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To Each his Own: How to Provide a Library User with an Article Respecting Licensing Agreements. The ALPE Project for e-License Verification

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Abstract

This paper describes the state of the art of the Italian ALPE project which aims to improve the understanding of the issues raised by license agreements of electronic resources in the Inter-Library Loan Service and to support librarians in the implementation of the right policies.

Keywords

Inter-Library Loan, Licenses, Copyright, Electronic Resources, NILDE, Open data, Library Management Systems

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Introduction

The shift from paper to electronic resources has brought about a change in the legal framework for libraries providing services to accomplish their mission. In the last twenty years the license agreements have been gradually established in the world of electronic publishing, in legal form privileged by publishers and distributors in order to protect their rights (Davis, 1997) (Dygert and Langendorfer, 2014). It is well known that these are private, legally binding contracts concluded between two or more parties, whereby a party supplies a given product for use and granting some user rights. So, exceptions and limitations for libraries provided by copyright law have become “license to use” under contract law. Such shift of perspective is likely to set significant limitations on libraries' ability to continue to deliver services that are essential to their own mission, such as ensuring perpetual access to subscribed digital resources and recovering resources not in possession of the library requested by users through Interlibrary Loan services (Fernández-Molina, 2004).

A unique exception, at present, is provided by the recent changes in the UK copyright law [1] (UK Copyright, Designs and Patents Act 1988) which spells out a modern, robust and more flexible framework for copyright exceptions for libraries, archives and museums within the boundaries of non commercial research and private study. The new law also affects existing licenses in a very important way; libraries may rely on the new law if it grants them more than the license; moreover, if there is any term in the license stating that a library cannot do something allowed by the new law, a library will not have to comply with that term. It is reasonable to expect this very recent law will have a great impact on ILL of e-journal articles and e-book parts or chapters in UK libraries, since it allows librarians to assist researchers and students by providing copies of “limited parts” of a copyright work, “regardless of the medium” in which it is recorded.

However, the UK represents an isolated case: in general, the shift from copyright law to contract law, is for libraries like leaving a stable and well established common ground for shifting sands. ILL of e-resources has to be negotiated in contracts, and libraries should be careful of not giving away rights (for their users) which are guaranteed by law. Some studies and experiences have shown how greater awareness and understanding of license agreements can allow librarians to play a proactive role with commercial publishers, which may have a direct impact on improving user rights and conditions provided in the license agreements themselves (Fernández-Molina, 2004) (Ortigari, 2008).

How has this landscape impacted on ILL activity (borrowing and lending) itself and how do ILL librarians comply with licenses? Especially in academic and research libraries, ILL librarians must cope with two conflicting problems: on the one hand to respect the permitted uses of e-resources licences allowed by publishers and on the other to respond effectively to their patron. In fact, the globalisation of library catalogues and the availability of software tools developed for the exchange of electronic documents "in the cloud" and through the Internet (Birch and Melvyn, 2014), amplify the contradiction between the increasing demand for digital, real-time and internationalised user services, and the anachronistic restrictions to the ILL service imposed by publishers. In fact, ILL has always been considered by publishers as a threat to their incomes; nevertheless studies on the impact of ILL on journals subscriptions conclude that ILL does not affect subscriptions (Bernardini and Mangiaracina, 2011). An end user satisfaction survey conducted within the NILDE network of libraries [2] to assess the ILL services shows how important the electronic version of documents is for end users (Mangiaracina et al., 2014).

The restrictions in the e-licenses on ILL practices give rise to two main issues. The difficulty of identifying the “proper” license applying to each e-journal to be supplied by the library, and the problem of license text interpretation, since licenses are often written in technical, legal and sometimes vague language.

Identifying the proper license

One major issue is for the librarian to know if they have a license that enables them to share an item with another library. They may use lists of titles provided by the institution, or managed by an ERM (Electronic Resource Management System) system. However it is laborious to maintain and update the information required : the Okamoto study found that the checking tasks and lack of knowledge very often leads ILL librarians refusing to supply e-journal contents (Okamoto, 2012). Wiley notes succinctly that “the license checking that is required inhibits fulfilment more than the licenses restrictions do themselves” (Wiley, 2004). To overcome these problems new management tools such as ERMS have been evolving in recent years, allowing libraries to retrieve the needed information about their e-licenses (Blake, Fredette and Jansen, 2013). The Okamoto study describes the results of a survey which shows how North American librarians carry out the ILL of electronic resources and what tools they can use in support of the control and verification activities of licenses (Okamoto, 2012). However, generally these tools have not been yet been integrated with the ILL workflow and they are not interoperable with ILL management software.

Another important issue was highlighted in the *ARL Report of the Task Force on International Interlibrary Loan and Document Delivery Practises* which looked at trends in licenses in North America (Lamoureux and Stemper, 2011) and also (Neal et al., 2011). The ILL clauses in 241 e-journals licenses signed by libraries were reviewed and compared. Many publishers (89%), allowed ILL but with some significant limitations; for instance, 12-19% of publishers restricted ILL to the same country only. Secure electronic transmission of documents using software such as Ariel and ILLiad was usually allowed; however, in many cases the publisher’s file must be printed first and then scanned and transmitted. According to the authors, in general "There is no common uniformly adopted language to describe the permitted uses of the ILL, indeed often the language used in licensing is contradictory and suggests a lack of understanding on the part of the publisher of how libraries work and what instruments they use" (Lamoureux and Stemper, 2011).

Several international projects have been devoted to the solution of the uncertainty and wide variety of terms and conditions found in licenses:

- The ERMI project (Electronic Resource Management Initiative) [3] of the Digital Library Federation defined the dictionary of the standard terms related to licensing content (Jewell . et al., 2004);
- The ONIX-PL [4] project, born from a collaboration between the Digital Library Federation, EDItEUR (and the PLS (Publishers Licensing Society) in the United Kingdom, provides indications on standardization and on data exchange in XML format (Pesch and Lamoureux, 2013) (Carpenter, 2010).

However all these initiatives are aimed at the management of user license contracts in their entirety, integrating them into the workflow of the negotiation, acquisition and management of electronic resources in libraries. The clause on the permitted uses for the ILL is therefore only one of several functions to be tracked within a complex work flow.

This is the scenario in which the ALPE project (see below) aimed to develop a framework for ILL librarians to comply with licenses and to automate the license checking and comprehension process during the ILL activity.

What is ALPE?

ALPE (*Archivio Licenze Periodici Elettronici – E-Journals Licenses Archive*) is a national archive of ILL clauses, extracted from standard and negotiated licenses, to manage, to publicly share and to check the permitted uses of e-resources for Interlibrary Loan and Document Delivery. It aims to improve the understanding of the issues raised by licenses of e-resources in ILL services. The ALPE project started in June 2012, when a national working group was formed. The aims of the project are: the accomplishment of a common model to describe ILL clauses found in licenses, to standardize description of the ILL clause, to minimize the risk of subjective interpretation by librarians and to allow exchange of ILL rights data across systems.

The first year of the project analysed licenses and their ILL clauses of contracts negotiated by Italian consortia between 2005 and 2012 and on a sample of standard licenses found on publisher's sites (a total of about 60 licenses).

The project is coordinated by CNR Bologna Research Library, which is also the manager of the NILDE system and network of libraries (Mangiaracina, 2002) (Mangiaracina et al., 2008). Presently, the working group is composed of 38 librarians from several academic and research institutions. Their roles are various and their expertise ranges from negotiators, lawyers, e-resource librarians, ILL librarians and software developers.

The components of ALPE are:

- **An open archive** of ILL clauses in e-licenses;
- **A search engine** to find the appropriate license for each item and subscriber;
- **Management software** to insert, display and link to e-licenses;
- **APIs (Application Programme Interfaces)** to allow other systems - such as ILL management systems within the lending work flow, or to ERMs (Electronic Resource Management Systems) – sharing data and using ALPE functionalities.

The ALPE open archive is freely available using a Web-based interface [5]. It allows browsing and searching for ILL clauses contained in e-licenses by resource identifiers (ISSN and ISBN), by publisher or content provider or by platform. It then allows refining a search by subscriber institution, by e-resources type, by license validity year and subscription type (i.e., current or back-files subscription).

ALPE can be accessed and searched by ILL staff and tells whether ILL is permitted and with which conditions and restrictions.

In particular, ALPE:

- ❖ Supports checking before the fulfilment of each ILL request, for the appropriate license for that subscriber institution and for that specific platform of digital content;
- ❖ Improves the level of knowledge and awareness of librarians about the permitted uses;
- ❖ Collects licensing data which are current, curated and cover the most popular publishers and content providers, thanks to the community-based work of many contributors;

- ❖ Fosters knowledge and skills between library staff of the e-resource management cycle and supply chain: negotiation, acquisition, e-resource management and ILL services;
- ❖ Provides a current database that can be consulted in the negotiation phase.

At present API software development is ongoing. API will respond to the need for integrating the NILDE ILL software [6] with ALPE during the lending work flow and to automate the license checking activity, reducing its time consuming. NILDE will be used as a test-bed to become interoperable with ALPE.

In the future any ILL management software or ERM software can use the API to query the ALPE database, retrieve information about licenses and exploit ALPE functionalities.

The ALPE project has evolved from a database called “Help-Licenses”, which has been available since 2005 for NILDE librarians. This database only contained information from the “big-deals” publisher e-licenses negotiated by consortia.

In Italy, many academic libraries maintain databases or lists with information on the permitted uses of e-resources in their license agreements (Balbi, 2013). According to the Croft classification of reactions to the new e-journal environment, this is a “reactive” approach (Croft, 2005), but libraries should opt for the “proactive” approach, with libraries being actively involved in the negotiation of license terms that permit at least existing ILL practises (Lamoureux and Stemper, 2011).

This has been accomplished thanks to the negotiation of “big-deals” contracts, initiated at the end of the nineties by three large academic consortia, CASPUR, CILEA [7] and CIPE [8], and continued with the National Coordination for Access to Electronic Resources (CARE) constituted by the CRUI (Conference of Rectors of Italian Universities) [9]. NILDE [10] has been approved by many publishers as an Ariel equivalent system.

In 2011, CARE issued recommendations to the Italian academic and research institutions [11] for "the essential clauses in the licenses for access to electronic journals" The ILL clause allows "Inter Library Loan of the original publisher's file using secure electronic transmission systems - like Ariel or its equivalent - whereby the electronic copy is deleted after printing". Recently this clause has been included in the CARE proposal for a standard national license model, i.e. licenses following the standard model defined at the national level.

ALPE data model: a common model to describe ILL licenses

The ALPE project focuses on the license conditions for an ILL request in order to answer two questions: “What is the appropriate license for this publication?” and “What, if any, are the conditions under which ILL can be carried out?”

Licenses may be:

- Negotiated licenses, i.e. licenses for which some of the terms and conditions were negotiated by the library, institution or consortium; they may be multi-year;
- Standard licenses, i.e. licenses that automatically come into force when subscribing to digital content, which are made public on the website of the publisher or content provider; they usually have annual validity;

ILL terms and conditions are usually contained in a specific clause of the authorized uses licenses section although they are sometimes lacking [12].

Moreover it may happen that certain commercial aggregators are not able to grant ILL permission because they do not own all the rights on the digital content they distribute.

E-resources are now available via multiple distribution channels (scientific society, university presses, commercial publishers, aggregators, vendors) which makes it easy for libraries to acquire digital content, but the task of identifying the correct license for using it is complex.

Each license usually refers to a package of digital content to which the licensee subscribes and to a website or platform on which the licensed materials will be displayed and accessed. This means that the same digital content may be available through different platforms, for each of which there may be a different license with different ILL permissions. Figure 1 shows an example of e-journal with multiple platform, access rights and licenses.

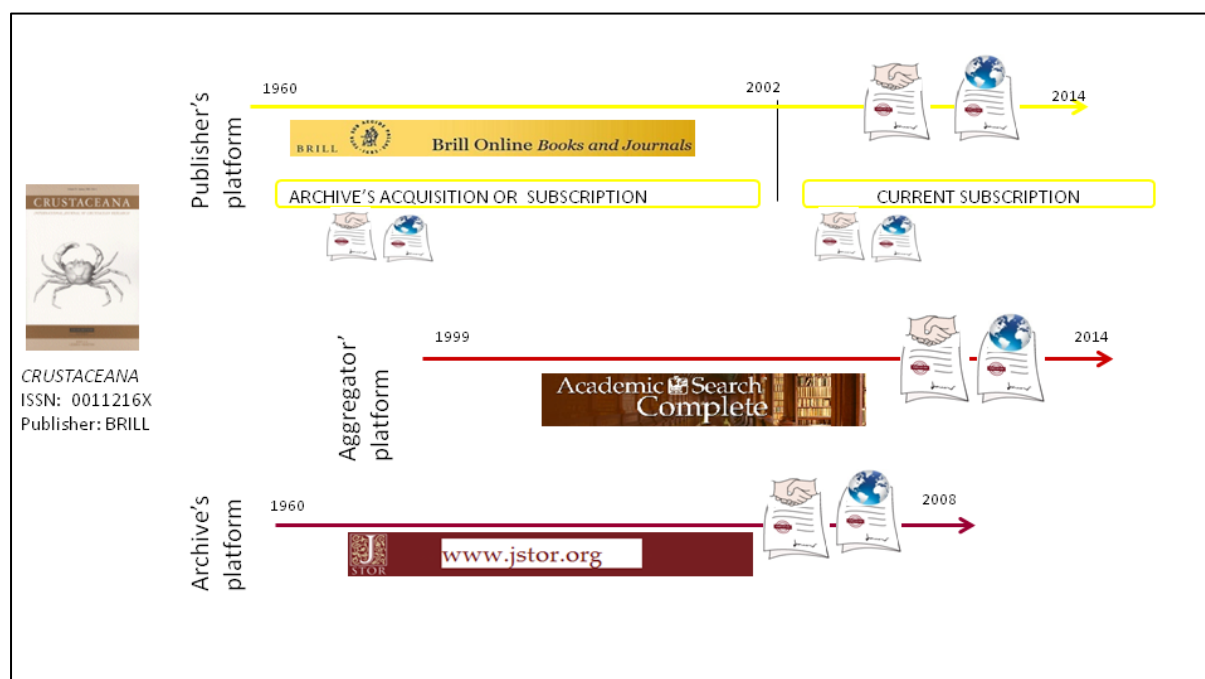


FIGURE 1. Example of e-journal with multiple platform and licenses . For a given title there may be several licenses which define the permitted use, depending from where the content is accessed. There may be several platforms: the publisher's, the content provider's (one or more), the archive's platform. A library may subscribe to current content or to the archive which can be a yearly-subscription or a one-time acquisition of the back-files. A license may be negotiated or be standard.

The ALPE data model consists of two parts:

- ❖ Metadata information to identify the appropriate license;
- ❖ The ILL clause details

Metadata information

The metadata of a license gathers information related to the license, the licensed e-resource (package) and the subscribing institution. Each license has two sets of attributes – ‘the license metadata’ and ‘the ILL clause’ shown in Figure 2.

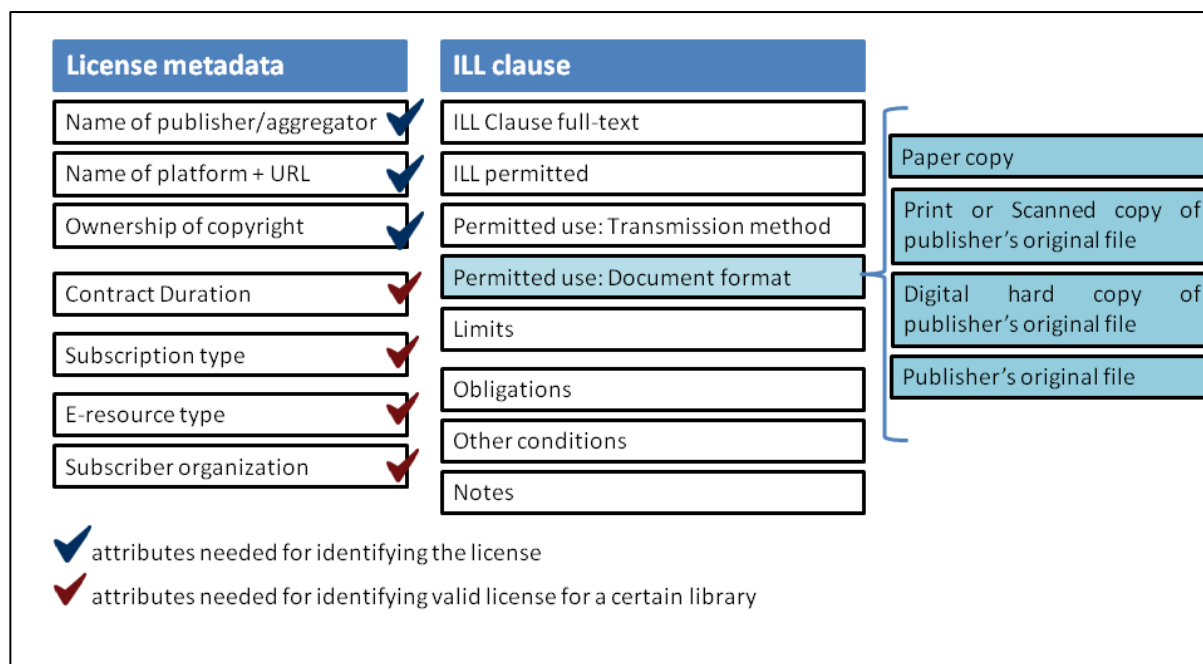


FIGURE 2. Schema to describe the ILL clause

To describe the license, the ALPE data model uses three attributes: the name of the publisher or content provider, the platform name and URL and the ownership of rights with respect to ILL. This first set of attributes identifies all the licenses associated with a given starting item (article or e-book chapter).

A second set of attributes identifies the license appropriate for the subscriber library. These identify the duration of the contract, the type of resources subscribed, the type of subscription and the subscriber organization.

The ILL clause schema

The ILL clause schema simplifies and codifies the ILL clause. It is structured into four categories:

- ❖ Permitted uses (for example in relation to the document format and the type of sending allowed);
- ❖ Obligations on libraries (for example the need to delete the file immediately after printing);
- ❖ Limits to the uses allowed (for example the types of libraries that may request documents);
- ❖ Additional conditions, restrictions or exceptions.

Each content type has been codified in a set of default options that must be selected. Coding of options value is based on the most frequently recurring cases in the ILL clauses examined by the working group.

For example the field “permitted document format” includes only the following values:

- ❖ Paper copy;
- ❖ Print and scanned copy of publisher's original file;
- ❖ Digital hard copy of publisher's original file [13];
- ❖ Publisher's original file.

A continuous cycle of prototyping and testing on the license use cases has allowed a deeper comprehension of the complex license scenarios and the implications for ILL activities.

The ALPE Search Engine

The ALPE Search Engine is the “core component” of the ALPE project. It allows the ALPE database to be queried starting from a title identifier such as an ISSN/ISBN (or eISSN/eISBN) and year of publication. It will retrieve all licenses of the publishers or content providers on which platforms access is made available for that particular e-journal or e-book. Alternatively, ALPE can be queried from a publisher or content provider name, or from a platform URL. More than 2,000 publisher and aggregator names have been standardized and associated to all the possible platforms for accessing their digital content. This facilitates insertion of a new license in the database allowing to choose the right platform among the pre-existing ones.

Then, for each publisher or content provider and platform, the search engine will return all the license agreements, either standard or negotiated, in the ALPE archive. The filters at the Web user-interface allow refining of the search results, for example by the licensed institution, by the subscribed resources or by license year.

Figure 3 shows how the ALPE search engine works at a macro level.

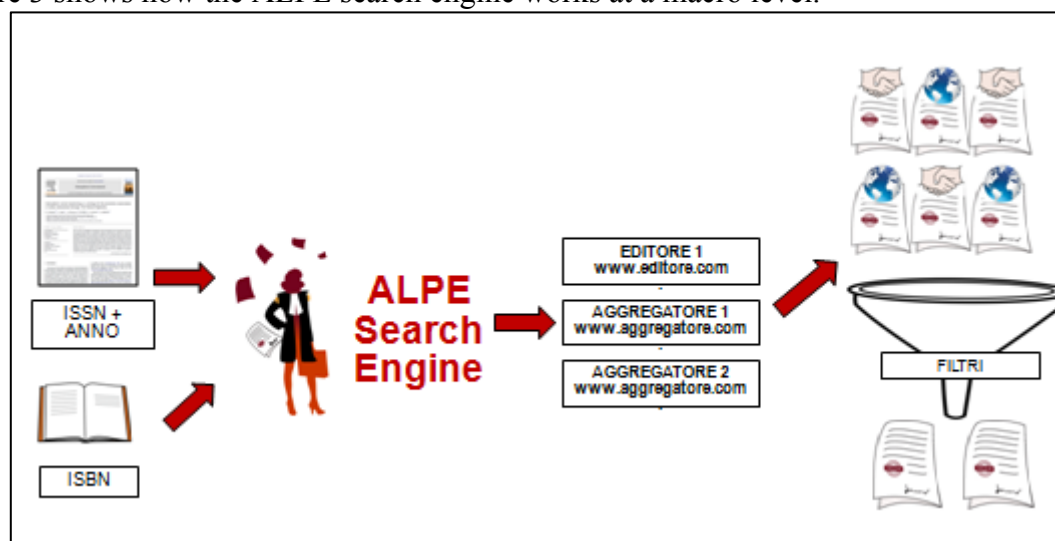


FIGURE 3. ALPE Search Engine

The ALPE search engine has been designed to rely on an external knowledge base to “resolve” the association between an e-journal and its publisher or content providers. The scientific e-publishing marketplace changes continuously. To keep track of all these changes is a big issue and this information can only be found in several commercial knowledge bases, with different levels of updating. The recent open project GOKb [14] (Wilson, 2013) aims to solve this issue by the creation and community-based maintenance of a Global Open Knowledge Base which can be interrogated by other systems. It will be very interesting for future ALPE developments to follow the evolution of such projects.

Currently to solve this issue in ALPE some of the major existing commercial catalogues and knowledge bases were compared: ISSN register, ACNP (Italian Serials Union Catalog), Ulrich’s database, EBSCO AtoZ, ExLibris SFX. SFX software was chosen because it is the

most popular among Italian academic and research libraries and because it can be rapidly queried by ALPE's users (Mangiaracina, Tugnoli and Simonetti, 2013). The advantage is that the ALPE Search Engine displays as results only the list of licenses of e-resources for which the library has activated a subscription.

Cooperative population of the archive

The ALPE license management software module was developed to populate the archive and provides license entry and editing functionality to support cooperative and multi-level licenses management. It allows to login as ALPE operator, to insert negotiated or standard licenses, to associate standard licenses to their subscribed e-resources, to search or display all licenses or only licenses valid for their institution.

Tools (FAQ, glossary and online tips) that support librarians during license entry activity have also been developed to facilitate the interpretation of clause language and the resolution of problematic cases.

Two policies guide populating the archive.

For standard licenses, cooperative and shared entry is supported by a small group of librarians from universities and research institutions empowered to enter only this type of license contract. Because they are valid at a national and international level each library can associate these standard licenses for their subscribed e-resources.

For negotiated licenses, hierarchical entry (national, institutional and single level) is being tested. First, national negotiated licenses entry is dealt with by CARE staff and each license is valid only for libraries belonging to the institutions who sign that specific contract. Second, each institution will be allowed to manage licenses negotiated at the local level and valid only for their libraries. Finally, licenses negotiated by single library may be entered.

Currently the ALPE database contains about 130 standard licenses and about 15 national negotiated licenses starting from 2015.

Sustainability and future developments

Technological and financial sustainability of the ALPE project is granted by CNR Bologna Research Area Library coordination role.

The library provides infrastructure, software development, technical know-how and financial support. (expertise NILDE network coordination).

The feasibility of the project and regular updating of the database is granted by the community based population model chosen. Effective co-operation, avoids duplication of insertion at individual institution which improves efficiency and reduces the costs of maintaining a database of this type, which is often one of the main obstacles to the success and survival of these initiatives in the long term.

The cooperative and multi-level management is one of the strengths of the project and responds to the needs of libraries to share the information owned by a number of different stakeholders. Generally the cooperative work and sharing of experiences and expertise characterizes the NILDE library network and it is an important added value to each new project.

The next steps involve the API software release and the integration between ALPE and NILDE ILL system. The ALPE Management software will be open to single institutions and libraries to insert their local negotiated licenses. These steps will be accomplished by December 2015.

The future goals of the project are to expand participation and collaboration across Italian network and to maximize the positive results and follow-up of the project developing international partnerships.

Conclusions

The ALPE archive facilitates public and free access to a remarkable amount of information and data about ILL conditions granted by the most important commercial and academic publishers and responds to the practical problems of managing and understanding ILL clauses. The solutions adopted by ALPE effectively solve many of the problems reported in the literature – as shown below:

First, the implementation of the common ILL clause schema simplifies the complex nature of license wording and generates an output with clear instructions, easily and quickly understandable by librarians. The default options of the scheme are immediately clear compared to the technicality and vagueness of the language of licenses and reduces significantly the time of ILL rights checking. Furthermore default options make the scheme interoperable with other ILL management software, through the ALPE API.

Second, the choice to populate the archive by a dedicated group of e-resources librarians or by national consortial negotiators, solves upstream problems of study and interpretation of the legal terms and the ILL rights. The preliminary work of systematization and “translation” of ILL clause textual content in a set of defaults options, excerpted from over 60 licenses, has reduced the risk of error and subjective interpretation by librarians who entered the data.

Third, the collaborative activities by the ALPE working group has increased librarian’s knowledge and expertise of the licensing universe. Many contributors are involved and feel committed to populate and update the licensing information and this enables excellent coverage of e-resources in the ALPE archive. Moreover the engagement of a group of librarians with different roles - negotiator, e-resources librarian, ILL librarian, license administrator librarian - has favoured the communication and the exchange of information and practices with positive follow up within individual organizations.

Fourth, the correspondence between the license metadata and the platform where e-resources access is provided - which is the basic operating principle of the ALPE search engine, facilitates library’s staff to find the “proper” license for each item requested and to check the ILL rights. Furthermore, in ALPE each library can choose to query their own e-resource knowledge base if they use link-resolver software. This means that the library finds and displays only licenses related to their subscriptions and for that specific platform to access.

Fifth, the integration between ALPE and NILDE software, will be possible via the API and will display the lending rights and conditions at the point of need within the existing ILL request. Also any other software, willing to use the ALPE API, can integrate the license checking within its own work flow.

Sixth, the ALPE archive can monitor licensing trends through data analysis on some important elements such as ILL permitted uses, conditions, limits and obligations. For example, the percentage of publishers or content providers that show ILL rights, the percentage of publishers or content providers that allow electronic delivery or the percentage

of publishers or content providers that have a national constraint on ILL. It also allows comparing the different ILL rights and lending conditions offered by different publishers or content providers for the same e-journal or collection. This may offer a useful tool to support decision-making on the subscription of a resource (for example, by identifying the publisher with more favourable ILL conditions) and to support the proactive negotiation of ILL conditions in licenses, that all libraries should actively pursue.

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Notes

1. UK Government, Changes to copyright law <https://www.gov.uk/government/publications/changes-to-copyright-law> (Accessed 30 June 2015)
2. NILDE (Network for Inter-Library Document Exchange) is a web-based ILL software for libraries and end-users. It allows libraries to manage the entire workflow of ILL activities, both borrowing and lending, supporting secure electronic delivery of documents and providing ILL performance indicators and statistics. It enables end users to interact directly with NILDE, to manage their bibliographic references and to load automatically bibliographic records into the NILDE request form. The NILDE system was initially developed at the Italian National Research Council (CNR) Bologna Research Area Library. NILDE is currently used by 876 university, public research and medical libraries and by more than 35,000 end users registered at their libraries. NILDE <https://nilde.bo.cnr.it>
3. ERMI project <http://old.diglib.org/standards/dlf-erm02.htm> (Accessed 30 June 2015)
4. ONYX-PL <http://www.editeur.org/21/onix-pl/> (Accessed 30 June 2015)
5. ALPE archive <https://nilde.bo.cnr.it/licenze.php>
6. See note 2.
7. CASPUR and CILEA were Italian university consortia that during 2012 were merged into the CINECA consortium actually made up of 70 Italian universities, 4 Italian Research Institutions and the Italian Ministry of Education. CINECA <http://www.cineca.it> (Accessed 30 June 2015).
8. CIPE is Italian university consortium born in 2007 and made up of 11 Italian universities. CIPE <http://www.unicipe.it> (Accessed 30 June 2015).
9. CARE <http://www.crui-risorselettroniche.it/> (Accessed 30 June 2015).
10. See note 2.
11. CARE Documents. *The "indispensable" clauses in the contracts for access to electronic journals* <http://www.crui-care.it/?q=system/files/Clausole+23.+03.2011.pdf>
12. See (Lamoureux and Stemper, 2011) and (Blake, Fredette and Jansen, 2013) about silent ILL clause.
13. Digital Hard Copy is the process that transforms a textual pdf publisher's file into an image pdf, that has lost all the peculiar pdf capabilities on electronic text, such as text search and retrieval, text selection-copy-and-paste, etc. See NILDE technical description: Secure Electronic Document Delivery and Digital Hard-Copy https://nilde.bo.cnr.it/download/alpe/NILDE_Technical_Description.pdf
14. GOKB <http://gokb.org/>

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