E-Books and Ethical Dilemmas for the Academic Reference Librarian

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Abstract: When dealing with e-books several ethical dilemmas exist as a result of competing professional values. Dilemmas identified and discussed here include challenges related to serving non-affiliated users, providing high quality service while respecting intellectual property rights, and balancing the needs of current users with the needs of future generations. Readers would like to have access to all e-books all the time, with as few restrictions as possible. Librarians would like all of their users (affiliated or non-affiliated, current or future) to easily be able to use e-books. Librarians also want to recognize the valuable contributions of authors, publishers, and content distributors while safeguarding patron privacy.
E-Books and Ethical Dilemmas for the Academic Reference Librarian

The American Library Association’s Code of Ethics outlines the values of our profession and states that “ethical dilemmas occur when values are in conflict” (2008). When it comes to e-books several ethical dilemmas exist as a result of competing values. Dilemmas identified and discussed here include challenges related to serving non-affiliated users, providing high quality service while respecting intellectual property rights, and balancing the needs of current users with the needs of future generations.

**Ethical Dilemma #1: Service to Non-Affiliated Users**

| Primary Value: Providing the highest level of service to our primary clientele--current students, faculty, and staff of our institutions. |
| Competing Value: “We provide the highest level of service to all library users through appropriate and usefully organized resources; equitable service policies; equitable access; and accurate, unbiased, and courteous responses to all requests.” (ALA Code of Ethics) |

The key phrase above is “service to all library users.” This should cause reference librarians to pause and reflect upon how e-books are made available at our own libraries. Do we currently offer e-books to all library users? Do we have equitable service policies and access?

At first a librarian may think, of course, our e-books are available to anyone who wants to read one. E-books can be accessed anywhere, at any time, and by multiple readers at the same time. Readers may have to log in with their user name and password when off campus, but that is just a minor inconvenience. Or, is it? What about our users who do not have a university computer account, like alumni, local community residents, high school students, or visitors from other universities? They can still use our e-books in the same ways, right? Maybe not.
The question of how much time, energy, and resources academic libraries should dedicate to serving non-affiliated users is not new. However, e-books present another opportunity to examine how we think about those beyond our campuses who value, and sometimes even depend on our libraries.

University librarians have long struggled to determine adequately the extent to which libraries have a responsibility to provide the same level of service to individuals who are not current students or faculty. Susan Martin (1998) argued that academic libraries need to go beyond this limited population of current students and employees, or “primary clientele,” to serve the greater community in an effort to remain relevant and to maintain a certain level of respect. Martin declared that when the public seeks out the expertise available at an academic library “we need to respond with service” (469). Many university libraries also choose to extend services to the local community to maintain positive public relations with local residents and potential students, political supporters, or donors (Dole & Hill, 2011; Spencer & Dorsey, 1998). Some publicly funded universities are even expected to provide a certain level of library service to the public, including users from local businesses (Best-Nichols, 1993). It is not only publicly supported academic libraries that feel an obligation to reach out to the local community. In one survey of Virginia library directors at private institutions, two-thirds of respondents indicated a sense of responsibility for serving the public (McCulley & Ream, 1988).

Courtney (2001) reviewed the practice of providing access to non-affiliated library users since 1950 and observed that librarians have a “professional instinct to provide access to all” but must work within “the realities of budgets, space, and the needs of their own clientele” (473). Clearly, librarians aim to please. But there are limits to what we can offer. The professional value to serve all users stands in conflict with our primary mission to serve the current students
and faculty of the institution as effectively as possible. Lenker & Kocevar-Weidinger (2010) concluded that service to non-affiliated users should be extended when practical, when such access does not interfere with primary clientele, and when policies give library staff clear direction to balancing the needs of the two groups.

At my institution the library happily serves members of the public who are not affiliated with the university. In fact, the culture is quite welcoming and accommodating in many ways, including special services extended to alumni, community residents, and students from local elementary, middle, and high schools as well as students of other colleges or universities. My library system gladly lends physical books to non-affiliated users under the condition that they will be returned if recalled for use by another patron. With e-books the situation is a bit different. E-books fall on a continuum of accessibility with some, especially those in the public domain, completely unrestricted allowing anyone to view, download, or print some or all of the pages. Others restrict the ability to print or copy sections of the book and often require non-affiliated users to be physically present in the library. Yet, others are even more restrictive. Some e-books may only be accessible to those with a valid university computer account. This means some non-affiliated visitors will see certain e-books in the online catalog but later find out they are of little or no use, even when physically visiting the library.

Reader comments posted in response to a recent Chronicle of Higher Education article on the value of using books for research help illustrate the frustrations our patrons may experience. One reader by the user name of Gopher63 stated,

Especially for those of us . . . who have no stated affiliation with an academic institution but depend on them for access to current books and information, the stark reduction in purchases of print books and the increase in e-book acquisitions is devastating . . . Attempting to use an e-book confined to a university terminal is virtually (pun intended) useless (Alves, 2013).
The challenge of providing non-affiliated users with access to electronic books is more difficult than when using electronic journals or electronic reference materials. With those materials visitors can generally locate what they are looking for by using a library computer or asking staff for assistance. Users can simply download or print a PDF file--similar to a photocopy--and take it with them for later study. With e-books a librarian may be able to help a patron obtain and print a certain page or pages if a specific item is being sought. But this is not how most people prefer to use a book. Many readers need to spend more time perusing and closely studying a book than they are willing to spend at a library terminal. Further, downloading and printing is frequently restricted, reducing the usefulness of the e-book to the reader. E-book access, if available at all for non-affiliated users, is commonly restricted to short-term use (on-site browsing) when longer term use (off-site borrowing) would be more appropriate. Even if some degree of off-site borrowing were permitted for non-affiliated users, not everyone has the sometimes expensive equipment required to use e-books effectively (Caldwell-Stone, 2012).

The needs of our own students and faculty are not likely to be diminished by allowing non-affiliated users to view, or even borrow, electronic books. It is the restraints imposed by publisher contracts and e-book licenses that prevent libraries from offering the public greater access to e-books. As discussed in the next section, reference librarians are pulled between the competing values of providing the highest level of library service to all users and the desire to respect intellectual property rights and the interests of rights holders. If academic libraries were able to purchase and lend electronic books in a way similar to print books, this dilemma of providing access for all users would be lessened. To be successful over the long term, publishers and librarians must work on developing e-book models that are acceptable and beneficial to all parties.
E-books allow reference librarians to adhere to the value of providing our primary clientele with access to enhanced collections, while also respecting the interests of rights holders and our agreements with publishers or other content providers. Unfortunately, in the process we diminish our ability to serve all users, especially those who are not affiliated with the institution. For now, this dilemma has no easy answers. As book collections shift to favor electronic formats, we need to carefully think about our priorities and be aware of how these decisions impact all of our users in order to make well-reasoned decisions.

**What is a reference librarian to do?**

When faced with an information request from a non-affiliated patron and the information need can only be fulfilled with content residing in a restricted electronic book, what options are available?

**Ethical actions--A reference librarian may choose to:**

- Assist the patron in using a library computer to access the e-book, if permitted by publisher licenses and local computer access policies.
- Offer assistance in obtaining a downloaded PDF or printed pages from the e-book if permitted.
- Use interlibrary loan to obtain a print copy--if this is service is available to non-affiliated users.
- Purchase a print copy to add to the library collection so the patron may borrow it.
- Suggest another information source that may serve as a substitute.
- Make a referral to another local/regional library.
- Inform the user of the reasons he/she may not be able to access or use an e-book.
- Carefully consider future acquisition decisions and policies and acknowledge that e-book purchases may limit access for a group of users that many libraries have traditionally recognized as important.

Unethical actions - A reference librarian may choose to:

- Provide a patron with the librarian’s personal password (or other unauthorized user account) to access an e-book, potentially in violation of contractual agreements with e-book providers and local computer policies.

- Turn a patron away without suggesting alternative solutions for obtaining the same or similar information from another source.
Ethical Dilemma #2:
Providing High Quality Service while Respecting Intellectual Property Rights

Primary Value: “We provide the highest level of service to all library users through appropriate and usefully organized resources; equitable service policies; equitable access; and accurate, unbiased, and courteous responses to all requests.” (ALA Code of Ethics)

Competing Value: “We respect intellectual property rights and advocate balance between the interests of information users and rights holders.” (ALA Code of Ethics)

It is safe to say most librarians are extremely motivated to provide the highest level of service possible and are committed to providing broad access to information in all forms. With e-books librarians would like to provide quick, easy, and reliable access to the content needed or desired. However, we must work within certain limitations. Because publishers are interested in protecting intellectual property and because as librarians we recognize the important contributions of authors and publishers, we must respect the conditions and agreements we enter into when choosing to access certain content. This is true especially in the current environment where many inconsistent requirements for use can act as a significant barrier to overcome for both readers and librarians.

The steps needed to access some e-books can and do frustrate students. Consider the reference librarian helping a student locate the perfect book for a research project. The only available copy happens to be an e-book. First, the e-book must be loaded by clicking on a link in the catalog or discovery system. The student may be prompted to log in with their university computer account to initially view the e-book within the particular e-book platform. A completely separate user name and password may be needed to access additional features such as making notes or highlighting the text. If the student is lucky this particular e-book will be
available to download and read as a PDF or EPUB file rather than just viewing one page at a
time in a web browser. If this is possible, before downloading the file the student may need to
download and install special digital rights management (DRM) software, such as Adobe Digital
Editions, and create another user name and password. If downloading to an ipad, Android device,
or other e-book reader, an additional app may be required. Once successfully obtained the e-book
file will expire after a few days, making it inaccessible to the student unless they repeat the
process. After all of this, the student may still not be able to print, save, or copy the text and
images as freely as they would be able to with a printed book. Fortunately, not all publishers and
e-book platforms are so restrictive, but many do use at least some controls to limit how readers
access and use their content. On more than a few occasions students have been known to ask
“can I just get the ‘real’ book?,” meaning a print copy.

E-books can make a librarian’s job especially frustrating when trying to balance the
interests of readers and the interests of rights holders. For example, a reference librarian may be
tempted to circumvent some of the controls intended to protect publisher and author interests in
order to serve a patron’s needs. Or, to the other extreme, a librarian may choose to respect author
rights at the expense of patron service. A reference librarian may decide that some e-books,
while perfectly ethical and legal to use, are too much trouble, and instead direct a patron to
another inferior or less appropriate source because it is easier to use. A healthy balance must be
maintained.

All librarians have a responsibility to work toward better solutions by proposing, testing,
and experimenting with new models also acceptable to authors, publishers, and readers. We are
in a period of transition as all stakeholders work to figure out the best methods of distributing
books electronically. Fortunately, some have been hard at work on this problem. The American
Library Association (ALA) is also providing leadership on the issue. Maureen Sullivan, ALA President 2012-13, and Molly Raphael, ALA President 2011-12, have been involved in numerous discussions with publishers and distributors to explore new directions and mutually beneficial strategies (American Library Association, 2012; Sullivan, 2013).

Others are taking different approaches to making electronic books more user-friendly and beneficial to authors and publishers. One interesting and innovative idea is being pursued by a project known as Unglue.it. Here, authors and publishers can agree to make an existing book freely available online for a set dollar amount. Once a target price is announced interested readers and fans of the book can contribute toward the goal which represents fair compensation for the author and publisher. If and when the goal is met or exceeded the e-book becomes openly available for anyone to read. Unglue.it simply facilitates these transactions.

Another similar, yet significantly different approach is being explored by Knowledge Unlatched (knowledgeunlatched.org). This is another attempt to provide free access to e-books in a way that fairly compensates authors and publishers. While Unglue.it aims to make already published books freely accessible Knowledge Unlatched works with academic publishers and libraries to make new titles openly available online upon initial publication. When a participating publisher announces an eligible work, libraries can contribute to the cost of producing the book. After the target price is met the publisher will make a digital copy of the book available online. Both of these projects represent the types of initiatives all librarians need to be aware of and be a part of to ensure we are able to provide high quality service to patrons while at the same time respecting the rights of authors and publishers.
What is a reference librarian to do?

Ethical actions: A reference librarian may choose to:

- Take full advantage of e-books as they now exist while respecting agreements with publishers and e-book distributors, even if the restrictions imposed are somewhat onerous at times.
- Inform users of the reasons for the many steps currently in place to access e-books.
- Work with publishers and e-book distributors to develop more user-friendly solutions for academic libraries and their patrons.
- Explore and support innovative and open publishing efforts such as Unglue.it and Knowledge Unlatched.

Unethical actions: A reference librarian may choose to:

- Distribute or reproduce e-books in a manner that is not consistent with current arrangements or agreements with publishers and distributors.
- Discourage patron use of e-books because they are too much trouble.
**Ethical Dilemma #3:**
The Needs of the Present Generation vs. the Needs of Future Generations

Primary Value & Competing Value: **“We have a special obligation to ensure the free flow of information and ideas to present and future generations.”** *(ALA Code of Ethics)*

All librarians, by definition, and by the nature of our profession, are concerned with the free flow of ideas as we collect, organize, manage, and make accessible large quantities of information in a variety of formats. E-books are critical for academic reference librarians who need to provide today’s users with immediate access to a large number of sources, especially when many students are off-campus and online. Currently available e-book packages provide patrons with access to many more titles than most library buildings could physically hold on the shelves. Additionally, e-books allow patrons to access books from any location almost immediately and certainly much faster than even the best interlibrary loan delivery services. But will today’s e-books be available in 10 years, 25 years, or 50 years? Do e-books help academic libraries, especially those with large or specialized research collections, fulfill their role of preserving information over the long term for future generations of students and the general public?

The uncertainty over the long term availability of e-books is somewhat troubling. While e-books make a great complement to current print collections they can not yet be relied upon when building comprehensive or specialized collections that need to survive for many decades or longer. First, not all books are available as e-books. If relying only e-books, many new and old titles would be excluded from a library’s collection. Second, many e-books are not owned by a library, but rather leased or licensed, similar to many e-journals, often making traditional lending
and preservation more difficult or impossible. Because libraries don’t often physically control the electronic copies of a book, files may be deleted or altered by the publisher or distributor we depend on, making long term access unreliable. As Yelton (2012) recently observed about the difference between access and ownership when discussing e-books, “we can’t preserve files we can’t keep” (31). Individual libraries or groups of libraries working together to build collections for future generations would be wise to continue purchasing a print copy of any book selected for its potential long-term value or significance. In some cases this may mean obtaining a print copy of a book even though it is already available as an e-book.

Although the current environment does not favor selecting e-books for long term access, conditions continue to evolve rapidly and some initiatives point to a more promising future. It is likely only a matter of time before librarians can comfortably rely on stable and permanent electronic archives for safeguarding e-books. E-journals have already been down this road. Some e-journal archives such as JSTOR are considered very reliable and many libraries have felt confident enough to discard print collections in favor of electronic access. For e-books, projects like Portico and LOCKSS demonstrate a commitment toward helping libraries preserve electronic content for the future. While e-journals represented the primary focus of these groups in the early years, the interest in working with e-books is becoming greater. Portico first offered e-book preservation services to librarians and publishers in 2011 and will provide participating libraries with access to content in the event that the original publisher, or any other provider, is no longer able or willing to distribute the publications (Kirchhoff, 2011). Similarly, by partnering with publishers, LOCKSS helps libraries maintain access to purchased content such as e-journals and e-books even after a subscription ends. LOCKSS allows libraries to take ownership of digital
files so they may be preserved with confidence, and ensures that “their readers have 100% post cancellation access, or perpetual access to subscription e-journals and e-books” (LOCKSS, n.d.).

Kirchhoff (2011) noted three significant differences that make preservation of e-books a bit more challenging than e-journals. These include the potential for many different versions or editions, restrictions of digital rights management (DRM) software, and complex metadata. While it is still too early to judge the long term success of these specific efforts, they represent concentrated attempts to solve a very real problem for libraries and give us reasons to be optimistic about the future availability of e-books. For now, librarians should proceed with caution and carefully balance the needs of future users with those of current users.

**What is a reference librarian to do?**

**Ethical actions: A reference librarian may choose to:**

- Use e-books to provide current users with access to the widest range of materials possible.
- Consider the needs of future users when selecting e-books as a replacement for print books.
- Duplicate some electronic books with print versions to help ensure the long term availability of potentially important works.
- Participate in shared print repositories along with other institutions to preserve print copies of works duplicated by electronic versions.
- Remain informed of and involved with new developments and electronic preservation projects such as Portico and LOCKSS.

**Unethical actions: A reference librarian may choose to:**
- Serve the needs of current users at the expense of future users.
- Hastily replace print materials (which have proven their longevity) with electronic books (which have not yet stood the test of time) simply for convenience, to save space, or other reasons not related to the actual content of the books.

**A Final Concern for all Librarians:**
Privacy

> “We protect each library user's right to privacy and confidentiality with respect to information sought or received and resources consulted, borrowed, acquired or transmitted.” (ALA Code of Ethics)

This last but important ethical concern arises for all librarians working with e-books. Privacy discussions related to electronic resources are not new but continue to require attention as circumstances change. When libraries rely on third parties to provide electronic content, we often lose control over patron data and the privacy policies of other organizations will most likely not match privacy policies and practices of our libraries (Chmara, 2012). While article databases and electronic reference materials present some privacy challenges, the additional features of e-books, such as highlighting and bookmarking, amplify the concern, especially when materials are accessed and stored on a vendor’s servers, rather than downloaded to a patron’s personal computer. E-books can track pages actually read and content can be modified or erased, sometimes for any reason the vendor chooses (Caldwell-Stone, 2012). A number of readers have even received advertisements asking them to purchase books they previously downloaded and read through their library (Yelton, 2012).
Legislators in most states have recognized the importance of keeping library records private by enacting laws to protect library records and patron information (Chmara, 2012). Now, some are considering special provisions for e-books (Pera, 2013). In April 2013, an amendment to Arizona’s library privacy law (HB 2165) extended its coverage to e-books, specifically defining them as “a book composed in or converted to digital format for display on a computer screen or handheld device” (Privacy of user records; exceptions; violation; classification, 2013).

In New Jersey, a bill (A3802) related to e-books was introduced in the legislature in early 2013. It would extend “reader privacy protections to book purchases, including the purchase of electronic books (e-books)” (An act concerning reader privacy, 2013). It would only allow retailers to disclose personal information with the consent of the individual, when presented with a court order, or when there is an imminent danger. Similar legislation known as the Reader Privacy Act (SB 602) was enacted in California in 2011.

Privacy represents one of the core values of the library profession. With rapidly changing technology and the increasing variety of vendors with which librarians interact, we have a responsibility to protect patron information. It is essential to communicate to electronic resource providers the importance of maintaining privacy for our users. When a significant level of privacy may not be possible a choice must be made to either decline the services being offered or clearly explain to patrons how their data may be used or shared.

**Conclusion**

Electronic books as they currently exist present tremendous opportunities for libraries and their users. They also present challenges yet to be resolved. Readers would like to have access to all e-books all the time, with as few restrictions as possible. Librarians would like all of their users, affiliated or non-affiliated, current or future, to be able to use e-books easily. We also
want to recognize the valuable contributions of authors, publishers, and content distributors while safeguarding patron privacy. However, as described throughout this paper various dilemmas arise when trying to do it all. As e-books continue to evolve, librarians will need to remain aware of these issues and realize that “ebook models make us choose . . . which values to advance and which to sacrifice”. (Yelton, 2012, 30).
References


