

The Impact of the 17th Edition *Bluebook* Rule 18, Electronic Materials

by Will Geeslin

The *Bluebook's* 17th edition (2000) permits citation to electronic materials under Rule 18, a new rule that dramatically alters the *Bluebook* landscape in this area. Rule 18 explains the general position of the *Bluebook* that can be described as cautiously accepting in tone, but enthusiastic in practice. At first cut, it seems that the new Rule 18 is less than permissive regarding citation to electronic sources: "This rule requires the use and citation of traditional printed sources, *except...*" [emphasis added]. Upon further analysis, this "except" introduces a slippery slope from which the "traditional printed source" language will not ascend. The three exceptions open up the proverbial door through which a large truck can navigate, especially when read in the context of Rule 18.1.4, which will be discussed later.

The first exception for citing electronic sources instead of print is a source that is unavailable in print—for example, an online-only periodical. This obvious exception to the "rule" has no effect on the argument that the *Bluebook* has essentially opened the door to online citation. The second exception states that it is acceptable to cite to an electronic source when the source is obscure or hard to find. The third and final exception for citing to the electronic source is when such citation will *substantially improve* access. For a library's purposes, the

second and third exceptions create a huge hole in the rule. "Obscure or hard to find" and "substantially improve access" could be argued in many instances—for example, if we would be otherwise be forced to use ILL materials when a WESTLAW or LEXIS citation is available. The editorial board's lack of definition for the words "obscure" and "substantially" further supports the idea that the gates to electronic citation are wide open and that the "requirement" to use and cite traditional print sources is mere surplusage at its dramatic finest.

An important additional dimension that Rule 18 provides is that "information should be cited in a manner that indicates clearly which source actually was used or accessed by the author." Given the interpretation provided by Rule 18.1.4 (to be discussed shortly), this is clearly the driving force behind the *Bluebook's* new scheme for electronic source citation, as opposed to the dire, and yet impotent, proclamation that it "requires" the use and citation of print. Implicitly, the *Bluebook* is saying that if the author used the electronic version, then that is what the cite-checkers should consult, regardless of whether it is obscure or hard to find (under any definition). Indeed, the *Bluebook* clearly accepts citation to the commercial database version of a non-obscure, non-hard-to-find, periodical article in Rule

18.1.4 when it states "if only the commercial database is accessed," then cite to that version along with a parallel cite to the print version. The example it uses to illustrate this Rule—a *Harvard Law Review* article—proves that the *Bluebook* gives its imprimatur to the citation of electronic sources in the loosest of interpretations of the "obscure or hard to find" category. This supports my argument that consulting the actual source used by the author clearly outweighs the requirement of "obscure" or "hard to find" articulated previously. It also suggests that the underlying scheme values substantially improving access over the demonstrated toothless idea that traditional print sources should be used.

Note to readers: I consulted Karen Beck, the author of an earlier *AALL Spectrum* article about cataloging electronic materials. Her article was based on the stated preferential hierarchy in the *Bluebook's* 16th edition Rule 10.3.1 in the context of case citation such that a "widely used computer database" was less desirable than regional, official, and then unofficial reporter cites. Her article was based upon the *Bluebook's* 16th edition and has been largely made moot by the 17th edition's new Rule 18.

Will Geeslin (will@willresearch.com) is Research Attorney at Will Research.com in Austin, Texas.