or analysis. Course Packs. Licensee and Authorized Users may use a reasonable portion of the Licensed Materials in the preparation of Course Packs or other educational materials. Course Reserves (Print and Electronic). Licensee and Authorized Users may use a reasonable portion of the Licensed Materials for use in connection with specific courses of instruction offered by the University of California. Scholarly Sharing. Authorized Users may transmit to a third party in hard copy or electronically, minimal, insubstantial amounts of the Licensed Materials for personal use or scholarly, educational, or scientific research or professional use but in no case for resale or commercial purposes. Text Mining. Authorized Users may use the licensed material to perform and engage in text mining /data mining activities for legitimate academic research and other educational purposes. Interlibrary Loan. Licensee agrees to fulfill such (ILL) requests in compliance with Section 108 of the United States Copyright Law (17 USC §108, "Limitations on exclusive rights: Reproduction by libraries and archives") and the Guidelines for the Proviso of Subsection 108(2g)(2) prepared by the National Commission on New Technological Uses of Copyrighted Works. If the agreement does not permit the University of California to make a usable preservation copy, the agreement should specify who has permanent archival responsibility for the resource, and under what conditions the University of California may access or refer users to the archival copy. The electronic journal subscription should include one print archival copy of licensed content.

Table 3 - Permitted uses   32

Table 4 - Post-cancellation access and preservation

Consorcio y términos	Extractos relevantes de la licencia

JISC LICENCIA MODELO
 	
• **Archive in LOCKSS, CLOCKSS and/or PORTICO**
 	
• **For post-cancellation, at the OPTION OF THE INSTITUTION, publisher will provide:**
  • **continuing online access on publisher's servers.**
  • **supply archival copies on a mutually agreed to medium.**
  • **supply archival copy to a centrally funded archiving facility**
  • **grant access through Portico, CLOCKSS and/or LOCKSS**
 	
• **Conditions of use same as original license.**
	Publisher will archive the Licensed Material in at least one of the following archiving solutions Portico, Clockss or Lockss and inform the Institution in which of the archiving solutions the Material may be found.
	
	In the case of termination of this Licence (except for a material breach by the Institution of its obligations under this Licence), the Publisher will provide (at the option of the Institution)
	
	i) continuing online access to archival copies of the same Licensed Material on the Publisher's server;
	
	ii) supplying archival copies of the same Licensed Material to the Institution in an electronic medium mutually agreed between the parties;
	
	iii) supplying archival copies of the same Licensed Material to a central archiving facility operated on behalf of the UK HE/FE community or other archival facility;
	
	iv) granting access to the same Licensed Material through one of the e-journals archiving solutions (Portico, Clockss or Lockss)
	
	Materials will have same permitted uses as under original license.

CRKN LICENCIA MODELO
 	
• **For post-cancellation, at the OPTION OF THE PUBLISHER, publisher will provide:**
  • **continuing online access on publisher's servers.**
  • **supply archival copies on a mutually agreed to medium.**
 	
• **Conditions of use same as original license.**
	the Publisher shall at its option:
	a.) provide each Member, on request, with an electronic copy of the content of the Database for the period of time set out in Schedule 3 up to the date of termination, or
	b.) provide for continued access to the Licensed Materials on the Server for the period of time set out in Schedule 3 up to the date of termination, provided that:
	12.4.1 the Consortium and each Member seeking access continues to adhere to its obligations with respect to the restrictions on use of the Database as provided in this Agreement;
	12.4.2 each Member permitting access to Walk-in Users continues to limit such access to the Premises; and
	12.4.3 each Member seeking access pays to the Publisher a maintenance amount reflecting the Publisher's costs for facilitating such access as the Publisher and Member, acting reasonably, may agree.

Consorcio y términos	Extractos relevantes de la licencia

FCLA LICENCIA MODELO
 	
• **Archive in LOCKSS or provide archival access through third party servers. May make one paper copy as well for backup or archival purposes.**
 	
• **For post-cancellation, at the OPTION OF THE INSTITUTION, publisher will provide:**
    • **continuing online access on publisher's servers.**
    • **supply archival copies on a mutually agreed to medium.**
    • **grant access through LOCKSS or third party servers.**
 	
• **Conditions of use same as original license.**
	Licensee may make one (1) copy of the Licensed materials, electronically as well as one copy in print from the electronic version of the Licensed Materials to be maintained as a backup or for archival purpose. Use of LOCKSS technology for this purpose is permitted.
	
	Licensor hereby grants to Licensee a nonexclusive, royalty-free, perpetual license to use any Licensed Materials that were accessible during the term of this Agreement. Such use shall be in accordance with provisions of this agreement (for clarification this excludes payment obligations) which shall survive any termination of this Agreement. Except in the case of termination for cause, Licensor shall provide the Licensee with access to the Licensed Materials, either from the Server, subject to the payment of such fees as the parties may agree; or by supplying electronic files to the Licensee at no additional charge.

CDL LICENCIA MODELO
 	
• **Preservation in PORTICO**
• **Institution may engage the services of third party trusted archives (e.g. LOCKSS)**
• **For post-cancellation, publisher will provide:**
    • **continuing online access via the publisher's servers or a trusted digital preservation repository**
    • **supply a single print archival copy of all the titles at the request of the institution on a mutually agreed upon schedule.**
 	
• **Conditions of use same as original license.**
	Vendors should provide perpetual online access to licensed electronic content, As an alternative to vendor-hosted perpetual access, a vendor can partner with a trusted digital preservation repository. Portico is the University of California's preferred archival partner.
	
	Archival/Backup Copy. Upon request of Licensee, Licensee may receive from Licensor and/or create one (1) copy of the entire set of Licensed Materials to be maintained as a backup or archival copy during the term of this Agreement, or as required to exercise Licensee's rights under section XII, 'Perpetual License', of this Agreement.
	
	The electronic journal subscription should include one print archival copy of licensed content.
	
	Licensor acknowledges that Licensee may engage the services of third-party trusted archives and/or participate in collaborative archiving endeavors to exercise Licensee's rights under section XII, 'Perpetual License', of this Agreement.

Table 5 - Open Access (OA) Publishing

Consorcio y términos	Extractos relevantes de la licencia
JISC LICENCIA MODELO • **Reduction by the publisher in the subscription price if OA contribution has grown proportionately to the total number of articles.** • **Annually provide to JISC statistics of OA publishing by JISC institutions - Article Title, Authors, Institution Name and DOI.** • **Provide discount in authors' OA fees to institutions and authors based on the percentage of OA articles to the total number of articles.**	In the event that the Publisher offers the OA-hybrid model to its authors, the Publisher agrees to: - annually review the number of open access articles published in the Material under the OA-hybrid model in relation to the total number of articles published in the Material. In the event that the proportion of OA articles (in relation to the total amount of articles in the Material) has grown, the Publisher hereby agrees to reflect this by way of a reduction in the subscription prices of the Material for the following subscription year. Such reduction shall be based on the percentage of open access articles published in relation to the total number of articles published in the Material in the previous year; - annually provide JISC Collections with the details of the open access articles published in the Material under the OA-hybrid model by authors of the Institutions. The Publisher should provide the following information: Article Title Authors Institution Name DOI - provide a discount in the authors' open access fees of [insert %] for the period [insert period] to Institutions and their authors which subscribe to the Material on the basis of the Offer.
CRKN LICENCIA MODELO	No specific mention to OA publishing by its Members
FCLA LICENCIA MODELO	No specific mention to OA publishing by its Members
CDL LICENCIA MODELO • **Annually provide statistics of OA publishing by UC authors - Article Title, Authors, and Campus Name. Also provide total number so OA articles published by journal title.** • **Negotiate potential impact of such publishing on institutional subscription pricing**	In the event that Licensor offers an open access option to its authors, Licensor agrees to • annually review the number of open access articles published in the Licensed Materials under the open access option. For all Licensed Materials in which such articles are published, Licensor will share with Licensee the following information: • the number of articles published under the open access option by University of California authors, listed by journal title and campus. • the number of articles published under the open access option by all authors, listed by journal title. Licensor will enter into good faith discussions with Licensee concerning open access business models and how these may influence future business models, including the potential impact on institutional subscription pricing.

Table 5 - Open Access (OA) Publishing   35

Table 6 - Institutional Repositories

Consorcio y términos	Extractos relevantes de la licencia
JISC LICENCIA MODELO	No specific mention of institutional repositories. This issue is being dealt with in a separate agreement which has not yet been implemented.
CRKN LICENCIA MODELO	No specific mention of institutional repositories
FCLA LICENCIA MODELO	No specific mention of institutional repositories.
CDL LICENCIA MODELO	No specific mention of institutional repositories.

Table 6 - Institutional Repositories   36

Table 7 - Title transfers and title elimination

Consorcio y términos	Extractos relevantes de la licencia

JISC LICENCIA MODELO
 	
• **Keep to the Code of Practice of Project Transfer (see Table 2a - Standards)**
• **In the event of title ownership transfer:**
  • **publisher to retain non-exclusive copy and make it available to Institution at no charge.**
  • **In the event of cessation of titles, make digital archive available without charge via the publiher's servers or a trusted third party (eg. CLOCKSS, Portico).**
 	
• **Provide JISC quarterly with a complete list if the Materials and the changes.**
	In the event that ownership of a part or parts of the Licensed Material is sold by the Publisher or otherwise transferred to another publisher, the Publisher will use all reasonable efforts to retain a non-exclusive copy of the volumes published during the Subscription Period and make them available without charge to the Institution:
	
	(1) through the Publisher's server; or
	(2) by supplying such material without charge to the Institution in accordance with the procedure described in Clause 8.5.
	
	In the event that the Publisher ceases to publish a part or parts of the Licensed Material (including back issues of a title as part of the Licensed Material), the Publisher will:
	
	maintain a digital archive of such Licensed Material;
	will make the digital archive available to the Institution without charge through the Publisher's server, via a third party server (including e-journals archiving initiatives as listed in Schedule 5 (1)) or by supplying the digital archive to the Institution without charge ......
	
	The archival copies supplied .... will contain all textual content of the Licensed Material but will not contain all links and other features and functionality associated with the online version available via the Publisher's server. Access and use of such copies will be free of charge.
	
	provide JISC Collections quarterly with a complete list of the Material (including comprehensive title information) and the changes in comparison to the list of Material as set out in Schedule 2;

CRKN LICENCIA MODELO • **written notice of title changes. If changes render the Materials less useful, may be considered a material or persistent breach of the license.**	The Publisher reserves the right at any time to withdraw or add any titles and some/all associated items from/to the Licensed Materials. The Publisher shall give written notice to the Consortium of such changes. If any change(s) singly or cumulatively render(s) the Licensed Materials less useful in a material respect to the Consortium and the Members, the Consortium may treat such changes as a material or persistent breach of this Agreement under clause 12.1.2.
FCLA LICENCIA MODELO • **written notice of title changes and pro-rata refund if certain percentage of contents is withdrawn and licensee decides not to continue subscription.**	The license should include written notification and pro rata refund in the event that more than a certain percentage of the content is withdrawn and the licensee decides not to continue the subscription.

Consorcio y términos	Extractos relevantes de la licencia
CDL LICENCIA MODELO • **Ninety day notice (90) of title changes**	Licensee understands that from time to time the Licensed Materials may be added to, modified, or deleted from by Licensor and/or that portions of the Licensed Materials may migrate to other formats. Licensor shall give a ninety (90) day notice of any such changes to Licensee. Failure by Licensor to provide such notice shall be grounds for immediate termination of the Agreement by Licensee.

Table 7 - Title transfers and title elimination   38

Table 8 - General

Consorcio y términos	Extractos relevantes de la licencia

JISC LICENCIA MODELO
 	
● **Allow the JISC Journals Usage Statistics Portal to collect and display statistics to the institution.**
 	
● **Provide Customer Support by email and/or phone and answering within 24 hours.**
 	
● **Provide electronic documentation at no additional charge., and permit copies of the documentation to be made and distributed.**
 	
● **Institution maintains database rights of institutionally created data as a result of text/data mining.**
 	
● **Institution is not liable for unauthorized use as long as institution did not cause or knowingly assist or condone the continuation of the unauthorized use.**
 	
● **Institution not liable agains any third party claim of Intellectual Property Rights Infringements.**
	allow the Journals Usage Statistics Portal (http://www.jusp.mimas.ac.uk/about.html) to collect usage statistics on behalf of the Institution and display them to the Institution via the Journals Usage Statistics Portal.
	
	provide customer support services to Institutions and their authorised users by e-mail or over the phone. This includes answering e-mail queries about the use, functionality and content of the Material within 24 hours;
	
	provide electronic product documentation to the Institution free of charge. The Publisher will allow copies of all documentation to be made and distributed by the Institution to Authorised Users provided it is either duplicated in full, or a proper ownership acknowledgement is included
	
	provide quarterly with a complete list of the Material (including comprehensive title information) and the changes in comparison to the list of Material
	
	Rights of institutionally created data
	Publisher hereby acknowledges that any database rights created by the Institution as a result of local mounting of the Licensed Material as referred to in Clause 8.6 shall be the property of the Institution.
	
	For the avoidance of doubt, the Publisher hereby acknowledges that any database rights created by Authorised Users as a result of text mining/data mining of the Licensed Material as referred to in Clause 3.1.3.14 shall be the property of the Institution.
	
	Liability
	Nothing in this Licence shall make the Institution liable for breach of the terms of this Licence by any Authorised User provided that the Institution did not cause, knowingly assist or condone the continuation of such breach after becoming aware of an actual breach having occurred.
	
	The Publisher agrees that the Institution shall have no liability and the Publisher will indemnify, defend and hold the Institution harmless against any and all damages, liabilities, claims, causes of action, legal fees and costs incurred by the Institution in defending against any third party claim of Intellectual Property Rights infringements or threats of claims thereof with respect of the Institution's or Authorised Users use of the Licensed Material, provided that:
	    (1) the use of the Licensed Material has been in full compliance with the terms and conditions of this Licence;
	    (2) the Institution provides the Publisher with prompt notice of any such claim or threat of claim;
	(3) the Institution co-operates fully with the Publisher in the defence or settlement of such claim; and
	    (4) the Publisher has sole and complete control over the defence or settlement of such claim.

Table 8 -General   39

Consorcio y términos	Extractos relevantes de la licencia
CRKN LICENCIA MODELO • **Publisher shall provide usage data and that also protects that anonymity of the users.** • **Usage data cannot be disclosed or sold by Publisher to other parties.** • **Reasonable efforts that the electronic copy of the title is available no later that the day of publication of the printed version.**	The Publisher shall disclose to the Consortium such Usage Data relating to the Consortium as the Consortium may request, provided that the disclosure of such data fully protects the anonymity of individual users and the confidentiality of their searches, and is not contrary to applicable privacy laws. The Publisher shall disclose to each Member such Usage Data relating to the Member as the Member may request, providing that the disclosure of such data fully protects the anonymity of individual users, the confidentiality of their searches, and is not contrary to applicable privacy laws. use reasonable efforts to make available the electronic copy of each journal issue in the Licensed Materials not later than the day of publication of the printed version. In the event that for technical reasons this is not possible for any particular journal, as a matter of course, such journal shall be identified at the time of licensing, together with such reasons.

Table 8 -General   40

Consorcio y términos	Extractos relevantes de la licencia
FCLA LICENCIA MODELO • **Publisher shall provide usage data in COUNTER or other recognized international standard.** • **Administration fees by the institution are permitted to cover costs of making permitted copies.** • **Usage data will comply with ICOLC Privacy Guidelines.** • **If a third party services is contracted for the collection and management if usage stats, access should be permitted by that service.** • **Confidentiality clauses that prohibit the consortium or institution from sharing license terms with others are to be REMOVED from the license.** • **The license supersedes any Website End-user agreements which might be presented when a user registers for such things as customizing use of the site.**	Licensor must comply with International Coalition of Library Consortia (ICOLC) privacy guidelines established for electronic resource vendors, available at: <http://www.library.yale.edu/consortia/webstats06.htm>. Providers should make usage data available in compliance with COUNTER or other recognized international standard." "For the avoidance of doubt, charging administrative fees to cover the costs of making permitted copies is not prohibited. Use by the Consortium or a Member or by an Authorized User of the Licensed Materials in the course of research funded by a commercial organization, is not deemed to be Commercial Use." CONFIDENTIALITY OF LICENSING TERMS Strike any obligations to keep license terms or fees confidential. If you are not able to strike make sure to have the right to release the agreement if required by law, including Florida public record laws. COLLECTION BY THIRD PARTY New services are emerging that provide assistance with the collection and management of usage statistics. Use of these services requires that third parties have the right and ability to access and collect usage statistics data. WEBSITE USER AGREEMENTS Occasionally e-resource vendors require the authorized user to agree to terms and conditions when they log on. Many provide an opportunity for users to register so they can customize use of the site. In either case, it is useful to include a clause in the written license that specifies that the signed agreement held with the Licensor supersedes the website user agreement.

Table 8 -General   41

Consorcio y términos	Extractos relevantes de la licencia
CDL LICENCIA MODELO ● **Publisher and consortium to cooperate in the preparation and provision of user surveys.** ● **Provide Usage statistics using COUNTER standard and the ICOLC guidelines for statistical measures.** ● **Usage statistics and individual usage must be kept confidential.** ● **Vendor's policy should at a minimum conform to the ICOLC Privacy Guidelines for e-Resources.** ● **Documentation, training and support to be provided by publisher.** ● **An up-time of 98% , 7 days a week for the service is expected.** ● **Be in compliance with the American Disabilities Act (ADA)** ● **Website, click-through End-User agreements are prohibited.** ● **If publisher does not use OpenURL, it will work with CDL to create links (journal, issue and article levels) directly from the UC library catalogs.** ● **If access is limited by simultaneous user (port), there must be a mechanism for the user to to explicitly log-off the resource to free up the port.**	User Surveys. Licensee and Licensor shall cooperate on the preparation and provision of user surveys to solicit feedback on the Licensed Materials from Authorized Users. Confidentiality of User Data. Licensor and Licensee agree to maintain the confidentiality of any data relating to the usage of the Licensed Materials by Licensee and its Authorized Users. Documentation. Licensor will provide and maintain help files and other appropriate user documentation. Training and Support. Licensor will offer installation support, including assisting with the implementation of any Licensor software .... Licensor will offer reasonable levels of continuing support to assist Licensee and Authorized Users in use of the Licensed Materials. Licensor will make its personnel available by email, phone or fax during regular business hours, Monday through Friday for feedback, problem-solving, or general questions. Licensor shall use reasonable efforts to provide continuous service seven (7) days a week with an average of 98% up-time per month. The 2% down-time includes periodic unavailability due to maintenance of the server(s), the installation or testing of software, the loading of additional Licensed Materials as they become available, and downtime related to the failure of equipment or services outside the control of Licensor, including but not limited to public or private telecommunications services or internet nodes or facilities. Licensor will provide regular system and project updates to Licensee as they become available. Licensor will provide additional training to Licensee staff made necessary by any updates or modifications to the Licensed Materials or any Licensor software. Licensor must provide both composite use data for the system-wide CDL and itemized data for individual campuses, on a monthly basis. Use data should be at the level of detail required for objective evaluation of both product performance and satisfaction of user needs, including title-by-title use of journals. Providers should follow the International Coalition of Library Consortia (ICOLC) "Guidelines for Statistical Measures of Usage of Web-Based Information Resources " or provide information in compliance with COUNTER or other recognized international standard. Compliance with Americans with Disabilities Act. Licensor shall make reasonable efforts to comply with the Americans with Disabilities Act (ADA) requirements, Section 508 of the Rehabilitation Act Amendments. If Licensor utilizes any type of digital watermarking technology for any element of the Licensed Product, Licensor agrees that watermarks will not be visible to the human eye and will not degrade image quality. These watermarks shall not contain user-related information such as account number or IP address. Click-through agreements are not allowed Electronic Links. The University of California is committed to the use of the emerging OpenURL standard to allow linking to related materials in other locations. If Licensor does not use the OpenURL standard, Licensor staff will provide information to Licensee upon request to assist the Licensee in creating links directly from UC's library catalogs and licensed resources to the content at the journal, issue and article levels. Confidentiality of individual users must be maintained. User data should not be reused, shared or sold to third parties without permission. Vendors should have a formal policy addressing user privacy that is readily discoverable on their website. At minimum, the vendor's policy should conform to the ICOLC Privacy Guidelines for Electronic Resources Vendors. The CDL prefers that there are no port limitations on our licensed electronic resources. However, systems that impose simultaneous user limits must provide a mechanism for the user to explicitly logoff from the resource and free the resource for other UC users.

Table 8 -General   42

Benchmarking de las licencias con las editoriales

5. BENCHMARKING - LICENCIAS CON LAS EDITORIALES

Se hizo el Benchmarking con las licencias actuales de suscripción de la BEIC que quedan para ser renovadas - Elsevier, Nature, American Chemical Society (ACS) y Science (AAAS) . El Benchmarking se hizo en las siguientes categorías:

• Authorized users
• Walk-in users
• Access
• Standards
• Permitted uses of content
• Post-cancellation access and preservation
• Open Access (OA) Publishing
• Institutional Repositories
• Title transfers and title elimination, and
• General

Se tomó como base para el benchmarking los TDR actualizados y las condiciones principales de las licencias de JISC y de la FCLA.

En general, se nota que las licencias ae enfocan principalmente en lo que es un usuario autorizado, lo que es un acceso autorizado y los usos permitidos de los contenidos.

5.1. American Chemical Society

Authorized Users	La definición es bastante amplia, sin embargo no trata de acceso por profesores jubilados o usuarios Walk-in. Hay que aclarar la definición basado en los TDR.
Walk-in Users	La licencia no trata de Walk-in users
Access	La licencia trata de "Authorized Terminal", sin embargo no lo define.
Standards	La licencia no menciona a lo que se compromete la editorial en cuanto a compatibilidad con tecnologías y normas de acceso.
Permitted Uses of Content	La definición de uso permitido es bastante amplia, sin embargo hay que verificar si los usos en los TDR están incluidos. Por ejemplo, la licencia permite colocar solamente los links y no los textos completos en los course packs y otros materiales semejantes. Hay que negociar permitir el texto completo. Se permite ILL explícitamente.

Post-cancellation access and preservation	ACS provee CD-ROM's con los PDF's de la suscripción y nada más, y esto SOLAMENTE si la cancelación se hizo "termination for cause". Hay que quitar esta cláusula ya que el consorcio debe tener derecho a sus suscripciones sin ninguna condición. La licencia limite el servicio de post-cancellation access a los CD-ROM. Esto no es aceptable. Hay que negociar esto para incluir la opción de acceso perpetuo en-linea y que el modo de acceso (en línea, CD-ROM, etc.) es a la elección de CINCEL y no de ACS. Es recomendable motivar ACS para ser miembro de LOCKSS. Ya es miembro de Portico que es únicamente para preservación.
OA Publishing	No se trata de OA publishing en la licencia actual.
Institutional Repositories	No se trata de self-archiving o institutional repositories en la licencia actual.
Title Transfers and Title Elimination	No se trata de transferencia o cambio de títulos. ACS todavía no participa en Transfer.
General	ACS es COUNTER compliant, sin embargo no menciona SUSHI. La licencia no menciona soporte técnico y entrenamiento. La licencia no trata del compromiso de la editorial en cuanto a "performance obligations" y el "up-time" de los servidores.

5.2. Elsevier

Authorized Users	La definición es bastante amplia, sin embargo no trata de acceso por profesores jubilados. Hay que aclarar la definición basado en los TDR.
Walk-in Users	La licencia no trata de usuarios Walk-in, sin embargo trata de "individuals using computer terminals within the library facilities ..." que parecen ser usuarios Walk-in.
Access	Por IP, username/password, y sistema de acceso autenticado que requiera por lo menos dos diferentes "credentials"
Standards	La licencia no menciona a lo que se compromete la editorial en cuanto a compatibilidad con tecnologías y normas de acceso. Ni menciona COUNTER.

Permitted Uses of Content	La definición de uso permitido es bastante amplia, sin embargo hay que verificar si los usos en los TDR están incluidos. Lo que está prohibido es de crear obras derivadas sin permiso previo de Elsevier. Esto podría limitar hacer versiones para los discapacitados. La limitación sobre la reproducción de los contenidos (cláusula 1.4.3) podría impactar el uso de los contenidos en las clases y sistemas virtuales de educación La licencia permite solamente los links y no la reproducción de los textos completos para los course packs, etc. Se permite ILL explícitamente.
Post-cancellation access and preservation	La licencia no trata de post-cancellation access, ni de preservación. Es recomendable motivar Elsevier para ser miembro de LOCKSS. Ya es miembro de Portico que es únicamente para preservación.
OA Publishing	No se trata OA publishing en la licencia actual.
Institutional Repositories	No se trata del self-archiving o institutional repositories en la licencia actual.
Title Transfers and Title Elimination	Elsevier participa en Transfer Code of Practice. La sección 2.3 describe los ajustes de precios relacionados con la retirada de títulos.
General	Ofrece estadísticas mensuales por institución y a nivel de consorcio, sin embargo no menciona COUNTER como formato para los mismos. La licencia no trata del compromiso de la editorial en cuanto a "performance obligations" y el "up-time" de los servidores.

5.3. Nature

Authorized Users	La definición (sección 1.1) es bastante amplia y también trata de los Walk-in users.
Walk-in Users	Se trata de los Walk-in users con la frase ") individual members of the public permitted to use the Licensee's library or information services; in each case who are permitted general access to the Network by the Licensee;"
Access	Acceso por IP. No trata de otras maneras de acceso por red segura.
Standards	No menciona ninguna norma excepto COUNTER para las estadísticas.

Permitted Uses of Content	La definición (sección 2.1) es bastante amplia y parece que cubre todo lo contemplado en los TDR. Sin embargo permite ILL solamente de la forma impresa del contenido (sección 2.19e)). No permite el ILL de la forma digital de un contenido. No queda claro si esto excluye tecnologías de transmisión como Ariel. \n\n No permite text/data mining (sección3 (j)) y obras derivadas (ej. para los discapacitados - sección 3(e)) sin autorización previa.
Post-cancellation access and preservation	La licencia NO permite post-cancellation access. De hecho dice que hay que DESTRUIR las copias digitales y en papel una vez que vence la suscripción/licencia (sección 4.5). \n\n Nature es miembro de Portico. Habrá que motivarlo a participar en LOCKSS.
OA Publishing	No se trata de OA publishing en la licencia actual.
Institutional Repositories	No se trata del self-archiving o institutional repositories en la licencia actual.
Title Transfers and Title Elimination	No se trata de transferencia o cambio de títulos en la licencia actual, sin embargo. Nature PG participa en Transfer.
General	Ofrece estadísticas de uso en formato COUNTER (sección 9). La licencia no to trata de SUSHI. Limita el uso de las estadísticas para uso interno de CINCEL y sus instituciones. Parece que prohibe la publicación de estadísticas en forma pública. \n\n la licencia especifica un "up-time" de no menos de 95% (sección 8.4 (c)). \n\n La licencia tiene una cláusula de confidencialidad (sección 8.5) que le obliga CINCEL mantener la licencia y sus términos confidenciales. Hay que remover esta cláusula en la nueva licencia. \n\n No menciona soporte técnico o entrenamiento.

5.4. Science (AAAS)

Authorized Users	La definición es bastante amplia y también trata explícitamente de los Walk-in users. Habrá que aclarar si incluye profesores jubilados con acceso fuera de la biblioteca.
Walk-in Users	La licencia trata de usuarios Walk-in.

Access	La definición es bastante amplia y simplemente se refiere a sistemas de autenticación consistente con los "current best practices", sin embargo el acceso por open-proxies y otros proxies no-autenticados semejantes no están permitidos para el acceso. Se menciona explícitamente el acceso por IP.
Standards	La licencia no menciona a lo que se compromete la editorial en cuanto a compatibilidad con tecnologías y normas de acceso. Ni menciona COUNTER.
Permitted Uses of Content	La definición de uso permitido es bastante amplia, sin embargo hay que verificar si los usos en los TDR están incluidos. Se permite explícitamente uso en los Course Packs, en los Library Reserves, y distribuir copias en las clases para uso educativo (cláusula 3.2.4) y distribuir copias a otros colegas para la investigación y para lo que se llama "scholarly communication" Se permite ILL explícitamente. AAAS tiene el derecho de suspender uso si se da cuenta de que alguien está coleccionando contenidos por programa (cláusula 6.1.4). Se supone que la AAAS permite el text/data mining pero con autorización previa. Según 6.2.4 se permite crear versiones para los discapacitados pero no queda claro.
Post-cancellation access and preservation	La licencia no está muy clara en cuanto a post-cancellation access. Parece que no lo garantiza para *Science*, *Science Signaling* y *Science Translational Medicine*. . Clausula 2.3 dice " *At this time, Publisher provides access only for the Subscription Term, and does not undertake to ensure future access to the online archives once the Subscription Term has expired".* La cláusula 2.4 trata de la preservación y el on-going access al *Science Classic* backfile. Se trata del caso de la AAAS no estar en posición de ofrecer el backfile en linea. Se habla de acceso por terceros a un costo por ser definido. Es recomendable motivar AAAS para ser miembro de LOCKSS, y CLOCKSS o Portico. No es miembro de ninguno.
OA Publishing	No se trata de OA publishing en la licencia actual.
Institutional Repositories	No se trata de self-archiving o institutional repositories en la licencia actual.
Title Transfers and Title Elimination	La AAAS no participa en el Transfer Code of Practice. La licencia menciona la eliminación de títulos (cláusula 7.2.6) pero nada sobre los mecanismos de informarle al consorcio.

General	Ofrece estadísticas mensuales por institución y a nivel de consorcio en formato COUNTER. La licencia trata del compromiso de la editorial en cuanto a "performance obligations" y el "up-time" de los servidores.

Recomendaciones

6. RECOMENDACIONES - TÉRMINOS DE REFERENCIA BEIC 2011

6.1. Recomendaciones para los TDR

Las recomendaciones a continuación fueron introducidas como cambios a la versión 2011 de los "Términos de Referencia BEIC- 2011" (TDR) que se basa en los TDR preliminar de esta consultoría entregados finales de diciembre 2010 :

- Los términos "Red Segura" y "Institución Autorizada" fueron introducidos y definidos

- Se pide a las editoriales de respaldar sus respuestas con extractos de los textos legales de las licencias dónde sea adecuado.

- **Sección 1 - Acceso y uso autorizado** (anteriormente llamado "Uso Mínimo Autorizado")

    - La Sección 1 fue renombrada a "Acceso y Uso Autorizado" y una nueva Sección 4 "Aspectos Legales" fue creada dónde se colocó todo los ítems relacionados con los aspectos legales de las licencias (por ejemplo, "4.1 Ley en vigor y jurisdicción".

    - Fue introducida la definición para "*Usuario Autorizado".*

    - Fue mejorado la definición de "*Uso Autorizado"* (antes llamado *"Uso Mínimo Autorizado").*

    - Fue mejorado la definición de *"Acceso fuera de las instituciones*".

- **Sección 2 - Contenidos**

    - En cuanto a los cambios de título, la editorial debe obligatoriamente ser miembro de la iniciativa Transfer y adherir al The Transfer Code of Practice v2.

    - En el caso de la transferencia de propiedad de títulos, la editorial deberá obligatoriamente conservar una copia digital no exclusiva y ponerla a disposición de las Instituciones Autorizadas de manera gratuita durante la vigencia de la suscripción.

    - En el caso de un cese de los títulos, la editorial debe obligatoriamente ofrecer un archivo digital disponible sin cargo a través de los servidores de la editorial o de terceros confiables como CLOCKSS y Portico.

        - En cuanto a acceso perpetuo, será a la elección de CINCEL una de las siguientes opciones:

        - a) Acceso directo a los servidores de la editorial.

        - b) Acceso por medio de LOCKSS, CLOCKSS y/o Portico

        - c) Copia electrónica a todo el contenido suscrito en un formato y medio aceptable por ambos partes.

        Las condiciones de uso de los contenidos serán las mismas como se indica en la licencia original de la suscripción.

- La editorial debe obligatoriamente indicar cuál es la política que sigue en relación con los pre-prints y los post-prints y dónde su política queda en la lista de las categorías de archivo de Sherpa (Green, Blue, Yellow, White).

- **Sección 3 - Aspectos técnicos**

  - La editorial debería ser compatible con las plataformas móviles de Apple, Blackberry y Android.

  - La editorial debe especificar en que servicios de Mega-índice participa (ej. Primo, EBSCO Discovery Service, SUMMON), con que títulos y años, y con que frecuencia actualiza sus datos en los mega-índices.

  - La editorial debe obligatoriamente ofrecer estadísticas de uso compatibles con COUNTER y SUSHI.

- **Sección 4 - Aspectos legales (una nueva sección)**

  - Los aspectos legales siguientes fueron introducidos:

    - Ley en vigor y jurisdicción

    - Licencia

    - Licencia end-user (licencia de usuario final)

    - Responsabilidad de un uso no autorizado

    - Confidencialidad

- **Sección 5. Condiciones financieras**

  - Fue introducido el criterio "*El valor actual relativo de las colecciones (cost per download) basado en las descargas actuales y en el precio de la suscripción*" como uno de los criterios de "Índice de revisión de precios" Tener este criterio le señala a la editorial que CINCEL está midiendo cuidadosamente el costo beneficio de su inversión relativo a otras editoriales de la BEIC y en términos absolutos .

- **Sección 6 - Guía de gestión**

  - Todas las condiciones bajo "*Servicio de soporte*" fueron cambiadas a ser "*debe obligatoriamente*".

6.2.   Recomendaciones generales

Las siguientes recomendaciones son para proteger los intereses de CINCEL y para insertarlo en foros y grupos de consorcios nacionales y regionales en el mundo.

- Empezar a negociar las renovaciones de las suscripciones al menos un año antes del vencimiento de las mismas.

- Desarrollar una encuesta para enviar a los miembros y clientes de CINCEL que trataría de las mismos categoreias que el Benchmarking de las licencias de este informe. El propósito de la encuesta sería pedir las instituciones miembros y clientes de CINCEL las nuevas necesidades de acceso a las suscripciones (ej. Shibboleth, dispositivos móviles) y los nuevos usos de los contenidos contemplados por ellas. Los resultados serían un insumo importante a las negociaciones de renovación

- Participar en ICOLC (International Coalition of Library Consortia) http://www.library.yale.edu/consortia/. La ICOLC sirve a las organizaciones participantes, facilitando el debate entre los consorcios sobre temas de interés común. No tiene costo.

  ICOLC lleva a cabo reuniones dedicadas a mantener los consorcios participantes al día sobre los nuevos recursos de información electrónica, sobre las prácticas de los proveedores de información electrónica referente a sus precios, y otros temas de importancia para los directores, los consejos de administración, y bibliotecas de consorcios.

  Los consorcios de ICOLC también emiten directrices y recomendaciones internacionales a los proveedores y editores de recursos electrónicos.

- Participar en el lista pública de discusión **LibLicense** (http://www.library.yale.edu/~llicense/index.shtml). Esta lista es internacional en carácter y trata de temas prácticas de licencias de recursos electrónicos de información, y de experiencias de bibliotecas y consorcio con editoriales y proveedores. No tiene costo.

- Formar una red de servidores LOCKSS entre los miembros de CINCEL para tener localmente en cada biblioteca copias de las suscripciones corrientes para la preservación y respaldo de acceso perpetuo.

  Junto con la organización LOCKSS, se recomienda presionar las editoriales Elsevier, ACS, Annual Reviews y Nature para participar en LOCKSS, es decir, permitir que las bibliotecas cosechen sus suscripciones de los servidores de las editoriales para almacenarlas localmente en LOCKSS. Springer y Oxford Universiry Press ya participan en LOCKSS.

- Investigar la implementación de un portal de estadísticas de uso para los miembros de CINCEL semejante al portal de JISC "Journal Usage Statistics Portal (JUSP)" que se liberará pronto. El propósito de un portal de estadísticas es lo de ofrecer a cada miembro una manera automática de medir constantemente y sin mucha intervención manual el costo/beneficio de las suscripciones, entre otros parámetros, y de estar siempre en mejor posición para las negociaciones de renovación.

- Otras recomendaciones para servicios y herramientas forman parte del Informe "e" - Estrategias para incrementar la visibilidad de los recursos de información del Programa BEIC.

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