

FAQ on SERU: A Shared Electronic Resource Understanding

Redrafted July 2009 and updated August 2010 to correspond to Version 1.0 of the NISO Recommended Practice, *SERU: a Shared Electronic Resource Understanding* (RP-7-2008; available at <http://www.niso.org/publications/rp/RP-7-2008.pdf>).

QUESTIONS ABOUT SERU AND HOW TO IMPLEMENT IT 2

What is SERU

- 1) What is the context for SERU?.....2
- 2) Is SERU a license?2
- 3) Is SERU a standard?3

When to Use SERU

- 1) When is it appropriate to use SERU?.....3
- 2) When should SERU not be used?.....3

Who Can Use SERU

- 1) SERU talks about publishers, but can it apply to different kinds of content providers?.....3
- 2) Can SERU work for a multi-site campus?4
- 3) Can consortia use SERU?4
- 4) Can institutions other than an educational institution or a cultural memory institution use SERU?.....4
- 5) Does SERU apply outside of North America?4
- 6) If a publisher using SERU is acquired by another entity, what happens to the SERU understanding?4

How to Use SERU

- 1) Could I reference SERU in a license?5
- 2) What should be done if it's unclear whether SERU fits the situation?5
- 3) What if a particular situation isn't covered in the SERU guidelines?5
- 4) What if a subscription payment model is not used?6
- 5) Can SERU be used for e-books?6

QUESTIONS ABOUT SERU'S RECOMMENDED PRACTICE GUIDELINES 6

Guidelines on Use of Materials

- 1) How is SERU's statement on use of materials different from copyright? ...6
- 2) What about uses that aren't described in SERU?.....7
- 3) What in SERU protects publishers against improper uses of content?.....7
- 4) How does SERU handle systematic downloading?.....7

Guidelines on Functionality

- 1) Which standards should publishers recognize and follow if possible?.....8

Guidelines on Perpetual Access and Archiving

- 1) What content is included in a subscription?9

2) What if the electronic resource provides content that is regularly revised, such as an online encyclopedia, handbook, or similar reference work?.....	9
3) What if the electronic resource is an aggregation of content from multiple publishers?	9
4) What is meant by “third party archiving?”	10
NEXT STEPS	10
1) I’ve decided to use SERU, how do I begin?.....	10
2) Does signing the SERU Registry require that I use SERU?.....	10
3) What have others done to use SERU?.....	10
4) What about specifics that I want to document?	10
FURTHER QUESTIONS	11
1) What if I have questions that aren’t answered here?.....	11

QUESTIONS ABOUT SERU AND HOW TO IMPLEMENT IT

What is SERU

1) What is the context for SERU?

The SERU (Shared Electronic Resource Understanding) Recommended Practice guidelines were developed by the NISO SERU Working Group. The group’s home page is available at <http://www.niso.org/workrooms/SERU/>. Information at that site provides background on the project, information about the working group members, this FAQ, a list of currently registered participants, and access to an open discussion list that provides ongoing updates about the SERU guidelines. SERU was published as NISO RP-7-2008 in April 2008 and is available at <http://www.niso.org/publications/rp/RP-7-2008.pdf>.

2) Is SERU a license?

No, SERU is not a license. SERU is intended as a companion to existing U.S. copyright law, and is not a contract. It has been deliberately written in vernacular language in order to avoid any appearance of a license.

Many of the statements address the same issues that license agreements typically cover. However, the issues are discussed in broad terms with an emphasis on widely accepted practices and expectations that have emerged over the past decade. The SERU guidelines explicitly defer to existing U.S. copyright law. The intention is not to codify interpretation or create exceptions to laws, but to express widely-accepted best practices.

3) Is SERU a standard?

SERU falls within NISO's Recommended Practices publication program rather than its formal standards program. The statements in SERU do not describe expectations that should be applied universally to e-resources transactions. Rather, they present an expression of frequently adopted expectations among academic and other non-profit libraries and publishers.

When to Use SERU

1) When is it appropriate to use SERU?

SERU can be used whenever publishers and libraries are comfortable relying on U.S. copyright law as the governing law, and support the SERU guidelines for electronic resources.

The SERU Working Group consciously worked to frame the SERU guidelines in broad terms and using common language to allow SERU to cover a wide range of transactions and to provide sufficient flexibility to accommodate new developments with minimal revisions.

The SERU statements articulate common, but not universal practices. SERU cannot (and is not intended to) cover all situations, but at their discretion publishers and subscribing institutions can mutually agree to use it whenever they feel SERU supports their particular transaction.

Any publisher or library may chose to use SERU for some e-resources while still negotiating licenses for others.

2) When should SERU not be used?

If one or both partners in a transaction are not comfortable with the SERU approach or the statements of shared understanding, then a negotiated license is appropriate. Neither publishers nor libraries should attempt to impose SERU on a partner.

Who Can Use SERU

1) SERU talks about publishers, but can it apply to different kinds of content providers?

The SERU Working Group discussed the challenges of describing the various and varied producers and providers of e-resources. The registry for publishers is open to additional types of content providers, such as aggregators and content hosting services.

2) Can SERU work for a multi-site campus?

In the section of the SERU publication titled, "The Subscribing Institution and Its Authorized Users," the subscribing institution is described as a single institution. The extent to which it may be reasonable to consider multi-site campuses or universities as single institutions can depend on a number of factors. If there are concerns on the part of either the publisher or the subscribing institution, this should be discussed and resolved before invoicing and payment. The SERU Working Group anticipated that these kinds of issues would be reflected in the purchase price, but do not have to be. It may be desirable to annotate the purchase document to clarify any exceptional circumstance.

3) Can consortia use SERU?

Single institutions are the focus of the current SERU guidelines. For multi-institution sales, with complex pricing formula, it is likely that one or both partners will desire a license negotiation. However, consortia may negotiate pricing and choose to use SERU in place of a license. In the end, whether to use SERU instead of a license is a decision that the publisher and consortium would make together.

4) Can institutions other than an educational institution or a cultural memory institution use SERU?

SERU is designed principally with educational and cultural memory subscribing institutions in mind. Publishers may choose to work with other kinds of subscribing institutions. Please note, however, that the statements regarding use of materials and inappropriate use are the same for all institutions. For instance, SERU transactions do not cover unauthorized resale or systematic redistribution.

Publishers willing to engage in electronic resource transactions using SERU do not have to extend the arrangement to all customers. A publisher might be comfortable using SERU for educational or cultural memory institutions but decide to require licenses for other partners.

5) Does SERU apply outside of North America?

The SERU Working Group was comprised of representatives familiar with U.S. copyright law and culture. While not designed for global use, it may be appropriate to use it on other locations where the publisher and library are in agreement.

6) If a publisher using SERU is acquired by another entity, what happens to the SERU understanding?

The SERU approach is designed for annual subscriptions. Because the guidelines are referenced at the time of initial payment, they should persist for the term covered by the payment.

If payment is made for a calendar year, then SERU would apply throughout that calendar year. The new owner may wish to make future transactions with the subscribing institution on some other basis than SERU, but the transaction currently in place should be unaffected.

How to Use SERU

1) Could I reference SERU in a license?

SERU is not designed to be incorporated into another license agreement. It is designed to be a true alternative to a license agreement with no negotiation beyond pricing or related issues.

SERU is not intended to be copied for display on various web pages. To manage version control and maintain context, it is important to reference and/or link to the SERU guidelines, available at: <http://www.niso.org/publications/rp/RP-7-2008.pdf>. SERU should also not be presented as a click-through license or other license of adhesion.

2) What should be done if it's unclear whether SERU fits the situation?

Because SERU is based on trust and good will, it is in the best interests of publishers and subscribing institutions to clarify expectations with each other in the course of their transactions as needed.

Special circumstances that parties would like to make clearer can be put into a purchase order. For instance, the publisher and library might agree the institution is really a single site, even though the university has a marine science department located near the ocean and many miles from the main campus. Clarifying the single site status could be done by adding a sentence in the purchase order (or in the e-mail that is used in the place of a formal purchase order) that simply says the marine science department is considered part of the single site.

3) What if a particular situation isn't covered in the SERU guidelines?

The SERU Working Group recognizes that it is impossible for a set of statements designed to serve a general constituency to spell out all possible situations. Exceptional circumstances are inevitable and efforts to specify every contingency run the risk of creating unforeseen difficulties that limit rather than expand the guidelines' usefulness to the broader community.

EXAMPLES:

- a) If one or both partners in a transaction feel that their circumstances are exceptional in some way, they may choose to include a note on the purchase order (for instance, a statement that payment covers a longer term or an additional user group or other agreed-upon use parameter could be noted).
- b) Publishers and subscribing institutions could agree that a larger or smaller fee was appropriate for working with an institution that falls outside the common boundaries and agree to use SERU for their electronic resource transaction.

4) What if a subscription payment model is not used?

The SERU Working Group developed a mechanism for subscription sales first because this is the most typical business model for online content. Since there is a wide range of e-resources in the marketplace it may be desirable to develop further statements, however. For any given e-resource, publishers and subscribing institutions may jointly agree that they can successfully work with SERU as it currently exists.

5) Can SERU be used for e-books?

Yes, if both the library and publisher agree. While options for e-books differ from options for serials, details of the transaction can be recorded on the purchase document. Because e-book models tend to be at an earlier stage in development than those for e-journals, the purchase document may need to be carefully crafted to ensure that both parties' understandings are clear. Two examples of areas that might require fuller description: (1) perpetual access for e-books, as perpetual access may not be available through a third; and (2) since e-book platforms seems to vary substantially on this point, perhaps the number of pages of a given e-book that can be downloaded or printed would be noted.

QUESTIONS ABOUT SERU'S RECOMMENDED PRACTICE GUIDELINES

Guidelines on Use of Materials

1) How is SERU's statement on use of materials different from copyright?

SERU acknowledges explicitly that U.S. copyright law applies fully to the transaction. Much as the CONTU Guidelines helped to provide operational meaning to the interlibrary lending (ILL) provisions in U.S. copyright law, SERU intends to clarify the consensus understanding of fair use for e-resources.

If partners feel they need additional clarifications of whether particular activities are allowable or not under copyright law, or simply desire use rights beyond those normally permitted under copyright, a license negotiation is probably appropriate.

2) What about uses that aren't described in SERU?

As in other cases where there may be a desire to clarify or extend the statements in SERU, publishers and subscribing institutions may consider additional usage rights and choose to explicitly affirm additional uses outside of those described in SERU or copyright law by including them in a purchase order (e.g., if a publisher would like to extend usage rights to alumni, not generally part of the authorized user group, then they add that statement to the purchase order).

3) What in SERU protects publishers against improper uses of content?

SERU recognizes that the electronic resource is a valuable business asset. It explicitly references U.S. copyright law and is not intended to grant (or restrict) rights beyond those provided under copyright law. Two obvious examples of inappropriate use identified in the SERU statements are unauthorized resale and systematic redistribution.

Subscribing institutions make reasonable efforts to prevent misuse of content by their users and do not knowingly allow unauthorized users to gain access. They also will work with the publisher to address misuse and agree to notify the publisher when they notice inappropriate activity.

This is an arena where a publisher has to weigh the costs and benefits of the SERU approach versus a license agreement.

4) How does SERU handle systematic downloading?

While there is broad agreement that systematic downloading of content is a common hallmark of inappropriate use, there may be appropriate activities that manifest themselves in a similar way. Where either a publisher or a library suspects systematic downloading, further investigation is warranted along with notification of the transaction partner.

While suspension of access to the electronic resource may be appropriate, the subscribing institution reasonably wishes to be informed of the problem as soon as possible, desires access restriction to be limited to the smallest segment of the user base that is practicable, and expects access to be restored as soon as possible.

Guidelines on Functionality

1) Which standards should publishers recognize and follow if possible?

There are a number of relatively new standards and best practices that are developing to support electronic access. A few examples of those currently available include:

- Identifiers - for instance:
 - DOI (Digital Object Identifier)
<http://www.doi.org/>
 - ISSN (International Standard Serial Number)
<http://www.loc.gov/issn/>
 - I² (Institutional Identifier)
<http://www.niso.org/workrooms/i2>
 - ISNI (International Standard Name Identifier)
<http://www.isni.org>
- Usage statistics - for instance:
 - COUNTER (Counting Online Usage of Networked Electronic Resources)
<http://www.projectcounter.org/about.html>
 - SUSHI (Standardized Usage Statistics Harvesting Initiative)
<http://www.niso.org/workrooms/sushi>
- Link resolution - for instance:
 - OpenURL
<http://www.oclc.org/research/activities/openurl/>
<http://www.niso.org/standards/z39-88-2004/>
- Accessibility - for instance:
 - W3C Accessibility Guidelines
<http://www.w3.org/WAI/guid-tech.html>
- Authentication - for instance:
 - ATHENS
<http://www.athens.ac.uk/>
 - Shibboleth
<http://technical.bestgrid.org/index.php/Shibboleth>
<http://shibboleth.internet2.edu>
 - ESPreSSO (Establishing Suggested Practices Regarding Single Sign-On)
<http://www.niso.org/workrooms/sso>

Guidelines on Perpetual Access and Archiving

The statements in this section were among the most difficult to draft. This is partly because, despite philosophical agreement that perpetual access should be made available, the underpinnings of making perpetual access possible have not always been present. However, organizations such as LOCKSS and Portico now offer a means to plausibly guarantee archiving and/or perpetual access. SERU itself does not provide a mechanism for achieving archiving/perpetual access;

publishers and libraries may choose to specify how this will be achieved at the time of purchase.

1) What content is included in a subscription?

The publisher and subscribing institution should discuss this question in advance of any use of SERU. Publishers may offer access to content beyond the subscribed content, so a subscribing institution should not assume that all accessible content is included in the subscription (although this might well be the case).

For instance, in the case of journal subscriptions, publishers may enhance a subscription by including backfile content or adding it at a later time. Unless there is a separate backfile subscription, a publisher might consider the subscribed content to be only the new issues published during the subscription period.

2) What if the electronic resource provides content that is regularly revised, such as an online encyclopedia, handbook, or similar reference work?

While archiving can reasonably be expected for discrete items of content such as journal articles and issues, it currently is more difficult for publishers to archive dynamically revised content. Other than annual snapshots or snapshots at termination, the SERU Working Group was not aware of other well-developed practices or technologies for archiving versions of dynamic content. As industry models develop for these forms of electronic content then it will become reasonable to expect publishers to provide a mechanism for secure archiving as a matter of course. Until that time, it is suggested that parties who wish to arrange for such archiving develop specific agreements to cover this outside of SERU.

When this is the case, and publisher and library are otherwise comfortable with the SERU guidelines, then the exception to perpetual access guarantees can be noted in the purchase order.

3) What if the electronic resource is an aggregation of content from multiple publishers?

This is another situation where Working Group members were not aware of well-developed practices or technologies. Certainly, aggregators can encourage client publishers to provide for secure archiving of their content, but the Working Group recognizes that they may lack both the rights and appropriate mechanisms for providing secure archiving.

As in the case resources with dynamic content, when publisher and library are otherwise comfortable with the SERU guidelines, then the exception to perpetual access guarantees can be noted in the purchase order.

4) What is meant by “third party archiving?”

Third party archiving could include a wide range of well-known preservation programs such as LOCKSS (<http://www.lockss.org/lockss/Home>), CLOCKSS (<http://www.clockss.org/clockss/Home>), Portico (<http://www.portico.org/>), national library archiving programs, or other approaches. The language is intentionally broad as there is reason to expect additional options or new models to emerge.

NEXT STEPS

1) I’ve decided to use SERU, how do I begin?

Once you’ve decided that SERU would be suitable for some transactions, it is a good idea for publishers, libraries and consortia to sign the SERU Registry (<http://www.niso.org/workrooms/seru/registry/>). While this is not required, it serves to let others know that your organization can use SERU. The registry is free of charge.

In addition, you will want to review the SERU Recommended Practice’s section on “Guidelines for Implementing SERU” (page 2; available at <http://www.niso.org/publications/rp/RP-7-2008.pdf>).

2) Does signing the SERU Registry require that I use SERU?

No, signing the SERU Registry indicates that your organization finds SERU acceptable for some transactions and does not require that it apply to all transactions.

3) What have others done to use SERU?

Some publishers and libraries may need to establish internal procedures that provide for the sale or acquisition of content without the license serving as a trigger to initiate access. A review of the workflow may reveal modifications that would be useful to establish when using SERU. Additional discussions have occurred on the LibLicense-L (<http://www.library.yale.edu/~license/mailling-list.shtml>) and SERUinfo (<http://www.niso.org/lists/seruinfo>) discussion lists.

4) What about specifics that I want to document?

Specifics about what content or services are covered by the payment (additional sites, extended timeframe beyond one year, specific user definition, etc.) can be noted on the purchase document. It might also be desirable to note the means for guaranteeing perpetual access (LOCKSS, Portico*, or some other means)

FURTHER QUESTIONS

1) What if I have questions that aren't answered here?

Although SERU was established as a NISO Best Practice in February 2008, the original SERU Working Group envisioned the need for regular review and updating as the electronic publishing environment evolved. You can join an informal group of interested people supporting the continuing use and development of the SERU guidelines by subscribing to the SERUinfo discussion list (<http://www.niso.org/lists/seruinfo/>). This list is also monitored by the NISO SERU Standing Committee, which provided ongoing support and review of SERU (www.niso.org/workrooms/seru).