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Review of *Interpreting and Negotiating Licensing Agreements* by Arlene Bielefield and Lawrence Cheeseman

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Book Reviews



Bielefield, Arlene, and Lawrence Cheeseman. *Interpreting and Negotiating Licensing Agreements: A Guidebook for the Library, Research, and Teaching Professions.* New York: Neal-Schuman, 1999. 162p. \$55 (ISBN 1-55570-324-0). LC 98-55929.

As libraries have increasingly added electronic product subscriptions to their holdings, librarians have had to deal with license contracts filled with myriad provisions about ownership, access, liability, warranty and governing law, often expressed in legal terms that are arcane or deceptively straightforward sounding. As a measure of how complex the issues revolving around the licensing of electronic resources are, an editorial writer recently contrasted them to the “fairly clear” copyright rules governing traditional print materials!

Arlene Bielefield and Lawrence Cheeseman offer a primer on reviewing and negotiating licenses that should help newcomers to this area avoid the worst potential mistakes, such as sacrificing fair use rights and committing one’s library to terms that governing authorities cannot accept. Their primary aims are to help nonlawyers who deal with license contracts to “(1) understand their intent and terminology, (2) realize that licenses can be adjusted or amended, and (3) recognize the red flags they sometimes contain.” This monograph is the latest in a series about legal issues in libraries that the authors have written since 1993 for Neal-Schuman; previous entries include *Libraries and Copyright Law*, *Library Patrons and the Law*, and *Technology and Copyright Law: A Guidebook for the Library, Research, and Teaching Professions*. Their credentials are strong: Bielefield, a faculty member at Southern Connecticut State University’s library school, holds a Juris Doctor; and Cheeseman has been a law librarian for three decades.

The authors have divided the book into five chapters, with three appendices, an excellent glossary, and a thorough index. The first chapter introduces the reader to basic contract law terms and concepts, the second chapter classifies the various kinds of licenses, and the third chapter discusses the most common license clauses and their potential pitfalls. Chapter four reviews relevant copyright law and advises on means to avoid sacrificing user rights, and the final chapter offers suggestions for negotiating changes to the licenses drafted by vendors. Throughout their discussions, Bielefield and Cheeseman do a good job of referring the reader to related information in other sections of the book. This practice, along with the index, table of contents, and an explanation of the book’s layout in the preface, makes the book a quick reference source.

The third chapter, “What Do Licensing Agreements Really Mean,” is the heart of the book. In it, the authors present in one column an example of a clause often found in standard vendor contracts, then analyze the meaning of the clause in the second column, and finally caution against possible consequences that would follow if the clauses are accepted as stated. This method of presentation works very well and is easy to follow.

Moreover, the authors do an excellent job of explaining the issues in a clear and concise manner, and the sound advice they offer librarians is consistent with that given in recent workshops sponsored by the Association of Research Libraries and in exchanges found in the electronic discussion group LIBLICENSE-L. Although it would be very difficult to cover all possible clauses and terms that might be raised in a license, Bielefield and Cheeseman have dealt with the most common and, arguably, the most important. The only matter I consider an

oversight has to do with their failure to examine the legal distinction between “best effort” and “reasonable effort.” The former commits a library to meeting certain requirements regardless of financial considerations, whereas the latter may be ambiguous as the authors claim but thus has the advantage of not having a strict legal definition with major budgetary implications.

The appendices are especially useful. Appendix A is a list of questions that should be asked about every license agreement. Are the parties correctly identified? Are authorized users identified appropriately? Are fair use and copyright privileges intact? And so forth. Considered without the analyses offered in the book, the answers to these questions will not by themselves guide someone as to how to respond to the proposed terms. But armed with the knowledge gained in the first four chapters, the checklist ensures a thorough review of the most salient issues involved in a license agreement. Appendix B provides excerpts from the Digital Millennium Copyright Act of 1998 that apply to libraries and archives, and Appendix C offers a philosophical view: the International Coalition of Library Consortia’s “Statement of Current Perspective and Preferred Practices for the Selection and Purchase of Electronic Information.”

Readers of this book will not be prepared to understand every possible clause that might be found in a license agreement—this is not the authors’ intention. But they will achieve the authors’ three goals as stated above. The book brings together the most relevant information, and organizes and explains it very well. The price seems a bit stiff for a slim paperback, but it is a great place for a novice to begin navigating through the licensing thickets.—*W. Bede Mitchell, Georgia Southern University.*

Crawford, Walt. *Being Analog: Creating Tomorrow’s Libraries.* Chicago: ALA, 1999. 245p. \$35 (ISBN 0838907547). LC 98-40764.

Walt Crawford works at The Research Libraries Group Inc., and has published numerous books and articles on libraries, technology, and personal computing. *Being Analog* is an excellent addition to this corpus. In this book, Crawford continues his examination of favorite themes, including the future library, the role technology will play in that future, and why we will still need to be aware of our patrons’ needs, both analog and digital. The book is arranged in four sections: Being Analog, Libraries and Librarians, Resources and Users, and Creating Tomorrow’s Libraries. Each chapter in the book is designed to make library professionals think about libraries, the types of materials libraries house, and how the materials affect the ways we serve our patrons.

Crawford critically examines the assumption that, in the future, all print media will be replaced by digital products. (He points to the current growth of the print industry as one reason why this all-digital future will not happen.) The libraries of the future will most likely be composed not only of bits, bytes, and data streams, but also of a combination of digital and analog media. Crawford’s words of advice to those who see an all-digital future as the end of librarianship are: “Calm Down. Plan your future. The revolution has either been postponed or abandoned.” It is important to point out that Crawford is not antitechnology but, rather, believes that technology as well as many other types of media will have their place in the library of the future.

A key player in the library of the future, as in the past, will be the user. As Crawford puts it: “Tomorrow’s librarians must continue to pay attention to the most important aspect of library service: people.” Without the user, there would be no reason for the library’s continued existence. And users are unique individuals who have different needs and different preferences.

Crawford wants us to be aware that the library of the future is a complex and intricate place. Now more than ever before,