

# New Rules for an Old Game

## The future of AALL's Guide to Fair Business Practices

by D. Jason Raymond

photos by Brant Bender

Understanding the relationship between information vendors and law librarians resembles seeing the movie *Rashomon* for the first time without subtitles and coming in 25 minutes late after dropping acid in the lobby. Hopefully, there won't be a test after the credits.

Axtmann, associate director for information resources at University of St. Thomas Schoenecker Law Library. Another AALL anchor, Frank Houdek, law library director and professor of law at Southern Illinois University Law Library, was unable to appear owing to a scheduling conflict.

On the cooperative side of things, Todd emphasized that the *Guide to Fair Business Practices* is a "voluntary document." She stressed that librarians need to use the *Guide* by citing it in their letters and conversations with information vendors. Unless law librarians consistently use the *Guide* in all their dealings with vendors, she said, it will fail to become a governing standard in vendor-law librarian transactions. Todd then briefly reviewed its content.

If there was one problem with the program, it came at this point. With no PowerPoint presentation or other visual aid to break down the basic principles, the structure and nature of the *Guide* was difficult to follow for audience members who had forgotten to turn up with a copy. Todd more successfully used some real-life situations commonly encountered by librarians to show how the *Guide* operates. These situations showed clearly just how broad the *Guide's* principles are and how difficult it may be to know what it covers.

In Todd's example of a vendor that masks advertising for a future edition as a currently due invoice, it turned out that several parts of the *Guide* could be cited in correspondence. Here again, a visual to follow would have been a great aid.



*Kay Moller Todd, senior legal researcher at Paul Hastings Janofsky Walker LLP, begins the program by giving some background on the AALL Guide to Fair Business Practices.*

In the world of law librarians and vendors, even basic identity issues are murky. All at once information vendors and law librarians inhabit the roles of sellers-customers, employers-employees, information providers-patrons, colleagues, and competitors. I've heard more than one law librarian refer to Westlaw as a law library, rather than as a legal information product. "Handy dandy," said Shakespeare about another profession in similar circumstances, "which is the justice, which is the thief?"

And that's not even mentioning information vendors' collective roles at Annual Meetings as the suppliers to law librarians of free wine, cheese, fried bits of what-might-be-chicken, and different types of loot bags, bulging with promotional widgets.

But an early Tuesday morning, still gorged on barbeque beef and free Heineken at the prior evening's annual West party (and, man, did I dance), was time to clarify one issue: vendor ethics and fair business practices.

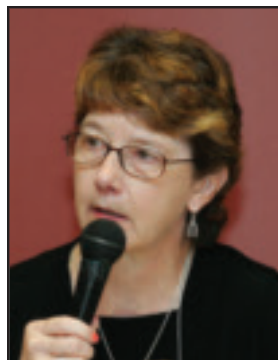
Kevin L. Butterfield, current chair of AALL's Committee on Relations with Information Vendors (CRIV), introduced the panelists for the program, "The Guide to Fair Business Practices: Where Do We Go from Here?" The two panelists were both familiar AALL faces: Kay Moller Todd, senior legal researcher at Paul Hastings Janofsky Walker LLP, and Margaret Maes

### History of the Guide and CRIV

Todd began the program by giving some background on the new *Guide*. Plans for drafting it became a priority after the Federal Trade Commission (FTC) rescinded its own rules governing transactions with vendors in 2000. After lengthy review, AALL adopted the *Guide* in 2002. Todd told

the audience that she has recently chaired the task force in charge of figuring out how to implement it. For those unfamiliar with its contents, the *Guide* has been published and can be found on CRIV's Web page ([www.aallnet.org/about/fair\\_practice\\_guide.asp](http://www.aallnet.org/about/fair_practice_guide.asp)).

Axtmann then discussed CRIV's unsuccessful history resolving complaints by law librarians against certain information vendors. CRIV would often send a letter to the FTC and to the vendor involved. However, Axtmann noted that CRIV carried "no weight" with the FTC, and responses from vendors were spotty. In recent years she said CRIV has tried to create for itself a broader role of educating law librarians with the creation of CRIV tools, educational programs, and *The CRIV Sheet*, rather than focusing on being the complaints purveyor. CRIV still receives complaints and does get involved when some issues explode on an online discussion forum. But the focus for CRIV is on the cooperative, rather than adversarial, side of law librarian/vendor relations.



*Margaret Maes Axtmann, associate director for information resources at University of St. Thomas Schoenecker Law Library, gives background on the AALL Committee on Relations with Information Vendors.*

### Law Librarians to Determine Guide's Influence

Axtmann then discussed CRIV's future. While CRIV is a highly visible group, and many organizations see CRIV as a model to improve relations with information vendors, AALL is reconsidering CRIV's role. Axtmann explained that a new Task Force on Vendor Relations, composed of herself, former AALL president Janis Johnston, and



*Margaret Maes Axtmann, Kay Moller Todd, and Kevin L. Butterfield, head of technical services at the College of William and Mary Marshall-Wythe Law Library, discuss vendor ethics and fair business practices during “The Guide to Fair Business Practices: Where Do We Go from Here?”*

Houdek, will try to determine if CRIV is indeed the best model for improving vendor relations. The task force will issue its findings in a report no later than AALL’s next Annual Meeting in St. Louis.

Todd then explained that she is part of another advisory group that will take over complaints with vendors and interpret the *Guide* to specific situations. The group shall also look at revisions to it that have already become necessary. This new advisory group will work closely with CRIV, but be a

separate independent entity. Complaints about information vendors that involve provisions of the *Guide* submitted to CRIV will be forwarded to the new advisory group.

But as the program ended, Todd stressed to the audience that there are “no teeth” to the *Guide*. Whatever influence it will have will come solely by its widespread use and implementation by law librarians in the hope that information vendors will see the need to voluntarily adopt and follow its provision.

Lastly, Todd noted that the *Guide* has distinct limitations. For instance, it does not cover a situation where a subscription agent goes out of business and law libraries are unable to recoup the sums paid for advance subscriptions. So how influential the *Guide to Fair Business Practices* will be remains, like much else in the relationship of vendor and librarian, uncertain. ■

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