Murray State University

From the SelectedWorks of Cris Ferguson

2015

Learning from the Swets Fallout

Christine L Ferguson, *Murray State University*

Available at: https://works.bepress.com/christine-l-ferguson/44/

Balance Point

Learning from the Swets Fallout

Cris Ferguson, Column Editor

Director of Technical Services

Murray State University

cferguson13@murraystate.edu

Swets Information Services B.V. declared bankruptcy in an Amsterdam court in September 2014. In November, the North American branch of the company followed suit, filing for Chapter 7 in New Jersey. At the time of its collapse, Swets' Information Services division served more than 8,000 customers worldwide representing more than 800,000 subscriptions. (Johnson, 2014) According to a January 2, 2015 article in *Inside Higher Ed*, Swets' bankruptcy filing listed more than 100 universities as creditors, many with claims exceeding $1 million. (Mulhere, 2015) While the financial fallout of the bankruptcy totaled in the millions of dollars, the full toll of the Swets bankruptcy cannot be measured in mere dollars alone. The disintegration of such a significant player in the subscription fulfillment industry has had an impact on the entire serials landscape: libraries, subscription agents, and publishers alike.

For Swets customers the fallout from the bankruptcy was swift, as the timing of the collapse left many of them in the lurch for their 2015 renewals. By the end of September when Swets formally announced its insolvency, many libraries had already paid the company for some portion, if not all, of their 2015 subscriptions. Institutions such as the University of Colorado at

Boulder, Virginia Commonwealth University, Michigan State University, Massachusetts Institute of Technology, and many more had all paid some monies to Swets in advance. (Mulhere, 2015) Washington University in St. Louis (WUSL) had just over 2500 subscriptions with Swets, the vast majority of which were in a prepaid account. According Kate Sathi (database/serials librarian, WUSL), the Washington University Libraries had prepaid $2 million to Swets, which represented half of the total subscription budget. WUSL and other Swets customers lost not only any funds they had already paid, but they subsequently lost innumerable man hours investigating the status of current subscriptions, determining whether or not publishers had received any payment from Swets, requesting grace periods for subscriptions that could not be paid immediately, claiming missing issues, and making arrangements for payment to those publishers not granting a grace period. "I was really just in 'triage mode,' trying to figure out how to preserve access," said Sathi.

Some libraries have had to make tough, and sometimes painful decisions, regarding how to absorb the loss of the monies paid to Swets. The University of Hawaii at Manoa (UH Manoa) had a credit of $850,000 with Swets at the time of the bankruptcy. While UH Manoa filed a claim with the bankruptcy court in New Jersey, the institution does not expect to recover the money. (Kerr, 2015) To make up for the loss, Irene Herold (university librarian, UH Manoa), "delayed hiring 12 faculty and five staff positions. She also cut $100,000 from the book acquisitions budget, a reduction of roughly 11 percent." (Kerr, 2015)

Even those institutions that did not necessarily experience a significant financial loss were heavily impacted in terms of the time spent communicating with publishers, selecting a new

subscription agent, and placing orders for 2015 renewals on short notice. For example, the University of Washington (UW) spent approximately $6.5 million annually with Swets, but their actual loss was, fortunately, much less - around $250,000 - as the UW Libraries had not yet begun to pay for their 2015 subscriptions. Still, many man hours were involved in addressing the situation says Sion Romaine (acquisitions librarian and ILS operations coordinator, UW). "We had to work with the University's Procurement Services and Attorney General's Office to officially terminate our contract with Swets. We also had to work with Procurement Services to confirm that, given the very short time frame we had in which to transfer our subscriptions and ensure no loss of access to our users, we could select a subscription agent without going through a formal RFP process. We had to pull information from Swetswise, and compare it to the records in our Library Management System, so that we had some sort of relatively clean list to work from," said Romaine.

When the bankruptcy was first disclosed, publishers such as Elsevier, Springer, and SAGE contacted libraries in North America urging them to check the status of orders placed with Swets and to submit payments either directly to the publisher or through an alternative subscription agency. (Enis, 2014) Simon Ross (managing director, Cambridge University Press) was quoted in the *The Bookseller* as saying, "We are going to have to honour those subscriptions [already paid] because we want them renewed in 2016. Whatever happens, publishers will soak up the damage." (Shaffi, 2015) However, the accommodations afforded to libraries affected by the Swets bankruptcy have varied from publisher to publisher. Some publishers, Karger and Oxford University Press for example, announced that they would honor subscriptions and extend grace periods through March 2015 to allow libraries additional time to process renewals

and make arrangements for payment. In a letter published in the IEEE Support Center, Jonathan Dahl (senior director, IEEE Global Sales & Customer Operations) stated, "IEEE will honor fulfillment of all 2015 orders already placed thru Swets via the IEEE Xplore digital library." (Dahl, 2014) Not all publishers have been so generous as IEEE, though. In a statement on the Elsevier website, the company declared, "Until such time as an appropriate order and payment has been received by Elsevier, we will not be able to process orders that have been recently transmitted to Swets." (http://www.elsevier.com/librarians/home)

With so many institutions abruptly without a subscription agent late so in the year and the unknown status of so many orders, other subscription agents such as EBSCO, HARRASSOWITZ, and WT Cox, among others, quickly stepped into the void to help former Swets customers, but doing so was not without risks for the agents themselves. Tina Feick (director, Sales and Marketing, HARRASSOWITZ) explains, "As a medium sized subscription agent focused on the academic / research library market, we knew that there was only so much of the Swets business that we could manage in a responsible and sustainable manner." According to Feick, as soon as the Swets bankruptcy was announced and libraries started to contact HARRASSOWITZ, a committee composed of personnel from sales, publisher relations, finance, and operational management was assembled to monitor carefully how much new business was coming in from former Swets customers to ensure that the company was able to maintain a high quality of service for both new and existing customers.

The number of new customers subscription agents took on varied based upon their current size and existing customer base. According to Allen Powell (president, Subscription Services

Division, EBSCO) over 1,100 former Swets customers worldwide have placed business with EBSCO. However, that number does not accurately represent total new business, as some of those customers were already doing some level of business with EBSCO. Michael Cox (president/CEO, WT Cox) shared that his company "had 21 libraries transfer their business to us immediately following the Swets bankruptcy. This included academic, medical, corporate, public, and government libraries with annual serials expenditures ranging from $28K to $2.2M." HARRASSOWITZ gained business worldwide, but it is difficult to assess exactly how many customers were added. "There were many accounts with just a few subscriptions and then there were a good number of major transfers," said Feick. Both HARRASSOWITZ and WT Cox indicated that they expect to see additional Swets customers switch to their companies in 2016, as some institutions were required to go out for RFP before selecting a new agent.

For one former Swets customer, selecting a new subscription agent was a multi-pronged investigation, encompassing not only the services and features offered by the various companies, but also an assessment of the agents' current and future financial stability. Linda Wobbe (head, Collection Management, St. Mary's College of California) recounts the St. Mary's library's efforts to determine the financial stability of potential new subscription agents.

> "Given the problems that subscription agents have put their library customers through during the Faxon/RoweCom and Swets series of collapses, we wanted a diversified company that wasn't relying on periodical subscriptions as their only line of business. Since the players are all privately-held companies, we were afraid there would be limited information. But we looked up each company in the Company Dossier section of LexisNexis and found quite a few independent reports for the two companies we were

investigating . . .We paid careful attention to the financial reports, especially the sources of income. We also researched the SERIALST archives, and did some article searches. We contacted references. We shared our findings with our Business Office, and asked for their input in the decision."

In the end, Wobbe said, St. Mary's selected its new subscription agent based upon the agent's financial stability going forward and the sophistication of their subscription and usage consolidation products.

Several recent articles have highlighted the similarities between the Swets bankruptcy and the RoweCom bankruptcy in the early 2000s, as well as the risks inherent in the library / subscription agent relationship. In an October 9, 2014 *Library Journal* blog post, Kevin Smith (director, Copyright and Scholarly Communication, Duke University) suggests that libraries might want to consider going direct to the publisher for subscriptions, rather than relying on third-party commercial entities to manage library funds and orders. Smith also points out the dangers of prepaying for future orders with subscription agents. "The bottom line is that this model creates a huge, unregulated risk for libraries. We send large amounts of money to them with very little in the way of guarantees and no security at all." (Smith, 2014) Similarly, in an editorial in previous issue of this very journal, Collins, Grogg, Ashmore and Davis posit that "in the highly digitized world of the 21st century, the current subscription agent business model may be fundamentally flawed. Librarians who use subscription agents are likely looking at the practice and questioning the costs/benefits of continuing to do business in this manner." (2015)

It is premature, though, to presume that either libraries or publishers are prepared or equipped to manage all subscription ordering and fulfillment without involving a third-party agent in the process. Earlier this year, Melissanne Scheld (managing director, Publishers Communication Group) shared in *Research Information*, "From my perspective, our industry will always need subscription agents; even the largest global publishers with dedicated sales forces still can't reach every relevant library; and librarians, with ever-increasing demands on their time, cannot juggle the necessary administration of so many publishers." (Davies, 2015) Large journal packages and electronic subscriptions may be renewed more easily than print titles, but the fact remains that many libraries are not staffed to handle the administrative work required for paying each publisher and vendor individually.

All of the libraries contacted for the purposes of this column opted to move their subscriptions to a new subscription agent, rather than handing those subscriptions and renewals on their own. As Collins et al. point out, "One of the primary benefits to using a subscription agent is lack of internal personnel to handle the onerous task of direct ordering: verifying title lists, communicating with publishers, troubleshooting lost access, among many others." (2015) When asked about St. Mary's decision to place their subscriptions with a new agent, Wobbe had this to say, "We didn't seriously consider handling all of our print or individually subscribed ejournal subscriptions on our own. Potentially 300 individual invoicing practices? We would need more staff to handle that." As a further explanation, Wobbe went on to say, "We like having individual title details that only the subscription agent can provide."

But, in the wake of the Swets bankruptcy, the financial stability of the subscription agent has become a higher priority for libraries like St. Mary's. Feick shared that HARRASSOWITZ has been contacted by both current and potential new customers requesting information about the company's financial stability and outlook. When questions about a subscription agent's finances arise, the information supplied varies from agent to agent, but libraries are typically provided information such as financial statements, assurance letters from independent external auditors, the company's Dun and Bradstreet rating, and financial letters of reference from the company's bank. EBSCO's Powell had this to say, "As we have learned with the failure of other agents, it is important that customers get a consolidated and holistic financial view of their vendors which means ensuring that they obtain financial data of the parent company organization. If an agency is not making a sufficient profit or does not have sufficient net worth or does not have adequate working capital or commingles customer prepayments with operating funds prior to publisher payment, this should be a warning sign."

Harkening back to the Faxon/RoweCom bankruptcy, this issue of how agents handle customer prepayment funds and whether they are commingled with operating funds is a growing area of interest. Smith shared in his blog post that Blase Simqu (CEO, SAGE) indicated that SAGE would prefer a system in which agents remain a part of the subscription order and fulfillment process but with added security. "Specifically, Simqu believes that subscription agents should use escrow accounts to handle the funds that pass through their hands from libraries on their way to publishers." (Smith, 2014)

None of the subscription agents interviewed for this column, EBSCO, HARRASSOWITZ, and WT Cox, are currently using escrow accounts to manage customer prepayments. Citing the expense and labor intensity of escrow accounts, Feick noted, "Paperwork must be submitted for each withdrawal, therefore each subscription...For publishers, one of the advantages of receiving payments from an agent is that the check/wire covers multiple orders, sometimes hundreds. An escrow account would then defeat the purpose of consolidating orders."

Powell shared similar concerns about escrow accounts, stating, "We view escrow accounts as an additional level of administrative burden and cost which would offset the financial benefit of the prepayment and reduce flexibility and nimbleness." However, specifically addressing the issue of commingling subscription prepayments and operating funds, Powell shared that, "Many years ago, EBSCO established a policy regarding the handling of customer prepayments. In summary, this policy recognizes that customer prepayments belong to our customers and not EBSCO. Accordingly we do not use customer prepayments for working capital needs. Prepayments are segregated until such time as orders are placed with publishers. As a custodian of customer prepayments, not only are those funds not commingled with EBSCO's operating funds but those funds are maintained in separate accounts with preservation of principal and liquidity being the absolute priority."

For his part, Cox echoed Feick's and Powell's opinions regarding the cost and complexity of administering an escrow of this type, but he went on to say,"We would certainly consider using an escrow account in the future, and stand committed to exploring different financial solutions that would alleviate concerns from libraries."

It is important to note that Swets did not hide its financial difficulties from its customers. As Peggy Johnson pointed out in a recent issue of *Technicalities*, Swets' 2013 annual report, released last August, stated, "Since Swets Group is currently unable to fulfill potential demand [for immediate repayment of outstanding loans], there is a material uncertainty regarding the continuity of Swets Group and its subsidiaries." (2014) Wobbe shared that "Swets was upfront in letting everyone know they were seeking a buyer and had attracted a number of bids." But the fact that Swets was seeking a buyer did not deter St. Mary's and other institutions from continuing to use Swets as an agent. As Wobbe explained, "[It] didn't dissuade us, since takeovers and even bankruptcies are common in the library world. We had just spent an entire year paying Cengage/Gale invoices with 'in Chapter 11 bankruptcy proceedings' written in bold type at the top."

Swets' bankruptcy affected all partners in the serials industry -- libraries, agents, and publishers -- alike, and the company's collapse continues to impact the industry both financially and in terms of services provided. Swets' bankruptcy and the subsequent fallout has raised the question for some libraries as to whose responsibility is it to verify the financial security of vendors. Romaine shared that this experience has been an eye-opener for everyone at the UW Libraries. "Who is responsible for monitoring a subscription agent's financial health? Is it the Libraries (Acquisitions? Associate Dean? Library Accounting?)? Is it University Procurement Services, with whom the RFP was signed? Should we be monitoring the financial health of our other vendors?" said Romaine. Ultimately, libraries are responsible for protecting their own financial interests and for taking steps to reduce their own financial risks. Moving forward, it should be

clear that the proven financial stability of vendors and the security of library funds should play an increasingly important role in determining to whom libraries choose to give their business.

References

Collins, M., Grogg, J., Ashmore, B., & Davis, S. (2014, December). The Swets Trap: Understanding the Past to Create the Future. *Serials Review, 40*, 235-237.

Dahl, J. (2014, September 26). Important information for IEEE subscribers using Swets subscription service. *IEEE Support Center*. Retrieved from https://supportcenter.ieee.org/app/answers/detail/a_id/1054/~/important-information-for-ieee-subscribers-using-swets-subscription-service

Davies, S. (2015, February/March). Subscribing to a Changing World. *Research Information*. Retrieved from http://www.researchinformation.info/features/feature.php?feature_id=505

Enis, M. (2014, October 1). Swets Bankruptcy Recalls Fallout from RoweCom. *Library Journal*. Retrieved from http://lj.libraryjournal.com/2014/10/industry-news/swets-bankruptcy-recalls-fallout-from-rowecom/

Johnson, P. (2014, November/December). Implications of Swets' Bankruptcy. *Technicalities*, *34(6)*, 2-3.

Kerr, K. (2015, March). UH loses $850 in library vendor bankruptcy. *Hawaii News Now*. Retrieved from http://www.hawaiinewsnow.com/story/28577593/exclusive-uh-loses-850k-in-library-vendor-bankruptcy

Mulhere, K. (2015, January 2). Swets bankruptcy will cost libraries time, money. *Inside Higher Ed*. Retrieved from https://www.insidehighered.com/news/2015/01/02/swets-bankruptcy-will-cost-libraries-time-money

Shaffi, S. (2014, October 10). Publishers will 'soak up the costs' of Swets' collapse. *The Bookseller*. Retrieved from http://www.thebookseller.com/news/publishers-will-soak-costs-swets-collapse

Smith, K. L. (2014, October 9). Lessons from Swets: LIbraries Need Subscription Security. *Library Journal*. Retrieved from http://lj.libraryjournal.com/2014/10/opinion/peer-to-peer-review/lessons-from-swets-libraries-need-subscription-security-peer-to-peer-review/