



Ebooks and lending issues paper

Purpose

The purpose of this paper is to summarise the current ebook and lending environment and outline the issues facing libraries throughout Australia.

Its intention is to be the foundation for a library think tank on ebooks and lending to be held at ALIA Information Online (15 February, 2013, Brisbane), followed by a library summit in March 2013, with the prime goal to develop a set of key principles for the supply, use and lending of ebooks in Australian libraries.

Context

The market for ebooks is growing fast. People are choosing to read books on their computers, ereaders, smartphones and tablets, as well as in hard copy. Libraries have always been about equity of access to information and stories, whatever the format – print, audio, digital. It is essential that libraries establish their role and position in this new digital environment, so that library users can continue to enjoy access to a wide range of content.

Gorman's eight principles of librarianship set out in his 2000 publication *Our enduring values: librarianship in the 21st Century*, ALA Editions, provide the context for our approach to ebooks and lending.

1. Stewardship – playing a role in the preservation of the human record for future generations.
2. Service – the duty to serve the needs of individuals, communities and societies.
3. Intellectual freedom – to protect and uphold the free expression of thought.
4. Privacy – the freedom to access whatever materials an individual wishes without the knowledge or interference of others.
5. Rationalism – an underpinning of the enlightenment tradition of rational thought.
6. Commitment to literacy and learning – both in the support of reading as an essential skill for lifelong learning, and in support of the expanded understanding that accompanies true literacy.
7. Equity of access – bridging the digital divide and providing equity of access to compensate for societal inequality.
8. Democracy – ensuring a well-informed electorate is essential to promoting education and maintaining an effective democracy.

Background

One of the principal roles of a library is to provide equitable access to books and other materials. Many library users are exploring the potential of ebooks and want to be able to borrow them, just as they would borrow printed titles. Libraries need to be able to offer their members access to a range of contemporary fiction and non-fiction in ebook formats.

However, publishers are struggling with an economic model for lending and they are worried about digital rights management. On a broader scale, they are nervous about the potential for piracy, whether ebooks are bought or borrowed. Publishers are concerned about the protection of the work and potential piracy and use this to restrict or prohibit libraries from providing ebook solutions. This unfortunately leaves libraries with limited options for supply.

Publishers have always sold books to libraries and if a suitable ebook sales and lending model could be found, there is no reason to believe they would not want to take advantage of this route to market. Academic and other non trade titles generally are accessible to libraries through a range of providers; it is the trade titles that provide the biggest barriers to access.

Publishers, and to some extent authors, see book/ebook loans through libraries as lost sales, but this is a very narrow view of the role of libraries in supporting the book industry.

Australian libraries are book purchasers. They purchase approximately 12% of books.¹ For popular books, libraries buy multiple copies.

Australian libraries are a marketing and promotional vehicle for creators and publishers, connecting readers and writers. According to an American study, 20% of library users bought a book after they had borrowed it, and 47% bought a book by the same author after they'd borrowed one of their books from the library.² The average library patron in the US was found to buy nine books a year.

Australian libraries help create new audiences, through early literacy, family literacy and adult literacy programs. They also help people discover and rediscover the joy of reading, through campaigns such as the National Year of Reading, through book clubs and other community activities.

Australian libraries contribute to income generation for authors and publishers in other ways. Author/illustrator tours and visits to public libraries/schools are an important source of fee income for creators, provide direct sales (books are available for attendees to purchase) and promote future sales (increased awareness of an author and their work). The Public Lending Right and Education Lending Right (undergoing a modernisation review, which could recommend their extension to cover ebooks) generate revenue for authors long after their retail life span has ended.

Australian libraries support the creative process, with writers and illustrators using library collections as the source for their stories and drawings.

¹ <http://www.auslib.com.au/pdfs/Marketing%20to%20libraries.pdf>

² http://idpf.org/sites/idpf.org/files/digital-book-conference/presentations/db2012/DB2012_Ian_Singer.pdf

Current situation

Ebook issues are at times different for public, school, academic and special libraries. For example, in public libraries one of the challenges is that users have a variety of e-reading devices, some of which are not compatible with aggregator services used by libraries. In the education sector, academic libraries are concerned with e-textbooks, collaborative content generation, the opportunities to collate content from a variety of sources and the growth of online learning systems. There are, however, common concerns, for example access to content users demand, equity of access, copyright and privacy.

There are also significant differences between scholarly and trade publishers.

Scholarly publishers	Trade publishers
Primary market is the research/academic sector	Primary market is retail sales to individuals
Usually control global rights for content	Distribution rights are often regional
Content marketed direct to customers	Opportunity linked to consumer uptake of e-readers
Digital distribution is long standing, established protocols	Piracy of popular ebook titles a major concern
Digital access streamed via a live internet connection	Digital access via download to a hand held device
Clear understanding of the role of libraries (positive)	Variable understanding of the role of libraries (negative)
Robust technology infrastructure in academic libraries	Emerging technologies in public/school libraries
Libraries have experience of licensing electronic products	Libraries face difficulties with ebook licensing conditions

Based on IFLA eLending background paper 2012

Australia is one of the leading markets for ebook adoption. Bowker Market Research's Global eBook Monitor ranks Australia alongside the US and UK, with 43% of Australians having downloaded some digital content during the last quarter of 2011 and first quarter of 2012.

Ebooks provide exciting opportunities for publishers and libraries to explore new models for eLending and promoting ebooks.

- The limitations of one print book/one user no longer apply and it is possible to imagine a scenario where waiting lists are greatly reduced (provided rights holders receive a commercial return).
- Pricing need no longer be dictated by the manufacture and distribution of the physical item. There can be a much more creative approach to pricing methods.
- Freeing up shelves will mean more space available in libraries for events and activities to connect readers with writers.

However, in order to take advantage of such opportunities, there needs to be an environment where there is generally accepted, fair balance between the interests of libraries, creators and publishers. This has yet to be achieved. There also needs to be a greater public awareness of the opportunities to borrow ebooks from libraries.

Overseas, publishers have piloted models which could balance commercial requirements with access through public libraries eg Harper Collins, a limited number of loans and then the ebook is removed from the library catalogue or needs to be repurchased. Other publishers have refused to go down the route of elending until they can find a model that they are confident will give them the necessary commercial return.

In the meantime, on a mass market basis, Australian libraries are limited to OverDrive (and the issue of only licensing titles for as long as they subscribe to this service), while there are other, boutique offerings. No one provider has access to the complete range of current bestsellers, with these titles often not available at all for libraries to purchase in ebook format

Non trade titles can be obtained from a range of providers causing issues for libraries in terms of seamless searching options for library users.

Some platforms can be utilised on a range of devices but many are tied to a particular device causing issues for libraries and user preferences.

ALIA is actively contributing to discussions surrounding ebooks and elending at both international and national levels. These discussions, along with a sample of other international initiatives, are outlined in Appendix 1.

Themes for the issues paper

Concerns with regard to ebooks and elending can be divided into four key areas: content, procurement, operations and lending.

1. Content

Refusal to supply/exclusive dealing

Some publishers are refusing to supply ebooks to libraries, at any price. Other publishers are holding back on providing new releases so that not all publically available ebook titles are available for borrowing from libraries. This impacts on the ability of libraries to deliver a comprehensive service. It goes to the heart of the core function of libraries to provide free access to a broad range of resources. The digital divide also becomes more pronounced as access to ebooks is denied to those who cannot afford to buy them directly from ebook suppliers.

Collection development

Licensing considerations also impact on the development of library collections. Some ebook providers dictate what is included in a subscription package, thus limiting the collection development capacity of the library. There is also a concern that content can be deleted by the supplier, and continuing access to items lost.

2. Procurement

Flexibility

Libraries operate under a myriad of conditions, and a one-size fits all approach to licensing of ebooks is not appropriate. Instead, a range of supply models to suit the broad range of local conditions and budgets evident in libraries is needed. Flexible procurement arrangements to be considered include ownership, leasing, subscription, patron-driven acquisition and pay-per-use.

Single copy purchase

Some publishers are exploring options that would require libraries to buy multiple copies of ebooks, where they would only purchase one copy of the print version.

Competition

Publishers effectively have a monopoly on the availability of many titles.

Fair pricing

Some ebook suppliers have agreed to provide titles to libraries, but have increased the price of ebooks to be significantly more than the standard consumer pricing for these, and the list price for the hard cover of the same titles. In these cases, libraries do not have fair pricing models that are comparable with consumer pricing.

Fair dealing

It is important that licences for ebooks should not override fair dealing and other rights and exceptions under the *Copyright Act 1968*.

Ownership

Under the terms of most ebook agreements, libraries are only able to lease ebook materials, and do not retain permanent ownership of the materials. When an ebook licensing agreement ceases, so do all rights to the material. In addition, access to a title is compromised when a supplier ceases trading or loses the rights to sell a particular title.

Legal Deposit

Legal deposit is important for the long term preservation of a work, and while it is not technically an lending issue, it is interesting to note that the federal legal deposit scheme does not currently include electronic materials such as ebooks. A review is underway by the Attorney-General's Department and the Office for the Arts to consider ways to extend the current scheme to include electronic material. ALIA supported submissions made by the Australian Libraries Copyright Council (ALCC) and the National and State Libraries Australasia (NSLA) as part of the review process. Evolving federal, state and territory legal deposit requirements may impact on the need to secure permanent access to ebook titles.

Consortia purchasing

Publishers, vendors and aggregators have expressed concerns about consortium purchasing models, claiming that fewer copies are purchased using a consortia model than if the individual libraries maintained their own licenses. However, libraries generally buy additional copies of materials based on demand, so participation in a consortium may not significantly reduce the number of items purchased.

3. Operations

Integration

Ebooks should be available with high quality metadata, and/or be able to be integrated with libraries' existing discovery and delivery systems. Library users need to be able to seamlessly view material and check-out ebooks from a range of suppliers within the existing library system rather than being redirected to individual portals from each ebook content vendor. Ebooks should be made available via a single collaborative platform. This could be: a bibliographic/sales/availability interface (perhaps as an extension of Titlepage); a central marketplace for the acquisition of ebooks; a unified platform for the management and lending of acquired ebooks; or even to support legal deposit requirements.

Format

It would be beneficial for all titles to be available in all standard formats and for all devices. In the long run, greater standardisation or interoperability needs to be developed for ebook formats.

Reporting

Under the standard model, ebooks loans are processed via the publisher's or aggregator's portal. It is important that these platforms allow for robust reporting and analytics. This raises privacy concerns about the transfer of user's personal data to a service provider. It is important that the authentication and reporting tools protect the privacy of library users.

Lending Rights Schemes

The Public Lending Right (PLR) and Educational Lending Right (ELR) schemes cover printed materials and do not include digital materials. It is unclear how an electronic lending rights scheme might operate given the varying licensing and purchasing models for ebooks. The lending right schemes might be extended to ebooks or an equivalent scheme for ebooks established.

4. Lending and access

Barriers to access

There are barriers to legitimate library clients accessing content. Examples of practices that impede easy access to ebooks include: licensing agreements that dictate what can be lent and to whom; some suppliers requiring downloading of ebooks within the library; inability of borrowed titles to be portable between devices; the complexity of the borrowing and downloading process experienced by library users; and issues experienced by print disabled users when copyright considerations limit the availability of alternate formats and restrict the reformatting of text.

Digital rights management

Some ebook suppliers have instigated a digital rights management policy that limits the number of times an ebook can be issued before a fresh copy needs to be purchased. Normally, only one reader can access a copy at a time, and they can be borrowed for specified periods and are then automatically returned and can no longer be accessed by the borrower. In addition, some aggregator systems prevent borrowers from returning an ebook before the due date. Standard ebook licensing agreements also require that only authorised library members are able to borrow ebooks and an authentication process is required.

7 January 2013

Interlibrary lending (ILL)

Current ebook licensing models do not allow for ILL, but it is a functionality that must be considered, particularly as over time an increasing number of titles are expected to by-pass the physical publishing stage and be issued in the first instance as an ebook.

Open access

Open access is increasingly being provided not only to scholarly journals, but to theses, scholarly monographs and book chapters, and is a hot topic. Again, the challenge is to balance the needs of library users, with the commercial realities of the publishing world.

Next steps

In a complex and rapidly changing landscape, libraries need an anchor point – a set of basic principles which will guide the sector's response to government policy and commercial initiatives, support our lobbying and advocacy, and will enable us to take the lead in areas over which we have direct control.

This set of principles will be encapsulated in a position paper, but before we can draft this, we need a shared understanding of the issues. We need to identify the stakeholders, their interests and relationships, the market dynamics affecting ebooks and e-lending, and the other factors which are in play.

This draft issues paper will be used as the basis for ALIA discussions with the Book Industry Collaborative Council, Australian Book Council, National and State Libraries of Australasia, other library associations and stakeholders.

There will be further iterations over the coming months, leading up to the ebooks and e-lending think tank at the ALIA Information Online conference, in Brisbane, on 15 February 2013. Input from attendees at this think tank will provide the basis for a draft position paper, which will go to the ALIA ebooks and e-lending summit planned for March 2013. From this round of consultation, the aim is to have final versions of the issues and position papers to share with government, industry and other policy makers/influencers in April 2013.

Feedback

In the meantime, we welcome your comments. Contact Brenda Currie, ALIA board liaison – brenda.currie@alia.org.au.

Appendix 1: National and International ebook initiatives

Australia

Book Industry Collaborative Council (BICC)

<http://www.innovation.gov.au/Industry/BooksandPrinting/Pages/BookIndustryCollaborativeCouncil.aspx>:

Formed until 30th June 2013 to progress the recommendations of the Book Industry Strategy Group, a number of expert reference groups (ERG's) have been formed to undertake specific actions for the BICC. There are two members on the BICC who are librarians:

- Evelyn Woodberry (Pro Vice Chancellor – University of New England, former University Librarian and member of the IFLA Standing Committee on Copyright and other Legal Matters (CLM) in her role as Chair of the Public Lending Right Committee.
- Margaret Allen (CEO and State Librarian of the State Library of Western Australia) representing libraries on behalf of ALIA.

The BICC is considering the formation of a n 'industry supply chain' organisation that after 30th June would continue implementing agreed recommendations from the BICC. ALIA has been asked for its view as to the benefit of such an organisation. There are similar organisations in the UK, US and Canada with the relevant library association a member in some cases.

E- Lending ERG <http://www.nsla.org.au/news/book-industry-collaborative-council-look-elending-copyright>

The Elending ERG is jointly chaired by Sophie Masson (Australian Society of Authors) and Eve Woodberry.. Margaret Allen and Marian Morgan-Bindon (Manager – Libraries Services and Cultural Development, Gold Coast City Council) are members of the Elending ERG. Other members include publishers, author representatives and an aggregator.

The Lending Rights ERG will develop a position paper to inform industry and government on the book industry's collective view regarding the principles for a consistent supply of ebooks to libraries and a framework for digital lending rights as a possible extension of existing lending rights schemes. The terms of reference are:

- Identify models currently being used by publishers in Australia for supply of ebooks to libraries.
- Engage with relevant parties (including publishers, authors, agents, libraries and government) to compile recommendations of principles for a more consistent model for supply of ebooks to libraries in Australia, which would help to facilitate the potential extension of existing lending rights schemes to include ebooks.

Copyright ERG <http://www.nsla.org.au/news/book-industry-collaborative-council-look-elending-copyright>

The Copyright ERG will develop a position paper which maps the current rights environment for books, proposes viable alternative approaches for a digital market and outlines how these may be practically applied.

The terms of reference are to:

- Identify how the current rights environment could be used more effectively to address the needs of copyright owners and users within the digital setting for books.
- Identify or develop alternative regulatory or non-regulatory models which capture financial rewards for rights owners and meet the needs of users in a digital environment for books and describe how these might be applied.

Chair of the Copyright ERG is Nicholas Pullen, (IP lawyer HWL Ebsworth, Melbourne), and the group includes Margaret Alle, Ellen Broad from the Australian Digital Alliance (of which ALIA is a member) as well as rights holders (CAL, publishers, ASA, Copyright Council) and a representative from Australian Consumer Communications Action Network (ACCAN) among others.

National and State Libraries Australasia (NSLA)

NSLA has raised the issue with ALIA and work is underway to develop some principles for NSLA to consider in relation to ebooks and elending.

Australian Society of Authors (ASA)

ALIA has been approached by the Australian Society of Authors (ASA) to discuss this topic and it has been agreed that a joint forum between publishers, authors, book sellers and libraries be held early 2013.

Council of Australian University Librarians (CAUL)

CAUL is developing a briefing paper on 'eTextbooks and third party eLearning products and their implications for Australian university libraries'.

International

Libraries, library associations, publishers and governments around the world are working to formulate basic principles that will improve the integration of ebooks into library services. Examples of this work include:

International Federation of Library Associations (IFLA)

At an international level, IFLA aims to work with publishers to find a global solution. The activities of IFLA in the ebook, e-content and elending space are numerous.

<http://www.ifla.org/en/strategic-plan/key-initiatives/digital-content>

In relation to ebooks and elending they:

- Have published a background paper on elending: www.ifla.org/files/clm/publications/ifla-background-paper-elending-en.pdf
- Have established a Working Group on elending
- Are commissioning a 'think piece' on elending considering potential models for the future for release in 2013
- Will hold a meeting of the Expert Group in The Hague, 26-28 November 2012
- Have, as part of the IFLA Leadership Associate Program, developed a project on e-content <http://www.ifla.org/en/node/6567> Margaret Allen is a member of this project group.
- Are considering a workshop/meeting on ebooks at IFLA 2013 in Singapore.

Canada

The Canadian Urban Libraries Council (CULC) released a white paper in 2011, *'Expanding ebooks: purchasing and lending at Canadian public libraries'* that summarises ebook issues in Canada. In 2012, CULC and eBound, representing Canada's English language publishing community, issued an RFI for the *'Public library ebook lending initiative'* to identify potential partners to create a solution to provide ebook lending capabilities in all Canadian public libraries <http://www.culc.ca/knowledge/ebooks/>.

New Zealand

Discussions relating to e-lending are underway in New Zealand between the Publishers Association, the National Library of New Zealand and the Library and Information Association of New Zealand (LIANZA) with a view to developing a national approach to ebook delivery in public libraries and schools <http://computerworld.co.nz/news.nsf/news/libraries-battle-with-ebook-publishers>.

UK

The UK government recently initiated a review of the best ways to make electronic books available in public libraries while ensuring libraries and their users, authors and publishers all benefit http://www.culture.gov.uk/news/media_releases/9365.aspx. The review is led by publisher William Sieghart with a panel of experts that include Janene Cox, President of the Society of Chief Librarians and Roly Keating, Chief Executive of the British Library. The panel is due to report in early 2013. Earlier in 2012, the Society of Chief Librarians issued a position paper on ebook lending in libraries as a way forward in discussions with ebook publishers and suppliers <http://www.goscl.com/scl-position-on-e-lending-in-libraries/>.

USA

In the US, the American Library Association (ALA) has had ongoing discussions with major players in the publishing industry, and the ALA president released a much publicised open letter to publishers that is critical of the position currently being adopted with regard to the supply of ebooks <http://connect.ala.org/node/188686>. The ALA has established a *Digital Content Working Group* <http://www.ala.org/transforminglibraries/ebooks-digital-content> to consider digital content issues and opportunities. The Institute of Museum and Library Services (IMLS) has awarded a grant to OCLC to enable identification of library ebook strategies <http://www.oclc.org/au/en/news/releases/2012/201243.htm>. In addition, close to 200 libraries, library networks and library associations from across the United States and Canada have joined together in a movement known as *ReadersFirst* to lobby to improve ebook access for public library users <http://readersfirst.org/>.

Appendix 2: Stakeholders

Commonwealth Government

Office for the Arts (Public Lending Right, Educational Lending Right)

Australia Council for the Arts

Department of Industry, Innovation, Science, Research and Tertiary Education, through the Book Industry Collaborative Council

Library participants

Public libraries

School libraries

Special libraries (arts, corporate, government, health, law, etc)

State/Territory/National Library

TAFE libraries

University libraries

Other participants

Authors, illustrators, creators

Agents

Publishers

Distributors – wholesalers, library vendors

Content aggregators

Online retailers

Bookshops

Appendix 3: Definitions

aggregators: license ebook content from a range of publishers and host the material on their own platform rather than the publisher's. The aggregator then sells the ebooks to libraries. OverDrive is an example of an aggregator in the Australian market.

ebook: an ebook or electronic book is a publication in digital form that can include text and images and be read on a range of electronic devices such as a computer, e-reader, tablet or smart phone.

elending: in the context of library services, elending or electronic lending is the process of providing library users access to ebooks via an electronic device such as a computer, e-reader, tablet or smart phone. Terms and conditions of each loan will depend on the agreement in place between the lending library and the ebook provider.

vendors: some publishers offer ebooks directly to libraries, while other publishers work through vendors that sell ebooks on behalf of the publisher. Access to the ebooks is via the publishers portal.