



INTERNATIONAL FEDERATION OF LIBRARY ASSOCIATIONS AND INSTITUTIONS
FEDERATION INTERNATIONALE DES ASSOCIATIONS DE BIBLIOTHECAIRES ET DES BIBLIOTHEQUES
INTERNATIONALER VERBAND DER BIBLIOTHEKARISCHEN VEREINE UND INSTITUTIONEN
FEDERACION INTERNACIONAL DE ASOCIACIONES DE BIBLIOTECARIOS Y BIBLIOTECAS
МЕЖДУНАРОДНАЯ ФЕДЕРАЦИЯ БИБЛИОТЕЧНЫХ АССОЦИАЦИЙ И УЧРЕЖДЕНИЙ
国际图书馆协会与机构联合会

الاتحاد الدولي لجمعيات ومؤسسات المكتبات

IFLA and Library eLending

Background

In 2001 the IFLA Governing Board approved *Licensing Principles* which presented “a set of basic principles that should prevail in the contractual relationship and written contracts between libraries and information providers”.¹ Understandably given the state of digital publishing at the time, *Licensing Principles* focused on the negotiated provision of electronic resources (typically web based databases) through library institutions and consortia. The following key areas of concern for libraries were identified:

- Archiving and preservation of content over time
- The ability to exercise legislated copyright exceptions
- Price
- The ability to interlibrary loan
- License flexibility
- Protection of user privacy

Since the market success of handheld reading devices commencing in 2007 in developed countries, the nature of digital content in library collections has expanded to incorporate trade eBooks which has prompted the necessity for IFLA to develop eLending principles beyond those incorporated in the 2001 document.

As part of this process, the IFLA Governing Board received an *IFLA E-Lending Background Paper*² prepared by the IFLA eLending Task Force in April 2012 and a commissioned “thinkpiece”, *Libraries, e-Lending and the Future of Public Access to Digital Content*³ in November 2012. These documents formed the basis for discussion at an expert meeting held in The Hague at the end of November, and contributed to the creation of the principles below.

It is evident that the library distribution of downloadable trade eBooks differs fundamentally from the licensing of digital databases, typically published by scholarly publishers, addressed in the 2001 *Principles*. It is also clear that a number of the areas of concern for libraries are common for both types of digital content.

¹ <http://www.ifla.org/publications/ifla-licensing-principles-2001>

² <http://www.ifla.org/publications/background-paper-on-e-lending-2012>

³ <http://www.ifla.org/node/7447>



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The differences for library acquisition of the two types of digital content include:

- The 2001 *Principles* assume “a willing information provider and a willing purchaser of information access” and advocate for standard license terms and conditions in a number of areas. As has been well documented, the large multi-national trade publishers take very different approaches to selling eBooks to libraries including withholding content and will not engage in collective discussions about terms and conditions due to concerns over anti-competition legislation.
- With eBooks a layer of complexity is added with interoperability restrictions for end users dictated by eReading device manufacturers/distributors (Amazon, Apple...) and interfaces and use restrictions dictated by content sellers/resellers (OverDrive, Amazon...). Imposed restrictions often do not integrate seamlessly with other library discovery services.
- While licenses for aggregated eBook collections are negotiated, when made available to libraries eBooks are often licensed on a title by title basis from publishers or through resellers and terms and conditions are non-negotiable.
- Publishers of trade eBooks most often have regional geographic rights which may constrain their ability to contractually agree to international interlibrary loan to regions where they do not hold rights.
- Consortia licensing of eBooks is actively discouraged by trade publishers and resellers.

These and other differences have prompted the IFLA Governing Board to endorse the following *IFLA Principles for Library eLending* as a complementary policy statement to the *Licensing Principles*.



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IFLA Principles for Library eLending

Preamble

The rise of commercial dissemination of written content in digital form has imposed a new and challenging reality for libraries, publishers, authors and readers. Evolving and escalating changes in reader expectations fuelled by technological change are threatening traditional service delivery and business models.

Libraries are confronting the new reality where in many instances they are constrained from acquiring commercially available eBooks for their collections under acceptable terms and conditions. This undermines their traditional mission of ensuring societal access over time to written culture. Faced with changing reader demands and an uncertain economic future, trade publishers and authors are exploring a variety of approaches to deliver their publications to the marketplace, including withholding sales to libraries where this is believed to undermine overall sales and royalties.

The *IFLA Principles for eLending* is based on the assumption that it is necessary for libraries and publishers/authors to negotiate a range of reasonable terms and conditions for the licensing of eBooks to libraries which allows them to fulfil their mission of guaranteeing access to knowledge and information for their communities. Successful negotiations will require solutions which do not unduly jeopardize the publisher's and author's financial viability. It is not acceptable that a publisher or author can restrict a library's ability to purchase/license otherwise commercially available eBooks for the library collection. The implementation of a library's collection development policy has to be in the library's control, and not in the control of publishers and authors.

Should publishers/authors persist in withholding the licensing or sale of eBooks to libraries, IFLA believes that publishers/authors should be required in legislation to make available eBooks to libraries under reasonable terms and conditions. In jurisdictions where there is government financial support for publishers and authors, there is an especially strong argument to be made that societal access to published works through libraries should be mandated by government.

Recognizing the widely varying technological capacity and eBook market development by country and region, it is understood that differing terms and conditions for eBook availability through libraries may be appropriate in different geographic regions but the underlying principles have international relevance.



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Principles for the Licensing/Purchase and Use of eBooks in Libraries

1. Libraries should be able to license and/or purchase all commercially available eBooks under a variety of terms and conditions dependent upon the nature of the work and the rights provided to libraries and their users such as:
 - Number of simultaneous users
 - The period of time the library has the right to make the eBook available.
 - The option of outright purchase with permanent availability⁴
 - A limit on the total number of loans permitted
 - Publication date and retail sales.⁵
 2. Given a mutual respect for copyright on the part of libraries and rightsholders, any eBook licensing/purchase options offered to libraries must respect copyright limitations and exceptions available to libraries and their users in legislation including if applicable:
 - The right to copy a portion of the work
 - Reformat the work for preservation purposes if it is licensed or purchased for permanent access
 - Provide an interlibrary loan copy⁶
 - Re-format a work to enable print disabled access
- Libraries should have the right to bypass a technological protection measure for the purpose of exercising any non-infringing purposes.
3. eBooks available from libraries should be usable on all commonly available eReading devices.⁷
 4. Libraries and library users must be able to control the use of a user's personal information including their library digital reading choices.
 5. When publishers and/or authors and/or resellers withhold library access to eBooks, national legislation should require such access under reasonable terms and conditions.⁸

These Principles were endorsed by the IFLA Governing Board in February 2013.

⁴ For long term preservation purposes, electronic files of commercially published work may be deposited with the agency or agencies specified in national legal deposit legislation.

⁵ Publishers should not place an embargo on library licensing of new titles.

⁶ Limits on interlibrary loan may include those mandated by national legislation and jurisprudence or negotiated limits such as the number of interlibrary loans of one title permitted annually or geographic limits on where the title is supplied when a publisher does not have the eBook market rights for the country where a requesting library is located.

⁷ Usually interoperability is dictated by eReader device manufacturers/distributors, and on occasion resellers, and not publishers. In some instances eReading device manufacturers/distributors also act as publishers.

⁸ This requirement to ensure community access to all eBooks through libraries is clearly defensible in countries where there is government financial support for publishers and authors.