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The Big Gobble:

The Consolidation of the Legal Publishing Industry and What It Means for Legal Research

by Kurt X. Metzmeier

Lawyers Cooperative. Baldwin's Law Publishing. W. H. Anderson. John P. Morton Co. Clark Boardman Callaghan. Like Oertel's Beer, Zayre's, and W.K. Stewart's Bookstore, these names were once familiar names to lawyers with a touch of gray, but to newer attorneys they are curious relics like the tin signs decorating the walls of the neighborhood T.G.I. Fridays. These names represent legal publishers washed away in the revolutionary consolidation of the legal information industry over the last decade. This development was not a surprise; the development of the Internet spawned mergers and acquisitions in all parts of the information industry. But while it is not surprising that legal information is now being produced by only a few large multinational corporations, lawyers—whose tool of trade is information—need to take stock of, and adjust to, this new environment.

As late as 1990, the American legal information industry was diverse, home-grown, and for the most part, in the hands of companies with long and unique traditions in the legal world nurtured over a century. There were large players no doubt—the family-owned West Publishing Company in particular—but there were also many strong independent firms controlling important niches. In the early part of the 20th century Louisville-based John P. Morton and Cincinnati's Robert Clarke Co. published Kentucky statutes, digests, reports and treatises. Well into the 1980s regional publishers like Banks-Baldwin Law Publishing of Cleveland, W. H. Anderson of Cincinnati, and Charlottesville's Michie Publishing Co. published editions of the *Kentucky Revised Statutes*, treatises on state law, and standard practice manuals like Palmore's *Kentucky Instructions to Juries* and Caldwell's *Kentucky Form Book*.



A Land of Giants

But things were changing. In 1987, LexisNexis purchased Michie Co., obtaining access to one of the two official versions of the KRS (the other official KRS publisher, Banks-Baldwin, was acquired by West Publishing in 1993). Soon afterward in 1989, Canadian book publisher Thomson purchased Lawyers Cooperative, the publisher of *American Law Reports* (ALR) and *American Jurisprudence* (AmJur). The nature of consolidation accelerated dramatically, however, in late 1994 when Anglo-Dutch publisher Reed-Elsevier announced the purchase of LexisNexis from Mead Data Central for \$1.5 billion. Sixteen months later, Thomson acquired the Minnesota-based West Publishing Co. from the Opperman family for \$3.4 billion. The deal was briefly held up by the Justice Department, but a federal judge soon approved a consent decree that required Thomson to sell off only a few titles—titles that Reed-Elsevier then bought and added to its growing LexisNexis book publishing product line.

Clearly a new American legal publishing environment was developing. In 1996 Reed-Elsevier cut a deal with Times Mirror (owner of Mathew Bender) to jointly purchase Shepard's. In January of 1997 Reed-Elsevier chairman Nigel Stapleton told stock analysts that he expected the legal and business information industry to consolidate down to "two or three" players by

2010 and that all of Reed's efforts were "aimed at making it one of those who remained." In 1998, Reed's efforts to acquire Wolters Kluwer were derailed by EC antitrust regulators, but the firm responded with a \$1.65 billion deal to buy-out Times Mirror's stake in Shepard's—with Matthew Bender thrown in for good measure.

The Impact on Kentucky Legal Research

What has been the result of this rapid consolidation of law publishing? There are no doubt benefits to legal information consumers. There were some initial savings to users due to price competition. Also, there may be some convenience for users as resources are brought together in one place. However, consolidation also has some serious negative implications regarding the ability of lawyers to do competent research. First, the process of buying and selling properties and reorganizing staffs has frequently led to significant editorial errors in legal products. Over the last few years dozens of errors have been reported to law librarian listservs and journals. Pocket-parts have been mislabeled; major errors have been found in indexes. The evidence is only anecdotal in nature, but it is sufficient to put lawyers on guard. Also, many lawyers saw favorite titles eliminated as the newly consolidated firms dropped what was seen as duplicative titles.

But the more serious fear is that multinational corporations that control legal publishing will not be as attuned to the unique needs of Kentucky lawyers as were the regional publishers. A few examples show why this is not an idle concern. The newly consolidated Thomson West group found itself the publisher of both the *Kentucky Practice* series and the *Kentucky Jurisprudence* series. It soon

decided that one set was enough and eliminated the less popular caramel-brown series from its catalog. Some time later Thomson also acquired, then axed, the popular Kentucky trial practice titles of Harrison Company. These developments were unheralded; lawyers and librarians typically discovered it when new pocket-parts stopped coming. The overall result has been less diversity in Kentucky law products. Moreover, unlike small publishers, the large firms seem less willing to take a chance on books specific to small legal markets like Kentucky. Large subject areas like state administrative law and alternative dispute resolution law are unrepresented in the big press catalogs.

Another unfortunate (and vexing) result of consolidation is the imposition of a one-size-fits-all indexing template on all products. Rather than following the language of Kentucky courts and statutes, these indexes shoehorn much of the state legal material into subjects and categories based on a universal vocabulary. Lawyers using indexes now need to be much more aware of legal synonyms and must make greater use of topic-outlines because often the word or phrase commonly used in state courts does not exist in the index they are using.

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Conclusion

There is little chance that the law publishing industry will deconsolidate itself, so legal researchers must adapt to the changes. The hope is that below the radar screens of multinational behemoths like Thomson and Reed, smaller, more locally specific legal publishers will find a niche. The publishing division of the University of Kentucky's Office of Continuing Legal Education has recognized this and has recently offered titles in areas like state administrative law, consumer law, and legal research that the big publishers have ignored. Alternative media like the Internet are also playing a role. But for the time being, Kentucky legal researchers will have shop for legal information in Wal-Mart, not the local Markwell's Pic-Pac.



Follow-up

In a recent article on legal blogs, I suggested that "until Michael Stevens converts his Louisville LawWire listserv to blog format," there was no general purpose blog focused on Kentucky law. Stevens soon called me to jokingly accuse me of hacking his computer for he was already at work on KENTUCKY LAW BLOG, www.kentuckylawblog.com, which he debuted soon after our conversation. It has everything one could hope for in such a blog. It has abstracts of recent Sixth Circuit, Kentucky Supreme Court, and Court of Appeals cases; notices of law-related stories in the *Courier-Journal* and *Lexington Herald-Leader*; descriptions of and links to orders of the Kentucky Supreme Court; and tables of contents of the *LBA Bar Briefs*, the *Kentucky Bench and Bar*, and the *Kentucky Law Journal*. But in addition to being a consummate "linker," it also tries to spark legal discussion with signed editorials and by summarizing and linking to debates raging on the political blogs over current legal-political issues like judicial campaigns and the Fletcher pardons.

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