

# 2023 Negotiations Guidelines

## Scoping letter for the negotiation of electronic resources – 2024 Agreements

With this scoping letter, the department of documentary negotiations (DND) of the Couperin.org consortium provides the elements that should guide negotiations during 2023 (for 2024). The electronic resources considered are online journals and books, databases and hybrid resources.

### **Nature of price agreements and requirements**

Couperin.org's objective is always to adapt to the needs and capacities of its members in a spirit of cohesion and mutualisation. While everyone agrees that **science must be open and accessible to all**, the budget survey conducted this year by the consortium among its members shows that the constant historical progression of subscription expenses has become irreconcilable with current realities. Institutions with small budget increases remain a minority in the education and research sphere, and negotiations for 2023 must take this into account. The 2023 documentary budgets for almost 60% of institutions are decreasing or at best stagnating. 16% of these budgets have decreased by between 5% and 10%. In a tense national and international economic context, institutions are implementing overall sobriety plans and thus require electronic resource providers to provide real support as regards evolving publication methods and European and French open science policies.

This means the Couperin Consortium obviously has to carefully and pragmatically examine the various transformation models aimed at putting an end to publication fees in hybrid journals. Proposals that enable open science to develop and that comply with Plan S may be examined at **constant cost**. If this is not the case, then proposals to renew existing agreements that only concern access to electronic journal subscriptions will only be approved if they involve a **cost reduction**. Such proposals must therefore include a clear cost reduction coefficient at the end of the contract.

**Stabilised costs** will be the minimum objective for other types of resources like e-books, databases, or any other hybrid resource,

**These consortial objectives have now become the standard for Couperin.org.**

### **Plan S compliance: required criteria**

Read Agreements:

As part of the subscription agreements, proposals will have to comply with the [Plan S Rights Retention Strategy](#) regarding authors' rights: all publications (at least the versions accepted for publication) from projects funded by the ANR, ERC or any research funder belonging to the S Coalition will have to be under a CC-BY license,

allowing the **immediate deposit** of the full text in an open archive, either directly in [HAL](#) or through a local institutional archive.

For other publications, authors may publicly disseminate their scientific writings under the conditions of Article 30 ([English version](#)) of the '[Loi pour une République Numérique](#)' (Law for a Digital Republic - [Explanatory Memorandum in English](#))

### Read and publish agreements:

Overall read and publish agreements will have to comply with the criteria established in response to Plan S, in particular:

- They will be temporary and valid for the duration of the contract. They will not involve a commitment to future contracts.
- They will aim for 100% of French publications open access. Therefore, the progressive release of French articles should not be the favoured solution.
- The associated licenses will be CC-BY, allowing authors to keep their rights.
- The costs and details of the transition will be transparent and public. The content of the contracts can be made freely available.
- The transition phase of the transformation cannot be at a cost higher than the subscription expenses for the (hybrid) journals of the initial scope of the current contract. It must include a mechanism to control the evolution of the cost of publication and reading.
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### Negotiation of fully open access journals

The Couperin consortium is committed to fostering immediate open access to scientific publications by promoting the full range of publication channels. This will be done in such a way as to take the realities of scientific communities into account while encouraging bibliodiversity. Couperin has been mandated to study the opportunities provided by negotiating with native Open Access stakeholders.

A number of journals only offer open access publishing. This is the case of traditional publishers for part of their range of journals and of publishers or platforms who apply this model to their entire portfolio.

The consortium wishes to support and consider agreements with publishing initiatives and models that enable quality open publishing without hindrance to authors. Business models with justified and affordable publication costs may be considered, but Couperin.org will give priority to innovative and partnership-based models.

### Data requested from academic journal publishers.

Regardless of the nature of the agreement with Couperin.org, publishers must provide information each year to assess their publication activity and the share of French productions involved, based on several parameters. The data requested are:

#### Overall publication activity:

- The total number of articles published by the provider in the subscribed contents,
- The total number of articles published in subscription-only access,
- The total number of articles published in gold open access in hybrid journals,
- The total number of articles published in gold open access in fully open access journals.

## Publications related to French Higher Education and Research:

- Publication activity: list of articles with at least one author affiliated to a French institution.

Data to be provided: DOI, ORCID, title of the article/chapter, authors, title of the journal, ISSN, nature of the journal (subscription only, hybrid, pure open access), indication of the mode of publication of the article (OA, non-OA), the associated license (copyright, Creative Common with indication of the license used).

- APC expenses: list of articles whose corresponding author is affiliated with a French institution and the amount of the publication fees paid.

Data to be provided: DOI, ORCID amount paid before and after tax, contact information of the payer.

- APC expenses broken down by French higher education and research institution.

Data to be provided: name of the institution, number of articles published, and annual amount of the expenditure.

The data collected will be used in part for the annual publication of French APC expenditures on the [Open APC](#) website and will aliment the French system for rapid and transparent monitoring of expenditure related to Article Processing Charges (APCs and ancillary costs).

## Workflow tool for APCs

In the case of an overall publication and read agreement or an agreement for publication in fully open journals, the characteristics of the tool for monitoring open access publications (submission of the request by the researcher, administrative approval, invoicing, access to reports, etc.) will have to be discussed and adapted to the specific French situation (multiple affiliations, electronic invoicing, [Chorus Pro](#)).

## Archives: access to the previously subscribed resources after unsubscribing

To enable institutions that choose to end subscriptions to retain access to documentation published during their period of subscription, providers must state the terms and conditions guaranteeing long-term access to the content covered by the subscription periods.

The consortium now includes in the agreements signed with providers **the possibility to have the data and metadata available for uploading on the national archive platforms** which will be in charge of data storage of these contents 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 providers. This measure entrusted to a public institution is intended to ensure sovereignty over acquired data, their permanent conservation on French territory and free access for right holders.

Depending on the case, an agreement may be signed between the publisher and the Inist-CNRS for the [PANIST](#) platform which manages the rights of former subscribers or any other platform that may replace it.

## Multi-site campuses and experimental organizations

Some institutions operate on several campuses that may be geographically distant from one another. They are nonetheless part of a single homogeneous administrative structure with an overall management system and are to be considered as a single entity.

The number of students and faculties is identified and reported at the institution level. Consequently, the access to resources shall be 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 staff members concerned.

Multi-site institutions should not be charged higher subscription fees because they have several locations; the prices on offer only and exclusively take into account the number of students and staff members. The number of campuses that are part of an institution should not lead to any price rises. Should any financial proposition fail to comply with this principle, it will not be approved by the consortium.

An experimental public establishment (EPE) is made up of:

- components which are not themselves a legal entity but are completely integrated into the establishment - these are the institutions the overall EPE has replaced;
- component institutions, associate members or partner members which may retain their status as a legal entity and either leave or join the EPE.

Subscriptions are not systematically pooled at the EPE level and instead depend on how indispensable the resources concerned are for several institutions within an EPE.

Free or low-cost extensions are essential if the target audience has already been counted.

## Statistics

The Couperin.org consortium collects and centralizes usage data for online resources by higher education and research institutions (ESR) in the national ezMASURE repository to provide access to a dynamic cartography-type visualisation tool and national, regional, and institution-specific indicators.

Providers commit to delivering detailed statistical usage reports for each resource at best monthly or at least annually. These should comply with the COUNTER 5 standard's requirements.

These COUNTER 5 reports are to be provided in a spreadsheet-readable format (.csv or .xls files) as well as in.json format, and made accessible through a REST query interface (API) as described in the associated SUSHI protocol.

Moreover, a consortium access will be granted to Couperin.org to facilitate its access to detailed information for each institution and to the totals for all Couperin members.

For each resource, the providers commit to provide the Couperin.org consortium with the complete usage traces (raw logs) generated by the use of each of the subscribers with rights.

All information is available on the official website [www.projectcounter.org](http://www.projectcounter.org) and on the Couperin website <https://couperin.org/negotiations/editeurs-et-fournisseurs/counter/> Several guides are also available for publishers who are still non-compliant: <https://medialibrary.projectcounter.org/>

## Inter-library loans (ILL)

Providers authorize the use of licensed resources to respond to inter-library loan requirements provided such usage remains strictly limited to Higher Education and Research institutions. If requested, providers must provide the negotiator(s) with detailed information on the type of document supply that is authorised (electronic usage, printed versions, etc.).

For e-books, the providers will indicate the conditions for delivering part or all of the documents to a third-party library user unless they do not hold these rights, in which case they will agree to discuss how the service could evolve with the rights' holders.

In general, we ask content providers to validate the principle of electronic delivery of documents at least between libraries allowing quick and easy transmissions in relation to the digital nature of the medium.

## Reporting in discovery tools

French subscribing institutions should be able to integrate metadata for items subscribed to each year into their local catalogue or discovery tool. Structured, open and documented metadata (e.g., in XML) should be available for integration into all union catalogues (e.g., [SUDOC](#) and WorldCat) and the national knowledge base [BACON](#). The metadata will be placed under the [Etalab](#) open license.

The publisher agrees to implement the necessary computing developments so that its resource can be integrated and agrees to provide all necessary technical information at no cost. This information will be made public on the Couperin.org website. In particular, publishers are invited to comply with the KBART recommendation (in line with the [Knowledge Base And Related Tools](#) recommendation) and to provide updated content description files for the negotiated resources.

For the resources chosen as priorities by the consortium, the integration of the metadata of the articles and/or chapters can be delivered to the Abes for integration into the [scienceplus.abes.fr](#) database.

According to the needs defined by the consortium, the delivery can include either all the metadata of the resource for reuse in any type of documentary tool (discovery tool, institutional portal of open archives, etc.), or only part of it, such as, for example, publications with at least one author who is affiliated to a Higher Education and Research (ESR) institution.

The publisher / provider undertakes to deliver the metadata to Abes corresponding to the articles/chapters of the database, in a format chosen by mutual agreement between the parties. The metadata must include all the bibliographic information available on the publisher's platform, including available identifiers, information on the affiliation of the authors and on the terms of access (free access / under embargo / paying).

The Abes teams remain at the disposal of the Couperin negotiators to work together on the delivery and processing of metadata.

## Scientific integrity

Higher education and research institutions implement policies that respect scientific integrity and expect publishers to use similarity detection software upstream of the publication process.

It is in the interest of both publishers and institutions that similarity search software not only harvests open access resources but that agreements should be made with publishers to harvest their subscription resources in a way that fully respects copyright. We therefore ask the providers to indicate with which similarity software agreements have been made and to express their willingness to make agreements with other software publishers, especially those under French or European law as regards rights. The list of software accepted by the provider and, if applicable, their willingness to extend this agreement to other producers will be mentioned in the letter of agreement.

## Technical access

The provider agrees to provide accesses intended to verify the adequacy of the resources provided as regards the terms of the agreement, to develop dedicated services for the right holders if so required and to inform right holders about their accesses and rights.

These accesses will be exclusively reserved for Couperin.org staff members in charge of services, foresight, and negotiations as well as for those of the French Bibliographic Agency for Higher Education (ABES) in charge of purchases and reporting services associated with purchases, for Inist-CNRS staff members in charge of implementing archiving and permanent accesses or for any other institutions in charge of pooled orders.

## Text mining or TDM

The TDM clauses for use in negotiations are intended to fully implement additional rights to complement the provisions of the Ordinance dated November 24<sup>th</sup> 2021 on users' search rights and to limit restrictions linked to publishers' technical systems if necessary. As a reminder, no financial compensation should be charged for the right to search text and data.

The [Ordinance](#) introduces an exception to research copyright rules that is applicable to "text and data mining carried out solely for the purpose of scientific research by research organisations, public libraries, museums, archives or institutions with film, audiovisual or sound heritage collections or by other persons, on their behalf and at their request, including in the context of a non-profit-making partnership with private stakeholders."

## Digital access for the disabled

The consortium wishes to stress the importance of the issue of access to electronic resources by people with disabilities.

Providers and publishers of digital resources are therefore invited to provide an accessibility statement indicating their level of compliance with [RGAA Version 4.1](#) (*French General Accessibility Improvement Reference Framework*).

The web content and services of providers who choose to refer to international digital accessibility standards rather than to the French standard may be evaluated on the basis of the Web Content Accessibility Guidelines ([WCAG 2.1](#)). We therefore ask providers to give information of the results of this evaluation.



## VAT

All agreements for 2024 must incorporate the [VAT rate in accordance with the 'Code Général des Impôts'](#) (*French General Tax Code*). As per this 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. Justification of the application of any other rate will be requested.

## Presentation of the offers: description of contents and pricing model

To enable the circulation of offers among the members of the Couperin.org consortium, publishers must provide the following information both to the DND (*Department of Documentary Negotiations*) and the negotiator:

- For each resource: A table of orders placed during the current year (2023), presented in the DND's model format. This table should include a list of current orders or commitments to order (whether invoiced or not) for all members of the consortium.
- A precise and comprehensive description of the content and the proposed cost model. In the case of renewals, any changes must be specified, whether that be a change in the number of titles, a change to cost brackets, a price variation or a change to the conditions for degressive prices.
- The provider must at the very least provide a cost proposal based on an outline of institutions for the current year (2023). This can be completed with proposals for any additional institutions. The proposal must include the detailed cost for each institution, except when the allocation of costs between members is covered by an internal consortium model.
- The negotiator will be routinely informed of any individual price quotes which arise once an offer has been made by Couperin.org. The proposed costs for each institution must be the same as with the offer confirmed in the letter of agreement.

**N.B.:** If a provider 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 will have to be automatically extended to the other members. Specific cases must be negotiated via the negotiator, not directly with the institution itself, and during rather than after the negotiations.

## Standard-license

Providing a license is mandatory. We draw the publishers' attention to the fact that, in compliance with [act n° 94-665 dated August 4<sup>th</sup> 1994](#) on the use of the French language in French administrations, the institutions' accountants have the right to request a license written in French before authorizing the payment of invoices.

In order to avoid any payment problems, providers are requested to provide a license in French. If it cannot be obtained in French, it must be accompanied by an indicative translation into French (at the provider's expense).

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, such disputes or litigation shall fall within the jurisdiction of the Administrative Court of the subscriber's main offices or those of the institution in charge of managing pooled orders. Any mention of a foreign Court in an agreement is unacceptable and the legal departments of the institutions are entitled to reject it.

If necessary, contract documents may be checked by a specialized expert legal service after approval by the co-directors of the Department Of Documentary Negotiations (DND).

## Letter of agreement

When a negotiation is concluded and does not result in the grouping of orders in the framework of a public contract, a formal letter of agreement will be signed by Couperin.org and the provider. This document will formalise the provider's commitment and define the scope of the offer, the authorized users, the document-related rights, pricing conditions, the duration of the agreement and so forth. This document will serve as a reference framework in case of litigation and as a basis for future negotiations while also providing a useful shared tool for negotiators. It must be signed by the negotiator and by a representative of the publisher and given to the negotiator as an appendix to the commercial offer and the license. These documents are a pre-requisite to the circulation of offers among members.

## Public access to documents (included in the negotiations)

Couperin.org implements the relevant European and French rules on the freedom of information, particularly those concerning subscribing public institutions, and the provisions of the French Code of Relationships between the Public Sector and the Administration. Hence, confidentiality clauses will be excluded both from the contracts and from the agreements.

This position is consistent with the [French government's commitments under the Open Government Partnership](#) and in particular commitment 18 on 'Building an open science ecosystem'.

The Couperin Consortium is mandated by member institutions to collect information from providers on the amounts invoiced to each institution, in accordance with the members' charter.

By agreeing to a consortial negotiation, the vendor agrees to provide the consortium with a list of Couperin.org member institutions and the amounts invoiced.

The amounts paid by the member organisations are published annually on [the Ministry of Higher Education, Research and Innovation's open data site](#).

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