

RUSA/BRASS Statement on Harvard Business Review Pricing & Access

All databases containing Harvard Business Review, a journal published by Harvard Business Publishing (HBP), became “read only” for 500 (HBR 500) of the most popular Harvard Business Review articles on August 1, 2013. Campuses may pay a premium to restore full access to link, save, and print the affected articles. EBSCO, exclusive provider to electronic Harvard Business Review articles, notified subscribers in spring of 2013 about this change. These new access restrictions will affect researcher’s ability to access and use these articles.

Librarians decry the erosion of full access to scholarly material. Members of the Business Reference and Services Section (BRASS) of the Reference and User Services Division (RUSA) of the American Library Association (ALA) have clarified the restrictions with HBP and EBSCO, considered implications for libraries, colleges and universities, and offer suggestions for addressing this newest access restriction to an electronic journal.

Not for course content: A business librarian contacted representatives from HBP and EBSCO for clarification. One Harvard representative stated that “material in EBSCOhost is not intended for use as assigned course material regardless of how that is achieved.”

A BRASS representative summarized further clarification with HBP: “The addition of HBR content to the EBSCO database was a convenience for users, but never meant to supplant Harvard’s business model of the sale of HBR reprints and case studies to academia. Harvard contends that there is abuse of their no linking policy. They feel that the abuse of the ‘no-linking to syllabi, not for use in course work’ policy is cannibalizing their sale of permissions.” In an October 17, 2013 letter to the Financial Times a HBP representative asserted: “Any associated licence fees are not incremental or new; they simply shift the payment for these articles from the school to the library.”

BRASS identified three main issues where libraries will be affected by these changes and offers suggestions for individual responses. A BRASS representative summarizes communication with HBP and EBSCO:

Charge a Premium: HBP chose a way to get the money that would have been spent on course packs by charging a premium for accessing the HBR 500 above the current EBSCO database subscription cost. A Harvard Publishing representative said that schools ought not to be paying twice -- for a course pack license fee and for the EBSCO HBR 500 premium. EBSCO reiterated that, and said they could be contacted by any school that was paying double. Harvard felt this model was the most favorable to libraries of all the options. RUSA/BRASS urges librarians to fact-check with their institutions.

Pricing: Harvard feels its EBSCO premium is fair compared to other materials available on the market. Harvard has a strong course pack business, they are not looking to make new money; they just want to preserve their business model. The premiums have ranged from under \$10,000 to as much as \$200,000. Harvard knows their content is most heavily used by the top 100 schools, and they have the largest premiums to pay. Premiums should be close to fees campuses pay each year to Harvard for permissions. RUSA/BRASS urges librarians to fact-check with their institutions.

Is There a Fair Use Issue? Despite any stated restrictions, fair use should apply to the print journal subscriptions. With the database however, libraries have signed a license that stipulates conditions of use, so legally are bound by the license terms. What hasn’t really been fully tested is whether federal law (i.e. copyright law) preempts a license like this. While librarians may like to think it does, there is very little case law. Also, it is possible that if Harvard could prove that course packs and article permission fees are a major revenue source for them, it would be harder to declare fair use as an issue

and fail the market effect factor. In other cases as in Georgia State, the publishers could not prove their permissions business was that significant which worked against them. Remember that if Harvard could prove that schools were abusing the restrictions on use, they could sue.

RUSA/BRASS offers this guidance and suggestions for individual librarians on their campuses:

- Publicize and enforce new license restrictions on their campuses. Survey faculty regarding extent of use of HBR 500 in classes. Communicate with campus bookstores regarding Harvard course pack accounts and the possibility of duplication of HBP premium enhanced access through the EBSCO databases. Consider alternate articles to the HBR 500 supplied by other vendors that do not have these restrictions.
- HBP clearly states that depending on how campuses choose to access these articles they are shifting existing subscription costs from the business schools to the library. Librarians are urged to communicate with their business school and library Deans and Directors regarding implications of this shift.
- HBP's profit driven practices diverge from the intent of scholarly communication and impinge on higher education and libraries' core social mission to preserve and make accessible records of scholarship. Libraries and publishers share a common goal to enhance scholarship by facilitating access to knowledge. Libraries seek to work with HBP to craft a more mutually beneficial access and pricing model.
- RUSA/BRASS believes that scholarly communication should not be driven by an unreasonable profit model. Librarians are urged to contact their business school deans, presidents, academic senate, and legislators about the effect of high profit publishing companies on higher education budgets and steadily eroding access to scholarly communication.
- RUSA/BRASS urges HBP to suspend this new restrictive policy and collaborate with libraries to find solutions that honor our shared educational and scholarly mission.

The American Library Association is the oldest and largest library association in the world, providing association information, news, events, and advocacy resources for members, librarians, and library users.

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