Unlike their print counterparts, electronic resources often have licenses or term and conditions that subscribers accept, sometimes without knowing, that bear on interlibrary loan. For print resources, restrictions on the reproduction for the purpose of ILL are only imposed by copyright law and the guidelines developed by the National Commission on New Technological Uses of Copyrighted Works (CONTU Guidelines).

http://www.cni.org/docs/infopols/CONTU.html

The IDS Project began its license research project in June 2005 because ILL staff were not comfortable sharing articles from electronic journals without knowing the terms of license agreements their library might have accepted during the subscription process. About the same time, the Project also realized there was no effective method to know the electronic journal holdings of other libraries.
To respond to these challenges, the Project’s systems administrator developed the eJournal Availability Server. This Z39.50 catalog combined holdings data captured from the SFX knowledge bases of Project libraries with ILL relevant information found in the licenses of SFX “target” database providers.
The Licensing database developed in this process has more recently become a component of ALIAS, the Article License Information Availability Service, which was developed in partnership with Atlas Systems to enhance the ejournal availability service with much needed automation. ALIAS streamlines the interlibrary loan process and can reduce article processing time by 10-20 hours per request.

http://sjfc.edu/library/news-detail.dot?id=115174
Initially, library staff at SUNY Geneseo began searching target publishers’ websites for their standard site licenses. These were examined to determine what they said regarding ILL and were coded as ILL OK, ILL restricted (i.e., send print only), and no ILL. Codes for these were entered into a Microsoft Access database as Y, P, and N, along with the URL where the license could be found, date checked and name of checker.
In 2007, most of the IDS Project libraries switched link resolvers from Ex Libris’s SFX to Serials Solutions’ 360 Link. Integrating the Serials Solutions databases with SFX targets led to over 2,000 providers (many were duplicates) needing initial investigation or re-checking. More Geneseo staff, and then staff at other libraries, were enlisted to help. By 2009, eleven librarians at six colleges were working on the checking and updates. The Project created a Web interface to the Licensing database and held several webinars to support this group of volunteers. Each librarian was asked to check 200 targets as they appeared alphabetically in the database. (Some librarians recruited someone else to work with them on their targets.) At the end of this update cycle, the volunteers reported an average time of about 15 hours to complete checking 200 targets, or almost five minutes for each.
Web form in edit mode.
The goal for these librarians (naturally, when building a “Licensing database”) is to find a license at the publisher’s website, and often they do. Sometimes, however, an FAQ or a newsletter column provides ILL information to rely on. For example, in the April 2007 issue of Elsevier’s “Library Connect” newsletter, Helen Gainford of Elsevier’s Global Rights Department answered this question:

Q: Is email transmission an option for sending ScienceDirect articles that have been requested by interlibrary loan?

http://libraryconnect.elsevier.com/lcn/0502/lcn050204.html#RightsSpot
At other sites, there are “Terms and Conditions” that outline the publisher’s policy. The OECD states on its “For Librarians” page, “We prefer to provide access subject to some simple Terms and Conditions, rather than by a formal licence agreement.”

http://lysander.sourceoecd.org/vl=20662473/cl=18/nw=1/rpsv/librarian/librarian.htm
These terms state that, “For Academic and Not-For-Profit Organisations only, Inter-Library Loan, performed electronically, may also be made solely on a non-commercial one-off basis.”

http://lysander.sourceoecd.org/upload/tandc01aug08.pdf
codes used to describe licenses

- [Y]ILL OK with no restrictions
- [YNP] Restricted to non-profit or non-commercial borrowers
- [PE & PENP] Restriction on direct delivery of electronic version
- [P & PNP] Restricted to delivery of a printed version only
- [N] ILL prohibited
- [S] The license is silent regarding ILL

Finding license information for each resource or database involves first determining the provider or publisher, perhaps through a Google search, and then searching for a license on the publisher’s website. (Beginning in fall 2009, downloads of IDS members’ Serials Solutions knowledge bases included a field for ‘provider,’ so this made the investigation process much easier, and less ambiguous in cases where several providers might host a given database or journal.) When site licenses are found, they most likely are one of eight types. Often the language, from publisher to publisher, used in these licenses is so similar that it is clear they must be derived from a common source.

As the license research project matured, and more eyes began looking at the licenses, it became necessary to use additional codes to describe licenses, as listed.
In 2008, the IDS Project team decided to add a field to the licensing database to register permission for international lending. This field is coded as Y, N, or S, with S and Y being functionally equivalent.
The Institute of Electrical and Electronics Engineers ("IEEE") uses a license that restricts lending to libraries in a different country.

4. Authorized Uses

**Display:** Licensee and Authorized Users have the right to electronically display the Licensed Materials.

**Digitally Copy:** Authorized Users may download and digitally copy portions of the Licensed Materials for personal use only, except that downloading of entire issues of any of the AACR journals is not permitted.

**Print Copy:** Authorized Users may print portions of the Licensed Materials for personal use only, except that printing of entire issues of any of the AACR journals is not permitted.

**Interlibrary Loan:** Licensee may fulfill requests from other institutions for interlibrary loan in compliance with Section 108 of the U.S. Copyright Law, “Limitations on Exclusive Rights: Reproduction by Libraries and Archives.”

The American Association for Cancer Research (AACR) license is an example of ILL permitted with no restrictions.

http://www.aacr.org/pdf_files/AACR_Site_License_Agreement.pdf
The license agreement of Consortium Érudit is an example of “ILL OK,” but only for non-commercial use [YNP].

http://www.erudit.org/documentation/eruditUserLicence.pdf
The “License and Service Agreement” of Annual Reviews, a nonprofit 501 [c]3, restricts direct delivery of the electronic version.

The Copyright Policy V.4 of the ACM Digital Library Core Package shows an example of “ILL OK, Print only.” [P]

http://www.acm.org/publications/policies/copyright_policy#PEducation
Determining that a license prohibits ILL is probably the most difficult interpretation to make. Often licenses seem to preclude many forms of reproduction and distribution, but copyright law may still protect ILL. However, some publishers’ terms and conditions, such as those of World Scientific Publishing, seem specifically to prohibit ILL [N].

http://www.worldscinet.com/terms_and_conditions.shtml

A publisher is coded as silent [S] when the license found has no terms relating to ILL, or when no license or other information pertaining to ILL is available.
A growing number of publishers, libraries, and consortia have signed on to the Shared E-Resource Understanding (SERU) from NISO (National Information Standards Organization). The SERU Registry now includes over 35 publishers and content providers, including Taylor & Francis Group, The Berkeley Electronic Press, and Springer Science+Business Media. The latter states in the Registry that, “SERU will be used for all Springer online reference works, and may additionally be used for all other Springer online publications which both the client and Springer agree that a bilateral license is not necessary. This includes online journals, archives, books, book series, protocols, and other online products that may be developed.”

http://www.niso.org/workrooms/seru/
http://www.niso.org/workrooms/seru/registry/
http://www.niso.org/workrooms/seru/registry/#publishers
Regarding ILL, the SERU stipulates as shown.

Subject: Re: use of your online journals for interlibrary loan?
Date: Mon, 23 Apr 2007 17:40:10 +0100
From: <bill@multi-science.co.uk>
To: Paul MacLean <maclean@geneseo.edu>

Paul, at present it is not our policy that online journals may be used for interlibrary loan.
Best wishes
W. Hughes
Director
Multi-Science Publishing Co Ltd

----- Original Message ----- 
From: "Paul MacLean" <maclean@geneseo.edu>
To: <mscience@globalnet.co.uk>
Sent: Monday, April 23, 2007 5:20 PM
Subject: use of your online journals for interlibrary loan?

> Is a library that subscribes to one of your online journals permitted to use it for interlibrary loan?
> Thank you for your help.
> 
> Paul MacLean

In many cases, librarians do not discover any license or other reliable information. In these cases, they email the publisher. Often a publisher responds by quoting the relevant section of their standard license, by attaching or sending a link to the license, or by just stating the policy.
Subject: RE: interlibrary loan
Date: Thu, 26 Apr 2007 15:35:40 -0700
From: Susan McDonald <mcdonald@meteoritics.org>
Organization: Meteoritics & Planetary Science
To: 'Paul MacLean' <maclean@geneseo.edu>

Dear Paul,

Our Editor-in-Chief, Dr. Timothy Jull has informed us that we do not have a policy regarding Interlibrary loans. We have no policy preventing or prohibiting it.

Please let me know if you have any additional questions.

Thank you very much, and kind regards.

Susan McDonald
Meteoritics & Planetary Science
mcdonald@meteoritics.org

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Or the lack of any. Often publishers do not respond.
Email asking about guidelines from other publishers (Lawrence & Wishart):

vanna derosas wrote:

dear Justina
thank you for your email. i am in charge of permissions at Lawrence and Wishart and your email was forwarded to me recently.
i am sorry i cannot be of much help. i looked at our agreement with Ingenta but i can't find anything about inter-library loans. from the questions you ask it seems other publishers do have guidelines.
would you be able to give some indications of what these are? perhaps we could also make use of them.
i look forward to your reply
very best wishes
vanna

Occasionally publishers asked either for suggestions or if we could point them to appropriate language on ILL for their license agreements.
Hi Vanna,
Thanks so much for getting back to me on this. Most publishers do have guidelines, but in general are pretty supportive of fair use. Most allow ILL--some require that they be print only (fax, mail or via Ariel) and some allow both print or electronic. Some publishers also have a minimum on the number of articles that can be loaned from any given journal over the course of a year. In the few cases that I’ve come across, that number is usually 5.

Below are some of the site license agreements that cover the treatment of loans to other libraries:
http://www.proquest.com/legal/terms_conditions.shtml (Permitted Uses 5.e.)
http://www.tandf.co.uk/journals/pdf/terms.pdf (section 4.1)
http://www.csa.com/csaillumina/BioOneSubLic9-1-06CSA.doc (section 3.1.5)
http://www.oxfordjournals.org/help/instsitelicence.pdf (section 2.4)
http://www.blackwellpublishing.com/pdf/Site_License.PDF (section 3.1.6)

I hope this helps. If you do adopt a policy, I’d love to hear back from you. We maintain a database to keep track of who does/doesn’t allow ILL so that we’re in compliance with each publisher’s guidelines.

Thanks,
Justina M. Elmore
Reference Instruction Librarian
Milne Library, SUNY Geneseo

We had no established response to these queries.
How should the Project respond to these requests? Not wanting to foster publishers' perceptions that the library community expects a negotiated license for all electronic products, a first option might be to refer publishers to NISO’s SERU (Shared E-Resource Understanding) and the working group trying to provide an alternative to continued proliferation of license agreements.

Another option is the Liblicense Model License Agreement (“LMLA”) developed and sponsored by the Council on Library and Information Resources, the Digital Library Federation, and Yale University Library. Version 3.0 (May 2008) of this model states as shown.

http://www.library.yale.edu/~llicense/index.shtml
http://www.library.yale.edu/~llicense/standlicagree.1st.html
A third option is LicensingModels.org, which maintains model standard licenses for use by publishers, librarians and subscription agents for electronic resources. These are now maintained by John Cox Associates Ltd, an international publishing consultant, but were originally developed beginning in 1999 in co-operation with three major subscription agents: EBSCO, Harrassowitz, and Swets.
The version 4.0 (October 6, 2009) model presents the following ILL options for single academic institutions.

http://www.licensingmodels.org/SingleAcademicInstitutionLicense.html
What is the result of this licensing research in terms of the impact of electronic resource licenses on Interlibrary Loan? Compilations of the data at several times since the research began show fewer than 15 percent of publishers do not permit ILL. The November 2009 breakdown is shown.

About 27% of licenses restrict lending to libraries in a different country.
Which code would you use?

**SCIENCE ONLINE PUBLICATIONS INSTITUTIONAL SITEWIDE SUBSCRIPTION AGREEMENT**

AAAS permits Inter Library Loan (ILL) of articles or components of the Licensed Materials for noncommercial use in compliance with Section 108 of the United States Copyright Law (17 USC108, "limitations on exclusive rights: Reproduction by libraries and archives") and clause 3 for the Guidelines for the Proviso of Subsection 108(g)(2) prepared by the National Commission on New Technological Uses of Copyrighted Works. Additionally, Licensee’s institution may use Science Online to supply single copies of articles to a requesting library by electronic transmission for ILL purposes as described above provided the requesting library is instructed to delete the electronic file immediately after printing and provided the end user receives a print copy and not an electronic copy.

Are there errors in the compilation of this data? Of course; whenever different people read a range of language written in legalese, they may arrive at different interpretations as to which code to use for any given license. Do the codes adopted by the IDS Project to date adequately reflect all the licenses used? As a final example, which code would you use for the following American Association for the Advancement of Science (AAAS) license?

http://www.sciencemag.org/subscriptions/inst_terms_unlimited.dtl