

AALL works to promote law librarians' interests

By Judith Meadows and Kay Moller Todd



Mr. Ginsborg's primary assertion is that the level of donations made to AALL from information vendors rises to a level sufficient to compromise individual members' impartiality on the issues. We counter with a discussion of the Association's mission, policies, and history of lobbying, all of which suggest strongly to the contrary.

AALL engages in a wide range of activities, including the development of educational programming; publishing; supporting the exchange of information among members and those interested in law librarianship; and awarding scholarships, awards, and grants. Our program is based on the priorities articulated by the membership prior to the development of each Strategic Plan. Support for these activities comes from diverse revenue sources: dues; investment income; revenue from conferences, including exhibitor fees; advertising; and donations. Donations may be monetary or in-kind. Monetary donations support awards, scholarships, grants, research, and social activities at live events. In-kind donations include the *AALL Directory* and tote bags for Annual Meeting attendees. Donations thus may benefit an individual grant recipient, members who attend a conference, or all members who receive the directory. In 2009, the most recent year that data are available, donations amounted to 11 percent of all revenue—the total from publishers is lower, as member donations are grouped in the total.

This financial structure is the context in which to examine Mr. Ginsborg's position; it is similar to many other professional organizations that enhance dues revenue by accepting donations and sponsorships. Our research confirms that comparable professional associations have protocols for sponsorship that are very similar to AALL's. Mr. Ginsborg asserts that the level of these donations not only has affected AALL's impartiality on issues but also causes our members to lose objectivity and critical decision making when faced with whether or not to purchase a legal title.

Throughout the authors' membership, AALL has vigorously promoted law librarians' interests in access to legal information. If Mr. Ginsborg had merely perused the Government Relations Committee web page, he would have been aware of the testimony provided to Congress, the briefs filed in federal court, and the policy statements issued by our Government Relation Office on behalf of all of our members. These positions are frequently in opposition to one or more publishers' interests, such as our opposition to the *Database Protection Act*, our efforts to ensure net neutrality, and our continuing testimony on copyright law. When the merger of Thomson with West was announced, AALL forcefully represented our members' interests to the Federal Trade Commission (FTC). We expressed our concern about loss of competition to the antitrust officials, leading to the requirement that West sell several of its titles to other companies.

Mr. Ginsborg's statements about the rescinded FTC *Guides on the Law Book Industry* (1975) include several misconceptions. The guides were not drafted or used for the purpose of monitoring pricing structure or price increases.

Rather, they addressed inaccurate invoicing, misrepresentation of titles, failure to disclose prices, advertising, and other issues dealing with sales—not increases in pricing. The guides were one of a series of industry-specific guidelines that the FTC rescinded in January 2000. Although AALL vehemently lobbied the FTC to keep the guides in place, the agency felt that the broader consumer protections in place in Section Five of the *FTC Act* were adequate. The FTC encouraged trade associations to develop standards for their areas, and that is exactly what AALL did with the *Guide to Fair Business Practices*. This guide continues the effort that the FTC discontinued. AALL promotes the guide, and individual members should cite its principles to publishers. It is naïve to suggest that the FTC would enact new regulations in this political climate merely because prices have increased.

AALL's Government Relations Office continues to work to maintain and protect public access to primary law, as well as its authentication and preservation, ensuring the rights of every citizen in our country. This is the public good—access to primary law. In this public policy arena, we are recognized for our commitment and our expertise by other professional associations (including the American Bar Association), by federal government agencies, and especially by Congress. Cost increases for legal publications have long exceeded the rate of inflation, and they are regrettable, particularly during this economic downturn with widespread library budget reductions. Law librarians are called upon to make evaluative judgments and, in most libraries, the resources provided are insufficient to purchase all resources on a topic or even to include all subject areas in the collection. This is the reality all law librarians face, whether they work in a top 100 law firm or a top-ranked law school.

It is patently true that the cost of legal publications is rising. But is it also true that there is a public right to low-cost secondary legal publications? Noble though that sentiment is, such a right does not exist. The public availability of primary source material is unquestioned and for low to no cost. However, the rights of authors for remuneration are not subject to this public good, and the marketplace operates to price copyrighted secondary legal materials. AALL is stalwart in its support for the general availability of primary source materials, but to argue this public right for secondary sources is without basis.

Our Association has made significant efforts to ensure the availability of legal information to the public, parity of access across rural and urban markets, and a market that is not dominated by one specific vendor. We are all better off when the marketplace includes large and small vendors. Still, it is the individual consumer's decision when a title becomes too expensive. That decision is based on variables specific to each library: customer base, resources, availability at nearby libraries, etc. We maintain that it is not the professional association that can or should make such decisions for its individual members.

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AALL's membership categories permit anyone interested in the Association's objectives to join. Consequently, we do have a number of practicing attorneys and judges as members. Mr. Ginsborg supports recruiting the practicing bar to AALL, something state, court, and county librarians have been attempting for years. Given the declining memberships of many bar associations, however, recruiting significant numbers of lawyers to AALL is unlikely—and even more unlikely is the possibility that they will become vocal opponents of cost increases for legal publications.

The author's other proposal that AALL should undertake mass education of attorneys; establish a website for reporting and tracking consumer complaints; forge alliances with national, state, and local bars and legal advocacy groups; and launch joint investigations of legal publishing practices is impressive but completely unrealistic. He presents no business plan for such an office, nor does he consider the financial and budgetary implications of such a proposal. Would our members really support the kind of dues increase to be expected by refusing all donations of any kind at the same time as establishing a new venture that would require additional staff?

Mr. Ginsberg's assertion that AALL's Ethical Principles, approved by an overwhelming majority vote of our membership in 1999, jettisoned the principle of avoiding conflicts of interest is patently untrue. Readers can find the principles on AALLNET under "Policies." Language is there that stipulates that we promote open and effective access to legal information, that we promote fair and ethical trade practices, that we have a duty to avoid situations in

which personal interests might be gained at the expense of our clients, and that we strive to obtain maximum value for our institution's fiscal resources.

We strongly assert that our individual members, when making purchasing decisions, are unaffected by donations provided to the national Association for events and services. The reality is that like any entity in the world marketplace, legal publishers risk the loss of sales if products are overpriced for the consumer or do not provide critical information. It is law librarians' professional responsibility to decide if the institutions they work for will pay or not pay for the value of a title or product. AALL is firmly committed to promoting the free access to primary law. Pricing policies and purchasing decisions should not be confused with ethics.

We recognize that we have a fundamental difference of opinion from Mr. Ginsborg. We relate to legal publishers as business partners with whom we work to have the best products available for our customers. Mr. Ginsborg sees publishers as the opposition with whom AALL members have nothing in common. We believe that is fallacious but recognize that this is a critical issue for AALL members and endorse a continuing dialogue. We hope that our comments will inform the discussion. ■

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