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Review of Program E1: Off the Page and Beyond the Book: New Models for Buying and Selling Legal Information

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Program E1: Off the Page and Beyond the Book: New Models for Buying and Selling Legal Information

Speakers: **Todd Melnick,** Coordinator, Fordham University Law Library; **Ed Walters,** FastCase; **Jason Wilson,** Jones McClure; **Scott Meiser,** LexisNexis; **Jean O'Grady,** DLA Piper

It is no secret that law librarians and legal information vendors are often at odds. Library budgets are declining while patrons demand ever more varied and sophisticated research tools. Librarians have less money to spend. Vendors are ever conscious of the bottom line. Surely technology can help bridge this gap, but how? And is legal information technology moving in the right direction, or is it shackled by the same old practices and ways of thinking that constrained us in the expensive world of print?

The genesis of this session was the Vendor Roundtable at the 2012 AALL Annual Meeting in Boston where Ed Walters, the CEO of FastCase, made the point that information vendors are too wedded to outmoded book-based metaphors for delivering and pricing legal information. He suggested that the legal information community must think beyond these metaphors if we are going to create a sustainable and truly useful legal information economy. In the post-print world, legal information vendors do not have to sell books organized into chapters—fixed, paginated, frozen. Information can flow, recombine, be mashed-up. Pages and bindings and covers and all physical constraints no longer withhold information, and they should not restrict our thinking about legal information online. This session was an attempt to continue the conversation that Walters began last year in Boston.

The session began with a brief introduction by Walters followed by a recorded video comment from Law Librarian of Congress David Mao. Video comments from various librarians were interspersed between live presentations throughout the session. Mao briefly outlined the situation law librarians of all sorts find themselves in—the cost of legal information is increasing while library budgets are declining. Might technology provide a solution? Mao suggested that law librarians take a lesson from new online education models (e.g. Massive Open Online Courses, or MOOCs) that are finding cost effective ways to creatively use information technology to reach large numbers of students. Mao cautioned librarians not to be afraid of technological change even as it transforms their profession. Librarians need to pivot away from outmoded tasks. They must be at the

forefront of teaching publishers and patrons what the law library of tomorrow should be.

Next, Walters offered what he called a FastCase trade secret. In order to know what to do today, you need to imagine how you would like things to be in 10 to 20 years and then take the first step along that vector. The purpose of this session, said Walters, is to begin to imagine what e-books and other electronic legal information resources could be. Only by imagining what we want them to be in the indeterminate future can we know what steps to take today to move in the direction of that future. And, he added, we need to talk about the metaphors we use to conceive of the future we want. Will we adopt new metaphors that are consistent with the fully imagined future, or will we be restricted by the metaphors that we lived by in the past?

Print books are physical objects. They cannot easily be shared by more than one person at a time. They are divided into pages, chapters, and volumes depending on purely physical constraints. But e-books are not books. They have none of the physical constraints of paper. E-books are not exclusive. They do not consume space. The concept of the volume does not apply to electronic information. Electronic information is not static. We should not use book-based metaphors when thinking about information systems that are not physically constrained. Walters left the audience with this thought: "E-books are not books. We get to decide what they are going to be."

Walters' remarks were followed by a video comment by Wisconsin State Law Librarian Julie Tessmer. Tessmer's primary concern is that the high cost of legal information has made it difficult for public law libraries to provide their users with a comprehensive collection of legal resources. She reported, "We now have a class system of the haves and have-nots with regard to legal information." She offered a possible solution to this disparity in "reigniting the spirit of Andrew Carnegie." She would like public law libraries to work together to share scarce resources so that public patrons have access to every resource they need.

Next, Jason Wilson, vice president of innovative legal publisher Jones McClure, painted himself as a realist in contrast to Walters' idealism. He described the limitations on what is possible with regard to e-books in the near term. He then discussed the issues facing publishers in trying to appease his patron groups, each of whom wants something different from

e-books. He divided these issues into three areas: technical specifications, distribution models, and licensing. For example, should a publisher build out a platform or provide platform-neutral content? If a publisher does not build a proprietary platform, how can it be sure that all of the functionality built into the materials will work across platforms out of the publisher's control? Should publishers build apps? What research tools should be included? Full-text searching? What sort of personalization and social networking tools should be included? How is versioning to be handled? What user access model should a publisher adopt? Should consortium pricing and pooling agreements be permitted? How are interlibrary loans handled? Who pays for archiving and how is that handled?

Wilson asked us to face the reality that everybody wants something different and that "it's going to be a tough, long road to hoe." He ended by reminding the audience about the CD-ROM debacle and offering the hope that we are more careful and deliberate in our adoption of e-books.

Wilson's comments were followed by a video from Steve Lastres, director of the law library at Debevoise & Plimpton. Lastres asked legal vendors to start working with librarians to bring information solutions to law firms that are specifically targeted to the needs of particular practice areas. He also said that law librarians want platform-neutral content that can be delivered through their integrated library systems. Scott Meiser of LexisNexis spoke next and offered a middle way between Walters' optimism and Wilson's reality principle. Meiser wished to speak pragmatically about where we are and where we are going with regard to e-books. In his view, the key for law librarians is to develop an e-books strategy before they are forced to do so by patron demand. Do not let your e-book strategy be decided for you, he warned. Vendors and librarians must work together and move forward in a considered way. Meiser is optimistic about the possibilities of the e-book. He championed the creation of new electronic publications produced by gathering content related to particular topics from larger, more expensive general resources and recombining them into affordable, targeted resources that would have been much too expensive to produce in the world of print.

Meiser's presentation was followed by a video from Elizabeth Farrell, assistant director at Florida State University. Farrell offered a challenge to information vendors to "reengage and reinvest in the two things that made them great to begin with: their people and their editorial expertise." She thinks the customer

service representatives are the most important employees working for information vendors and that they should be given the training and resources appropriate to their value. Further, she argues that libraries will continue to buy research tools and resources that are truly useful and well-made but will be quick to eliminate poor ones.

The final live comments were delivered by Jean O'Grady of DLA Piper. O'Grady began by saying that, "As much as I am very excited by the prospect of e-books, I do absolutely have the sense that we are revisiting our experience of the introduction of CD-ROMs." She has seen many e-book platforms and e-book models, none of which are well tailored to the way lawyers work. Why spend time and money on e-books when Lexis or Westlaw as currently configured allow users to easily search across the full text of multivolume treatises? No extant e-book model offers this sort of flexibility. She said, pointedly, "We work in an environment in which there is a very low tolerance for aggravation." Lawyers simply will not use resources that are difficult to use. Her bottom line is that technology will help firm law libraries realize efficiencies, for example, with the elimination of loose-leaf filing, but e-books are not where they need to be for the law firm market. But vendors and librarians need to do a better job of tailoring online resources to the actual work of lawyers.

The last two video comments came from Sarah Glassmeyer, director for content development at CALI, and Robert Nissenbaum, the director of the law library at Fordham Law School. "There is something seriously wrong in the world," said Glassmeyer, "when the average law library, or even the above average law library, is unable to afford a comprehensive collection of primary law." Glassmeyer lays blame for this situation primarily with local, state, and federal governments, which have failed to make the information they generate freely and easily available to the public. Nissenbaum thinks that any discussion about legal information that does not wrestle first with the huge changes in both legal education and the legal profession is failing to see the elephant in the room. He left the audience with this final thought, "I'm paging Chicken Little."

To round out the session, Walters led a valuable discussion of the issues raised by the live presentations and the video comments and took several questions and comments from the audience.

Walters left the audience with these words: "Y'all, e-books are not books. We can make them into whatever we want them to be."