

## Frequently Asked Questions on “SERU: A Shared Electronic Resource Understanding”

*Redrafted 6.20.07 to correspond to Working Group Draft Recommended Practice for Trial Use (SERU version 0.9) entitled, “SERU: A Shared Electronic Resource Understanding.”*

The FAQs are organized into the following categories:

- Questions About the SERU Introduction and Implementing SERU
- Questions About the SERU Guidelines
- General Questions About the Statements of Shared Understanding
- Questions About the Subscription
- Questions About the Subscribing Institution and Its Authorized Users
- Questions About Use of Materials
- Questions About Inappropriate Use
- Questions About Service
- Questions About Archiving and Perpetual Access

### QUESTIONS ABOUT THE SERU INTRODUCTION AND IMPLEMENTING SERU

#### 1) What is the context for the SERU document?

The statement has been developed by the NISO SERU Working Group. The group’s home page is available at <http://www.niso.org/committees/SERU/>. Information at that site provides background on the project, information about the Working Group members, background on the SERU Project, this FAQ, and access to an open discussion list that will provide ongoing updates on the project and drafts of the SERU statements.

#### 2) Is this framework and set of statements of common understandings a license?

The statements are not intended to comprise a license. The document has been deliberately written in vernacular language to the extent possible.

Many of the statements address the same issues license agreements typically cover, but the issues are discussed in broad terms with an emphasis on widely accepted practices and expectations. The common understandings explicitly defer to existing law. Rather than codifying interpretation or creating exceptions to laws, the statements express widely accepted best practices.

### **3) Is this framework and set of statements of common understandings a standard?**

The SERU project falls within NISO's best practices program rather than its formal standards program. The statements in the common understandings document 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.

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

## **QUESTIONS ABOUT THE SERU GUIDELINES**

### **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 to various web pages. To manage version control and maintain context, it is important to reference and/or link to the SERU statement.

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 when license negotiation is desired. For instance, SERU should not be presented as a click-through license or other license of adhesion.

### **2) What if my particular situation isn't quite covered in the statements of common understandings?**

The 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 statements' usefulness to the broader community.

If one or both partners in a transaction feel that their circumstances are exceptional in some way, it may be possible to work with the SERU statements and rely on ongoing discussions to resolve concerns. Another approach could be to specify a situation as 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). Alternatively, it may preferable to use a license to spell out all of the terms in question.

**3) If I have worked with a publisher using SERU and the publisher is acquired by another entity, what happens with my SERU agreement?**

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

If payment is made for a calendar year, then SERU should 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 would be unaffected.

**GENERAL QUESTIONS ABOUT THE STATEMENTS OF SHARED UNDERSTANDING**

**1) Unlike licenses, there aren't any capitalized and defined words in the statements. Why aren't the statements more explicit?**

The Working Group has tried as much as possible to avoid stringent definitions and consequent lengthy exceptions, elaborations, and clarifications.

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

**2) For example, SERU talks about publishers. Can it apply to different kinds of content providers?**

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

**3) Where general explanations are provided, what do I do if I'm not sure my situation fits?**

Because the SERU approach 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.

## QUESTIONS ABOUT THE SUBSCRIPTION

### 10) What if I want to sell some but not all of my e-resource products using SERU?

SERU is designed to be used at the mutual agreement of the publisher and subscribing institution. Neither the publisher nor the subscribing institution is obligated to use SERU for all of its e-resource transactions.

### 11) What if some other payment model is used?

The SERU Working Group has developed a mechanism for subscription sales first because this is the most typical business model for online content. However, there is a wide range of e-resources in the marketplace and the Working Group is willing to consider the development of further statements if the initial common understandings are successfully adopted.

Alternatively, for a given e-resource, publishers and subscribing institutions may jointly agree that they can successfully work with the SERU approach as it currently exists.

## QUESTIONS ABOUT THE SUBSCRIBING INSTITUTION AND ITS AUTHORIZED USERS

### 1) As a publisher, what if I want to work with a customer that I don't think fits one of the statements SERU describes as generally accepted?

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 for many situations not definitively described in the common understandings. 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 but otherwise agree to use SERU for their electronic resource transaction.

### 2) I'm part of a multi-site campus. Can SERU work for me?

In the section, "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 Working Group anticipates that these kinds of issues can 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) What if I'm not an educational institution or a cultural memory institution? Can I use SERU?**

SERU is designed principally with these 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, for instance.

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.

### **4) What about consortia? Can they use SERU?**

Single institutions are the focus of the current SERU statements. [SERU also covers public libraries, museums, etc.] For multi-institution sales, it is very likely that one or both partners will desire a license negotiation.

However, consortia may negotiate pricing for single-institution sales on behalf of their members. In this situation, it may be that the transaction is effectively a single-institution purchase and SERU could be appropriate.

## **QUESTIONS ABOUT USE OF MATERIALS**

*The statements in this section were among the most difficult to draft and the Working Group welcomes further commentary on this area.*

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

SERU acknowledges explicitly that copyright law applies fully to the transaction; however, the Working Group does not intend either to interpret copyright law or to offer or deny rights beyond the provisions of copyright law. Of course there are many aspects of copyright law on which reasonable people disagree in the absence of case law.

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 describe in SERU or copyright law.

## QUESTIONS ABOUT INAPPROPRIATE USE

### 1) As a publisher, what in SERU protects me against improper uses of my content?

SERU recognizes that the electronic resource is a valuable business asset. It explicitly references 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.

### 2) 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.

Access control is a rapidly evolving area of technology development making it difficult to identify specific practices that are common and enduring although some publishers have guidelines governing their own practices in house.

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.

## QUESTIONS ABOUT SERVICE

### 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, ISSN)
- Usage statistics (for instance, COUNTER, SUSHI)
- Link resolution (for instance, OpenURL)
- Accessibility (for instance, W3C Accessibility Guidelines)
- Authentication technologies (for instance, ATHENS and Shibboleth)

## **QUESTIONS ABOUT ARCHIVING AND PERPETUAL ACCESS**

*The statements in this section were among the most difficult to draft and the Working Group welcomes further commentary on this area.*

### **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, at this time the Working Group is 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.

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

This is another situation where Working Group members are 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.

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

Third-party archiving could include a wide range of well-known preservation programs, such as LOCKSS, CLOCKSS, Portico, national library archiving programs, or other approaches. The language is intentionally broad as the Working Group fully expects additional options or new models to emerge.

#### **5) What if I have questions that aren't answered here?**

SERU is still in its development phase and the Working Group is eager to hear from anyone with questions about SERU. You can contact the Working Group co-chairs: Karla Hahn, [karla@arl.org](mailto:karla@arl.org), or Judy Luther, [judy.luther@informedstrategies.com](mailto:judy.luther@informedstrategies.com), or any member of the Working Group (see <http://www.niso.org/committees/SERU/wg.html#members>) with questions.