Welcome to the EIFL-Licensing webinar

Introduction to the EIFL Model Licences

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The first webinar in a three-part series on EIFL Model Licences
➢VIEW THE RECORDING HERE

What are we going to cover?

- EIFL-Licensing Programme – some background

- Why EIFL has model licences, and what the benefits are

- How agreements are structured and what types of licence we offer

- Overview of key provisions and what is and isn't allowed

- How to find out more

- Q&A session – but you can ask questions during the presentation too if you want to!

Some background

- Through the EIFL-Licensing programme, we negotiate licence agreements with publishers of commercial e-resources on behalf of library consortia (and their member libraries) in EIFL-partner countries

- Over 60 high quality e-resources from more than 25 vendors are currently available through the EIFL-Licensing programme – see www.eifl.net/list-of-resources for details

Some background (2)

- In 2012, our library partners saved an estimated US$215 million in subscription fees on EIFL-licensed resources – an average discount of over 97%

- In addition to achieving free or highly discounted pricing, we are able to negotiate the best terms of use by using the EIFL model licences. *Why?*

What are EIFL model licences?

- EIFL model licences set out the terms and conditions of use we want to achieve in our negotiations with publishers

- The licences (which have just been updated) reflect the latest international best practice in the licensing of e-resources

- They offer better access provisions for users than standard publisher licences – e.g. broad definition of authorised user, remote access, course packs etc

What are the benefits?

- Better negotiating position with publishers by setting out what we want from the start

- Much less time consuming than negotiating individual publisher licences (all have different formats and terms)

- Standardisation of terms and conditions of use makes it easier for libraries to manage and ensure compliance

What are the benefits (2)?

- Be aware that occasionally we have to remove or adapt some clauses in the model licence during the negotiation process **so always read the licence** - but libraries can be sure that the terms and conditions we achieve are the best they possibly can be

- The licences can be freely adapted by libraries in partner countries for their own negotiations with publishers

EIFL licensing agreements – the overall framework

- For each licensing agreement, EIFL negotiates the following documents with publishers:

  - **Contract between EIFL and Publisher**: *contains the price of the product and agreement from the publisher to use EIFL licences*

  - **Licence between Publisher and Consortium or Ministry**: *outlines terms and conditions of use*

  - **Licence between Publisher and Institution** (one licence for paying countries, one for free access countries where applicable): *outlines terms and conditions of use*

Contract between EIFL and Publisher

The contract sets out the offer. It defines:

- What products ("Material") are included

- How long the offer is valid for (the "Term")?

- Which countries can participate ("Eligible Member Countries")

Contract between EIFL and Publisher (2)

- The contract also defines what types of institution can participate ("Eligible Organisations")

    – "means any university, public, national or governmental library or research institution or any other institution or consortia of institutions located in an Eligible Member Country."

Different model licences for different product types

- EIFL now offers the following model licences to take account of key product types and business models:

  - Journals: subscriptions and backfile purchases

  - Datasets and e-books: subscriptions

  - Ebooks: purchase

- EIFL model licences can be viewed [here](#)

EIFL model licences

- All EIFL model licences follow the same format and include the following parts:

  - A licence stating the terms and conditions – permitted usage, payment etc

  - They are drafted as an offer from the publisher to the institution, therefore there is no need for the publisher to sign the licences

  - An "Acceptance of Licence Form" which libraries complete and sign to gain access

EIFL model licences (2)

- The key provisions of the three EIFL model licences are broadly similar – for example:

  – Who can use the product

  – How access can be provided

  – What users can and can't do

  – Guarantees, governing law and dispute resolution

- In this webinar, we will provide an introduction to these provisions

- We will cover each licence in more detail in the next two webinars in this series

Authorised users

- **Who can use the product ("Licensed Material")?**

  – Authorised Users at Eligible Organisations

    - Staff: permanent, temporary, retired
    - Students: undergraduates and postgraduates
    - Alumni
    - Contractors
    - Any teachers of Authorised Users

- **Where/when can Authorised Users use the product?**

  – Anywhere (both on-site and off-site) at any time

Authorised users (2)

- **What about walk-in users?**

  - Walk-in users include those visiting the subscribing institution (the "Licensee") e.g. public library users

  - Walk-in users can access a product (the "Licensed Material") on site

  - No remote access is permitted

Access

- **How can access be provided?**

  – Access must be provided via a "Secure Network"

    - *"a network only available to Authorised Users by Secure Authentication"*

  – What constitutes "Secure Authentication"?

    - Access *"by Internet Protocol ("IP") ranges, by a username and password provided by the Institution or by another means of authentication agreed between the Publisher and the Institution."*

Purpose of use

- **What type of use is allowed?**

  – Access is allowed for "Educational Purposes" only

    - *"…use for the purpose of education, teaching, distance learning, private study and/or research."*

  – "Commercial Use" is not allowed

    - *"…use of the Licensed Material for the purpose of monetary reward (whether by or for the Institution or an Authorised User)…"*

  – However…

Purpose of use (2)

- The following activities are <u>not</u> considered to constitute "Commercial Use"

  – "…the recovery of direct costs by the Institution from Authorised Users…"

  – "…use by the Institution or Authorised Users of the Licensed Materials in the course of research funded by a commercial organisation."

Permitted uses: institutions

- Staff and contractors can:

  - Provide integrated access and indexing from different publishers

  - Supply to an authorised user of a non-commercial library in the same country by post, fax or secure electronic transmission a single paper copy (as long as electronic copy is deleted after printing)

  - Provide single printed or electronic copies of single articles at the request of individual authorised users

Permitted uses: institutions (2)

- Staff and contractors can also:

    – Display, download and print parts of the Licensed Material for promotion and training

    – Make and distribute copies of training material provided by the Publisher

Permitted uses: authorised users

- Authorised users (e.g. students and staff) can:

  - 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

Permitted uses: authorised users (2)

- Authorised users (e.g. students and staff) can also:

  - 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

Permitted uses: authorised users (3)

- Authorised users (e.g. students and staff) can also:

  - **Save and/or deposit in perpetuity** parts of the Licensed Material in **electronic repositories** operated by the Institution and/or by an Authorised User on a Secure Network. Access to and use of such repositories shall be limited to Authorised Users. *[Not included in the free access model licence]*

  - NEW! Use the Licensed Material to perform and engage in **text mining/ data mining** activities for academic research and other Educational Purposes and allow Authorised Users to mount, load and integrate the results on a Secure Network and use the results in accordance with this Licence. *[Not included in the free access model licence]*

Permitted uses: authorised users (4)

- The following provision is included in EIFL model licences (except the free access licence) but please note that it is not always possible to get publishers to agree to it so, again, **always read the licence**:

  – "Throughout the term of this Licence, the Institution and its authors shall be permitted free of charge to store articles appearing in the Licensed Material (in the form published by the publisher (e.g. PDF)) with a maximal time embargo of one year in an (institutional or discipline-specific) repository of their choice and to make them available in Open Access."

Restrictions on use

- Unless the licence states otherwise, Institutions and Authorised Users:

  - Cannot use the Licensed Material for any Commercial Use (i.e. with a view to commercial gain)

  - Cannot display and distribute any part of the Licensed Material on any electronic network other than by a Secure Network

  - Cannot remove, obscure or modify copyright notices, identification or disclaimers, etc

Termination

- **What happens if the licence is terminated?**

  - Serious ("Material") breach by the Institution:

    - Online access will be terminated but (for journals) perpetual access will be granted to material paid-for before the breach occurred

  - Material breach by the Publisher:

    - Refund of pro-rata proportion of remaining fee

  - For journals, perpetual access to content published during the subscription period:

    - By providing CD-ROMs free of charge
    - Access via publisher's or third party server free of charge

Publisher guarantees

- **What publisher guarantees are included in the model licence?**

  – A guarantee ("warranty") by the Publisher of ownership of the Licensed Material, or the right to licence it

  – An Indemnity by the Publisher against direct damages, legal fees etc if something goes wrong

  – Limited liability of the Institution for breaches by Authorised Users: Institutions are only liable if they caused, knowingly assisted or condoned the continuation of a breach

Governing law/dispute resolution

- EIFL model licences are governed by English law and English courts. *Why?* English law is the preferred choice of law in international contracts

- Amicable dispute resolution by senior offices of the parties

- Expert determination: expert appointed by parties, in default by the chairman of a professional or academic body

How to sign-up to an EIFL-negotiated licence?

- Please read the terms and conditions of the licence

- If you are happy with everything, complete and sign the Acceptance of Licence Form

  - Single institutions: contact details, IP addresses

  - Consortia: contact details for consortium plus contact details and IP addresses for member institutions that are participating in the licence

  - Send the completed form to EIFL or the publisher as specified

How to sign-up to an EIFL-negotiated licence (2)?

- The publisher does not need to sign the licence as the licence is drafted as an offer which is a specific way of drafting a contract

- If you have any questions, please contact Susanna Lob (susanna.lob@eifl.net)

Summary

- EIFL model licences reflect the latest international best practice in the licensing of e-resources

- They offer improved access provisions for users than standard commercial licences

- They form the starting point for EIFL negotiations with publishers and help us to achieve excellent terms of use plus average discounts of over 97%

- They can also be used by library consortia and member institutions for their own negotiations with publishers

Dates for your diary

- The second webinar in this series (offering more in-depth coverage of the EIFL model licences for e-journals and for subscription databases/e-books, including important new provisions and opportunities for local adaptation) will be held on Thursday 24th October 2013

- The third webinar in the series (on the new EIFL model licence for perpetual access to e-books) will be held on Thursday 28th November 2013

- Announcements will be sent out shortly

Further information

- Which resources are available through EIFL-Licensing? www.eifl.net/list-of-resources

- Which countries are eligible for which agreements? www.eifl.net/browse-country

- Where can I view the EIFL model licences? www.eifl.net/faq/where-can-i-view-model-licences

- Any questions about the EIFL-Licensing Programme? Contact Susanna Lob, EIFL-Licensing Programme Manager (susanna.lob@eifl.net)

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Thanks for listening and happy licensing!

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