

ACRL NE

Copyright Workshop:

License negotiation as a means of scholarly
communication transformation

**MIT
Libraries**

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Scholarly communication transformation and library licenses

- Positively influence scholarly communication ecosystem
- Use all levers available to us, including library content licenses
- Serve authors and researchers who do not feel empowered to negotiate on their own

Licensing as lever for change-- examples

- Exploring offsetting strategies as means of transitioning journals to open access
 - Offsetting=combining reading/access and OA publication fees in the same contract
- Emphasizing [TDM rights](#), author rights, reuse rights etc.
 - Automatic deposit into repository; reuse of figures
- Pushing licensing boundaries– to wider circles:
 - e.g. high school program access to JOVE

“we should seek to ensure that access to our resources extends as far to the outer edges as possible so that the experiences of users in the outer circles are as similar to those in the inner circles as possible. We will likely need to restructure agreements that give us access to digital resources by negotiating with content providers” – [Future of Libraries report](#)

Examples of relevant scholarly communication topics for negotiation

- Fair use savings clause
- Scholarly sharing language
- Text and data mining
- Perpetual access
- Walk-in user access
- Privacy protections for user data
- Obligations around user breach
- Authors' rights for reuse / repository sharing rights
- Interlibrary loan
- Reuse rights for MITx classes (MOOCs)
- Course reserves/course packs
- Autodeposit
 - Preferably with SWORD protocol
- OA for campus-authored articles (offsetting)

MIT model language for offsetting Agreements: commitment to transition to full OA

- “The licensor represents that their strategic plan is to transition their entire journal portfolio to a fully open access model. Specifically, licensor represents that the Read & Publish model, with its foundation in **“hybrid” open access** – where some articles are paywalled and others published open access – **is a temporary and transitional business model whose aim is to provide a mechanism to shift over time to full open access publication for all licensor journals. The full transition is expected to occur, depending on adoption of the Read & Publish model by universities, within an estimated time period of 10 years.** The licensor commits to informing the licensee of progress towards this longer-term aim on an annual basis, and to adjusting Read & Publish terms based on its progress towards full open access. If annual progress towards full open access is not made in a given year, pricing terms for Read & Publish terms for the Licensee will not increase. In addition, Licensee will have the option in any year to return to a subscription model at a cost that is mutually understood to restore Licensee’s pricing to a level comparable to the subscription terms for the Licensee’s most recent pricing under a fully subscription contract.”

Actual offsetting agreement language: MIT and Royal Society of Chemistry

- *Publisher represents that the Read & Publish model, with its foundation in “hybrid” open access – where some articles are paywalled and others published open access – is a temporary and transitional business model whose aim is to provide a mechanism to shift over time to full open access. The Publisher commits to informing Customer of progress towards this longer-term aim on an annual basis, and to adjusting Read & Publish terms based on its progress towards full open access.*

Wider access circles

- Walk-in users
- MITx courses
- Alumni
- Local partnerships for community access
- MIT Start-up accelerator

Scholarly Sharing

Scholarly Publishing – MIT Libraries

Home

Open access policies at MIT

Research funder requirements

Copyrig

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<https://authorrights.wordpress.com>

Author Rights Model License Language

Introduction Model Language Instructions for Use (Including Downloads) Working with the Model Language Adapters Related Efforts Background

Model Language

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For the avoidance of doubt, it is the intent of the parties to this agreement that Authors are third party beneficiaries of this provision of the Agreement.

Definitions for some of the terms used in the model license:

Contents: Any version (including the published version) of any work by an author affiliated with Licensee that is published in the Licensed Materials.

Scholarly and educational purposes: Purposes encompassing teaching, research, and institutional needs, including but not limited to the right to (a) use, reproduce, distribute, perform, and display the Content in connection with teaching, conference

Noting that not all agree.....

OAnarchy

Change, when it comes, cracks everything open
Dorothy Allison

HOME ABOUT PUBLICATIONS & RESEARCH

What’s the IR doing in our Taylor & Francis Content License?

1

Text/Data Mining Principles

- Output to be retained through research cycle for publication
- Output to be shared with research collaborators outside the institution
- Sufficient sharing for other researchers to replicate, and for publication of results
- Access to the fulltext with HTML and PDF options
- No added cost
- API must be sufficient

TDM: Libraries as partners in research process

Bibliotech

A biannual newsletter published by the
MIT Libraries

Select issue ▾

Scouring Millions of Papers to Create New Materials

Libraries help make articles accessible for text and data mining

By Hannah Plecuch on June 12, 2018 in *Scholarly communication*



Elsa Olivetti. Photo: Travis Gray.

As a scientist interested in developing sustainable methods to create materials, Elsa Olivetti wanted to data mine decades of scholarly articles to provide researchers what she calls “a toolkit of how materials have been made, to learn how we can improve how they are made or make new materials.”

Olivetti, MIT's Atlantic Richfield Assistant Professor of Energy Studies, and her collaborators built an artificial intelligence natural language processing system that could extract just the information on materials creation that they needed from the literature, capable of scanning far more articles than a human could. The catch? Many of the journals they were interested in were not available for data mining. This is when Olivetti started working with Ellen Finnie, head of Scholarly Communication and Collections Strategy for MIT Libraries.

“MIT researchers have been interested in text and data mining for decades,” Finnie said. “But academic journals and major newspapers are often behind paywalls or available only in formats that prohibit large-scale analysis.”

Model license language for scholarly communications authorized uses

- NERL Model license language:
http://nerl.org/sites/default/files/nerl_docs/NERLModelLicense111412.docx
- Liblicense Model license language:
<http://liblicense.crl.edu/licensing-information/model-license/>
- Author Rights Model License Language: see
<https://authorrights.wordpress.com/>

...see handout

MIT examples: scholarly communications authorized uses

- All commercial publishers and some society publishers: scholarly sharing
 - See: <http://libraries.mit.edu/scholarly/publishing/using-figures-from-major-publishers-in-new-scholarly-articles/>
 - See also discussion in relation to fair use at: <https://fairduty.wordpress.com/2015/09/26/no-permission-needed/>
- Springer: Text/data mining; MITx (MOOCs); scholarly sharing; author rights; automatic deposit of manuscripts
- Wiley (NERL contract): author rights (deposit of manuscripts in repository)
- Elsevier: Text/data mining; scholarly sharing
- Royal Society of Chemistry, ECS Plus: offsetting as transition to full OA

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Copyright Workshop:

Negotiation methods and theory



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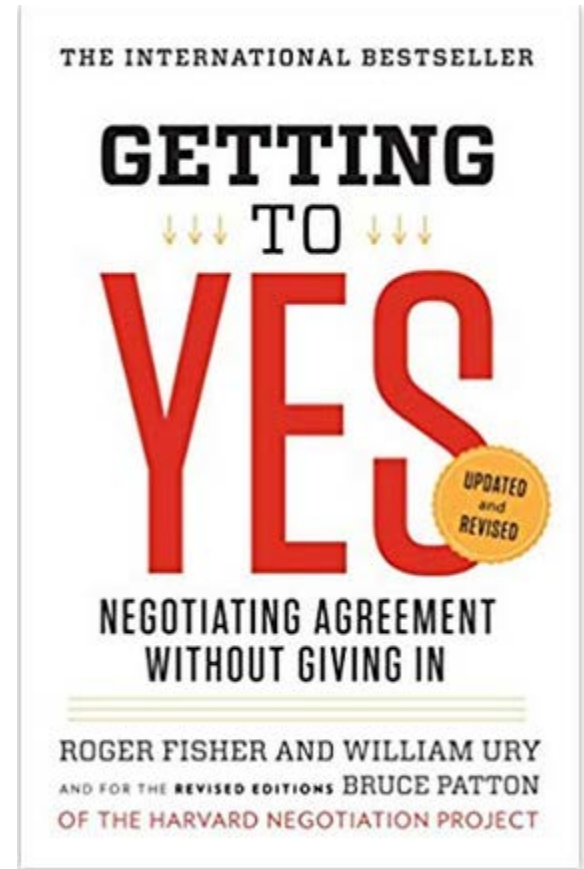
January 10, 2019

Standard ways to negotiate

- People tend to see 2 ways to negotiate:
 - Soft
 - Wants to avoid personal conflict
 - Makes concessions readily
 - Often ends up feeling exploited, bitter
 - Hard
 - Contest of wills
 - Winning by taking more extreme position, holding out longer
 - Often harms relationship
 - Other strategies fall in between
 - All have trade-off: getting what you want and getting along

Negotiation goals

- Produce a wise agreement...
- Efficiently...
- While improving --or not damaging – the relationship



Adapted from: Getting to Yes: Negotiating Agreement Without Giving In, By Roger Fisher, William Ury, and Bruce Patton, 2011 revision. Penguin Books.

Beyond position-based bargaining

- Successively taking and then giving up a sequence of positions
 - Produces unwise outcomes – locks you in
 - Is inefficient – moving from extreme to less extreme, making small concessions
 - Endangers ongoing relationship
 - Being nice (soft) makes you vulnerable to someone taking hard approach
 - Positions often obscure what you really want

Adapted from: Getting to Yes: Negotiating Agreement Without Giving In,
By Roger Fisher, William Ury, and Bruce Patton, 2011 revision. Penguin
Books.


The Alternative: Principled (Interest-based) negotiation

- Hard on the merits; soft on the people
- Separate the people from the problem
- Focus on interests, not positions
 - Avoid having a bottom line
- Invent multiple options – looking for mutual gains
- Use objective standards to evaluate
 - Model language from large associations/organizations offers objective standard

Bringing more to the table

There is limited scope for interest based bargaining if price is the **ONLY** topic

More topics – more possibilities for win/win



Opportunity **“for the parties’ interests to be combined in ways that create joint value or enlarge the pie. Potential for integration only exists when there are multiple issues involved in the negotiation.”**

Interests v. Positions

Interests	Positions	Examples of Solutions to meet mutual interests
<p>Stay within budget; Steward funds responsibly</p>	<p>“We will not accept any multi-year deals”</p> <p>“We will not enter ‘big deals’”</p> <p>“We won’t pay this price increase”</p>	<p>Vendor wants to reserve best terms for cases where there is an ongoing commitment of revenue.</p> <p>Strong & flexible exit clause language may allow for multi-year, big deal where that makes sense for the content.</p> <p>Value-adds such as open access for campus-authored articles, or perpetual access rights at no added cost, could justify increased expenditure, possibly on another fund line</p>
<p>Reduce burdens on researchers</p> <p>Maintain flexibility of fair use in licenses</p>	<p>“We won’t sign a contract that doesn’t mention fair use”</p>	<p>Vendor operates globally and does not want to reference a US legal concept in all contracts.</p> <p>Scholarly sharing language and/or participation in IASTM policy statement on reuse* may achieve comparable goal.</p>

* see: http://www.stm-assoc.org/2008_02_01_Guidelines_for_Quotation_From_Journal_Articles.pdf

Interests v. Positions

Interests	Positions	Examples of Solutions to meet mutual interests
Support international community of learners	“We must have international ILL”	<p>Vendor has document delivery contracts in Europe that would be undermined by ILL language and cause loss of business.</p> <p>Language allowing sharing with academic libraries only, without reference to 108, could be a compromise.</p>
Maximize reach of institution’s research	“There is one way to cooperate with our campus open access policy.”	<p>Vendor is concerned about loss of revenue if papers are shared at time of publication.</p> <p>Autodeposit by publisher after an embargo could be a mutual win. Providing publisher with data on use in repository could be a negotiating point.</p>

Interests v. Positions

Interests	Positions	Examples of Solutions to meet mutual interests
Position ourselves to meet current (and anticipated future) researcher needs	“We must be able to load the content locally when subscribed access ends.”	<p>Vendor not comfortable or technically capable of providing local copies. Vendor has made 3rd party archiving arrangements.</p> <p>Third party archival solution such as PORTICO could be mutually acceptable. Including language within the contract about 3rd party arrangements – not just as a note posted on a website – could be mutually acceptable.</p>

To learn more: Harvard Business School Negotiation Program

"the most aggressive form of negotiation is preparation"—John Dunlap, *negotiator for City of Boston, MIT, UMass*

QUICK NEGOTIATION PREPARATION SHEET

Your ALTERNATIVES (& BATNA)		Estimation of Other Party's ALTERNATIVES (& BATNA)	
Your INTERESTS & PRIORITIES		Estimation of Other Party's INTERESTS & PRIORITIES	
SHARED Interests	OPPOSED Interests	TRADABLE Interests	
Your RESERVATION POINT		Estimation	
Your TARGET POINT		Estimation	
Options Generation			
Fairness Standards & Objectives			
First 180 (Opening Moves)			

AND: Durrant Web-based negotiation course

sarah durrant
lead from within

HOME COURSES & WORKSHOPS COACHING NEGOTIATION SKILLS CONTACT BLOG



Negotiation Skills Online Course

Exercise

- Find a partner
- Select one of the scholarly communication related licensing topics
- One person is a particular publisher; one person is licensing librarian
 - Take time to separately brainstorm mutual interests and likely concerns
- Carry out a principled negotiation
- If time: Select another topic; Reverse roles, and repeat
- Report back – what worked? What didn't? What was hard? What language did you agree on?