TWO CD-ROM PRICING ISSUES

By Michael E.D. Koenig

Abstract: Two major pricing issues related to CD-ROMs are discussed: lapsing ownership and metered pricing. Lapsing ownership is a real concern to librarians, and it does not really benefit the producers, rather it creates customer ill-will. Producers have adequate alternative protection, and libraries should make their opposition known. Metered pricing for CD-ROMs is a phenomenon that will happen in some cases, but the author feels that it is not likely to have a major input in the library field.

1. Introduction

There are a number of issues affecting the pricing of CD-ROM technologies, but two ofthem are both contentious and could potentially have a serious impact upon the field. Their resolution at the moment is not clear. Since CD-ROM technology holds great potential for library service, and it is particularly attractive in the context of the less well developed countries (Beaumont & Balson 1988; Brito 1989), it is therefore important that the field address these potential issues early on. The two concerns are lapsing ownership and metered pricing.

2. Lapsing ownership

The more widely articulated of these two concerns, at least for the moment, is the concern that might best be described as lapsing ownership - a phase that this author has not seen in the literature but one that is brief and descriptive. The concern is that CD-ROMs are typically leased for a fixed period of time rather than purchased outright, and if the lease is not renewed, the typical lease requires that no further use be made of the product. This is in market contrast to the purchase of traditional print-on-paper information where one essentially acquires perpetual ownership, through of course subject to copyright laws and concomitant restrictions on copying or duplicating. The buyer is required to pay no annual fee to use the material, no matter where it is purchased, and there is no obligation to

Reprinted from Learned Information's journal "Online & CD ROM Review" vol. 17 (1993) no. 6, with the kind permission of the author and the Editorial Director of the above mentioned journal.

return the back issues if the buyer decides to cancel the subscription, nor is there any prohibition of resale.

Most CD-ROM products, by contrast, are set up as subscription services with regular updates and annual fees. The vast majority of these subscription type CD ROM agreements include phraseology which prohibits any use of the product, including old discs, after the subscription has expired. Most agreements also require the subscriber to return or destroy all copies of the compact discs and the software upon termination of the agreement or lease. These requirements have been a matter of great concern to librarians (Jensen 1991). Most librarians would admit that the situation seldom arises in which lapsing ownership is in fact a problem, but even so the principle bothers them. Most librarians see themselves as deploying their resources to build a permanent collection, not simply deploying resources now to provide services now or in the very near future. The latter concept is taken for granted in the corporate library and information world but it is generally alien to librarians from the not-for-profit community.

It is interesting to note that this desire to shift the method of acquisition of library reference tools from straight purchase to a lease with lapsing ownership is not novel with CD-ROMs, or even new with electronic delivery of information, but rather it began as far back as microform technology. For example, the Chemical Abstracts Service (CAS) of the American Chemical Society, which has always sold its print services as straight purchase, chose to lease its microform version of the Chemical Abstracts database with the stipulation that if the lease was cancelled, all previously acquired material became the property of CAS and was to be returned. The author knows of several cases where a library did in fact subscribe for a period and then cancel its subscription (usually because the microfilm version had been seen 'bought' to provide better simultaneous access to the database and relieve congestion at the printed Chemical Abstracts, only to find that the users avoided the cumbersome microfilm version; if they found the print version too occupied, they simply left and returned later rather than use the microfilm). In none of these cases did the library in fact return the microfilm to CAS, nor did CAS ever ask for it.

The use of CAS microform policy is an illuminating example. CAS admits that the policy created customer ill-will. This policy was nominally maintained, if not enforced, from the early 1960s until quite recently. Apparently the policy was created because CAS felt that while the copyright law was adequate to protect them from wholesale copying of the print product, they needed additional protection for the microform product. The reason given to the customers for adopting the policy was as a protection against the user subscribing for a year, copying the

database and then not resubscribing. The policy was abandoned recently because it was clear that if someone were to copy the database, it would be from an electronic version - online or CD-ROM - and not from the microform version, and that the only contribution the stipulation was now making was to annoy customers.

Clearly, CAS would have been better served by a straightforward stipulation in the lease agreement that the database not be copied. The issues are essentially the same for CD-ROM databases.The database owners would be better served by a signed agreement as part of the lease that the database not be copied. The database creator does have a legitimate concern that last year's copy not substitute for what would have been a second sale, but that is typically not an item of contention; the user does not object to returning the old CD-ROM after the new one has arrived, but rather to the lapsing of ownership if the subscription is cancelled. The database creator does have another legitimate concern that a database user not merely subscribe occasionally - for example, only on alternate years. That concern could be addressed by vesting: that is, a clause that the user's ownership rights are vested after (i.e. do not commence until) a certain number of years, perhaps three years, has passed. Thus, if a library, cancelled after having subscribed for three or more years, it could retain the database, subject of course to the other clauses of the lease which stipulate that it not copy the database.

There is certainly evidence that liberal policies do not harm the publisher. The H.W. Wilson Company, for example, not only does not insist on lapsing ownership, but it also lets customers keep their old discs. Wilson has concluded that this has not injured it in any fashion, and this policy has certainly earned it kudos and renewed loyalty among customers who had grown somewhat disaffected at their slowness in automating.

Librarians should at the same time realise that a 'standard' contract is often negotiable. If a library is concerned about losing ownership, it can strike out the offending line in the lease and substitute something else, perhaps vesting ownership and a commitment not to copy. Database creators are far more flexible in these matters than they would have customers believe. It is much simpler for the database creator or vendor if everyone agrees to their standard contract, but a reasonable modification will often be accepted rather than forefo a sale. Librarians and information officers should not be reluctant to request changes. They have nothing to lose and everthing to gain.

The concern of lapsing ownership is to a large extent something which should ultimately not remain a major issue. At base is the reality that most of the CD ROM products for which librarians are concerned about lapsing ownership are, at

this point at least, products for which the half-line of information is relatively brief, and consequently old discs and the information on them is not likely to be of great value.

For the distributors or producers to insist that ownership of the discs lapses if the subscription is not maintained is, in most cases, pointless; benefiting the producer nothing, unlikely to be enforced and creating only ill-will. The procucer can be quite adequately protected by all of the other constraints against resale, copying, etc. contained in a typical lease.

3. Will there soon be a meter running?

Probably the aspect of CD ROM that the library community finds most attractive is that the meter is not running when the user searches; that is, CD-ROMs are priced on the basis of a known and predictable annual fee schedule that is independent of the amount of usage. This makes the system much less threatening to the user, and even if the search software is precisely the same as the online version, the CD-ROM version is thereby in reality much more userfriendly. From the librarian's selfish point of view, however, the user-friendliness of CD-ROMs resides in how much easier it is to budget for CD-ROM than it is for online and how much easier it is to gain approval for the predictable budgetary expenses of CD-ROM that are guaranteed to contain no nasty surprises. This is in sharp contrast to the paradox of online databases, where the more popular a product proves to be, the more difficult, complex and painful the library's budgeting and political maneuvering are apt to become.

From this viewpoint, a serious concern is the possibility that CD-ROMs can easily be made to behave like online databases and meter the behavior of institutions, departments or individuals for subsequent billing. A metering system can easily be built into a CD-ROM and the meter monitored when the old CD-ROM is returned, or in some cases the meter could be queried remotely. Some persons in the information industry have argued that the development and application of this capability is vital to the growth of the CD-ROM industry (Shear 1992). This prospect sends a chill down the spine of most librarians.

How likely is this scenario? The bad news is that this capability is being developed and will almost certainly be used. At least two companies, National Semiconductor Corporation and Wave Systems Corporation (formerly Cryptologics International Inc.), have recently publicly or semi-publicly announced such systems. The Wave system is in beta test (Clark & Siegmann 1992) and Wave has stated that 'commercial introduction of the Wave System is planned for early 1994' (Wave Systems Corporation 1993). Wave Systems has li-

censed National Semiconductor Corporation to manufacture the metering chip. Interestingly, National Semiconductor is promoting a system, presumably the same, as Opener, and is soliciting business from information publishers. It is promising that 'a substantial number of partners will be with us at a formal announcement of the technology in early 1994' (National Semiconductor Corporation 1993).

The good news is that metering will by no means be universal, and that it may to some degree be an interim technology. There is no question that there are sensitive high value information applications for which the database creator legitimately desires such a degree of control. Typically, however, these are applications (for example, sensitive market analyses) for which there is a great deal of time sensitivity and for which the logical host would be an online system. The logical future for such data is online systems utilizing public key encryption. The union of networks, for example the Internet, with such encryption technology is a very compley issue whose resolutions will take time, however. Part of the problem is the loose and relatively unstructured governance of the Internet and its tradition of open access, and another major part of the problem is the concern of governmental agencies about the use of encryption and the impact of that encryption upon the ability of national security administration to monitor communications. Needsless to say, this becomes a complex issue of transborder dataflow and the complexity probably means that no resolution is imminent.

In the meantime, the use of CD-ROMs with metering, probably including less sophisticated encryption of those meters, will provide a viable alternative with an acceptable (if not quite so adequate) degree of control. The librarians most likely to be affected by those developments are corporate librarians, the typical users of that sort of sensitive data. Public, school and academic librarians are likely to be relatively unaffected.

Most vendors are now aware of how attractive the 'all you can eat for a fixed price' method of pricing is to the community of library users (Erkkila 1991). To illustrate that advantage, let us imagine a scenario in which the librarian has two choices:

1) Provide access to a database on a metered basis. The librarian's estimate (and let us assume that this is fairly accurate and reliable, and that the librarian knows it) is that there is:

   - a 40% probability that the year's use will be $ 7000;
   - a 40% probability that the year's use will be $ 10 000;

- a 20% probability that the year's use will be $ 15 000.

2) A fixed price of $ 10 000 for the year, regardless of usage.

In the first case, the best estimate - the 'expected value' of the price to be paid to the vendor - is:

40%	x	$ 7 000	=	$ 2800
40%	x	$ 10 000	=	$ 4000
20%	x	$ 15 000	=	$ 3000
				$ 9800

In the second case, the price is a simple fixed $ 10 000.

Let us also assume that the amount that the librarian can succeed in putting in the budget is $ 10 000.

The vendor would clearly prefer the latter case (on average the vendor will receive $ 200 more per customer) and the typical librarian would probably prefer it as well, as the expected saving ($ 200) is fairly small while the 20% chance of being well over budget is a major political liability. The vendors are aware that fixed pricing, if instituted and structured carefully, is in their interest. What is necessary to structure fixed pricing carefully is a set of tiers; that is, smaller but fixed prices for smaller institutions and larger but still fixed prices for larger institutions. Indeed, the attractiveness of the fixed price method is sufficiently strong that in the aggregate there will probably be as many online services adopting some version of a fixed price scheme, as for example OCLC has done for some of its services recently, as there are CD-ROM products adopting metered pricing. Many librarians in fact credit CD-ROM with both making vendors aware of the attractiveness of fixed prices and of compelling the online vendors to rethink their pricing practices (Quint 1989).

4. Summary

In summary, there are two contentious issues related to CD-ROM pricing. For both of these issues, lapsing ownership and metered pricing, the issues may loom larger than is warranted, but in both cases it behoves librarians to be aware of the issue and to make their preferences known.

References

Beaumont, J. and D. Balson (1988) CD-ROM technology use in devloping countries: an evaluation. Microcomputers for Library Management, 5(4), 247-262.

Brito, C.J. (1989) The developing countries and CD-ROM. Information Development, 5(4), 210-216.

Clark, D. and K. Siegmann (1992) Cryptologics tries to put a toll on data. San Francisco Chronicle, 11. August.

Erkkila, J.E. (1991) The basis economies of CD-ROM pricing. CD-ROM Professional, 4(1), 85-88.

Jensen, M.B. (1991) CD-ROM licenses - what's in the fine or nonexistent print may surprise you. CD-ROM Professional, 4(2), 13-16.

National Semiconductor Corporation (1993) A new Technology for Information Distribution. Nationmal Semiconductor Corporation, Santa Clara, CA.

Quint, B. (1989) On the myths of CD-ROM. Catholic Library World, 60(4), 172-175.

Shear, V. (1992) CD-ROM and metering, an overview, CD-ROM Professional, 5(2), 85-87

Wave Systems Corporation (1993) Wave Product Overview. Wave Systems Corporation, New York.

Further Reading

Erkkila, J.E. (1990) Cd-ROM vs. online: implications for management from the cost side, Canadian Library Journal, 47(6), 421-428.

Watson, P.D. (1988) Cost to libraries of the optical information revolution, Online, 12(1), 45-50.

Zink, S.D. (1990) Planning for the perils of CD-ROM, Library Journal, 115(2), 51-55.

Michael E.D. Koenig
Rosary College
Graduate School of Library and Information Science
7900 West Division Street
River Forest, IL 60305
USA