

EASY ACCESS TO COPYRIGHT PUBLISHED WORKS; Examples of authorisation granted by publishers and RROs for the use of published works by libraries and educational institutions

This document has been developed with the aim of contributing to the sharing of best practices on the use of copyright works in libraries and educational institutions. The examples of authorisation through collective management are from rights managed by RROs¹. It contains explanations and some examples of:

- How the use of published works is authorised; individual and collective rights management
- How cross-border access and use is authorised; individual and collective rights management
- Table with examples for authorising use by libraries
 - Reproduction, Making available, Distribution;
 - Sharing and Reuse
 - Document Delivery and Interlibrary loans
 - Virtual Learning Environments and Distance Learning
 - Cross-border access
- Table with examples of authorising the use in education and research
 - Reproduction, Making available, Distribution;
 - Sharing and Reuse
 - Intranets
 - Virtual Learning Environments and Distance Learning
 - Cross-border access

1. AUTHORISATION TO USE PUBLISHED WORKS BY LIBRARIES AND IN EDUCATION AND RESEARCH

The authorisation to access or use a copyright work may be obtained through a contract directly with the author or publisher. The agreement, typically a subscription or licensing agreement, sets out the conditions, including who can use the work, to whom it can be made available, and whether the work can be transferred to other institutions or individuals, within the national territory or across borders.

i. Contract with RRO; inclusion of works of non-national authors and publishers

When direct licensing by the author or the publisher is impractical or impossible, for instance when the institution wishes to use portions of works of various authors and publishers, often from various countries, authorisation is typically granted under a collective management scheme. The RROs sign bilateral agreements with each other on reciprocal representation allowing the licensing of foreign works by the domestic RRO to library or educational institutions, including their staff (for instance professors and researchers) and students. The agreement between the institution and the RRO sets out the conditions, including who can use the work, to whom it can be made available, and whether the work can be transferred to other institutions or individuals, within the national territory or across borders.

ii. Use under exceptions and limitations

Use of a copyright work in libraries, education and research may also be legally undertaken under an exception or limitation established in compliance with the three-step test in the Berne Convention, with or without the obligation to pay remuneration to the authors and publishers. Certain remuneration schemes, which allow the use also of works of foreign authors and publishers, are administered by RROs.

¹ RROs (Reproduction Rights Organisations) are the Collective Management Organisations (CMO) in the text and image sector; they are normally set up, governed by and represent both authors and publishers of published works. Their international affiliation is www.ifrrro.org

2. CROSS-BORDER ACCESS

Cross-border access is authorised through

- i. **Agreement with the author or publisher directly**
- ii. **Agreement with the RRO**
 - a) *Bilateral (or multi-lateral agreements) between RROs*
 - a) RRO in country A signs a bilateral agreement with the RRO in country B;
 - b) Institution in country A signs licensing agreement with, or can legally use a work under a legal licence or remuneration scheme administered by a RRO in country A;
 - c) The institution and its employees (for instance researcher, professor) in country A can then legally access and use the work in the repertoire of countries A and B

Example: the Austrian, Canadian, German, UK and US RROs have signed bilateral agreements; an institution in Canada with a licensing agreement with the Canadian RRO may allow its employees - and students, where appropriate - to use the work in the repertoire of the Austrian, German, UK and US RROs, etc.

This is the most frequent way for an institution to obtain the authorisation under a collective management scheme to use a work, for instance an article, of foreign origin and for cross-border use.

b) *Licensing agreement directly with the RRO*

There are two alternatives:

- a) The institution in country A (for instance Canada) signs an agreement with the RRO in country B (for instance USA) for the access to or use of the work in the RRO's repertoire
- b) The institution in country A (e.g. Germany) signs an agreement with the RRO in country A for the cross-border transfer or use of the work within an institution in country B (e.g. Canada). This is typically the case when the agreement encompasses the institution's internal network (intranet), or with a Virtual Learning Environment (VLE) or distance learning

In the following we present a selection of practical examples of individual direct and collective management schemes for the use of published works in libraries and educational institutions, including for cross-border availability. Educational institutions were the first to ask for collective management arrangements and remain the main users of such schemes in most countries.

In addition, useful examples are available on:

- *Toolkit for licensing, including micro licensing in text and image works*, prepared under the European Commission initiative Licences for Europe <http://ec.europa.eu/licences-for-europe-dialogue/sites/licences-for-europe-dialogue/files/4-Toolkit-texts-images.pdf>
- Stakeholder solutions on the digitising and making available of cultural heritage, presented at WIPO on 1 May 2014 http://www.ifrro.org/sites/default/files/ifrro_side_event_wipo_sccr_2014_all_docs.pdf
- STM Statement on free cross-border access for qualifying institutions in Least Developed Countries as determined by the United Nations (UN) under the Research4Life programme http://www.stm-assoc.org/2013_10_07_STM_Statement_on_Document_Delivery_to_least_developed_countries.pdf

The document has been prepared by IFRRO, in collaboration with ENPA, IPA and STM².

² European Newspaper Publishers Association; International Publishers Association; International Association of Scientific, Technical and Medical publishers

LIBRARIES						
TOOL NAME/ OFFERED BY/ DEPLOYED IN	ALLOWS					SHORT DESCRIPTION
	REPRODUCTION/ MAKE AVAILABLE/ DISTRIBUTION	REUSE/ SHARING	DOCUMENT DELIVERY/ INTERLIB- RARY LOAN	VIRTUAL LEARNING ENVIRONMENT (VLE)/ DISTANCE LEARNING	CROSS- BORDER ACCESS/ USE/ DELIVERY	
Consortia; STM (International Association of Scientific, Technical and Medical publishers); Globally	YES	YES	YES	YES	YES	In order to provide efficiencies by centralizing services (e.g. shared library management systems, cataloguing, resources, etc.) and in addition satisfying the rising demand of researchers to have seamless and broad (interdisciplinary) access to scientific information library consortia arose since 1990's. Consortia representative typically handle license negotiations, vetting of legal documents, as well as the financial transactions. Often an appointed consortia representative(s) negotiated on behalf of its participating members, whereby each of the members still retains the freedom of its decision to participate, to add additional content, etc. The numbers of consortia have been growing strongly and one industry director recorded 338 active consortia in 2008. Size and nature of consortia vary considerably and can range from large national ones (one country or one certain type of research institutions) to small regional ones and even discipline specific ones.
Document Delivery Services; STM (International Association of Scientific, Technical and Medical publishers); Globally	YES	YES	YES	YES	YES	Example Subito; Approximately 30 university libraries in Germany, Austria and Switzerland formed a consortium known as subito e.V. These universities formed an association and established a national and international document delivery platform with an online order process (including search mechanisms, shopping baskets etc, billing). The member libraries through their print collection act as fulfillment organizations whenever one or several documents are requested by a user through the subito interface. A user may purchase the delivery of a document by mail, fax or electronic transmission. http://www.stm-assoc.org/subito/

Tool	Repro/MA/D	Reuse/Sh	DD/ILL	VLE/ DL	Cross-Border	Short description
CLA Document Delivery License; CLA(UK); UK	YES	YES	YES (DD)		YES	The CLA Document Delivery licence permits copies of works to be made and sent to customers in the UK and overseas for a copyright fee (either the CLA default rate, or a rate set by the rightsholder). The biggest document supply service in the UK is offered by The British Library.
Licences/Tariff; Access Copyright; Canada	YES	YES	YES	YES	YES	Licence/Tariffs in K-12 and Post-Secondary Education, Library and Corporate Sectors allows educators, students and researchers to copy, remix and share content from a vast repertoire of books, magazines, journals and newspapers.
Copyright Agency (Australia) blanket and transactional licences	YES	YES	YES	YES	YES	Copyright Agency’s blanket licences for corporations covers copying and sharing within corporations, and to corporations’ clients, including through their libraries. The blanket licences cover overseas offices of licensed Australian corporations. Copyright Agency offers document delivery licences. The online licensing platform, RightsPortal, allows use of Australian newspaper and journal content in other countries.
Conlicencia; CEDRO (Spain); Globally	YES	YES		YES	YES ³	Conlicencia.com is a website where a single RRO (CMO), CEDRO, has gathered all its licences options on a single platform accessible to users, in order to streamline licence options to user demands. It offers a powerful tool that provides useful information about licensing solutions repertoire available. The user may choose from a blanket or repertoire licence from a repertoire of more than 20 million works, with a flat rate and standardised conditions; and easy, accessible transactional case by case licences instantly obtained from a selection of more than 6 million individual works. The platform provides users with information and a click through option to facilitate the decision on the kind of licence that is required. http://conlicencia.com/

³ Applies to pay-per-use licensing

Tool	Repro/MA/D	Reuse/Sh	DD/ILL	VLE/ DL	Cross-Border	Short description
Conlicencia; Developer CEDRO (Sp) operated by CADRA (Arg.); Argentina	YES	YES		YES	YES	Conlicencia is a website where a single RRO can gather all its licences on a single platform accessible to users, in order to streamline options to user demands. CADRA is working to implement this platform which will briefly be ready to be used. See further presentation above
CCC Corporate License; CCC (USA); Globally	YES	YES			YES, via multi-national license and bilateral agreements	CCC Corporate Licensing: The license is applied in corporate and non-academic, non-public libraries. Corporations, whether truly multi-national or largely domestic, have a need to share documents cross border, whether for purposes of research collaboration, marketing, or customer support. CCC operates a purely voluntary, license based system which allows the customers to share copyrighted documents in whichever legal jurisdiction the documents are required. CCC does this by securing rights directly from more than 12,000 rightsholders, and licensing those rights to more than 35,000 corporations.
Transactional and Comprehensive licences; DALRO (South Africa (SA)); SA			YES, DD for SACU ⁴			
Developing Country Access; STM (International Association of Scientific, Technical and Medical publishers); Developing countries globally	YES	YES	YES	YES	YES	Research4Life is the central elements in STM's Responsibility programme. It is a partnership of United Nations agencies, leading universities and publishers and technology partner Microsoft for four programs – HINARI, AGORA, OARE and ARDI that make journal articles available for free or at very low cost to institutions in developing countries. STM members and STM as co-ordinator are founding partners and the leading contributors of content to Research4life with over 9,000 journals and over 7,000 books included in the programme. In 2011 alone, there were over 7 million downloads from over 6,000 institutions active in the programme worldwide. (http://www.research4life.org/)

⁴ Southern African Customs Unions: South Africa, Botswana, Lesotho, Namibia, Swaziland

EDUCATION AND RESEARCH						
TOOL NAME/ OFFERED BY/ DEPLOYED IN	ALLOWS					SHORT DESCRIPTION
	REPRODUCTION/ MAKE AVAILABLE/ DISTRIBUTION	REUSE/ SHARING	INTERNAL NETWORK (INTRANET)	VIRTUAL LEARNING ENVIRONMENT (VLE)/ DISTANCE LEARNING	CROSS- BORDER ACCESS/ USE/ DELIVERY	
Consortia; STM (International Association of Scientific, Technical and Medical publishers); Globally	YES	YES	YES	YES	YES	In order to provide efficiencies by centralizing services (e.g. shared library management systems, cataloguing, resources, etc.) and in addition satisfying the rising demand of researchers to have seamless and broad (interdisciplinary) access to scientific information library consortia arose since 1990's. Consortia representative typically handle license negotiations, vetting of legal documents, as well as the financial transactions. Often an appointed consortia representative(s) negotiated on behalf of its participating members, whereby each of the members still retains the freedom of its decision to participate, to add additional content, etc. Size and nature of consortia vary considerably and can range from large national ones (one country or one certain type of research institutions) to small regional ones and even discipline specific ones.
Licences/Tariff; Access Copyright; Canada	YES	YES	YES	YES	YES	Licence/Tariffs in K-12 and Post-Secondary Education, Library and Corporate Sectors allows educators, students and researchers to copy, remix and share content from a vast repertoire of books, magazines, journals and newspapers.

Tool	Repro/MA/D	Reuse/Sh	Intranet	VLE/ DL	Cross-Border	Short description
CLA Blanket Licences; CLA (UK); UK	YES ⁵	YES	YES	YES ⁶	YES	All CLA licences for the education sector cover use of works on internal networks. Students based outside the United Kingdom may have access to the internal networks of an education institute.
CLA University Licences; CLA (UK); UK	YES	YES	YES	YES	YES	CLAs Universities Licence permits students studying overseas for the UK degree qualification to access the institutions VLE and receive the same material a student based in the UK would receive.
CCC MOOC License; CCC (USA); Globally	YES	YES	YES	YES	YES	CCC MOOC License is applied in educational institutions: In many countries, including the United States, colleges and institutions have been experimenting with a variety of forms of distance education, especially the so-called Massive, Open Online Courses (MOOCs). While the institution offering the MOOC may be based in the US, the students can be anywhere. Working with a variety of MOOC platforms and providers, CCC has developed a simple and cost-effective way for students to purchase copyright-compliant course materials. Our solution allows students to purchase all or just some of the copyrighted course content based on their need and session participation.
DALRO Comprehensive licences; DALRO (South Africa (SA)); SA	YES ⁷	YES ⁴	YES	YES (Education)	YES (Making available only on intranets)	

⁵ All CLA licences for the education sector allow up to 5% of a work, or 1 chapter, or 1 article, whichever is the greater to be reproduced; CLA licences do not permit the making available of a work to the general public but are limited to making available via a secure intranet to e.g. the number of students in a class.

⁶ All CLA licences for the education sector cover placing works on secure learning networks such as a VLE.

⁷ Multiple copies to educational course participants, in class or as course packs or e-reserves; single use by affiliated and walk-in library patrons for research of private study (non-commercial)

Tool	Repro/MA/D	Reuse/Sh	Intranet	VLE/ DL	Cross-Border	Short description
Conlicencia; CEDRO (Spain); Globally	YES	YES	YES	YES	YES ⁸	Conlicencia.com is a website where a single RRO (CMO), CEDRO, has gathered all its licences options on a single platform accessible to users, in order to streamline licence options to user demands. It offers a powerful tool that provides useful information about licensing solutions repertoire available. The user may choose from a blanket or repertoire licence from a repertoire of more than 20 million works, with a flat rate and standardised conditions; and easy, accessible transactional case by case licences instantly obtained from a selection of more than 6 million individual works. The platform provides users with information and a click through option to facilitate the decision on the kind of licence that is required. http://conlicencia.com/
Conlicencia; Developer CEDRO (Sp) operated by CADRA (Arg.); Argentina	YES	YES	YES	YES	YES	Conlicencia is a website where a single RRO can gather all its licences on a single platform accessible to users, in order to streamline options to user demands. CADRA is working to implement this platform which will briefly be ready to be used. See further presentation above
Copyright Agency (Australia) blanket and transactional licences	YES	YES	YES	YES	YES	Copyright Agency's licensing arrangements with educational institutions allow all types of reproduction and communication for educational purposes, including making available on learning management systems and other networks for students. The online licensing platform, RightsPortal, allows use of Australian newspaper and journal content in other countries.

⁸ Applies to pay-per-use licences

Tool	Repro/MA/D	Reuse/Sh	Intranet	VLE/ DL	Cross-Border	Short description
<p>CCC TDM; CCC (USA); Globally</p>				<p>YES</p>	<p>YES</p>	<p>CCC Article Access Service for Text and Data Mining (“CCC TDM”): There is a lot of confusion around text and data mining (TDM). Two things are clear about it: (1) users want TDM, and (2) publishers wish to enable it. Enabling effective TDM goes way beyond issues of copyright, and implicates everything from privacy, to data standards, to content security. For users, getting access to normalized cross-publisher content from a single source under one set of terms is highly desired. For publishers, uncontrolled downloading and scraping of content is a major concern, as is addressing every user’s slightly different needs for content use, access and delivery. CCC has been working with global life sciences users and publishers to provide a service that includes both subscribed and unsubscribed content in standard formats, with agreed security, and consistent licensing terms across publishers, for mining by the customer.</p>