

Members' Briefing

Vendor Relations

edited by Tracy Thompson

Editor's Note: For more vendor relation news, read "CRIV Notes" on page 36 in the July 2008 issue of AALL Spectrum. You can also read updates from select vendors on the CRIVPage: www.aallnet.org/committee/criv.

AALL Executive Board Addresses Vendor Relations Issues

by Steven P. Anderson

At its April meeting, the AALL Executive Board reaffirmed the Association's vision of a respectful, open, and fair information community in which all stakeholders—from publishers to librarians—play import roles in ensuring that high-quality, cost-effective publications find their ways from presses and Web servers to library shelves and computers for eventual use by researchers.

Through the years, AALL has consistently tried to improve this framework through a variety of initiatives. The Washington Affairs Office speaks clearly, for example, on the right of copyright holders to receive fair compensation for their works, while also promoting a balance that allows readers to benefit from the "fair use" of these works. The Committee on Relations with Information Vendors (CRIV) works diligently to make sure librarians and publishers arrive at cooperative solutions that benefit libraries and their users. AALL's educational activities strive to make sure that librarians provide the very best information services to their users. AALL's VIP Program at the Annual Meeting serves to ensure that law libraries' customers, including judges and attorneys, are aware of the role that legal information plays in their professional lives.

Publishers likewise have made long-lasting and vital contributions to the development of the scholarly communication continuum. Publishers' support of AALL's meetings and scholarship and grant initiatives has enhanced the profession in enduring and transformative ways. In addition, publishers have a deep commitment to producing high-quality publications that record for posterity the actions of our legal system.

It is not hyperbole to say that the actions of each player—from publishing executive to librarian at the reference desk—all contribute in some way to the

smooth functioning of our democracy. Legal publishing, law libraries, and researchers using law library services are all essential ingredients for improving justice throughout the world.

Sometimes, however, the relationships among the stakeholders need to be refreshed. Parties tend to overlook the significance of their actions and view their objectives in isolation, rather than in community. When this happens, it is time to renew the vigor of our information community by reminding ourselves of our common purpose.

Recent AALL Actions

During the last several months, the AALL Executive Board has examined with a critical eye its dealings with both its librarian members and the publishing community. In November, President Ann Fessenden created an FAQ on vendor relations issues and communicated with members about the sponsorships the Association receives from vendors. Since that time, a board working group has examined Association policies, resources, and Strategic Directions to determine how AALL's role might be made even more effective. In early April, the board passed several of the working group's proposals.

First, the board reviewed the *AALL Guide to Fair Business Practices for Legal Publishers*. In order to promote clarity and maintain consistency, the board changed one section, "Principle 2: Disclosure." The revision emphasizes the need for librarians to make informed acquisitions decisions and calls specifically for disclosure about "retail" pricing.

Just as one does not go to a car dealer to purchase a new automobile without knowledge of the price, information users likewise must be well informed about purchasing decisions. After all, many annual subscription agreements for legal

New Approaches to Dealing with Legal Publishers in the 21st Century

Purchasing legal information these days is endlessly challenging. Prices for both print and electronic resources are escalating at alarming rates. Licenses are complex and may contain terms you can't accept. Vendors may ask you to sign a non-disclosure agreement, which results in better prices, but conflicts with your belief in information sharing. What's a law librarian to do?

AALL's Executive Board has struggled with these issues and tried to find ways the Association can help. These actions have included providing education on negotiation skills, developing a Vendor Relations page on AALLNET, and strengthening the *Guide to Fair Business Practices*. Executive Director Kate Hagan and I have talked directly to major publishers to explain members' concerns and seek ways that we can better work together to meet the information needs of legal researchers and practitioners.

There are no easy answers, but this *Members' Briefing* explores some new approaches. It assembles a wide variety of views designed to help us look at these complex and thorny issues in new ways. Included are an explanation of recent actions by the AALL Executive Board that affect the Association's approach to vendor relations, a challenge to traditional methods of paying for Westlaw and Lexis services in law schools, and an examination of whether both services are really needed. The *Briefing* also provides a guide to improving communication with vendors in a law firm environment by reaffirming the important role the law librarian plays as facilitator and gatekeeper.

I hope this *Briefing* will help you take a fresh look at how you can best face the daily challenges of acquiring and using legal information products.



Ann T. Fessenden
AALL President, 2007-2008

publications and online services cost far more than a new car.

Second, the board adopted a new AALL Sponsorship Policy, replacing the former "Gifts and Contributions" section of the AALL Policy on Collaborative Activities and Joint Agreements. The new policy reaffirms that the Association has the right to refuse sponsorships with vendors who do not contribute to the *AALL Price Index for Legal Publications* or abide by the *Guide to Fair Business Practices*.

Third, the board created the contractual position of vendor relations consultant as a first step in the development of a future vendor relations representative. The board intends that the initial six-month consultancy will be filled by a librarian with a record of innovation and contribution to the profession. She or he will draft for the November Executive Board meeting recommendations regarding how best to structure an eventual vendor relations representative position and what activities the representative might undertake to further enhance relationships between publishers and the library community.

If the Association ultimately proceeds with this pioneering plan, the representative will be AALL's "point person" for maintaining high-level communications between the

Association and the publishing community, thereby improving the scholarly communications framework. The representative may advocate for improvements to scholarly communications in a way similar to that in which the Washington affairs representative advocates for information access to the governmental community.

Fourth, the board continues to look for innovative ways to improve access to legal information. One such possibility may be the creation of some type of AALL consortium, which could work as a buying cooperative for members. The board created a Consortium Review Task Force, which will consider during the coming year the feasibility of this opportunity.

Lastly, the working group briefly examined the AALL Ethical Principles and concluded that it was time for a more thorough review. At its recent meeting, the board asked that its Policy and Procedures Task Force make recommendations at the July Executive Board meeting regarding a review process. The principles were adopted nearly 10 years ago, so it is time to consider any impacts that advancements in publishing and librarianship might have had since that time.

Not all of the working group's recommendations were appropriate for board resolutions. Rather, the working

group made suggestions to other AALL entities for investigating new directions or requests for additional information. For example, the working group noted that the CRIV could continue to promote Project COUNTER, which advocates adoption of uniform standards concerning the recording and reporting of online usage data. It encourages the CRIV to continue educating members about negotiating strategies, new information on publications and the publishing industry, and how individual libraries can promote competition among publishers.

The AALL Executive Board hopes that these recent developments will serve as cues to all stakeholders in the larger information community that now is the appropriate time to remind ourselves that we all share a common purpose. Our shared commitment to the availability and accessibility of legal information benefits society as a whole. Each of us has a role to play in this dynamic enterprise. The Association is taking crucial steps that it believes will help renew the vitality of this scholarly communications continuum.

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A Radical Departure or the Wave of the Future?

by Merrilee Harrell

Professor Penny Hazelton's opening remarks for the University of Washington's law librarianship class this quarter offered the following challenge: "What seems impossible in our profession, but could be accomplished with a fundamental change?" Among the issues we have discussed in subsequent classes has been the recurring concern regarding ever-escalating costs for electronic Westlaw and Lexis products.

The current model for most law school libraries is to provide students with free access to both Lexis and Westlaw for the entire duration of their law programs. The problem is that the costs continue to increase, and this model simply does not encourage competitive pricing. Both Lexis and Westlaw have the law schools' business pretty much guaranteed.

As I listened to the ensuing discussion in class, my mind kept returning to the idea of taking a radically different approach to database access—shift responsibility for access to Westlaw or Lexis from the law library to the student.

What!? We can't do that! Or can we? How would various stakeholders react?

Law professors: Would professors require students to get a password, just as they require certain textbooks? Could it be optional (i.e., the student could elect to use a combination of free Internet resources, the library's Westlaw/Lexis database access, and print resources)? Certainly there would be no need to require access to both databases, and perhaps only limited access (purchasing packages) would suffice.

Students: Would students consider purchasing Westlaw or Lexis access in the same light as purchasing a casebook? The same as purchasing optional study guides? Would they appreciate vendors catering to them more directly to gain their business? Would students develop more efficient searching skills if they were the ones paying for access?

Law librarians: Would libraries, whose budgets currently cover the student database access, realize a savings? Would the vendors simply increase the cost of the per person password for the remaining passwords purchased by the library? Would the price of print resources increase? Would students take better advantage of the print, electronic, and human knowledge resources available in the library? Would library use increase?

Vendors: Would print resources, on the precipice of obsolescence, become relevant again? (And is this a good or a bad thing?) Would the vendors save costs on paper if students were more cost-conscious with their database use? Would it be beneficial to offer free passwords to first-year law students to gain their future loyalty? In any respect, it seems that competitive pricing would keep the cost

to students reasonable, if not nominal.

Potential future employers: How many early-career associates have run up thousands of dollars in database charges because they were accustomed to broad access to Lexis and Westlaw? Is it possible that the recent graduate who had to think about search strategies for economic reasons would be a more effective (and cost-effective) researcher?

I would be interested in the law library community's reaction to such a hypothetical change. What are the pros and cons? What does your experience or intuition tell you would be the likely outcome? Discuss...

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The \$ 50,000 (or so) Question: Lexis and Westlaw, Lexis or Westlaw, Lexis but not Westlaw, or Westlaw but not Lexis?

by J. Paul Lomio and Erika Wayne

We were teaching terms and connectors searching in our Advanced Legal Research class when a hand went up. One of our students, a bright third-year, asked earnestly, "I'm only learning Westlaw here in law school. Will this put me at a disadvantage?"

Our student's choice of Westlaw might also be the database of choice for librarians. At present, we are concluding a Web-based survey assessing both preferences and needs for having both Westlaw and LexisNexis access in a law library. We have only preliminary results thus far (the final results for this survey will appear on our blog, [LegalResearch Plus.com](http://LegalResearchPlus.com)) but it's clear that law librarians responding to the survey have strong preferences. And many librarians feel that having only one system offered in law school, whether Westlaw or LexisNexis, will not be detrimental to our students.

We do have final results from our annual Stanford Law Library survey, given each spring to our students and which asked a similar question.

From our law school population of approximately 550 students, we received responses from 180 students; nearly equal numbers of first-years, second-years, and third-years replied to the survey. We asked students, "Which of the following databases do you use for research? (Check all that apply.)" The drop-down choices included BNA, Google, HeinOnline, LexisNexis, MOML, RIA, Westlaw, and more. We included Socrates, our OPAC, as well as "other" option for resources not listed.

The good folks in Eagan, Minnesota, should rejoice when they see the results: Westlaw was the students' number one pick, garnering even more votes than Google or LexisNexis. Google came in a very close second, earning more votes than LexisNexis. More interesting and gratifying, Socrates, our online catalog, gets more use than LexisNexis. And both HeinOnline and JSTOR received nearly as many votes from our students as LexisNexis.

Both LexisNexis and Westlaw are complete law libraries. A law student or lawyer can perform adequate, competent legal research using either of these two search systems. Certainly we each have our preferences for doing one type of search or another in either Westlaw or LexisNexis. But preferences are quite different from needs. No one needs to use them both.

Our answer to the Advanced Legal Research student was that it might be best if she learns the system that her employer favors. But, given that the research skills she has learned using Westlaw are so easily transferable to LexisNexis (and other databases), even if her future employer were only to use LexisNexis she would have no difficulty making the transition.

The next question—a more difficult one—is for us. Would it make more efficient use of our limited library dollars to invest in only one system? After the initial grumblings simmer down, would we really feel the loss? Would our students' careers suffer?

We don't think a library needs LexisNexis and Westlaw any more than it needs both the *U.S. Code Service* and the *U.S. Code Annotated*. There are pros and cons to LexisNexis and Westlaw, and there are obvious benefits to having both.

We get numerous requests from faculty and students for new resources. It seems as if patrons have tapped into an infinite array of law-related databases that would support their research and scholarship. Library budgets, however, remain finite. Librarians need to choose resources wisely. And that may mean having to choose between Westlaw and LexisNexis.

We have no doubt that our single-minded law student will have a rich and successful career and that her legal research skills won't want. All she is really missing out on is a supply of Lexis swag and a chance to win an iPod.

We are very interested to see the full survey results, as a test of our hypothesis. Again, complete survey results will be posted soon at: LegalResearchPlus.com and made available as a Robert Crown Law Library research paper (available at www.law.stanford.edu/library, click on "Legal Research Paper Series" in the right column).

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Communication Sets the Stage for Successful Vendor Relations

by Dina Dreifuerst and Amy Eaton

"The vendors keep calling my people directly! How can I make them stop?" You've heard this many times, and probably said it more than once yourself. It's one of the more frustrating issues we encounter as librarians. After all, one of our primary responsibilities within our respective organizations is to serve as the intermediary between the users and the vendors who provide the products and services. How can we do our jobs if the account representatives are constantly doing end-runs around us?

The answer is effective communication, and it starts inside your own organization. Why do vendors go straight to the end users? Because it works. As long as your attorneys, professors, and judges continue to respond to vendor contacts, the vendors will keep calling, e-mailing, and faxing them.

Start Inside Your Organization

Before you take the message to the vendors, you must first seek clarification of your organization's policy regarding outside communications. If none exists, this would be the time to develop one with upper management. In the law firm setting, discuss the issue with your administrator, library partners, and department heads, perhaps even the managing partner. Ask if they want attorneys billing at \$200 or more per hour to spend their time fielding sales pitches on the latest and greatest loose leaf or database.

Consider this a golden opportunity to highlight some of the most valuable services you provide: evaluation and review of new and existing resources, coupled with wise stewardship of the organization's financial resources. The librarian is often in the best position to determine whether a new product would fill a gap in the existing collection or just duplicate comparable resources. We also understand all of the costs associated with acquisitions, including the time needed to process and update print materials and the intricacies of cost recovery for electronic resources.

When discussing the need for a uniform message to vendors, provide concrete examples of the problems that arise when vendors go directly to the users.

Bring in that six-month-old invoice for the book ordered by an associate that just showed up on your desk last week, and feel free to mention that the firm already has two copies of that title in the library. Point out that the invoice is at list price, instead of the 25 percent discount you had previously negotiated. Bring in that stack of 30-day review materials that sat on the judge's desk for six months, unopened.

However tempting it may be, do not approach this issue from the position that the vendors are making your job harder or undermining your authority. Focus on how the current practice negatively impacts your organization's financial position and distracts others from their valuable work. When they're listening to sales pitches, attorneys are not billing time, professors are not teaching students, and judges are not writing opinions. Remind the leaders in your organization that your job is to deal with the vendors so they don't have to.

Once you have management support for a workable policy regarding vendor communications, it's time to publicize it within the organization. Discuss it with your section or department heads, as well as anyone else who might potentially communicate with vendors. Focus on the benefits of the new practice, with an emphasis on the potential time savings for those who've taken vendor calls in the past.

You may feel daunted by the prospect of trying to get your entire management team to develop and support a clearly expressed policy regarding vendor communications. No one is saying it's an easy task, but the alternative is next to impossible—training every single vendor to call you instead of that attorney who always accepts books on review. When your entire organization is reading from the same script ("Let me transfer you to the library."), the vendors will eventually get the message.

Take Control of Your Vendor Relationships

In order for this new policy to work, it is essential that the librarian be seen as the lead decision maker in your organization. Take control of your

relationship with your vendors and make sure that you are setting the agenda. For example, if your law firm is going to test a new online service, you determine who participates and the terms of the trial.

Communication with your vendors is a two-way street. Good working relationships with your vendors helps you to stay informed and educated about new products. When attorneys hear about new products, they will naturally come to you with questions. If you are able to quickly answer their questions, it will reinforce your role as the content expert in the organization.

Your local vendors will also offer you continual training, allowing you to stay current and aware of changes to existing subscriptions. Forming good relationships with your vendors helps you with problem solving. Often local or regional vendor representatives can work with their headquarter companies to resolve billing issues, missing issues, lapsed subscriptions, and other problems.

Above all, a successful communication strategy will create a win-win solution for both the librarian and the vendor. Be honest and direct in your discussions. If you elect not to purchase a vendor's new whiz-bang product, provide an explanation. Your honest and straightforward feedback may help the vendor make changes in its product that will make it a must have for you in future years.

Also, by providing more information than, "my attorneys didn't like it," you demonstrate that you are more than just an order taker. This, in turn, raises your profile with the vendor and helps to ensure that you will remain the primary contact in the future. Finally, be specific and concrete about what you need from the vendor; give your representative a chance to work with you, and both parties will gain from the relationship.

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