Negotiation of E-Resource Licensing & Pricing Terms

Abbie Brown
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Abbie Brown
Head, Consortial Resources
University of Missouri System/MERLIN
brownab@missouri.edu
Overview

- Defining Terms
- Negotiation in Theory
- Negotiation in Practice
- Conclusion
- Q&A
Term Definitions

Terms We’re Using Today

- E-Resources
- Vendors
- Consortia/Consortium
- Licensing
- Pricing
- Negotiation
- Assertiveness
Term: E-Resource

Refers to e-journals, e-books, or databases.

These differ from other library materials:
- The complexity of the licensing agreements
- The need to set up access
- The confusion over pricing models
Term: Vendor

The organization that sells or distributes the e-resource.

Can vary widely in terms of

- Size of organization
- Number of products available
- Popularity of products
- Type of organization
- Sales staff available
In this case, consortia are groups of libraries that form to leverage the buying power of multiple institutions together.

They can also have other goals and purposes, and vary widely in terms of scale and size.
Term: Licensing

The contract you sign to get access to the e-resource, defining the legal relationship between your library and the vendor.
Term: Negotiation

To hold a discussion to reach an agreement on a particular matter.
Term: Assertiveness

The quality of being self-assured and confident without being either aggressive or submissive.
Negotiations in Theory

Styles & Pitfalls
SOFT NEGOTIATION
- The goal is agreement
- Insist on agreement
- People are friends and everyone is trustworthy
- Yield to pressure
- Accept one-sided losses to reach agreement

HARD NEGOTIATION
- The goal is to win
- Insist on your position
- People are adversaries and untrustworthy
- Apply pressure
- Demand one-sided gains as the price of agreement
Principled Negotiation:

- The goal is a wise outcome
- Insist on using objective criteria
- People are problem solvers, independent of trust
- Yield to principle, not pressure; reason and be open to reason
- Invent options for mutual gain
Communication Styles

AGGRESSIVE

- Do not respect personal boundaries
- Can harm others while trying to influence them

PASSIVE

- Do not defend personal boundaries
- Can be manipulated through fear
- Will not risk influencing anyone else
Assertive Communicators:

- Respect the boundaries of others
- Defend themselves from aggressive people
- Overcome the fear of speaking his/her mind or trying to influence others
Assertiveness

An assertive person:
- Focuses on the issue and not the people
- Expresses feelings, thoughts, and desires
- Has control over their anger without repressing anger
- Willing to compromise and cooperate
- Knows their rights
It’s about finding the middle ground:
- A focus on solving the problem
- Feelings and thoughts are not repressed, while boundaries are respected
- Win-win outcomes
- Openness to reason, yielding to principle
Pitfalls in the Process

Stereotypes
Pitfalls: Stereotypes

LIBRARIAN
- Passive
- Soft Negotiator
- Feminine Profession
  Meek, mousy, indecisive. An Easy Mark.

Assertive people may be judged as whiny.
Nice people don’t push.
Sexism & double standards

VENDOR SALES REP
- Aggressive
- Hard Negotiator
- Masculine Profession
  Slick, loud, pushy. A Wolf.

Assertiveness is power.
Assertiveness that borders on aggression is tolerated.
Pitfalls: Stereotypes

LIBRARY
- Poor, pitiful, broke library
- On the side of the angels

VENDOR ORG
- Soulless corporate behemoth
- The Dark Side
The Stereotypes are Wrong

Librarians:
- Diverse in age, gender, and appearance
- Strong, confident, even extroverted
- Knowledgeable & experienced
- Ready to fight for access!

Vendor Reps
- Diverse in age, gender, and appearance
- Possibly former librarian/holds MLS
- Required to do a LOT of travel for the paycheck
- Just as annoyed by policies/politics
The Stereotypes are Wrong

Libraries:
- Not all libraries are alike; some have not suffered the same kind of budget issues
- The rise of e-resources has coincided with the economic crisis

Vendor Orgs
- Many are small, non-profit publishers
- Good discounts to education & libraries
- Library budget woes have a direct result on vendor budgets
And Counterproductive

- Access is the goal for everyone
- A good working relationship is important to both of us:
  - Library world is a small world
  - Librarians depend on good support
  - Vendors want more business in the future, and are concerned about public image
  - Happy vendors can make a process go more smoothly
Assertiveness with Vendors

- Both are part of the solution.
- Clear, concise communications
- Making your case but picking your battles
- Look for mutual gain
- Awareness of the market and the stakeholders
- Confidence will come from experience
Negotiations in Practice

E-resource Processes
Vendor Communications

- Get it in writing
- Retain your records
- Deadlines
- The value of a phone call over email
- Know how to escalate a concern
- Dealbreakers vs. nice-to-have-it
Pricing

- Initial price from vendor
  - Consortial deals
  - Multi-year pricing schedules
  - Procurement requirements (bids & quotes)
  - Talk about it!
    - Your budget
    - The market

- Trials/Start Dates
License Agreements

You and Your Lawyers

- Your lawyer may not be aware of or looking for library-related issues
- That’s why the librarian’s review is also important
License Agreements

Resources

- CRL (Center for Research Libraries) LIBLICENCE Project (liblicense.crl.edu)
  - Lots of info, including the draft model license!
  - LIBLICENCE-L listserv
- CDL (California Digital Library) at cdlib.org
  - Licensing Toolkit and License Agreement Checklist
- SERU (Shared Electronic Resource Understanding)
  - niso.org/workrooms/seru
License Agreements

Create a Resource: Your Existing Licenses

- Review and compare between licenses on the same issues to see how differently clauses can be worded
- Always compare new licenses with the old licenses from the same vendor
License Agreements

Create a Resource: Make a Checklist

- Ongoing issues (for me): Walk-in access, ILL use (print & electronic), coursepacks, e-reserves, Fair Use, indemnification, governing laws, etc.

- Other possible issues: Text/data mining, use in MOOCs, access through discovery services, etc.
Communicating Changes to the Vendor:

- Negotiate with a licensing expert who sees the value of your business
- Work only in writing
  - Ask for an editable version of the license, then track changes
  - Point out your changes bullet-by-bullet with justifications
Price Negotiation

Negotiating the Price

• Don’t be afraid to ask.
• “I am asking you for a consideration on the price.”
• Creative solutions: multi-year pricing deals
• Justify it with facts and figures.
• Be clear about your budget situation.
• Use trends: usage and price increases
• Know your vendor!
  • Some vendors just won’t budge
  • But you really never know unless you ask.
License Agreements

Dealbreakers:
If it comes to it, the vendor organization should be aware that you’re ready to walk over licensing language.
Renewals

- Start early
- Price
  - Compare & track trends
  - Asking for a price decrease
  - Do you have options?
  - Don’t forget multi-year pricing or consortial deals.
- Annual addenda/appendices requiring signatures
Other Negotiation

- With your selectors or faculty
- With your organization’s accounting or procurement groups
Conclusion

- Huge topic
- More resources: workshops, books, articles

Experience will lead to confidence!
Ask Me Now or Later

Abbie Brown
brownab@missouri.edu

Resources Mentioned:
- CRL/LIBLICENSE: liblicense.crl.edu
- CDL website: cdlib.org
- SERU: niso.org/workrooms/seru
- Getting to Yes, book by Roger Fisher & William Ury