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www.aallnet.org/main-menu/Advocacy/vendorrelations

The CRIV Sheet

Editor's Corner

While it happens that this issue of *The CRIV Sheet* is the last I will edit because I have accepted a position outside of law librarianship, I am pleased to pass the red pen to Assistant Editors Liz Reppe and Todd Melnick. They will continue to solicit articles related to vendor relations, collection management, publishing practices, acquisitions, and the like. If you have settled a dispute, advocated on behalf of your

organization, put into place cost-savings measures, or studied an issue related to vendor-library relations, please share it with the readership of *The CRIV Sheet*.

The CRIV Sheet's editorial policy is online at www.aallnet.org/main-menu/Advocacy/vendor-relations/CRIV-Sheet/policy-criv.html. Please let the assistant editors know if you have any comments about this issue, past issues, or future issues.

Shaun Esposito University of Arizona College of Law Library

From the Chair

As I write this February 2012 chair's column to meet the issue's deadline shortly before Thanksgiving 2011, I realize that to call *The CRIV Sheet* a "newsletter" is misleading in today's technological world. Most readers will already know something about the items of information I am going to discuss in this column. Nevertheless, *The CRIV Sheet* does serve as a reminder to the readers and also as a more permanent record of CRIV activities than that provided by blogs and online discussion lists. With that in mind, I am happy to share (and memorialize) several interesting activities with you.

I start this column with a report of some major membership changes on CRIV. Mary Jenkins, our long-time *CRIV Sheet* editor and committee vice chair, is leaving the law library world to accept a position at an academic (non-law) library. I want to thank Mary for her important service and contributions to CRIV. Although Mary's unique talent will be impossible to replace directly, I am happy to report that an experienced former member of CRIV, uniquely talented in her own right, has returned to undertake the role of vice chair. Michelle Cosby, our new vice chair, is faculty services librarian at North Carolina Central University School of Law Library. Michelle was a CRIV committee member from July 2008 until she completed her service on the committee this past July at the Annual Meeting in Philadelphia. Michelle's enthusiasm and experience will be a great asset to the committee. I will be happy, comfortable, and relieved to hand over the CRIV torch to her in July.

Much CRIV activity this past fall surrounded our submission of five program proposals to the Annual Meeting Program Committee for this summer's meeting in Boston. The program proposal titles reveal the wide range of issues of interest to CRIV: Librarian as Vendor; Metrics and Collection Development—

Demonstrating ROI; How to Use the *Fair Business Practices Guide* When Communicating with Publishers; Creating and Maintaining Consortia; and Antitrust Considerations and the Association. I am pleased to report that the antitrust program proposal was accepted. The program will be session G4, confirmed for Monday, July 23, 2012, from 2:45-4 p.m. in Boston. Program specifics are still being worked out, but the program's two stated learning objectives are: (1) participants will understand the history of the antitrust discussion within AALL, and (2) participants will be able to identify the challenges posed by current law on association activity while also identifying strategies for effective collective responses to unfair licensing and publishing practices. Mary Jenkins drafted and submitted our only accepted proposal. With Mary's departure from CRIV and AALL, I have undertaken coordinating and moderating duties for this program.

This past fall, CRIV also made inquiries with publishers about issues of concern to membership. Discussions with Law Journal Press addressed concerns about invoicing and customer service responsiveness. Questions and concerns about conversion from looseleaf format to annual softbound editions were conveyed to West/TR. Library Relations Senior Manager Anne Ellis responded to initial and follow-up questions about this process. These two examples demonstrate the type of activity CRIV undertakes on behalf of membership on an ongoing basis.

This spring, in addition to continued work on the aforementioned activities, CRIV New Product Award Subcommittee members Liz Reppe, Cynthia Myers, and Jamie Keller will evaluate products under consideration for the award. As the AALL working group charged with redrafting the *Guide to Fair Business Practices* makes drafts available, CRIV will

review them to provide feedback and suggestions. CRIV will also continue to work with the vendor liaison to outline areas of responsibility for each.

As always, please contact me with any concerns or suggestions related to AALL member education and

advocacy or regarding vendor-related complaints and communication. Information regarding requests for CRIV's assistance in complaint resolution is available at www.aallnet.org/main-menu/Advocacy/vendor-relations/request-assistance.

Deb Person University of Wyoming College of Law

Vendor Autoshipment Policies and the Librarian

In the summer of 2010, our library received two subscription titles from Thomson Reuters/RIA Tax and Accounting that we had no record of ordering. From that time until November 2011, our library struggled to conclude satisfactorily the autoshipment and billing of these titles. Most of our efforts were documented, providing an interesting study of library and vendor practices regarding autoship policies. Although this is, admittedly, a one-case study, the frustrations we experienced will likely generate some changes to our library's receiving practices. We are sharing these experiences and what we learned from them in the hope that it will help other libraries with similar challenges.

The two titles concerned were *Corporate Tax Digest* and *Estate and Gift Tax Digest*. Our library received the shipments in June 2010. To the best of our recollection, they came with information that identified them as part of an autoship program instituted by the vendor, but they did not include any information about why they were shipped, any association with a title to which we already subscribed, or any indication how to return them. After investigation, we found we had no open orders for them. We directed them to our collection development process and determined that we did not want to add the titles to our collection. On June 10, 2010, we emailed the company, stating that we did not want the titles. We requested that they send no further supplements, and, per AALL's *Guide to Fair Business Practices for Legal Publishers*, we did not return the materials or pay the invoices. As noted in the guide:

"Publishers should obtain the customer's consent prior to making a shipment or initiating a transaction, unless such shipment is part of a standing order or subscription to which the customer has previously consented." (3.1), and "Unsolicited merchandise may be disposed of without permission, without an attempt to return, and without payment, pursuant to federal statute (39 USC 3009)." (3.1(d)). *Guide to Fair Business Practices for Legal Publishers* (2d ed. 2007). www.aallnet.org/main-menu/Advocacy/recommendedguidelines/fair-practice-guide.html

We received the 2011-1 supplement of *Corporate Tax Digest* and returned it on October 25, 2010, with a letter citing our previous cancellation and stating that we would not return future updates. On January 6, 2011, we returned the 2011-1 supplement to *Estate and Gift Tax Digest* with a similar letter. We received the 2011-2 supplement to *Estate and Gift Tax Digest* on July 28, 2011. We sent another email documenting our efforts to cancel this title on August 16, 2011. Our efforts to cancel included telephone calls, but we did not document the dates of the calls or record what was discussed.

In August 2011, we got a very helpful response from a customer service representative at RIA who assured us that our subscription to *Corporate Tax Digest* was cancelled as of November 2010, indicating as proof of our cancellation that the most recent update had shipped but was not sent to us. She verified also that the company had received the *Estate and Gift Tax Digest* update we returned in January, but that no cancellation was recorded. We learned at this point that sometimes when returns are received, the boxes are scanned for their contents but not opened. In this instance, our accompanying letter may have been missed.

Although I could not yet officially document the cancellation of *Estate and Gift Tax Digest*, I was notified in a telephone conversation with an RIA representative early in November 2011 that the title has been cancelled and our account was no longer on hold awaiting payment for the issues we received. In this conversation I requested clarification of RIA's autoship procedures. We were correct in believing that we did not order these titles and that they were not associated with any of our open subscriptions. RIA shipped these titles to us on a review basis. Libraries wishing to keep the titles and initiate a subscription with renewal notices would pay the invoice. Those who did not wish to keep them could request a return mailing label and ship the items back within 30 days.

The problem, therefore, arose in part from some of our decisions. When items are received in our library, they are unpacked and loaded onto a cart for librarian review. We record order information and examine the items for location placement and faculty review notifications. Titles for which we cannot

identify an order have to be investigated for their source. While these supplements were accompanied by a letter indicating they were autoshipped, vendors autoship for a number of reasons. We may have established a standing order for a particular title. Vendors may have a new product that is associated with a title for which we have a current subscription. A title can come as part of our approval program. An unidentified title could come as part of a negative option rule, such as those the Florida Attorney General's Office negotiated with Thomson Reuters and MatthewBender/LexisNexis.

In our efforts to resolve this problem, I looked at these two agreements. I searched through my notes from a session I attended at AALL in Washington, D.C., during which I first heard of the case. In the Agreement of Compliance between the Florida Attorney General's Office and Thom[p]son Publishing Group, Inc., 2008, Section 24 of the agreement discusses the Prenotification Negative Option Rule that gives the vendor the right to mail promotional material, stating the item will be sent automatically unless the library responds that it does not wish to receive the title. (See www.ftc.gov/os/comments/negoprulereopen/543809-00102.pdf, which includes AALL's comments on the FTC's Negative Option Rule and documentation of the agreement between the Florida's Attorney General's Office and Thomson Reuters, as well as a similar agreement with Matthew Bender/LexisNexis.) Although our issue was with RIA and not Thomson Reuters directly, I expected that, in light of the costs associated with the resolution in the agreement, these practices had been adopted by most legal vendors. At this stage I was still considering the likelihood that someone in the library had received a prenotification letter. The turnaround time for a response, 10 days, is fairly short for a busy library. Any one of us could have received the letter, glanced at it, and tossed it away, considering it daily advertising instead of forwarding it through the appropriate collection development process. In the end, it turned out that none of this was integral to our problem, but it was a reminder to read more carefully and act more quickly.

In the prenotification rule, it appears that library consent is implied when the notification is not returned. This was different from my interpretation of AALL's *Guide to Fair Business Practices for Legal Publishers* guideline for customer consent. I concluded that autoshipment is fairly lucrative for the vendor. From one perspective, getting the materials into the library to excite interest is good marketing. Viewing it more cynically, it may lead to accidental processing of materials and payment of invoices for autoshipped items along with the piles of other materials that arrive each day. Both the

agreements and the guidelines put strictures on vendor autoship notices to prevent these accidental occurrences. And certainly libraries need to be alert and careful when receiving and processing materials and invoices. However, in working with the volume of materials and paperwork that arrive in a library in one day, prenotification letters can get buried, tossed, or misdirected, and any notices packaged with materials may not get forwarded to those making collection decisions. It's difficult to ensure best practices on the library side. And as I believe our scenario proves, it is equally difficult on the vendor end, as they are also struggling with misdirected communications, multiple customer service representatives, and imperfect practices.

In this instance, my decision to spend no further staff time returning the materials, though I believed it was in line with the guidelines, probably impacted the lengthy ordeal and exacerbated the general confusion over these mailings. Emails failed us; telephone calls got us halfway; returns along with cancellation letters were overlooked by the vendor; and, as our frustration rose, we grew more determined to refuse to return items we did not order and that, from our perspective, we had cancelled several times.

So how can we avoid this hassle for future interactions? Educating everyone will be a first step. From our receiving staff to our librarians, we will need to be more vigilant about forwarding mail to the correct people and ensuring packaging materials move forward with the pieces through the receiving stage. We will request return labels for autoshipped items the first time we receive them. If the cancellation is not registered at that point, it's likely we will not ship back additional supplements, in line with the guidelines and federal law. And we will continue to document our efforts and request written verification of cancellations. I'd also suggest that vendors engaging in this practice clarify the notice they ship along with the titles. I was unable to get a copy of the letter that was originally sent, but it required a significant amount of staff time just to track down the purpose of the shipment, not to mention arrange for a return and then work through the lengthy cancellation process.

We are clearly not the first library to struggle with the issues that arise from vendor autoshipment. We are grateful for the direction we received from the *Guide to Fair Business Practices for Legal Publishers* and the compliance agreement worked out by Florida's Attorney General's Office. We are also thankful for our RIA customer service representative who was responsive to our questions and handled our frustrations well. We now look forward to continued good interactions with greater understanding of the process at both ends.

Better World Books

Better World Books (www.betterworldbooks.com) was started in 2002 by three college graduates from the University of Notre Dame who recognized the true value of a used book. They started by selling donated textbooks online and giving a portion of the sales to the Robinson Community Center in South Bend, Indiana. The venture was so successful that they ended up forming a social enterprise with a mission to promote literacy. They soon expanded their book collection program on campus to working with libraries and their discards and donations.

In 2005, the University of Chicago D'Angelo Law Library began a comprehensive review of its print collection in anticipation of a law school building renovation project and the construction of a high-density storage facility on campus for the University of Chicago Libraries. During the review process, we weeded many duplicate monographs. We posted selected titles on the "needsandoffers" online discussion list for law librarians. Although close to 70 percent of the monographs posted were shipped to other academic law libraries, there were still many books ready for the recycle bins. The university library holds book sales only once or twice a year, and we had no place to store these books for the next book sale.

On a tour of the high-density storage facility at Valparaiso University, we visited its acquisitions department, where carts full of new and used books for Better World Books caught my attention. The staff explained to me that these unwanted gifts and library discards would soon be shipped to Better World Books to be sold online. Based on their recommendation, I immediately investigated to see if Better World Books could be an option for the D'Angelo Law Library.

Since then, Better World Books has sold many of our discards and unwanted gifts online. In our cataloging department, we have designated seven shelves to hold books to be sent to Better World Books. When these shelves are full, we will request boxes and packing supplies from Better World Books. We only send books that meet their acceptance criteria and also are in

good physical condition. As we generate the UPS shipping labels in house, we automatically notify UPS to pick up the boxes in one or two days. Better World Books pays for the shipping cost; it is most cost-effective for them if we send a minimum of six boxes in each shipment. The library receives a check quarterly that we use to supplement our book budget.

Before starting this program with Better World Books, a library has to complete a sign-up form and choose a nonprofit literacy partner. There are a few types of materials Better World Books does not accept, such as magazines or journals, book club editions, mass-market paperbacks, etc. The company also has an optional "Pre-screen Feature" for customers to check by ISBN which titles it does NOT want, often because it already has many copies of the title. Better World Books now has an Antiquarian, Rare, and Collectable Department to handle books predating ISBNs or of special value.

Working with Better World Books has been effortless on our part. After our selector rejects a gift book or decides to withdraw a duplicate monograph, we place the processed book on the Better World Books shelves. If interested, we can check our library's sales summary online to see the price for which our books were sold. Some books were sold for as much as \$80 or even \$250 and others for just \$1 or \$2. I have been told that the old casebooks are welcomed by their foreign and domestic customers. The books are sold through Amazon, Alibris, Better World Books, and more than 20 other online used book sales websites. Since 2005 we have had several different customer service representatives, but all of them have been friendly and helpful.

In general, we are happy that our "discards" and "unwanted gifts" have another chance to be discovered and obtained by readers around the globe. The literacy program of our choice and this library financially benefit from the sale. Finally, Better World Books recycles the books that absolutely cannot be reused.

Honesty is the Best Policy: Collection Development Policy Revisions in an Era of Change

Editor's note: This article is reprinted with permission from *Technical Services Law Librarian* (Vol. 36, No. 4, June 2011).

As I prepared to write this column, my last as the contributing author for collection development for *TSLL*, I revisited both the journey I have taken over the last two years and the writing I have completed as a result of it. Thinking about each collection development project, I reviewed my own observations, methods, and guiding principles. In both the lessons I have learned and the ways in which I have tried to convey those lessons, I have taken one vital element of my work for granted. I have not highlighted the vitally important task of collection development policy revision.

One of the most important functions of the regular review of a collection development policy is the opportunity to revisit the fundamentals of collection development. Regardless of whether we are public, private, or academic entities, the basic considerations in creating and maintaining a collection development policy remain the same. We start with the library mission. Whom do we serve, and why? Knowing the focus and purpose of our service is important, but translating that knowledge into timely and relevant policies that inform our decisions is absolutely critical to excellence in service-oriented librarianship. And there is an even greater value in asking these questions as our organizations experience rapid and pervasive change. When the answers to these questions change, our policies should take those changes into account. What we do and how we do it should be derived from whom we serve and why. When one changes, it is incumbent on us to reconsider the other.

Policy revisions also provide an opportunity to review legacy practices in our organizations. "Why are we doing this?" can be a powerful question in times of change. Reviewing the rationale behind our policies and practices gives us an opportunity to transition away from decisions and methods that don't meet our needs toward other practices that are more responsive to our most important constituencies, our users. Moreover, in times of increased constraints on space and resources, our greatest assets will be our creativity and flexibility in finding new ways to achieve our objectives. What better way to reevaluate the way we develop our collections than to revisit the guidelines we have created for that work?

Beyond changes in the organizational mission, structure, and resources we have at our disposal, we also find ourselves in a time of rapid change in the way that information is gathered, stored, and shared. While we are each keenly aware of the changes taking place around us, there are few guideposts for translating some of those changes into concrete guidelines for a new era of collection development. For example, some law school faculty have begun to take part in new publishing initiatives designed to re-envision the way in which law school casebooks are written, sold, and accessed. E-casebook projects like CALI's eLangdell (see www.cali.org/elangdell) have begun to reach a wider audience, and as such they require new ways of thinking. Existing models of collecting faculty publications primarily focus on the physical information containers that hold faculty writing. Most academic libraries have clear directions for how faculty-authored print monographs or article reprints should be handled. But how should we treat a chapter in an e-casebook? The chapter could be printed if there are no copyright restrictions, but is that the best option? The answer lies in review of the existing collection development policy, with an eye toward the mission and purpose of the library and attention both to the changes at hand and those that are likely to follow.

Another change that impacts public, private, and academic libraries alike is the slow but steady move toward the authentication of online sources for primary legal materials. The AALL Government Relations Committee has been committed to the cause of increasing free public access to authenticated primary authorities in digital format for a number of years, and it remains one of the stated goals in the most current iteration of the committee's action plan (www.aallnet.org/main-menu/Leadership-Governance/committee/actionplancmtes/2009-10/govrelations.pdf).

As those striving for freely available authenticated government information find success, those of us charged with the collection and dissemination of that information should reevaluate what we will collect and how it is provided to our users. Once a publication is both official and authenticated online, how much of our limited resources should we spend to maintain a duplicative print set of the material in our

collections? What if our most limited resource is space rather than funding? And what if the resource in question is still not official when accessed online? The answers will vary from library to library, but the questions are critically important to ask.

A further fundamental element of our work guided by the collection development policy is weeding, or deaccessioning of materials. Some of the sagest advice I have been given to date with respect to this endeavor is to constantly strive to remove materials from the library with the same level of thoughtfulness and care that I give to the addition of new materials. In fact, weeding some collections requires an even more acute attitude of reflection and consideration than the addition of new items based on the fragile, fleeting, or unique nature of the collections. The policies that guide these decisions must be as carefully crafted and regularly reviewed

as those that direct new acquisitions.

What I present here is not so much a call to arms or action as it is a call to reflection. We make our best decisions when we have given time and consideration to our guiding principles, then let those principles help to steer our course. As I move into a new chapter of my professional career, this is one of the essential lessons I will carry with me. The policies I help craft must mirror and complement the people my library serves, including both the reason and ways in which we serve them. At the same time, they must be realistic and forward-looking, taking into account the resources at our disposal and the changes in our future. To continue the good work in which we are already engaged, we must look honestly at each of these things. Ultimately, this honesty will guide us in crafting the best policies.

Request for Assistance: Committee on Relations with Information Vendors

Note: Prior to filing a request for assistance, individuals are expected to have made a reasonable attempt to resolve the issue at hand. To avoid duplication of effort, please provide a complete account of your efforts to communicate with the vendor. Copies of notes from conversations with the vendor are helpful.

Date: _____

Name: _____

Library: _____

Address: _____

Telephone: _____

Fax: _____

Email: _____

Vendor: _____

Nature of problem: _____

Please send this form and supporting documentation to:

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Head of Public Services
University of Arizona College of Law Library
1201 E. Speedway Avenue
Box 210176
Tucson, AZ 85721-0176
520/626-5551
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You may also complete this form online at:
www.aallnet.org/main-menu/Advocacy/vendorrelations/request-assistance