

The worlds of legal information and legal publishing have undergone a dramatic transformation over the past forty years. From an environment dominated by the printed word to one dominated by digital formats and computer-assisted legal research tools, the roles of the publisher and user have undergone a mega-shift. As an attorney, law librarian, or other legal professional, you cannot function without access to accurate and timely legal and general information, whether in the form of statutes, court reports, administrative regulations, municipal ordinances, court rules, forms, legal treatises, encyclopedias, practice books, citator services, law reviews, legal newspapers and newsletters. That information is now being delivered to the end-user primarily in digital form, with the printed formats taking a back seat. Even among the general population, sales of books on Kindle now exceed those acquired in hardcopy. Among legal professionals, most research work is now accomplished utilizing comprehensive proprietary online legal databases. Indeed, the optimum representation of your clients in the third millennium requires nothing less. As a legal professional, it is essential that you have a sophisticated understanding of the world of legal information and the legal information resources in your field of specialization, as well as an ability to utilize that information effectively.

We are living in an age dominated by information, otherwise described as a post-industrial age. The United States has been transformed from a nation that manufactures products and goods into a nation that produces, enhances, processes, and sells information. Lawyers and other legal professionals make their living transforming raw information, legal and otherwise, into knowledge and solutions for their clients. The attorney's role in this age of information is dramatically complicated by its sheer volume.

It has been estimated that, in 1900, the entire body of information in the world was doubling every seventy-five years. By 1950, it was doubling every twenty-five years, by 1980, every five years and, by 2011, every two years. A 2010 IBM study projected that, by 2014, the amount of digital information would be doubling every eleven hours. Indeed, as individuals, we are increasingly awash in information and data, making us ever more dependent on tools which can sort and select that which is most useful and desirable. In the legal publishing field, synergies created by the consolidation of the industry have precipitated a heightened level of product development not only illustrated by the dramatic enhancements to Thomson Reuters Westlaw and LexisNexis, but also by the introduction of a number of competing online legal information providers trying to carve out a niche, most significantly, Fastcase, a sophisticated and economical online service that has enlisted over 800,000 lawyer-subscribers by partnering with state and local bar associations.

Attorneys have responded to this information explosion by specializing. From the perspective of legal information, an attorney in the 21st century simply cannot practice in more than one major regulatory field and still do justice to his or her clients. For example, simply monitoring environmental regulations on a daily basis is a full time job for an information professional. Legal information vendors have responded to this explosion by developing and marketing more specialized legal reference

tools. While legal publishers may still maintain the currency of such broad-based products as **Corpus Juris Secundum** or **American Jurisprudence 2d** for their existing customers, such products are increasingly becoming dinosaurs in the new digital world. Consequently, legal information providers are directing their energies to new product development, toward the specialized legal information products, and the application of sophisticated computer-based technologies to integrated legal information packaging and retrieval.

Transformation of the Legal Publishing Industry

Legal publishing is undoubtedly one of the most dynamic sectors of the American economy, evolving into a multi-billion dollar business that has attracted the interest of leading foreign investors. In the 1980's and early 1990's, as antitrust standards were relaxed, the legal community witnessed a dramatic consolidation of the legal publishing industry. In relatively short order, leading English, Canadian and Dutch companies snapped up one domestic American legal publisher after another. In sharp contrast to 1977, when at least 23 legal publishers of some size and reputation were separately owned (along with scores of smaller ones), the bulk of legal publishing in the new millennium has been brought under four major corporate umbrellas: Thomson Reuters (Canadian-British), RELX (formerly Reed-Elsevier) (British-Dutch), and Wolters Kluwer (Dutch). Under their new consolidated ownership, these entities have responded to the information revolution by reorganizing product lines, restructuring operations, and developing more sophisticated and integrated means of information retrieval and delivery. In 2010, a fourth competitor entered the online market—Bloomberg Law (a division of Bloomberg L.P.), which acquired BNA in 2011.

The most dramatic of these developments took place in 1996 when the Thomson Corporation of Canada purchased the venerable West Publishing Company for \$3.425 billion, creating the world's largest legal publishing enterprise, that now controls roughly 40% of the domestic market in legal information, as well as a sizable share of the world market. Though the merger of Thomson and West raised a host of antitrust concerns, particularly among law library consumers, the Department of Justice's Antitrust Division allowed the merger to proceed with only minor and inconsequential divestitures. The fruits of the Justice Department's misguided approval of this historic merger are clearly evident thirteen years later. On April 17, 2008, the Thomson Corporation acquired Reuters, a leading network of media, financial and economic services, creating the world's leading source for business and professional information. And Thomson Reuters continues to scoop up additional smaller entities with nary a word from the Antitrust Division, the latest being O'Connor's (formerly Jones McClure) in 2017. The Thomson family owns 53 percent of the resulting Thomson Reuters Corporation.

Seeds of Industry Consolidation

The seeds of the present organization of the legal publishing industry were planted in the late 1970s, when the Thomson Corporation of Canada came to appreciate the strategic importance of legal publishing from an investment perspective.

High profitability, reliable cash flow from subscription sales, a relatively affluent customer base, and lower risks in product development all contributed to the desirability of acquiring legal publishing entities. What distinguishes this recent wave of mergers and acquisitions, however, from those that preceded them is that these are being played out on a global stage by foreign-owned corporations primarily interested in maximizing their profit potential.

Back in the days when they were the two major competitive forces in the industry, West and Lawyers Cooperative claimed to offer complete systems of legal information—West around its National Reporter and Key Number systems, and Lawyers Cooperative around its Total Client-Service Library. However much they and their customers may have believed their marketing claims, legal information consumers still had to shop elsewhere for a variety of additional products, including citators, looseleaf services, legal treatises, and practice books, as well as legal periodicals, newsletters, and government publications. As the merger frenzy picked up steam in the late 1980s and early 1990s, however, it became obvious to industry analysts that future global competitiveness would require the integration of a full range of legal research products and services under common ownership. This product integration was also converging with the growing power of online research, which was already bringing these products straight to the lawyer's desktop.

Clearly, the acquisition of a major on-line service was to be the *sine qua non* for any legal publishing enterprise, which hoped to compete successfully in this new world of legal research product integration. Conversely, the lack of a complementary line of analytical and practice products would handicap an online provider whose aim was to compete on this emerging global landscape. A successful legal publisher in this new environment has to be in a position to offer legal information consumers a complete and integrated product line.

The Legal Publishing Mega-Mall

Since the dust settled on this merger frenzy in the late 1990s, the legal publishing industry has become far more clearly defined and highly concentrated. Two major publishing giants—Thomson Reuters and the RELX Group (formerly Reed Elsevier)—stand like two major anchor stores at opposite ends of the Legal Publishing Mega-Mall. Their two leading legal information companies—Thomson Reuters West and LexisNexis—each provide legal information consumers with an integrated product line consisting of a major on-line research service (Thomson Reuters Westlaw and LexisNexis), a sophisticated and citator service (KeyCite and Shepard's), a significant line of primary law and a large body of analytical and legal practice products in both print and digital formats. Behind them stand a stable of news, financial, tax, medical, and scientific services.

A third conglomerate, Wolters Kluwer now stands on the second tier, with a solid presence in the field of current awareness and analytical tools. The company is organized into four major divisions: Health; Governance, Risk & Compliance; Tax and Accounting; and Legal & Regulatory which serve markets in the United States, Canada and the world. In the United States, the leading brands were Wolters Kluwer Law & Business (formerly Aspen Law & Business), CCH (formerly Commerce Clearing

House), and Loislaw. Wolters Kluwer's acquisition of Loislaw.com in December 2000 provided it with the base from which to integrate its various product lines into an electronic environment. In December 2015, however, Wolters Kluwer sold off Loislaw to Fastcase, in a deal which hinged on Wolters Kluwer's strategic decision to re-focus its attention on its analytical law products, and Fastcase's desire to absorb the Loislaw subscriber base, and also make its legal treatise libraries available on the Fastcase platform. Indeed, Wolters Kluwer never invested the financial and editorial resources to make Loislaw a serious competitor to Westlaw or LexisNexis. It commanded but a thin slice of the domestic online legal research market, lacked an editorially-enhanced citator service of proven value to the American legal community, had far fewer (but growing) analytical works in its catalog, and faced competition from other low-cost, CALR providers, including Fastcase, Casemaker, VersusLaw, and Bloomberg Law. These leaves Thomson Reuters West and the RELX Group as the dominant players in the industry.

Bloomberg Law, the latest major entrant in the field, was an outgrowth of Bloomberg L.P., a privately held financial software, data, and media company, founded in 1981 by Michael Bloomberg, with financial backing from Thomas Secunda, Duncan MacMillan, Charles Zegar, and a 30% ownership investment by Merrill Lynch. In 2009, Bloomberg L.P. launched Bloomberg Law, a legal research subscription platform providing access to primary law, analytical materials, dockets, legal filings, and reports, as well as business news and information. Its acquisition of BNA, a leading publisher of current awareness and analytical tools in a variety of subject areas, provided the substantive secondary resources necessary to its success.

The remainder of the mall is filled with dozens of smaller specialty boutiques, offering everything from inexpensively priced online access to primary law, practice books, subject specific treatises and CD-ROMs (now on their way out), monographs, newsletters, and regulatory awareness products. Ironically, Loislaw.com, which once proudly held itself out as an independent and less costly on-line alternative for legal information consumers, found itself a takeover target after its stock price plummeted in 2000. The largest American legal publisher which remained independent after this thirty-year wave of mergers and acquisitions was, until recently, Bureau of National Affairs (BNA), an employee-owned company headquartered in Arlington, Virginia. In August, 2011, however, it was acquired by Bloomberg, which had been on the lookout for more substantive analytical content to enhance Bloomberg Law, its online legal research service. Other niche legal publishers include the American Bar Association, Lawyers & Judges Publishing Company, Law Journal Publishing, James Publishing, Juris Publishing, and the Practising Law Institute. Publishers serving the academic market have substantially expanded their legal offerings, among them Carolina Academic Press, Cambridge University Press, and Oxford Press, and offering a variety of monographs, reference titles, and law school texts.

In other developments, we have witnessed a further jettisoning of academic titles by the major legal publishers, following the example of Thomson Reuters West which divested its law school titles to West Academic in 2013. In 2015, LexisNexis Matthew Bender divested approximately 500 legal education titles to Carolina Academic Press. Clearly, the major legal

publishers sought to focus their attention on the supplemented portion of their catalogs aimed at the professional market where the real profits reside. Indeed, as we will explain more fully in subsequent chapters, the acquisitions and merger frenzy was driven by the realization that sales of continuations (subscriptions and supplements, whether online or in print) constitute the lion's share of industry sales and profits.

Whither the Consumer?

When the Justice Department approved the merger of Thomson and West in 1996, it sanctioned a legal publishing industry dominated by two major players. The divestiture of a few high profile products and a star pagination licensing provision were supposed to appease opponents of the merger, while preserving Thomson's ability to assemble more content rich computer-based products. Moreover, the Justice Department was convinced that weaknesses in West's star pagination copyright claims, together with the momentum of vendor-neutral case citation, were sufficient to protect the public interest. Since 1996, however, it has stood silent while West consumed additional regional or specialty information providers, solidified its hold on the legal information consuming public, and raised prices to such industry-leading levels that the profit margin of its legal division now exceeds 25 per cent.

Benefits of Consolidation

It would be easy to find fault with the concentration of the industry without acknowledging some rather substantial benefits. There is no question that the merger wave has ushered in a heightened level of product development and integration. Both West (Thomson Reuters) and LexisNexis (RELX Group) have successfully integrated multiple product lines in both print and digital formats. Both have now moved exclusively to Web-based search engines and provided their users with a wider variety of primary and secondary materials than previously offered.

Citator "Wars" a Boon to Legal Researchers

What does all this mean for you as a consumer of legal information? Your research options have certainly increased dramatically, thanks to the combined efforts of the modern legal information industry. Research tools exist in a multiplicity of formats, with enhanced indexing and research aids. Computer-assisted legal research (CALR), CD-ROM (fast disappearing), and the Internet make the task of locating desired information easier and faster, supplementing the traditional indexing and digesting tools which were fraught with human limitations. Supplementation options have also expanded to provide you with more current and up-to-date information. With this panoply of available research tools, the responsibility now falls upon you to select that complement of materials best suited to your practice needs and financial resources. The drive to the Web has also had a profound impact on the configuration of the typical law firm library which has abandoned its reliance on print tools with their rising and duplicative costs.

Competition between Shepard's and KeyCite, coupled with substantial investments in product development, have made these services far better and far less expensive than their ancestors. We have also witnessed acceleration in the development of new

treatise titles, both from the major players and smaller niche publishers. Online product catalogs provide consumers with more content and pricing information than ever before, although the availability of historical supplementation cost information long sought by law librarians remains an elusive goal.

The relatively high cost of online legal research has also brought forth marketplace challenges from Fastcase, Casemaker, VersusLaw, and others who are prepared to offer consumers access to desired primary law databases at sharply reduced costs. Indeed, it is Fastcase that has moved aggressively to tap the potential of the small law office market. It now commands between 3-9% of the desktop market and an astonishing 41% of the Mobile market. Responding to these challenges, but also trying to more fully tap the substantial small law office market, Westlaw and LexisNexis now offer a variety of lower cost, fixed-rate plans tailor-made to the needs of small firms. But with Fastcase nipping at their heels, they may find it difficult to move their numbers beyond their current share, particularly since Fastcase has partnered with dozens of bar associations to provide its service as a free or low-cost benefit of bar membership.

The Down Side of Concentration

Despite the benefits of consolidation, the legal publishing environment also presents a number of challenges and pitfalls for legal information consumers. Both initial and supplementation costs of print materials have continued their upward spiral from some publishers, particularly Thomson ReutersWest, who are much more likely to milk subscription lists to maximize revenues than to cut deals for even their best customers. Legal publishing operates according to a unique pricing dynamic, one chiefly designed to maximize revenue from consumers. Some legal publishers have creatively engineered the growth of multi-volume sets by increasing their size, and accelerating the revision cycle of bound volumes, including the expansion of tables of cases, indices, and ancillary research aids. The decline in the number of subscribers to print reporters, driven by the rising popularity of online access and by rising costs for office space in major cities, has forced up reporter costs at faster rates than in previous years. Back runs of hardcopy reporters, for example, are now routinely being given away by major firms for the cost of postage.

While there are no barriers to entering the legal information marketplace, the near-term prospects for greater price competition are substantially reduced by the current concentration of authors and editorial resources in the hands of the major legal publishers and by the expectation of similar profit margins by potential competitors who are likely to recognize that consumer buying decisions are more commonly based on substantive content than on price. An overriding concern is that smaller legal publishers with an attractive product line will find themselves tempting acquisition targets, as was Loislaw.com.

While the prices of West's print products continue to escalate, however, their online offerings are becoming even more attractive, perhaps in response to Fastcase nipping at their heels. Print products (primarily the **All American Jurisprudence Library** of titles), that cost more than \$70,000 annually to supplement, can now be acquired at an annual cost of \$1,920 (1-year contract) or \$1,020 (3-year contract) when added to a

Westlaw state primary law subscription. Now called **Premium Analytical**, the package is not only far less than the former **All Am. Jur Library** (which was priced at \$2,832.00), but includes such additional major titles as **Corpus Juris Secundum**, Wright & Miller's **Federal Practice & Procedure**, **Causes of Action**, the complete **Restatements of the Law**.

Using the Legal Information Buyer's Guide

Now in its twenty-second edition, the **Legal Information Buyer's Guide & Reference Manual** was written initially to address the needs of the solo practitioner and the attorney in the small or medium-sized law firm operating without a law librarian, but also serve as a valuable resource in a variety of law firm, academic and public libraries. It is based on the assumption that while lawyers are highly educated people, sophisticated in their knowledge of the law, they often lack even the most rudimentary understanding of the ways of legal publishing and the marketing techniques which unnecessarily siphon away their hard-earned dollars. Legal publishers benefit handsomely from well-healed clients who are too busy to pay attention to this dynamic.

Several years ago, it was estimated that the average lawyer spends more than \$4,000 annually on information, a figure greater than that of any other professional and more than six times that of the average doctor. A major portion of that \$4,000 is wasted, either because many of the materials are poorly selected, are never or rarely used, are ill suited to the lawyer's specialty, or are overpriced. I would hazard to say that the average practitioner could reduce his or her expenditures for legal information by 50% without any essential loss of utility or currency. Applied judiciously, the information and strategies presented in this book will save you thousands of dollars in unnecessary expenditures over the course of your legal career. The potential savings is even greater if the lawyer is still wedded to overpriced print publications when lower cost online alternatives exist.

Most of the advice offered in this book is information known to law librarians for years, but not effectively conveyed by them to the vast majority of practicing lawyers who operate as solos or in small to medium-sized law firms without trained information specialists. Fortunately, this has begun to change as more instructors in legal research and writing introduce this book to their law students. Law librarians have long rubbed elbows with legal publishers at professional meetings and conferences. One of the messages we have heard repeatedly is that the primary market for legal information consists of lawyers, not law libraries. After all, we are told, there are more than a million lawyers in the United States and no more than 3,000 law libraries. A survey conducted by the American Association of Law Libraries, however, calls this assumption into question. Academic, governmental, corporate and law firm libraries with professional law librarians account for a substantial portion of the more than \$5 billion spent annually on legal research materials. Marshaling the power represented by these combined expenditures must be the goal of law librarians in an increasingly concentrated industry. Bringing a heightened sense of consumer awareness to both law librarians and lawyers is the major goal of this book.

This **Buyer's Guide** has many uses: acquisition guide, budgeting tool, bibliography, reference book, directory, and consumer awareness vehicle. Chiefly, it is designed to be used as (1) a

manual on the best and most cost-effective means of acquiring legal information, and (2) as a reference guide to specific legal materials. Nearly one-half of the volume (Chapter 27) is dedicated to substantive reviews of legal treatises, CD-ROMs, and other materials in 66 subject specialties. Another major portion (Chapter 28) provides information regarding the primary law sources for each state and the District of Columbia, Internet sites, legal research guides, and leading sources for state specific materials. Nineteen chapters are dedicated to discussions of the major categories of legal materials and the most cost-effective means of acquiring them.

The Appendices include several valuable features, including the history and product lines of the most important legal publishers, a representative sampling of used law book prices (increasingly difficult to measure), a list of toll-free numbers for all major and many minor legal publishers, a spreadsheet of the legal specialty products with prices reviewed in Chapter 27, and a list of essential law library cost-saving tips. I have attempted to selectively enhance the text with a number of cost-saving tips that can be utilized in a variety of law library environments. In response to the Federal Trade Commission's rescission of the **Guides for the Law Book Industry** in January 2000, the American Association of Law Libraries has developed, and approved, a new set of industry standards in its **AALL Guide to Fair Business Practice for Legal Publishers** (3d ed., 2012). These are reprinted in Appendix F.

Ideally, most of chapters 1 to 25 should be read in their entirety. Chapters 27 and 28, which contain information on subject-specific and state-specific legal information sources, should be consulted when your firm or library is contemplating the purchase of materials in those areas. In addition, it is highly recommended that you consult Appendix H which contains a spreadsheet of pricing and supplementation cost data for every supplemented title reviewed in chapter 27. This unique tool will better allow you to compare competing titles in the subject areas in which you are contemplating a purchase and get an immediate handle on the likely supplementation costs going into the future. No other publication on the market provides this critical information to legal information consumers. We are unique in that regard, and have been since the book's inception.

Assuming your firm is in the unfortunate position of lacking a professionally trained law librarian, I would also suggest that the appropriate chapters be read by the individual responsible for library maintenance to ensure that your firm maintains control over both acquisitions and the processing of invoices. The primary reason most law firms lack effective control over their libraries and library expenditures is that either there is no supervision over the library or the supervision is not centralized. Therefore, your first task should be to delegate library responsibilities to one person in the firm and ensure that all orders, acquisitions and invoice approvals are channeled through that person. Their first assignment, however, should be to read the appropriate chapters of this book in their entirety so that they can become the gatekeeper protecting the firm from the excesses of the legal publishing industry. In purchasing this book, you have already taken the first major step in gaining control over your legal information costs.