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Consortium negotiations with publishers, past and future

Library consortia appeared about fifty years ago, they promoted for decades sharing of resources and cooperation in collection development policies, they set up online union catalogues and interlibrary loans networks. So, it is natural they applied to share the access to online resources.

From these times, there is a continuous tension: scientific publications are a very little part of the research costs (1 to 2 %)¹, but they are essential for research development and for innovative processes. So, two trends are coexisting: the continuous growth of scientific publications, and the barriers to access to the whole publications.

At the beginning of the nineties, with the Internet, the roles of each of the partners in the publishing process changed. The authors could publish and give directly access to articles to their readers – such as did the Physics community in the early nineties with ArXiv². The readers could directly make comments or suggest changes in articles and contribute to new versions. New publishing sectors emerged with the open access journals and the institutional repositories, that are now in competition with the commercial publishers. Libraries were facing a new challenge due to technological change: in the paper economics, providing materials and giving access to information are two distinct processes, in the online economics the two processes are merged. This revolution, that is not yet ended, gives a bigger place to the new materials (online journals, databases, e-books...) but is not yet the end of the paper materials, and the provision of online resources generate for the libraries budgets new costs that don't substitute to the former costs.

In the online information world, the consortial cooperation between libraries is more and more needed for a wide access to scientific publications. It is because the libraries united

¹ Conference, European Commission, Bruxelles, *Scientific publishing in the European Research Area, Access, dissemination and preservation in the digital age*, Speeches of Robert Kiley (Head of E-Strategy, Wellcome Trust) and of Matthew Cockerill (Publisher, BioMed Central).

² <http://www.arXiv.org> provides in open access nearly 424 000 e-prints in physics, mathematics, computer science and quantitative biology (April 2007).

themselves in consortia that the publishers and the information providers recognized them as essential partners. Indeed the publishers find their interest in negotiating with consortia who are expressing clearly the needs of a community, and it is more easier for them than negotiating with single libraries, so they fostered this process allowing discounts proportional to the financial weight of a consortium and to the number of libraries involved. But the library consortia are not the agents of the publishers, their strenght is in answering the needs of their members and of their users. Their action is of public interest, and is generally supported by the public authorities.

The existing consortia established an international cooperation and set up between 1997 and 2000 the International Coalition of Library Consortia (ICOLC). ICOLC is “an informal, self-organized group” comprising now 200 consortia from around the world (including developing countries)³. Within ICOLC, the consortia exchange their knowledge and learn from each other the best practices. If they discuss in these meetings with publishers and information providers on their respective policies and business models, and even if the big publishers are worldwide companies, ICOLC does not negotiate with vendors, but publishes statements and documents that are of interest for all the partners, and these statements are useful for applying in negotiations some rules accepted by all the partners.

In most cases, consortia negotiate directly with the vendors, but some consortia commit an external negotiator who is paid with a percentage of the discount he obtains from the vendor. So does JISC with Content complete Ltd. Anyway, a good negotiation is a one that satisfies as much as possible the needs and interests of all the members and that is concluded by an agreement with the vendor. Of course, librarians must acquire new skills for this new job, but they are the most qualified for leading these discussions with vendors. They are the best for negotiating all the aspects of a licence agreement, not only price, but also content, access and services provided. They are also able to give a feedback from the users, and to suggest to the publishers actions for improving the quality of the service provided. For this reason, some publishers set up librarians advisory boards for exchanges on strategic and marketing issues.

But this partnership is not so equal between the two types of partners, especially for the online journals. If the access to most of the online databases may be obtained from several aggregators, and there is place in this sector for competition between vendors, the great journals

³ <http://www.library.yale.edu/consortia/>

publishing companies do not consent competition and they are the exclusive providers of their online services especially in the academic world. So the consortia have little space in negotiating the prices, and for the most they reached only agreements on moderation of the increase of subscriptions (6 or 7% instead of 10% and more at the beginning of the 2000). This moderation is aimed at guaranteeing some stability to the market and is a counterpart for allowing access to all the journals of the publisher (or if not, to a great number of titles). This is the so-called Big Deal.

The Big Deal was not the first business model for the consortia. At first, they obtained agreements for cross-access to the titles of a publisher that were subscribed at least by one member. The cross-access model had for consequence iterative renegotiations each time the members replaced twofold or manyfold subscriptions by new titles to give access to more titles or each time a new member joined the consortium. This way, as consortia accepted progressively new members, they were keeping the choice of the content, but this model was not enough stable for the publishers, who rapidly proposed competitive conditions for the unlimited access to large bundles of journals, in Big Deals. The conditions were to agree with multi-year contracts, with “reasonable” increases per year (inferior to the previous annual increases), and with maintaining the amount of subscriptions (or cancelling titles for a marginal cost, in the limit of 1% of the total amount of the subscriptions).

With these Big Deals, the consortia gave access to their users to a number of online titles that could not be imagined before, and this for a reasonable increase of the budget. This extra cost has been generally supported at the beginning totally or partially by the funding authorities. The level of access and downloading knew a geometrical progression, and reaches now a scale with no comparison to ILL or to access to printed documents. So the Big Deals boosted the consortia, and the users – mostly the researchers – were accustomed in a way it is no more reasonable to imagine to go back to the past situation. More, they rapidly accessed to many titles that the libraries did not subscribe before, and they gather now 25% more articles in twice as many journals⁴.

For instance, the French consortium COUPERIN counted a few members in 1999 and expanded rapidly with the first big deals, and reaches now 210 members: universities, other academic institutions and research organizations... As the 2005 figures show, if Couperin concluded 91 licence agreements with vendors, the activity of the Couperin members is concentrated on a few

⁴ Study of the Economic and Technical Evolution of Scientific Publications Market in Europe, Commissioned by DG-Research, European Commission, Comments from Elsevier, June 2006, p.5.

publishers: 46 % of the members contracted with 1 to 5 publishers; only 5 major publishers were in contract with at least 50 Couperin members (American Chemical Society -53-, Encyclopedia Universalis -51-, Elsevier -123-, Springer -62-, Wiley -53), and these 5 publishers counted for the half of the online costs paid by the members of the consortium (paper subscriptions excluded). This is in relation with the usage statistics. The number of articles downloaded from the six greatest publishers (American Chemical Society, Blackwell, Elsevier, Institute of Physics, Kluwer, Springer, Wiley) evolved from nearly 3 million in 2001 to nearly 12 millions (of which 10 millions from Science Direct) in 2005.

But the costs did not reduce and the income did not increase, the libraries could not cancel subscriptions for titles included in these Big Deals (or only in the margin of 1% of the turn-over). So the libraries cancelled subscriptions for titles from medium and little publishers (mostly learned publishers), the leadership of the great publishers was strengthened and had for consequence new mergers in these five last years. The result is a relative stabilization of the market for the great publishers, who have some margins of flexibility (for instance, they make changes in the list of the journals in the bundle). On the other part, there is not really flexibility for the libraries. The usage statistics show that generally 80% of the downloads are concentrates on 30% of the titles⁵, but the publishers don't accept to reconfigure these Big Deals and to reduce the turn-over. So, when libraries argue for a more restrictive bundle, only with the titles more accessed, the publishers don't accept to contract at a lower cost. So, cost-effectiveness issues are more and more important.

In front of this situation, some consortia experienced a "crisis" mode of negotiation. At the beginning of a negotiation, nobody can say if it will be concluded by an agreement or not, and some hard discussions may include "rupture" phasis. But it is a failure if a "rupture" position does not lead the partner to change his position. For instance, in 2004, Cornell and other universities in the USA cancelled their subscriptions with Elsevier, and so did Switzerland. But the users were the first punished and did not understand they would no more have access, and these consortia were obliged to reach to a new agreement.

Ohio Link experienced another way, that was called an orderly retreat from the Big Deal⁶, and that is an evolving Big Deal, the "border warfare model"⁷ based on two principles: "a

⁵ David Kohl, *Ten years of Big Deals*, FECYT Seminar On Big Deals and Consortia, March 2007, 15, Madrid, Spain.
<http://www.heal-link.gr/SELL/7thmeeting.htm>

⁶ Gatten, J. and Sanville, T., "An orderly retreat from the Big Deal", in *D-Lib Magazine*, 2002:10(10)
<http://www.dlib.org/dlib/october04/gatten/10gatten.html>

reasonable increase in Big Deal is OK (it might be the inflation in the 3% range at present), if the inflation exceeds an acceptable amount, the consortium selects titles to cancel to reduce costs.” This is possible if the consortium is able to analyze detailed use data and to reach agreement of his members on the titles to cancel, and has set up an information system. “In OhioLink’s case in 2006 only 2 out of 8 publishers up for the Big Deal renewal/inflation increases decided for the border warfare model rather than acceptable inflation”.

This solution works because it is a collaborative one. It is vital for the consortia to find such collaborative solutions agreed by their members and that allows them to reach positive agreements with the publishers. If they don’t succeed, they are exposed to tensions and failures that endanger the life of the consortium itself. In a consortium are united different libraries, some are bigger, some are smaller, and the immediate interests of each of them could be opposite. The collaboration within a consortium is a force not only for the smaller, but for all. The strength of the consortium is in the link, it is in the network, in the ability of all its members to support the same decision, and not in the individual libraries. We all need this strength to conclude positive agreements with publishers.

To reduce the pressure of the great publishers and to maintain a large access to the others, consortia would also unite themselves. Some good news are showing it is possible. For instance, the Southern Europe Libraries Link (SELL) concluded a multi-consortial agreement with the Association of Learned and Professional Society Publishers (ALPSP). In the same way, Knowledge Exchange published a licensing tender⁸ on the European Union website for agreements applicable to United Kingdom, Denmark, Germany and Netherlands. Such multiconsortial licensing tenders could work for supporting medium and little publishers, and also for accessing to some special resources which are needed only by a few libraries in each country and don’t reach a critical mass in a single consortium.

But these are exceptions for the moment. All this new economics is based on ancient models, on the historical amount of paper subscriptions: the e-access fee is a percentage of this amount as the e-only fee is calculated with a discount on this amount. The publishers feared that with online access the libraries would unsubscribe paper journals, and guaranteed this way they would maintain (and annually increase) their income. Now, many libraries are willing to shift to e-only, but the e-only discount is not sufficiently incentive and in Europe the VAT legislations are a

⁷ David Kohl, op. cit.

⁸ <http://knowledge-exchange.info>

barrier to this evolution, as the VAT on electronic services is 10 to 15 % more expensive than the VAT on journals⁹. But a great part of the paper journals received in the libraries are no more used by their readers, and the costs in staff and premises could be spared if only a few libraries took the responsibility to preserve paper journals.

A new Big Deal between publishers and consortia adapted to the online publishing economics and making easier the shift to e-only has become a necessity. Libraries are not able to face annual increases such way, and publishers don't have interest in pushing the consortia to breaking-down. The publishers would move their positions, as they are confronted with two trends. First, they go through a new competition with researchers, the world of scientific publications is continuously evolving, and now there is a social consciousness that the results of publicly funded research would be in open access¹⁰. Open access journals and institutional repositories are taking more and more place. If many researchers imagine that these alternative models based on the author pay model could replace the reader pay model, for at least the twenty years coming now, it is more plausible that a new and moving balance will be established between these three sectors: commercial publishing that will keep the more important part, open access journals, institutional repositories.

The second trend is more hopeful for the publishers, as scientific publishing is also enlarging and now it doesn't have borders in the world; new scientific nations are emerging and growing rapidly such as China or Brazil. New markets are opening to them, and the publishers have now opportunities to make more money in widening their market more than in intensifying the profitability of their present market.

So, we would imagine new business models based on a new definition of holdings as electronic contents, and taking in account the role of the libraries in the preservation of these contents. These new models would be free from the reference to the costs of paper subscriptions.

Some studies are needed to set up these new models:

- on the cost of access to e-only. It is not related to the cost of a paper subscription, because access is not holding, and the production costs are not the same for e-only

⁹ Liber <http://www.sub.uni-goettingen.de/frankfurtgroup/vat/EndberichtVAT210906.pdf>

¹⁰ Cf the petition of European Union researchers that was signed at the beginning of the year by 25.000 individuals and institutions.

content and for paper content; only editorial costs are in common for the two types of materials;

- on the value of electronic content. The value of information is inversely proportional to its dissemination, and if value and cost were related, cost would decrease with the growing number of customers, of libraries paying for access.
- on the usage of e-journals by the researchers. A study for each title and of the titles more used and less used for each publisher, in relation with the cost of the subscriptions, would be useful, and would allow to approach some quality aspects in publishing;
- on the value of the subscription to a bundle of journals. The value of access to a bundle is far minor from the total cost of the titles of this bundle, as the usage statistics are showing that 80% of the downloads are made with 30% of the titles. On another way, as we cannot foresee to what titles the users would access, a cost for use model (pay per view) is not functioning and would be a barrier to a wide access to the information, and a subscription model to a bundle is more adapted;
- on the cost of archives. It would be minored to take in account the responsibility of libraries for long-term preservation and the value added by the libraries in preserving these contents. The preservation of electronic content is a major issue for our societies who need to guarantee a perennial access. This would recognize that cooperative actions in this field are supported by libraries and consortia, and that the long-term preservation is the job of the libraries;
- on regulations of multi-year contracts. These would take in account the evolving percentage of articles in open access in the content provided, the annual increases would be related to the annual inflation, reasonable (and not marginal) cancellations as in the “border warfare model” would be possible.

Consortia would cooperate in these studies, and publishers would also contribute to this action by making publicly available at the international level their business models, even if they take in account local criteria. A good new Big Deal would be one established by consortia and publishers in a more equal balance than the actual. If we don't progress that way, the public authorities will act and promote more competition in this market, and will decide more restrictive regulations in licensing tenders.

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Summary

Since the mid nineties, with the development of online access to information (journals, databases, e-books), libraries strengthened their cooperation. They set up consortia at different levels around the world, generally with the support of the public authorities, for negotiating collectively with the publishers and information providers general agreements for access to theses resources. This cooperation has been reinforced at the international level with the exchange of experiences and the debates in the ICOLC seminars and statements. So did the French consortium Couperin, which is now gathering more than 200 academic and research institutions. The level of access and downloading from these resources is growing with geometrical progression, and reaches a scale with no comparison to ILL or access to printed documents, but the costs did not reduce and the libraries budgets did not increase. At first, agreements with the major journal publishers were based on cross-access, and evolved rapidly to the access at a large bundle of titles in the so-called Big deal. After experiencing the advantages of the Big deal, the libraries are now more sensitive to the limits and lack of flexibility and to cost-effectiveness. More, these Big deals were based on a model where online access fee is built on the cost of print subscriptions, and the problem for the consortia and for the publishers is now to evolve from this print plus online model to an e-only model, no more based on the historical amount of the print subscriptions, to a new deal. In many European countries, VAT legislation is an obstacle to e-only, and this problem must be discussed at the European level. This change to e-only takes place at a moment where changes in the scientific publishing world are important (mergers of publishing houses, growth of research and of scientific publishing in the developing countries, open access and open archives movement). The transition to e-only leads also the library consortia to deal with issues as preservation of print and electronic materials and perennial access to information.