

TRANSFER CODE OF PRACTICE: VERSION 1.0

STATUS: Open for Public Comment until 31 May 2008

Introduction:

This Code of Practice is **Version 1** of the Project TRANSFER Working Group's effort to improve the process of journals transferring between publishers. It is designed to help publishers ensure that journal content remains easily accessible by librarians and readers when there is a transfer between parties, and to ensure that the transfer process occurs with minimum disruption. It is not designed to supplant contractual terms, intellectual property rights, or the competitiveness of the market between publishers.

The Project TRANSFER Working Group has identified the next steps to be taken after this revised Code of Practice is released and broadly accepted. These next steps include:

- The Project TRANSFER Working Group will re-establish itself, under the auspices of UKSG, as a more formal international committee (the TRANSFER Committee) to be composed of librarians, publishers, societies, agents and other interested parties.
- The TRANSFER Committee will:
 - Develop guidelines for publishers on practical aspects of implementing the Code of Practice, being mindful of competition law restrictions.
 - Oversee implementation of a TRANSFER Alerting Service that will provide a central location for publishers to register basic details of transfers which will be available to libraries and other interested parties.
 - Investigate procedures to establish more formal monitoring and oversight of the Code, conduct periodic reviews of the effectiveness of the Code and receive complaints on non-compliance with the Code with the aim of acting as an informal intermediary between the affected parties.
 - Consider future revisions to the Code of Practice and establish procedures on how any revisions will be made and approved.

Principles:

The Code of Practice applies to both the Transferring and Receiving Publisher. Publishers who agree to follow the Code and who apply it in practice will be considered 'TRANSFER Compliant'. The Code is concerned primarily with online content and not with print – except where the Code calls for print subscription lists to be made available.

Publishers agreeing to this Code do so for the titles that they wholly own. TRANSFER Compliant publishers must also use commercially reasonable efforts to ensure that their newly negotiated Third Party-owned journal contracts are also consistent with the Code.

This Code is intended to be universally applied regardless of the nature of the publisher or whether a Third Party is involved or if one publisher is acquired by another. TRANSFER Compliant publishers are encouraged but not required to follow the Code in transfers where the other publisher is not TRANSFER Compliant. It is recognized that such a Code of Practice needs to evolve and develop in line with the marketplace it purports to serve.

ROLES & RESPONSIBILITIES

TRANSFERRING PUBLISHER

Key responsibilities:

*To facilitate effective and rapid transfer of subscriber information to the Receiving Publisher and continued access for customers to journal content

*To facilitate effective and rapid transfer of journal content to the Receiving Publisher

- 1. Access to the title:** The Transferring Publisher must ensure continued access to its customers even if the Transferring Publisher will cease hosting the online version of the journal after the Effective Transfer Date. Depending on contractual terms the Transferring Publisher may continue to provide access on a non-exclusive basis to customers where it has granted perpetual access rights.

NB: TRANSFER recommend that publishers follow the STM Guideline for STM Member Signatories which says that 'Publishers with society journal contracts should always ensure that their customer licenses for electronic or online journal access do not exceed the scope of the license granted to them by the journal-owning societies (*International Association of Scientific, Technical & Medical Publishers: "Ensuring quality customer access to online content when society journals change publishers"*)'.

If the Receiving Publisher has received all of the content files but is unable to provide access on the Effective Transfer Date the Transferring Publisher shall be required to continue to provide access to existing customers until the Receiving Publisher has made the files available or for six months, whichever is sooner. If the Receiving Publisher has not made the files available six months after the Effective Transfer Date, the Transferring Publisher is encouraged, but not required, to continue to provide access to existing customers.

- 2. Digital content files — current (born digital) and archive (digitized from print), if available:** With consideration to the contract terms between the parties involved in the journal transfer, the Transferring Publisher will make the digital files available to the Receiving Publisher within four weeks of signature of the contract or four months prior to the Effective Transfer Date, whichever is the later. If the Transferring Publisher is not the journal owner it will provide the digital files to the Receiving Publisher only with the express written permission of the journal owner. The contractual terms (including any payments) covering the exchange of digital content files will be determined by the parties involved in the transfer.
- 3. Subscription lists:** With consideration to the contract terms between the parties involved in the journal transfer, the Transferring Publisher will make the subscription list of the journal available to the Receiving Publisher within four weeks of signature of the contract or four months prior to the Effective Transfer Date, whichever is the later. The Transferring Publisher will use reasonable efforts to include the following types of subscriber data complying with appropriate data protection legislation:
 - Personal/Membership subscriber details
 - Institutional subscriber details (print, online and print + online) – specifying which customers have perpetual access rights and from what online Volume/Issue
 - Consortia Subscribers – specifying which customers have perpetual access rights and from what online Volume/Issue, and which customers have taken a full institutional subscription within the collection of which the transferring journal was a part.
 - Lapsed subscribers – at a minimum, subscribers who lapsed at the end of the previous year plus any lapsed subscribers who have perpetual access rights, specifying the Volume/Issue range that they are entitled to access.

4. **Journal URL:** With consideration to contract terms covering the journal transfer and ownership rights, the Transferring Publisher will transfer any existing title-related journal domain name to the Receiving Publisher. If the journal title home page URL is part of the Transferring Publisher's domain then the Transferring Publisher will provide a URL link to the Receiving Publisher or create a redirect for a minimum of 12 months after the effective date of transfer.
5. **Communication:** The Transferring Publisher will use reasonable efforts to communicate journal transfer information to its customers, electronic table of contents alert subscribers, and relevant intermediaries as soon as possible after signature of the contract and ideally no less than 2 months before the Effective Transfer Date.
6. **DOI name ownership:** The Transferring Publisher will follow the CrossRef DOI Name Ownership Transfer Guidelines to enable the transfer of control of DOI names to the Receiving Publisher (<http://www.crossref.org/02publishers/guidelines.html>). The Transferring Publisher will give its consent to the change of DOI name ownership as soon as possible after signature of the contract.

ROLES & RESPONSIBILITIES

RECEIVING PUBLISHER

Key responsibilities:

- *To ensure that content is made available to existing customers on the Effective Transfer Date
- *To ensure that customers have uninterrupted access to the journal content

7. Access to the title: With consideration to the contract terms between the parties involved in the journal transfer, the Receiving Publisher will provide access to existing customers from the Effective Transfer Date. If the Receiving Publisher has not received all digital content files from the Transferring Publisher, or if the Receiving Publisher has received all digital content files but is unable to provide access from the Effective Transfer Date, they must permit the Transferring Publisher to continue to make the files available on a non-exclusive basis until the Receiving Publisher begins to provide access.

It is very common for journal content to be included in one or more archiving services. The Receiving Publisher will not remove content that was previously deposited in an archive, or archives, even if the Receiving Publisher will not be continuing to deposit content in the archive, or archives. The Receiving Publisher is encouraged to continue the existing archiving arrangements for a journal after the Effective Transfer Date.

The Receiving Publisher will honour any perpetual access rights to previously published content which have been granted by the Transferring Publisher with the authority of the journal owner.

8. Communication: The Receiving Publisher will use reasonable efforts to communicate journal transfer information to its customers and other intermediaries as soon as possible after signature of the contract and ideally no less than 2 months before the effective date of transfer.

9. Subscription lists: The Receiving Publisher will contact all existing subscribers as soon as possible on receipt of the subscription lists (point 3), and make arrangements with them for continued access to future issues, subject to subscription renewal.

10. DOI ownership: The Receiving Publisher will follow the CrossRef DOI Name Ownership Transfer Guidelines to transfer control of DOI names from the Receiving Publisher (<http://www.crossref.org/02publishers/guidelines.html>). The Receiving Publisher will request consent for the transfer from the Transferring Publisher as soon as possible after signature of the contract.