Technology in Practice. Read the Fine Print

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Think twice before you click "accept"

by Meredith Farkas

There probably isn’t a person alive who’s read the Terms of Service (TOS) of every technology or service he or she uses. Those TOS statements are usually quite long and full of boilerplate legalese that any company must include. When you’re quickly trying to load and use new software, reading a TOS statement is not a priority, so most of us just click “accept” and move on.

TOS statements usually include rules about what you can do with a company’s software, service, or product and what they can do with your content or information. You tacitly agree to abide by those terms by using their product. Libraries should be cognizant of the contracts that govern software, services, and products they use: The terms can impact how a library can use a technology or give a company broad rights to content that you or your patrons have created.

Too good to be true

A number of libraries have begun using Netflix for their patrons. On the surface it sounds like a brilliant idea: For a small outlay each month, you can provide a DVD catalog that is significantly larger than what any library could purchase. However, Netflix’s TOS states that its service “is solely for your personal and noncommercial use.” This indicates that it is a contract violation for an institution to circulate Netflix videos to their service population.

“We appreciate libraries and we value them, but we expect that they follow the terms of agreement,” Steve Swasey, Netflix’s vice president of corporate communications, said in the September 18 Chronicle of Higher Education Wired Campus blog, emphasizing that the firm does not offer institutional subscriptions and “frowns upon” libraries lending its products to faculty to share with students.

Amazon.com also restricts digital content on the Kindle to personal use—and yet a number of libraries are lending out Kindles full of e-books. While Netflix and Amazon probably wouldn’t want the bad press that could come from suing libraries for violating their TOS, most school districts, colleges and universities, companies, and municipalities would not want their libraries to put them at risk.

Libraries today utilize a variety of online tools to have conversations, get feedback, and collect knowledge from their users. Patrons are adding book reviews to library blogs, putting photos on library Flickr accounts, and commenting on library blogs and Facebook pages. When software lives on a library’s server, the library can protect patron information. When using a hosted service like Facebook, PBworks, or Blogger, the library has far less control over how patron information is stored and used.

Many Web 2.0 companies have TOS and privacy policies that make it clear that users own their content and that the company cannot use it in other ways. But other firms make claims on user content or constantly change their privacy settings, opening previously private content to all. We have fought for decades to protect the privacy of patrons’ information offline, and they trust us to do the same on the web. It is critical that we know how a company will protect patron content before encouraging our users to contribute to its website.

New digital technologies have opened up many possibilities. They have also made the work of contract compliance and protecting patron privacy more difficult. In considering a new technology, it is imperative that a library understand what rules it must abide by. Ask questions and get any special permission in writing to avoid costly investments of time and money in a technology you can’t use for legal reasons.

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