

**Changes in Collections during COVID-19: Part 2**  
**Wednesday, July 1, 2020**

**SHIFTS TO ELECTRONIC ACCESS**

*Study Aid and Casebook Platforms*

- Harvard investigated all three of the major platforms for casebooks, but it was cost prohibitive to have all.
- USF indicated that West Academic system only allows students to have the book electronically for one year. They will allow students to purchase the physical book at the end of the year. Lexis provides access for the whole time students have credentials. Vendors are looking at shifting the fee to students, but this is not feasible for many law schools.
- BU received proposals from all the vendors. They were able to negotiate waiving the platform fee. Wolters Kluwer is investigating making single-use casebooks available for libraries. BU is looking to get casebook lists and eBook versions where they can.
- Berkeley has electronic study aids but will not be purchasing casebooks. They are working with faculty to get the information on required and recommended books for the fall to see what they have electronically.
- UNH did analysis of the pricing and it was beyond what a smaller school could provide. They are encouraging faculty to use CALI books where possible and also looking to have faculty identify on their syllabus what cases are being used each week so that the library can pull the cases electronically for students who are unable to get the books.
- Kyle Courtney (Harvard Copyright) pointed out that Open Casebooks <https://opencasebooks.org> (formerly H2O) is available. They are saying that you can potentially scan the TOC and look to see what is in public domain. Nearly all of cases in casebooks available in public domain.
- Maine received an offer from ProQuest for "Unlimited Access at a One-User Price." The publisher list includes Wolters Kluwer and most university presses.
- UC Irvine noted that OA casebooks are currently difficult to sell to faculty who are also working hard to transition to online teaching.

*Duplication of Print Collections to Provide Offsite Access*

- Harvard is searching the reserve list to determine what they can buy electronically. They are also compiling a list of books that are not available digitally to share with publishers. In addition they are buying anything requested if it is available electronically.
- BU is not doing eBook purchasing unless it is requested.
- UC Irvine noted that Oxford is offering affordable "convert print holdings" pricing for OUP titles, so they are looking at their print holdings but recognize it is easier for them because they are only 10 years old.
- Harvard noted that Elgar is doing something similar.
- UCLA is scanning parts of their collection and buying eBooks on demand for faculty even if the book is a part of their collection.

*Working with University Libraries*

- Harvard noted that their eBooks are University-wide.
- Columbia's main library makes all of their resources, including eBooks available to the entire university. They have only encountered issues when the FTE drastically increases the prices.

- UGA patrons have access to campus-wide resources. There have been good offers from some of the publishers like OUP and ProQuest, but the needs seem to be with the casebooks and the study aids instead of traditional monograph eBooks.

#### *Course Reserves*

- UCLA is buying copies of all required course reserves texts for the fall
- Northeastern and UNH will not be doing course reserves for the fall.
- UNH is trying to get as many eBooks as they can while working with the University library. They are waiting on the course list being compiled by the registrar.
- Berkeley has purchased individual books and packages, and they are working on both course and regular reserves. These materials will only be available electronically in the fall.
- FAMU is buying print textbooks for the reserve collection, but also a lendable electronic version if available.

#### *EBook Packages and Approval Plans*

- UGA has a DDA program through GOBI/ProQuest, however they did not have any requests for eBooks in March or April. They anticipate eBook usage dropped because the research was in different areas.
- Columbia has been spending conservatively, but took advantage of the Elgar deal to duplicate print holdings after receiving requests. They did a small selection of titles they had in print for eBooks based on circulation statistics and publication dates.
- At Harvard, most eBooks are from GOBI and require purchasing an unlimited user agreement with titles while they are then forced to purchase another copy through the packages that they would get later on. They would feel more comfortable with getting a one or two user agreement rather than unlimited user. They have been working with OUP to negotiate a discount on titles already owned.
- Columbia has the same issue when they want to purchase single titles, but not the whole package.

#### *Preservation Concerns*

- Harvard is hoping that vendors will keep earlier editions on their platforms. They do not seem to be interested in doing this any longer.
- Harvard noted that publishers now have the opportunity to move to an electronic format, but they are not necessarily interested in preservation.
- BU is interested in working with vendors as a group. MCLE (Mass) has an online platform with current editions, but they have agreed to send print copies of older editions as they publish new versions on their online site. They are hopeful other vendors would consider a similar solution.
- CRIV attempted to discuss preservation with vendors, but there seemed to be a disconnect between what librarians were asking for and how vendors approach preservation.
- Kyle Courtney (Harvard Copyright) noted that this is a mission problem. The publisher's mission is not preservation-based while libraries and archives have that mission in our core principles. This can give us a distinct negotiation advantage in licensing when publishers see preservation as not threatening their business model. Otherwise, vendors don't even save their own back catalog.
  - There is a larger movement with the panic that everything is going electronic, because it is the end of ownership.

- The copyright office suggested that libraries should have a contract-mitigating clause in their contracts.
- This has been done in the UK. Contract preemption clauses (text and data mining) allow libraries to do certain things outside the scope of the contract if they are not focusing on preservation or on the library's mission.
- This is a part of a larger-scale advocacy and law libraries could take the lead.
- UGA asked about the difference in a parallel for libraries turning over collections to places like Google or HathiTrust.
- Kyle Courtney (Harvard Copyright)
  - HathiTrust is a nonprofit that gives electronic files back to libraries providing the physical resources.
  - There should be a localized copy of resources as a part of the licensing agreement. Commercial entities are able to create the digital files, but they must be willing to give libraries a copy back.
- University of California Libraries drafted an open letter to content providers. <https://cdlib.org/services/collections/licensed/projects-pilots-and-studies/open-letter-to-licensed-content-providers/>

## OTHER TOPICS

### *Strategies for Negotiating within the Uncertain Landscape of Budget Cuts*

- Harvard is asking vendors to lower their prices. If they can't lower or stay the same, they are cancelling. They have had some luck with vendors.
- UConn has written justification for the need for the library budget. They have had some success in advocating.
- Columbia had a pause in spending in FY20, but they were able to let administration know that there were subscriptions and standing orders that they were legally obligated to pay. They only had to pause monographic ordering.
- UGA had to explain that they had invoices that must be paid in the 4<sup>th</sup> quarter regardless of freeze because they were already committed to paying them.
- UGA was able to cut some collections spending in order to keep personnel.

### *Bloomberg Law or Wolters Kluwer Cheetah Cancellations*

- Many libraries reported cancelling Cheetah.
  - BU is in the midst of negotiating price cuts and cutting modules. They went through their usage reports and determined much of what was being used was available on Westlaw or freely available elsewhere.
  - UC Irvine is keeping because of the Tax LLM.
  - UGA cut portions of Cheetah because of budget cuts.
  - UNH and Columbia reported struggles with customer service.
  - USF others have experienced access issues.
  - Berkeley cut some Cheetah packages.
  - UCLA is considering cancellation.
- The majority of libraries are keeping Bloomberg for now
  - Northeastern indicated Bloomberg comes up in discussions of what to cut, but no decision has been made.
  - Many libraries indicated cutting Bloomberg is an option that continues to come up.

### *New Lexis Digital E-Books Offering*

- Loyola LA is offering digital version of their print titles. Lexis also indicated that they could also host other digital items from alternate providers on the platform.
- Harvard has had concerns with Lexis because of their use of Overdrive and indicated that they haven't be transparent in pricing.
- One library noted that it was presented as a new platform that was now unlimited users instead of single user.
- UPenn signed a similar offer from Lexis and indicated that they were able to negotiate the platform fee with them in light of the current financial landscape.

### **CONTROLLED DIGITAL LENDING**

#### *Update from Kyle Courtney, Copyright Advisor for Harvard University*

- Wrote a collaborative White Paper on CDL several years ago.  
<https://controldigitalending.org/whitepaper>
- There was a case about used MP3s that recently happened that said that if it was a nonprofit or did not impact the market, that CDL could potentially be allowed.
- They have been working with technology to determine if digital resources could be loaned for short periods in the same way that physical reserves have been doing.
- This idea has received a lot of attention recently because the COVID-19 Pandemic has effectively locked away books. Also, Internet Archive was sued for their Open Libraries initiative. Five major publishers are trying to disband CDL, which is also an attack on libraries having control over their print collections.
  - CDL is using technology to enhance access to materials by mimicking loan rules for print materials. It would prevent the user from downloading or copying to make sure that libraries are not distributing beyond their rights.
- CDL is not proposing putting the whole pdf online, but rather:
  - Hiding print copies from collections or removing them from public shelving and making them not loanable.
  - Loaning digital copies out temporarily to one user at a time.
- About 40 libraries in the US and Canada are doing CDL.
  - HathiTrust is also doing a CDL program with one-hour loans that can be renewed if there is no one waiting.
  - This format is working well for cite checkers.
- Association of Research Libraries & Spark have come onboard with CDL in the last week.
  - This meets the preservation mission as well as greater access to the law.
- Lots of librarians and groups are working on CDL either individually or consortially, but the power is in consortial model.
- Next steps for working on CDL collaboratively and talking points for administration:
  - There is no court case on this currently, so there is no case law.
  - General Counsel's offices are less familiar with the legality of library work. The White Paper (link above) was intended for GC's offices.
  - Kyle has indicated that an executive summary of the paper can be prepared. NELLCO will work to help develop this.
- Technology providers
  - Occam's Reader from Texas Tech <http://occamsreader.org/>
  - SimplyE from New York Public Library <https://www.nypl.org/about-simplye>
  - Adobe Digital Editions

- Materials are returned automatically at the end of the loan or they returned by hitting a button within the program.
- If the technology is in place and working correctly, Kyle does not anticipate that publishers will be able to prove harm.