MACMILLAN PUBLISHERS, EBOOKS, AND LIBRARY LENDING

On July 25, Macmillan Publishers announced a two-month embargo on sales of new ebook titles to libraries. Under the new terms, when a new Macmillan book is published the Allegheny County Library Association will only be able to purchase a *single one-user/one-ebook* license. It will have to wait eight weeks before it can purchase additional licenses.

This is a troubling development. In 1908 the U. S. Supreme Court ruled that the owner of any lawful copy of a copyrighted work may lend, resell, rent, or give away that copy without the copyright owner's permission. This "First Sale Doctrine” is what allows libraries to lend copyrighted material. However, the “First Sale Doctrine” does not apply to digital works. When a library purchases an ebook, it is purchasing a license whose terms are dictated by the publisher. A common arrangement is for a two-year license, after which the license must be purchased again if the library wants to keep that title in its collection. For instance, the license for Katherine Center’s *The Things You Save in a Fire* will cost $60.00 and will last for either 24 months or 52 check outs, after which the library will need to purchase a new license. (The retail price of the print copy of *The Things You Save in a Fire* is $26.99.)

Macmillan’s decision to allow only a single one-user one-ebook license will create enormous waiting lists. But librarians are more dismayed by the cultural implications of the new model. What will the future look like when works of art—books, music, and art—are not owned, but are licensed? The First Sale Doctrine allows libraries to share, lend, and archive. The current licensing arrangement restricts the lending that libraries previously enjoyed.

In a 2001 report about the Digital Millennium Copyright Act, the U. S. Copyright Office stated:

We are in the early stages of electronic commerce. We hope and expect that the marketplace will respond to the various concerns of customers in the library community. However, these issues may require further consideration at some point in the future. Libraries serve a vital function in society, and we will continue to work with the library and publishing communities on ways to ensure the continuation of library functions that are critical to our national interest.

Many librarians think that now is the time for further consideration.