



Handling Open Access material in ONIX-PL

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1. Open Access material in publisher licenses

Most, if not all, electronic resource licenses are in reality supplier-customer agreements that deal not only with licensing permissions and prohibitions but also with terms and conditions for the supply of, and user access to, licensed materials. It is becoming increasingly common for the supplied materials to include Open Access content as well as content that is subject to the publisher's proprietary licensing terms.¹

What this means is that the materials *delivered* under a license agreement may no longer be congruent with the materials *licensed* by the publisher under the agreement. Typically, Open Access material is offered under a Creative Commons ('CC') license; and such material is usually identified at the article level, together with the applicable CC license.

Some publisher licenses now explicitly recognise this, for example by the inclusion of a clause along the lines of '*Notwithstanding anything to the contrary contained in this Agreement, open access content in the Subscribed Products is subject to the terms and conditions stated in the applicable user license identified in the individual journal article.*'

We therefore have to consider how Open Access ('OA') content should be handled in an ONIX-PL encoding.

2. Supplied materials versus licensed materials

First of all, we need to draw an explicit distinction between the materials supplied under a license agreement ('supplied content', say) and the materials whose usage is licensed by the publisher under that agreement ('licensed content'). This distinction is very unlikely to be made in the same way in the wording of the license. Because of the way most publishers' licenses have evolved, it is far more likely that the license will use the term Licensed Materials (or similar) to identify both the supplied content and the licensed content, adding a clause of the type quoted in the previous section as something of an afterthought, so that OA content is specified as an exception to the proprietary usage terms of the license.

It is not, however, acceptable to adopt a similar approach in ONIX-PL. We need to be able to distinguish between (i) supplied content, (ii) 'proprietary' licensed content, and (iii) OA licensed content, and ensure that terms in the ONIX-PL expression are clearly associated with the particular content to which they apply. For example, 'Access' terms will normally apply to all supplied content; but other usage permissions and prohibitions will normally apply only to 'proprietary' licensed content.

There are two ways in which this might be approached:

A. Clarify the ONIX-PL definition of **LicensedContent** so that it explicitly includes all supplied content. This is broadly defensible, since OA content is of course licensed – though not under the proprietary terms set out in the license agreement. If we chose to do this, however, we would have to introduce a new concept of (say) 'ProprietaryContent', and use this in place of **LicensedContent** in the ONIX encoding of most usage permissions

¹ Supplied materials may also include public domain content, but this would normally be regarded as covered by statutory rights, which are explicitly affirmed in many license agreements.

and prohibitions. We would also have to add a significant number of new related values (eg 'ProprietaryContentPart'); and the validity of existing ONIX-PL expressions using **LicensedContent** and its related values would be called in question.

B. Clarify the ONIX-PL definition of **LicensedContent** so that it covers content that is licensed under the proprietary terms of the license agreement, and excludes OA content. This approach does not invalidate the way in which related values such as **LicensedContentPart** have been and will continue to be used. It is defensible in terms of maintaining the backwards compatibility of successive versions of the ONIX-PL Dictionary, since when **LicensedContent** was originally defined it was reasonable to assume, and it was assumed, that 'supplied content' and (proprietary) 'licensed content' were congruent.

In new vocabulary added in Issues 5 and 6 of the ONIX-PL Dictionary we have therefore chosen option B, since it is the less disruptive of these two alternatives.

3. New values in the ONIX-PL Dictionary

In Issues 5 and 6 of the ONIX-PL Dictionary, five new values have been defined in order to enable OA material to be handled in ONIX-PL, and the definition of the existing value **LicensedContent** has been revised to make it clear that it does *not* include supplied content to which open access terms apply.

License Resource Relator

LicensedContent	Material to which the permissions and prohibitions stated explicitly in a license agreement are applicable; or any part of such material. Licensed Content does not include any Supplied Content to which open access terms apply.
SuppliedContent	Material that is supplied under the terms of a license agreement, including both Licensed Content and open access content; or any part of such material.

Related Resource / Used Resource

LicensedContent	Material to which the permissions and prohibitions stated explicitly in a license agreement are applicable; or any part of such material. Licensed Content does not include any Supplied Content to which open access terms apply.
OpenAccessContent	Articles or other content made available by a licensor as 'open access', typically subject to the terms and conditions of an open access license identified at an individual item level.
SuppliedContent	Material that is supplied under the terms of a license agreement, including both Licensed Content and open access content; or any part of such material.

Resource Resource Relator

IsNot	The resource does not belong to, or excludes content belonging to, the related resource class.
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Usage Condition

SubjectToSpecifiedOpenAccess Terms	Usage is subject to the terms and conditions of an open access license, normally identified at the individual item level (use when open access items are delivered as part of the materials supplied under a license agreement).
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These values are used (a) in Resource Definitions to ensure that 'licensed content' can be specified as excluding OA material, (b) in License Detail so that both 'supplied content' and 'licensed content' can be formally defined, and (c) in a Usage Term to indicate that OA

material is subject to license terms specified elsewhere. Their recommended use is described and illustrated in sections 4, 5 and 6 below.

4. Defining supplied and licensed materials

The following group of Resource Definitions (from which License Text Links have been omitted) illustrates how supplied and licensed materials can be defined so that the latter clearly excludes OA material:

[1] SubscribedJournals	<i>Description</i>	Journal titles included in XYZOnline to which the Licensee holds subscriptions to print and/or electronic editions
[2] PurchasedEbooks	<i>Description</i>	Ebooks included in XYZOnline which the Licensee has purchased
[3] SuppliedMaterials	<i>Description</i>	Content on XYZOnline to which the Licensee has access
	<i>Is Any Of</i>	SubscribedJournals – PurchasedEbooks
[3] LicensorLicensedMaterials	<i>Description</i>	Content on XYZOnline to which the Licensee has access and which is subject to the Licensor's proprietary licensing terms.
	<i>Is Any Of</i>	SuppliedContent
	<i>Is Not</i>	OpenAccessContent

In this example, definitions [1] and [2] specify individual components of the supplied materials. Definition [3] specifies that the **SuppliedMaterials** consist of these two components. Definition [4] specifies that the materials which are subject to the licensor's proprietary licensing terms are the **SuppliedMaterials** excluding **OpenAccessContent** (the last-named being an ONIX Dictionary value).

5. Linking Resource Definitions to ONIX-PL Dictionary values

The following brief extract from the License Detail block in the same ONIX-PL expression illustrates how the Dictionary values **LicensedContent** and **SuppliedContent** can now be linked to these Resource Definitions. A link between the Dictionary value **LicensedContent** and the corresponding Resource Definition is *mandatory* in all ONIX-PL expressions. A link between the Dictionary value **SuppliedContent** and the corresponding Resource Definition is *required* if the expression needs to distinguish between 'supplied content' and 'licensed content'.

<i>Licensed Content</i>	LicensorLicensedMaterials
<i>Supplied Content</i>	SuppliedMaterials

Using a License Related Resource composite with the relator value **LicensedContent**, this Dictionary value is formally linked to the Resource Definition **LicensorLicensedMaterials**. Similarly, the Dictionary value **SuppliedContent** (new in Issue 6) is formally linked to the Resource Definition **SuppliedMaterials**.

It is important to the computer processing of an ONIX-PL expression that these links are made so that when the respective Dictionary values are used in (eg) Usage Terms, they can be traced back to the definitions that are specific to a particular license agreement.

6. Covering Open Access Content in Usage Terms

To complete the ONIX-PL expression of a license agreement that refers to OA materials as well as the publisher's proprietary materials, it remains only to add appropriate Usage Terms, typically in the form shown below:

[1] Access	
<i>Usage Status</i>	Permitted
<i>License</i> 2.1.1	[Clause specifying that Licensee and Authorized Users may access supplied materials on Licensor's online service.]
<i>User</i>	Licensee
<i>User</i>	AuthorizedUser
<i>Used Resource</i>	SuppliedContent
<i>Usage Method</i>	SecureAuthentication
[2] Make Digital Copy	
<i>Usage Status</i>	Permitted
<i>License</i> 2.1.2	[Clause specifying that Licensee and Authorized Users may make an electronic copy of a portion of (proprietary) licensed content.]
<i>User</i>	Licensee
<i>User</i>	AuthorizedUser
<i>Used Resource</i>	LicensedContentPart
.....
[16] Use	
<i>Usage Status</i>	Permitted
<i>License</i> 3.1.9	Notwithstanding anything to the contrary contained in this Agreement, open access content in the Subscribed Products is subject to the terms and conditions stated in the applicable user license identified in the individual journal article.
<i>User</i>	Licensee
<i>User</i>	AuthorizedUser
<i>Used Resource</i>	Open Access Content
<i>Usage Condition</i>	Subject To Specified Open Access Terms

Usage Term [1] states that the licensee or an authorized user may access any of the 'supplied content'. (Strictly, two such Access terms may be needed if, as is usually the case, there is a class of walk-in users who may only access while on the licensee's premises, while other users may also access remotely.)

Usage Term [2] is typical of the terms in which the publisher's proprietary permissions and prohibitions are encoded. It states that the licensee or an authorized user may make a digital copy of a reasonable portion of the publisher's proprietary 'licensed content'.

Usage Term [16] simply states that the licensee or an authorized user is permitted to use Open Access content in accordance with conditions separately specified, as indicated in the License Text Link. By including a term in this form, and excluding OA content from other proprietary usage permissions and prohibitions, we ensure that usage permissions are correctly stated both for the publisher's proprietary material and for accompanying OA material. Note that, although OA content can of course be shared with and used by third parties in the ways permitted by the applicable OA license, we regard such third party use as being outside the scope of the license agreement and of its ONIX encoding. Hence 'third parties' are not listed as permitted users in Usage Term [16].