

# ECIA THE EUROPEAN COUNCIL FOR INFORMATION ASSOCIATIONS

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## AIDA-ECIA international seminar: Electronic publications. A problem of quality and access.

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### Library consortia in France

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The concept of consortium has been expanding in the United States since the beginning of the 1990's as a way to confront the tremendous increase of subscription costs to electronic journals. This increase was due to monopoly abuse. But the funds of the American library acquisition budgets, although very important, were not forthcoming. They reacted first by buying fewer books, while considering electronic support as a possible solution. But as costs did not decrease, libraries have started merging to be more powerful face to publishers.

Several reasons can be put forward to tackle this topic to-day on the French side.

Because obviously France is lagging behind other countries as regards consortia. We could cite, for instance :

- an infoday on "Electronic Copyright and Digital Licensing" organised by EBLIDA, in November 1998, during which consortia models from various European countries were presented ; France was not mentioned once,
- an article published in the newspaper "Le Monde", in January 1999, on electronic journals. In this outstanding review we learned, among other things, that "*several consortia gathered in 1997, in an international coalition, the "International Coalition of Library Consortia (ICOLC) , (...) which had, in January 1999, 79 members from the United States, an increasing number from the United Kingdom, Germany, The Netherlands, Australia. But as yet, no members from France"*.

But also, and chiefly indeed, because electronic journals management is a topic that concerns information professionals. This issue appeared during talks but also in messages sent on professional mailing lists.

Before tackling the French situation, I would like to mention the consequences on our professions of electronic journals dissemination, which may help to explain the French reticence.

#### Consequences of electronic journals management

The widespread dissemination of electronic journals will lead to the following developments :

- author's right - different from copyright - but both will be excluded by contract law. So, we will no longer be dealing with a right defined by the Intellectual Property Code, in common law, but with a less generalist law. And this may establish inequalities between libraries because from now on, they would be compelled to sign only specific contracts proposed by various publishers or providers. Therefore, information professionals fear they may be subject to price variation ad infinitum ;
- document consultation and not document preservation could become the sole object of negotiations. Rights would no longer be limited to payment at time of purchase but also for each consultation. Therefore libraries, once again, fear financial problems but, more generally, it is society as a whole that will encounter new obstacles to

information and knowledge access;

- furthermore, contracts management will take a growing place in our professions because of the variety of rights they propose and the financial risk and weight they involve. In the medium-term, we can foresee that there would no longer be traditional subscription for a journal preserved in the library premises and used according to library rules. In the future, licensing will be the unique means to manage journals and, for example, we may have only temporary access rights to information owned by other organisations. So, a central aspect of our profession will change. Up until now, we were chiefly services providers ; we will now also become contract managers. We must therefore learn how to negotiate contracts and consider the consortium as a solution to finding a strong negotiating position.

What conclusions can be draw from these remarks ? We foresee a very unstable situation because :

1. there will be individual negotiations that, even if carried out through consortia, will have very different results according to place and time ...
2. it is difficult to foresee precisely which skills will be developed in the future by our professions and chiefly our relationship to related professions, like publishers or administrative staff, ...
3. we are managing virtual products, in urgent need of an in-depth debate about preservation and legal deposit of digital works on an international level.

### **Reasons for French "wait-and-see"**

The consortia, very developed in English-speaking and Nordic countries, have not been adopted in France for several reasons, presented by Jean-Michel Salaün during a recent infoday organised by the ADBS :

1. Political reasons : at first, financial in nature, but also a misapprehension due to an error of analysis that suddenly brought to a halt the very strong political impetus given by the French state, during the 1980's, to bibliographic databases and to the Minitel. In fact, the Minitel matched a very specific economy and, indeed, it represented a very interesting first step. But there were other developments in other countries, towards a wide open network and access, sometimes without any fee, to full text.

2. The professional culture of French librarians who are not trained to be negotiators. On the contrary, this dimension has been integrated for a long time by English-speaking professionals who are used to seeking private funds and who are relatively autonomous in their management. In addition, French publishers did not adapt readily to the new economy, unlike publishers from other countries. That can help explain why both parties have over-reacted recently.

3. The administrative rules governing libraries is also a serious handicap.

- the great number of supervisory authorities in charge of libraries in France (various government departments, various local authorities), makes every amalgamation complicated ;
- the rigid administrative rules imposed on public libraries. A library director is much more a subsidy administrator than a financial manager. Whereas, in case of a public library consortium, we would find several public accountants, each of them with power of signature, who could each interpret a contract in a very different way. Besides, because of present job structure, it is difficult to find staff quickly with skills appropriate to this framework, such as lawyers who can advise or establish these contracts ;
- but, paradoxically, we can find another obstacle in centralisation, a force always present in France, that seeks to create optimal conditions for a homogeneous policy. This culture may also encourage wait-and-see behaviour and block individual initiatives.

4. The Intellectual Property Code that gives priority to author's right as opposed to copyright that gives priority to the document and allows in counterpart "fair use" could be the fourth explanation of the French delay. In a digital environment, the concept of private copy - one of the main exceptions allowed in the French Intellectual Property Code - will disappear. There is no right adapted to library needs in France to-day, but the draft Directive on harmonising copyright in the Information Society could be an interesting opportunity.

### **A new impetus**

But it is possible to profit from 5 :

1. International efforts to bring together the publishing and library communities, such as those of :
  - Stanford University which created "Highwire Press" to assist universities and scholarly societies publish high quality and inexpensive journals on internet,

- the Scholarly Publishing and Academic Resources Coalition (SPARC), associated with the British Royal Society of Chemistry which created electronic journals on chemistry and ecology in direct competition with similar journals published by Elsevier and Kluwer,
- NESLI, an example of a union between libraries and a national government, in this case, the United Kingdom, with the aim to create consortia,
- JSTORE that deals with archiving , ...

but also from some French experiences such as:

- CALLIOPE, a demand-driven digitalisation system developed by the INRIA, ...
  1. The French State's willingness to assist on a national level,
    - with subsidies to various journals. Based to-day solely on scientific criteria, to-morrow economic criteria could be included to facilitate digital publishing,
    - by means of a national thematic experts network for identifying new products, evaluating how they meet user needs, and tracking changes in the technological and legal environment, with the aim of defining homogeneous practices and creating a useful provider-library interface.
  2. "A new legal framework for the information society "
 

The French Prime Minister is open to selective changes to author's right. He recently announced that a debate will be launched in the framework of specialised committees around the concept of collective work, the statute of works created by employees and, more generally, on conditions governing the allocation of rights in a contractual framework.

A French author's right closer to copyright was considered favourable to libraries but, according to us, only if "fair use" allowed on library premises in copyright countries could be granted to French libraries. On the other hand, as law is developing very slowly in this field, I am quite sure that, as in the United States or other countries, solutions will be first found in contractual practices that are more and more common, one of the most famous being in France the contract between the "Syndicat national de l'édition " and the "Bibliothèque de France".

But, as regards the draft directive on the Harmonization of Copyright 11, the list of permitted exceptions is more and more restrictive, we fear - if the wording is not modified - that contracts will be able to override any given exceptions introduced for the benefit of libraries and we are still waiting for the follow-up of the European Parliament's Report on the "Library functions in the Information Society"
  3. The existence of many organisations likely to give rise to and/or create consortia in France :
    - the ABES , INIST, CADIST, CEA, INRIA, Institut Pasteur, ... any of which have the potential for leading a network,
    - but also professional encounter places such as those for :
      - information professionals, like the ABF, ADBU18, .... and ADBS,
      - or scholarly societies, as yet not very active in France, but that could be more aware through the ICSU actions...

### **The first French consortia**

A 1998 government survey 4 found many purchasing groups and co-operation projects linked geographically or by scholastic discipline.

But it is the Common Documentation Service of the Louis Pasteur University in Strasbourg, by leading the way in negotiations with Elsevier, and using the methods developed in the framework of consortia, that in effect created the first library French consortium with the Angers, Aix-Marseille II and Nancy I universities.

Consequently, the documents supply to this university has significantly increased because, according to the contract that was signed for a three-year period, at the beginning of July 1999, each consortium member will also access the titles subscribed by its partners, on digital medium. In all, 300 titles in full text have been added to the already available electronic journals list. These publications from the Elsevier Science Group (Elsevier, Pergamon, North-Holland, Excerpta Medica) are available without passwords in the Louis Pasteur University premises through a unique platform: Science Direct

But Iris Reibel, the director who was responsible for this project, has recognized that this type of contract will involve a substantial change in purchasing policies and will inaugurate new management methods, chiefly as regarding co-decision and inter-library loan.

There are many other projects that soon will be the subject matter of contract.

A new task for professional associations

Contract negotiations and consortia will certainly be the unique means to manage digital information sources. A new information economy and new management methods will predominate. They will create an unstable, disconcerting, even dangerous area. To remedy this problem, professional associations will be entrusted with main tasks related to :

- information :
  - keeping track of information on this topic and organising infodays,
  - formalizing information collected in publications,
  - creating relationship between partners;
  
- training sessions on the following topics :
  - the market awareness, legal knowledge ( author's right and contract law),
  - negotiation skills.

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