

Trends in Legal Publishing for the Millennium: Quality Moves to the Internet

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INTRODUCTION

Several years ago, Mark Estes examined the issues of quality legal information availability on the Internet, the ever-rising costs of library collections, the need for expeditious (and often non-legal) research, and shrinking space in the library. He noted that many clients and lawyers maintain the attitude “if everything is on the Internet for free and it’s easy for everyone to use, what am I paying for?” Legal publishers and law librarians were having a difficult time trying to justify the cost of providing accurate information. Estes wrote “this misunderstanding creates an opportunity for legal publishers, law librarians, and lawyers to work together to educate the consumers about the characteristics of costs of quality legal research and services.” (Estes, 46) Since that time more and more purveyors of quality legal research materials are publishing in electronic formats. Legal publishers are increasingly adding the option to purchase Internet based access, CD-ROMs and other electronic access as options to their print titles. Law librarians face the challenge of choosing from these options and overcoming the numerous changes they bring to the operation of the library. Lawyers must learn new ways to access information and be trained to become cost effective researchers. The American Bar Association’s Legal Technology Resource Center has recently analyzed survey research to determine the trends, attitudes, and acceptance of online publications. As reliable sources of legal information move online what changes have been wrought, what changes are yet to be made, and ultimately how will each population manage this change?

LEGAL PUBLISHERS

The American Bar Association’s Legal Technology Resource Center conducted a survey of for-profit print legal publishers in the United States via telephone and e-mail in November of 2000. The respondents included owners, presidents, vice-presidents, and marketing directors averaging 42 years of experience in legal publishing. The survey respondents represent an equal distribution by company size. Publishers of primary, secondary, and reference materials covering national, state, regional, and international scope are reflected.

The survey, which had a 64% response rate, consisted of questions designed to collect data on several aspects of electronic legal publishing trends. One goal of the survey was to take a snapshot of the current state of available formats. Another was to speculate on the balance of print and electronic format availability in the next three years. The final goal of the survey was to provide an opportunity for discussion of pricing issues surrounding electronic materials. The respondents to the survey provided tremendous insight into the future of legal publishing.

Most traditional print legal publishers are now providing content in either CD-ROM or Internet formats. Many companies are providing both formats, especially the larger companies. Only 16% of the companies surveyed did not offer an alternative to some of their print publications (Figure 1). Print still dominates with the highest percent of production, while the average output of CD-ROM and Internet products are almost equal at 25% and 29% of the total (Figure 2). The movement of quality legal information to electronic formats is still in its infancy.

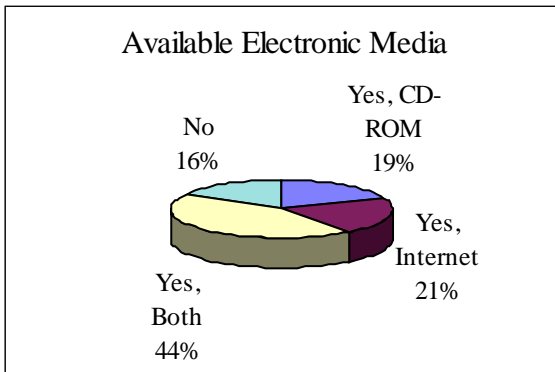


Figure 1

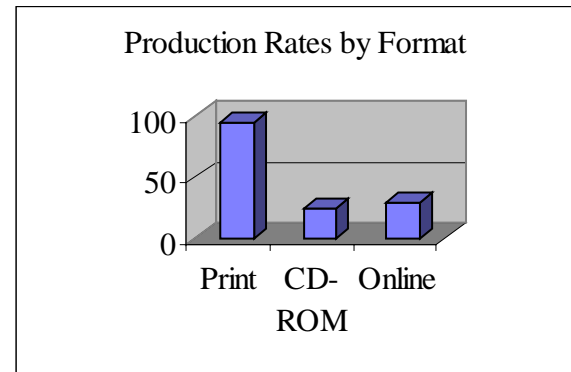


Figure 2

While the progress is slow and steady, legal publishers are committed to moving their products to an electronic format. A majority of the respondents answered affirmatively to plans for converting their print titles to digital (Figure 3). Even with this commitment, very few publishers plan to exceed print titles with electronic in the next three years (Figure 4). Most publishers (91%) are committed to continue providing titles in both print and digital formats. One respondent noted that until it is perceived that the market will bear the shift, legal publishers would continue to provide print titles with electronic access as an option.

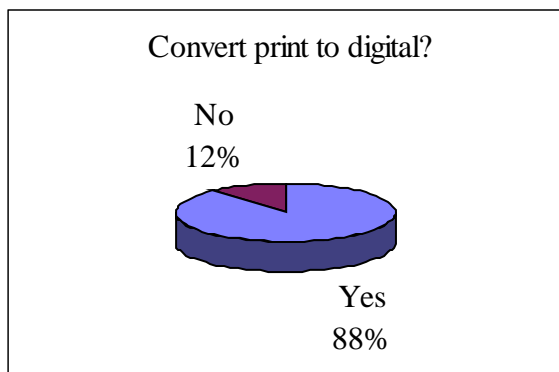


Figure 3

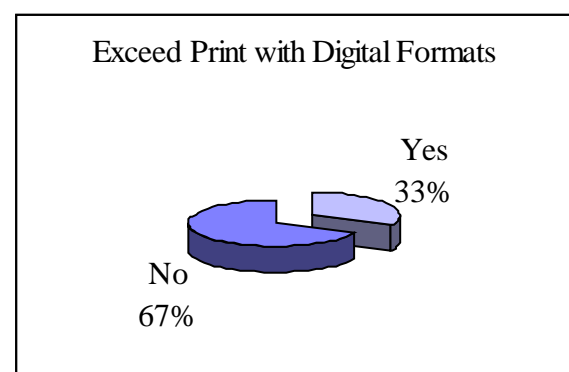


Figure 4

The cost to the publisher will temporarily become higher during the transition in production from print to electronic formats. Inflation in cost for electronic media will be apparent to the consumer during this time, and prices for electronic formats will be higher due to product aggregation. Once this transition is accomplished, print will actually cost more to produce and these costs will be passed on to the consumer. However, as Mary Dale Walters, Director of Corporate Public Relations at CCH Inc. remarked, “when it comes to pricing and media, it is rarely an apples-to-apples comparison”.

Legal publishers are committed to providing high quality legal information to their customers. There is widespread concern that mass movement to Internet access will affect the reliability of information. While the cost of legal research materials online may increase, the quality of these products should also increase. Dave Glynn, Director of Product Development at Law Bulletin Publishing Company reflected “publishers will need to add value to content in order to stay in business due to the government and courts offering more information directly on the Web.”

LAW LIBRARIANS

In March 2001 the American Bar Association’s Legal Technology Resource Center invited law librarians to participate in an online survey via cross posting to law librarian discussion lists. The two hundred respondents were primarily employed by private practice law firms (51%) and represented the opinions of those holding administrative positions (47%). Based on their responses to the survey some general conclusions can be drawn as to the opinions of law librarians towards the increasing availability of print products in an electronic media.

The goal of the Law Librarian Survey was to reveal several concerns created by the influx of the change wrought in library operations. As is discussed in Doug Brown’s “Libraries: Checking Out in the Digital Age”, challenging questions have been asked of the library community since the advent of widespread Internet access, such as: “Is the Internet good for scholarship, for deep thought and contemplation? Will the Internet supplant the library as a physical place? Will the Internet remove books from being one of the foundations of our cultural and scholarly life?” (Brown). Change and adaptation remain at the forefront of concern for law librarians. As legal publishers move their products online how will the modern library adapt and embrace these resources? The survey examined purchasing decisions, storage and preservation, and migration rates from print to electronic resources.

The majority of respondents remain committed to purchasing print titles for their libraries (Figure 5). Internet products may be purchased as supplement, with CD-ROM purchases occurring least of all. Cost was cited as the greatest factor of concern in providing digital resources in the library, followed by licensing and training issues. As law librarians become more comfortable and skilled in technology, their least concern is in the involvement of an IS or IT department (Figure 6). This comfort level in using the vocabulary and working with technical staff provides exciting opportunities for the groups to form an alliance, enabling projects such as knowledge management and Intranet resources to become a reality.

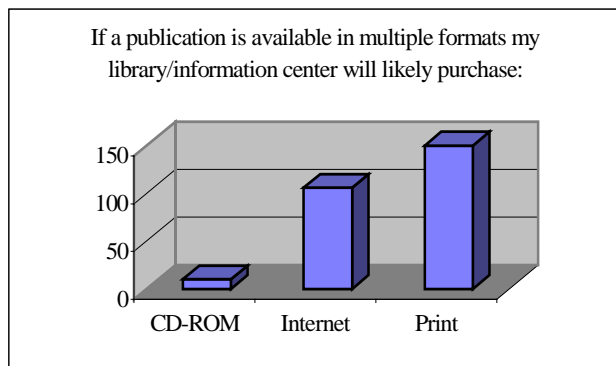


Figure 5

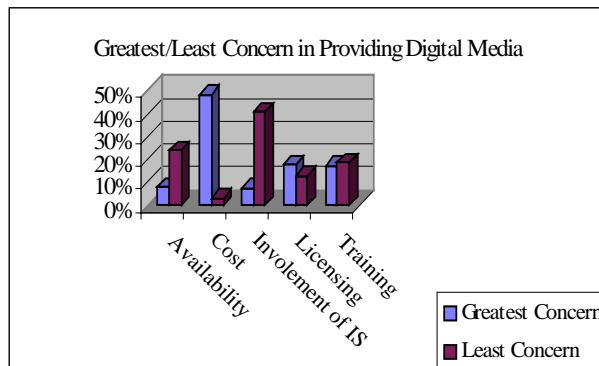


Figure 6

As was so vividly displayed in the recent “disappearance” of the Clinton administration web site, storage of digital legal research materials is of great importance. The respondents chose archiving as the greatest challenge in the storage of digital legal research materials (Figure 7). As legal publishers migrate their products to the Internet will law librarians be able to trust the vendor to maintain the integrity of the archives and continue to provide them with access to this material? One of the many objectives of the library is to maintain information so that it is accessible and available. Will this goal be compromised as acquisitions become Internet based? This issue raises another concern – that of copyright compliance (Figure 8). With the advent of new legislation concerning intellectual property and copyright law in regards to digital resources it becomes increasingly difficult for the library to maintain its mission of providing access to materials and the reproduction of information for archives.

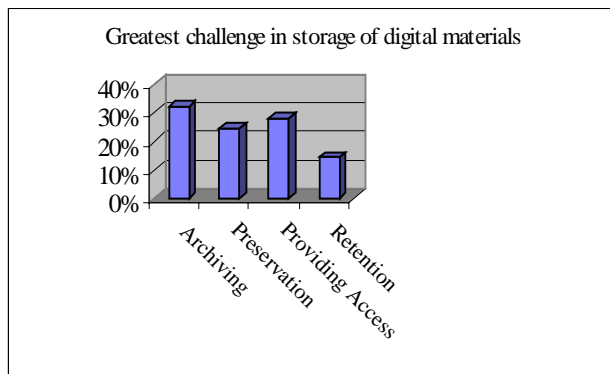


Figure 7

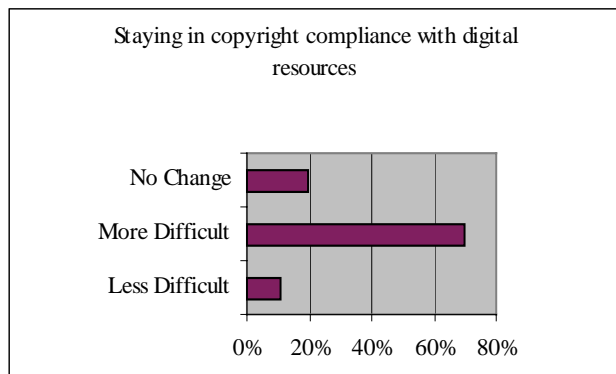


Figure 8

Although electronic resources create a need for re-evaluation of many of the roles of the traditional print library, they also provide libraries with a way to excel. The respondents chose the most common reason to replace a print resource with digital as providing better access for patrons. By providing a link to a resource through a firm’s intranet or extranet, patrons can choose when and where they do legal research – in the office, in court, at home, or while traveling. The second most common reason to replace a print resource was lack of space in the library (Figure 9). Shelf space comes at a premium, and even larger institutions struggle to find a place for new acquisitions. One academic law library reported recently that the shelf space needed to house the 2000 additions in the West Reporter series was 41.5 feet (Axel-Lute). That is approximately the length of two 1971 Chevy Impalas parked in the library bumper to bumper!

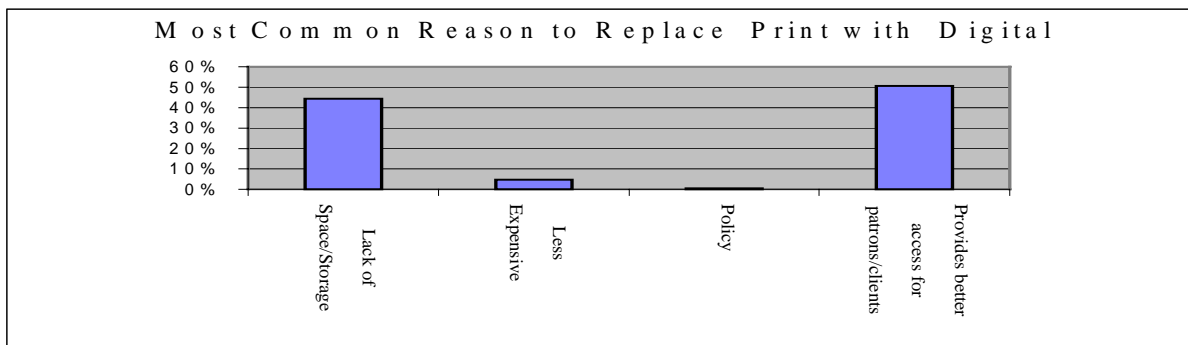


Figure 9

As professionals, law librarians remain unconvinced that a true replacement has been offered for quality print legal research materials. This is exemplified by the response to the rate of replacement of print titles in the recent past and plans for the near future. The majority of respondents have replaced less than half of their collections with digital resources in the last five years and plan to replace less than half in the next five years (Figure 10). Until the myriad of complications arising from electronic resources in the library has been properly resolved, law librarians will not risk providing their patrons with anything that could compromise the integrity of legal research.

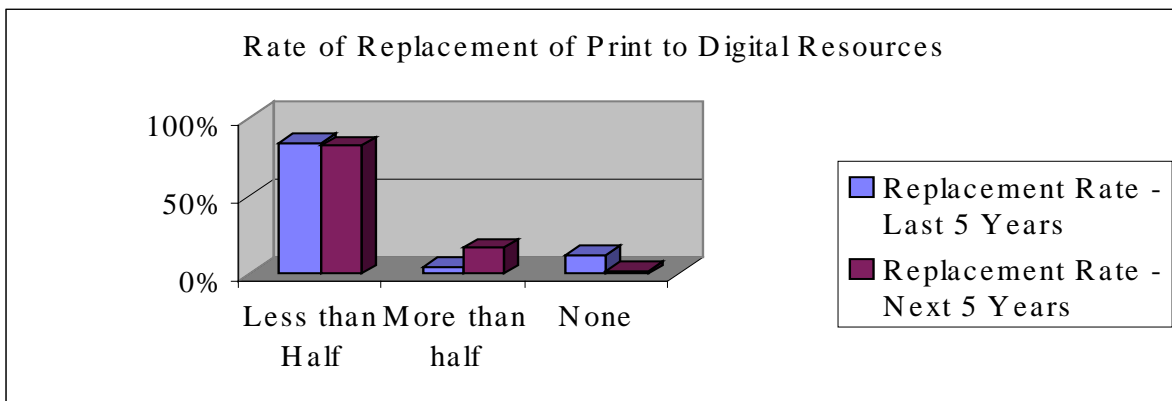


Figure 10

LAWYERS

The 1999 Legal Technology Survey Report, published by the American Bar Association, was an 801 question survey designed to reveal the state of technology usage by the legal profession. Of the respondents, 85.61% were attorneys who work in small to medium private law firms. Many questions focused on the respondents' use of electronic legal research products—their preferences, budget concerns, and selection factors.

Survey results indicated that attorney usage of proprietary online service, fee-based Internet and free Internet resources is almost equal, with free Internet services seeing a slight rise in usage over the paid services. When asked to pick which online services (proprietary, fee-based, or free) were used most often, attorneys chose the proprietary Westlaw. Similarly, when asked to pick a *favorite* online service, proprietary Westlaw was again chosen. These findings indicate that attorneys are familiar with the long standing proprietary software provided by one of the oldest legal publishers in the United States. By asserting these preferences they affirmed that they are willing to pay for reliable information.

When given the choice between a CD-ROM, proprietary online service, fee-base Internet service, free Internet resources, and print materials, respondents chose CD-ROMs as their preferred method for accessing legal research materials in general. This result held true when the question specified case law research, however for statute and code research more attorneys chose printed materials as their preferred access method. It can be concluded from these results that attorneys are slow to migrate to the Internet when conducting legal research, could it be due to the perceived lack of high quality information available on the Internet?

Attorneys chose content as the most important factor when selecting online services, closely followed by ease of use and price. Respondents were more inclined to agree than disagree with the assertions that fee-based online legal research resources were reliable and current. Selection factors for online legal research materials are heavily influenced by the perception of quality and reliability. As more services are offered through traditional print publishers, there will likely be more acceptance and usage of fee-based Internet services.

Budgetary concerns often reflect choices in purchasing an online or print publication. The most common motivation to use printed materials in addition to or instead of online legal research services was concern about price. While a loose-leaf print title may cost less than an online version in a direct comparison, factors such as accessibility to the material, filing, updates, new editions, shipping, shelf space, and processing all represent hidden costs of print subscriptions.

In addition to the hidden costs of print publications, attorneys can bill not only their time but their online costs to the client, thus recouping some of the expenditures. The majority of respondents (57.37%) responded affirmatively to billing online legal research costs to clients. Of that group, 71.09% billed at cost. As legal publishers are providing web-based resources, they are also providing a way for attorneys to recover costs and get a better handle on profitability and return on investment with detailed billing and usage statements.

When asked to speculate on usage of CD-ROM, proprietary online service, fee or free Internet services, and print materials in the next twelve months, respondents predicted a 67.96% increase in free Internet service usage and a 35.75% decline in print usage. This may appear to be a rapid rise into the world of free Internet resources, which often lack authority, accuracy and coverage. It should be the goal of the law librarian to educate attorneys in ways of assessing free legal resources on the Internet, and also to provide access to the increasing numbers of quality legal publications online.

CONCLUSION

Each of these surveys represents only a moment in a cycle of ever evolving change in the world of legal research. Legal publishers are preparing to shift to a new mode of production, providing consumers with more choice in format and price than ever before. Law librarians are scrutinizing electronic formats, hesitant to begin replacing print materials until issues such as licensing, copyright, archiving, and cost structures can be fully explored. Attorneys must be trained to use Internet versions of print resources, rather than potentially wasting time and money on fruitless free Internet searches. In July 2000 the National Law Journal published "Farewell to Books of Yore". An attorney was quoted in reference to Internet legal research, "If I could have a wish, I would wish for a legal portal that would collect everything that's out there on a legal target... If somebody could do that, I would be on that site all the time" (Shepherd, 4). As legal publishers provide more quality legal publications on the Internet, as law librarians overcome the difficulties of managing an online collection, and as lawyers increasingly see the need for mediation between them and Internet resources the virtual law library will become a reality. As quality legal publishers move to the Internet it will provide new and exciting ways to provide and perform legal research.

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