

Negotiations 2020 - Guidelines

Hereunder some guidelines as defined by the Couperin.org professional board for the negotiation of documentation resources in 2020 (to be effective in 2021 and after).

Nature of price agreements and requirements

Changes in publication methods, alongside Europe and France's willing adoption of Open Science, mean stronger demands are being placed on publishers regarding the content of cost agreements and conditions proposed to members of the Couperin.org consortium.

Publishers' proposals must conform to the requirements of Plan S, and be in line with the national plan for Open Science.

Publishers are encouraged to think outside the box regarding their proposals for providing access to content on a subscription basis, and for safeguarding the transition towards Open Access. The consortium expects publishers to submit proposals which consistently include some element relating to Open Science.

The proposals, which facilitate the development of Open Science, will be looked into for a **fixed cost, that is, on the condition that no cost increase is incurred.**

In the absence thereof, regarding the renewal of pre-existing agreements, **the proposals whose subject matter is limited to subscription access will only be approved on a cost-reduction basis:** they must therefore include a clear reference to the percentage by which the cost will be reduced, at the end of the contract.

Archives: access to the previously subscribed resources after unsubscribing

In order to enable the institutions which chooses to end its subscription to a given documentation to retain access to documentation published during their period of subscription, suppliers must state the terms and conditions guaranteeing this access.

The consortium now includes in the agreements signed with suppliers, the possibility to have the data and metadata available for upload on the national archive platforms which will be in charge of data storage in the French territory, and of secured access management.

Extended rights have to be granted and access management entrusted to the consortium or the designated operator, who will provide reports to suppliers. This last resort measure is meant to ensure sustainable data record in the French territory through a government (and therefore, sustainable) institution.

Thus, an agreement will be signed between the publisher and INIST-CNRS (for the PANIST platform or any other replacement platform).

VAT

As per the French General Tax Code, a 5.5% reduced VAT rate is applicable to most digital publications negotiated within the framework of the Couperin.org consortium. A 2.1% rate may be applied in some other cases.

All the 2019 negotiations must include the rate complying with the General Tax Code (reference: <http://bofip.impots.gouv.fr/bofip/1437-PGP.html>).

Justification of the application of any other VAT rate or breakdown between the two VAT rates in force will be requested.

Updated information on the subject and a FAQ section will be available on the Couperin.org site. For more, please refer to the National Documentation Department (DND) coordinator.

Circulation of the offers: contents description and pricing model

In order to enable the circulation of offers among the members of the Couperin.org consortium, publishers must give the following information, both to the DND and the negotiator:

Amounts currently charged and cost proposals:

- For each resource:

- A table of orders placed during the current year (2020), presented in the format of the DND model. The submission of this table is a prerequisite for initiating negotiations in 2020, and should include a list of current orders or obligations (whether charged or not) for all members of the consortium.

- A precise and comprehensive description of the content and the proposed cost model. In case of renewal, any change must be specified, whether that be a change in the number of titles, cost bracket, cost, or the conditions for degressive prices.
- The supplier must *at the very least* provide a cost proposal based on an outline of institutions for the current year (2019). This can be completed with proposals for any additional institutions. The proposal must include the cost for each institution.
- The negotiator will be routinely informed of any individual cost estimates which arise once an offer has been made by Couperin.org. The proposed costs for each institution must be in line with the offer confirmed in the letter of agreement.

N.B.: If a supplier were to make a member of the consortium a better offer than the one previously agreed by the consortium (“direct” renegotiation), the conditions of this new offer would have to be automatically extended to the other members. Specific cases must be negotiated via the negotiator, not directly with the institution itself.

Open access, hybrid titles, and the existence of transitional agreements:

- Where necessary, the content description should include information on the percentage of content subject to payment (publications subject to a paywall), the percentage of freely accessible publications (pay as you go, publications which are out of copyright), and the percentage of content which falls under the scope of transitional agreements signed abroad.

Type of License

Providing a license is mandatory. We draw the publishers’ attention to the fact that, in compliance with [act n° 94-665 dated August 4th 1994](#) dealing with the use of the French language in French administrations, the institutions’ accountant officers can require a license written in French before authorizing the payment of invoices.

Similarly, should parties fail to find an amicable solution to any dispute or litigation (as per the Public Procurement Code regulating the agreements and contracts between French public institutions and private sector providers), the latter shall fall within the jurisdiction of the Administrative Court of the subscriber and be solved according to the law and regulations applicable in France. If a license bears mention to a foreign Court, the legal departments of the institutions are entitled to reject it.

In order to avoid any payment problem, suppliers are requested to submit a license written in French. If not, the original license will have to be translated “for information” into French (translation fees to be paid by the supplier).

From now on and upon request of the negotiators, contract documents may be checked by a specialized expert legal service after approval of the National Documentation Department (DND) officer.

Letter of agreement

For all the deals which do not involve order groupings, a formal letter of agreement will be signed by Couperin.org and the supplier. This document will formalize the supplier's commitment and define the scope of the offer, the authorized users, the documents-related rights, the terms and conditions and the duration of the agreement... This document will serve as a reference framework in case of litigation and for future deals and will also provide a valuable objective and common tool for negotiators. It must be signed by the negotiator and by a representative of the publisher and appended to the commercial offer and the license.

These documents are a pre-requisite to the circulation of offers among members.

Consequently, suppliers are requested to submit the list of Couperin.org subscribers and the corresponding invoiced amounts to the consortium.

Invoiced amounts

The Couperin.org consortium has a mandate from its member institutions to collect information from suppliers regarding the costs charged at each institution, in compliance with the member's charter.

In accordance with the letter of agreement signed by the supplier, the latter shall provide Couperin.org with the comprehensive list of the institutions that have subscribed to a negotiated offer and with the invoiced amounts.

Multi-campus institutions

Some institutions operate on several campuses that can be quite distant from one another. They are part of a single homogeneous administrative structure with a global management system and they must be considered as a single entity.

The number of students and faculty is identified and reported at institution level. Consequently, the access to resources is available to the community as a whole, whatever the location of the people concerned by the offer. Each subscribing institution shall declare the number of students and people on its staff.

Multi-campus institutions should not be charged with higher subscription prices based on having several locations; the prices on offer only and exclusively take into account the number of students and people on the payroll. The prices cannot and must not depend on the number of campuses that are part of an institution. Should any financial proposition fail to comply with this principle, it will be not be approved by the consortium.

Concerning the experimental establishments mentioned on the Légifrance website, please refer to the Canevas Vademecum fusions and experimental establishments currently being drafted. : <https://docs.google.com/document/d/1RBr5iNwe7SD4kVzV4v8dC5B4fV-883oQwypS9-UxDmA/edit#heading=h.aukk83ueg9lq>

Statistics

Suppliers commit themselves to deliver a monthly detailed statistical report on the use of each resource, in compliance with the COUNTER code of good practice in force.

In addition, the supply of raw usage logs on a monthly or annual basis for further analysis by the consortium will be requested.

They are also requested to produce all the mandatory reports in COUNTER format to each subscribing institution. Moreover, a consortium access will be granted to Couperin.org in order to facilitate access to the detailed information per institution and to the overall Consortium amounts.

The reports will be delivered in spreadsheet compatible format (csv or xls files) and in xml format; they will be accessed via a web service described in the SUSHI protocol.

All the relevant information is available on the official website and on the Couperin consortium web site.

Additional relevant information is available to the non-compliant publishers: <http://www.couperin.org/relations-editeurs/counter-pour-les-editeurs>

Open access

We draw the publishers' attention to the fact that, in compliance with article 30 of the law of 7 October 2016 for a Digital Republic "French Digital Law" and in compliance with article L. 533-4.-1 of the Code of Research, the authors of scientific papers that have been granted at least 50% public funding are authorized to submit the final version of their research publications to the open archiving warehouse of the institutions within 6 months after publication for science and technology and within 12 months for humanities and social sciences.

Services

Inter-library loans: Suppliers authorize the use of licensed resources in order to meet inter-library loans needs provided the use remains strictly limited to Higher Education and Research institutions. Suppliers are requested to provide the negotiator(s) with detailed information on the type of loan allowed (electronic loan, printed version...).

For e-books, the suppliers will indicate the conditions for delivering part or all of the document to a third-party library user unless they do not hold these rights, in which case they will facilitate the evolution of the service delivered in collaboration with the rights' holders.

Supply of metadata: The publishers commit themselves to provide structured, open and well-documented metadata (e.g. in XML format) to the suppliers of knowledge base, discovery tools, federated search engines, e-resources management tools, bibliographic references, etc.

They will undertake the necessary systems development so that resources can be incorporated, and they will provide all the technical information needed at no extra charge. Free access to this information will be available on the Couperin.org site. Publishers are invited to endorse the KBART-type initiatives.

Negotiation of transformative agreements

Three variations of the transformative agreement models, which correspond to changes in the model over time, are mainly listed internationally:

- "Offsetting agreements": the main concern is financial: controlling costs by combining and managing the subscription and APC expenses paid by the institutions; the agreements cover all or part of the institutions' open access publications; the aim is to develop open access and eliminate double payments.

- "Read and publish" agreements: same model but the publication fees (APC) are forfeited, the agreement has a financial component for reading and another for publishing, the balance of the two components evolves over time. There is a link between the historical expenditure on subscriptions and the amount of the agreement.

- The "publish and read" agreements: one pays only to publish, reading is included without financial valuation, one no longer pays for reading. There is no longer a link between the historical expenditure on subscriptions and the amount of the agreement, but a globalized fixed cost of publication (which can be reduced to a single cost). The aim is to lower the rates to an acceptable cost.

For 2021, in agreement with Couperin's Board, an experimental negotiation is being conducted within Couperin.org for a possible "publish and read" agreement. For the other negotiations, only "Open Science" options can be considered: reduction on the publication costs and control of their evolution, reduction of the subscription amount taking into account the expenses of open access publication in natively open or hybrid journals, ...

Public access to documents (included in the negotiations)

Couperin.org implements both the relevant European and French rules on the freedom of information in subscribing public institutions and the provisions of the Code of relationships between the public sector and the administration. Only the data concerning the exceptions duly mentioned in the French regulations in force shall be considered as confidential (damage to the financial interests of the holder and business secrecy).

Hence, confidentiality clauses will be excluded both from the contracts and from the agreements.

On behalf of the professional board

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