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www.aallnet.org/main-menu/Leadership-Governance/committee/activecmtes/criv.html

CRIV Tools

www.aallnet.org/main-menu/Advocacy/vendorrelations/CRIV-Tools

CRIV Blog

crivblog.com

The CRIV Sheet

Editor's Corner

It is my pleasure to introduce the second issue of *The CRIV Sheet* for volume 37! We have a wide variety of articles in this issue, each of which is authored by a librarian working in a different type of setting (private, academic, consortium, and vendor).

Tracy L. Thompson, executive director at New England Law Library Consortium, Inc., kicks off this issue with a contemplation of what our duties are as fiscal stewards of our respective institutions. Next, Sarah E. Morris Lin, library systems librarian at Reed Smith LLP, speaks of her experience with, and suggests best practices for, working with outsourced staff. Rebecca A. Rich, senior associate director at Nova Southeastern University's Law Library and Technology Center, provides us with a comparison of U.S. and European licensing practices. Finally, Sarah Kiefer, library relations manager at

Practising Law Institute, has written a very comprehensive review of the recent LLAGNY program on the changes at the Kaye Scholer Library (which garnered much attention due to an article in *The New York Times*).

Assistant Editor Alexa Robertson and I hope that you find this issue interesting and instructive.

As always, we would like to solicit your contributions to *The CRIV Sheet*. If you have vendor-related issues that seem interesting, difficult, or informative, get in touch and share them with us. Our readership finds hearing from personal experience incredibly valuable. Our editorial policy is available at www.aallnet.org/main-menu/Advocacy/vendorrelations/CRIVSheet/policy-criv.html. Please feel free to contact either of us with any questions.

Liz Reppe Minnesota State Law Library

From the Chair

Welcome to the second issue of *The CRIV Sheet* for 2015. I hope you enjoy this issue. The CRIV Committee exists to assist and educate members on issues related to vendor relations. Therefore, I encourage you to contact me if you need assistance working on a vendor issue. I also welcome your suggestions for educational programs or article ideas.

You may have heard that AALL is making some changes to committees this year. I was happy to

see the Committee Review Taskforce's conclusion that "CRIV is functioning well and has value to the membership." CRIV will continue as a standing committee, with one change. This will be the last year that CRIV selects the New Product Award, however. The award will become the responsibility of a jury next year. The jury will be selected as part of the normal committee appointment process, and members will serve for one year. For more information about CRIV, please see www.aallnet.org/main-menu/Advocacy/vendorrelations.

"Is This a Good Deal?" Fulfilling Our Duty as Fiscal Stewards of Institutional Resources

Each of us has a fiscal responsibility to our parent organization. But what, exactly, are our professional obligations when it comes to our role as procurers for the library? Several key AALL resources can provide guidance, including the Competencies of Law Librarianship, AALL Ethical Principles, *Guide to Fair Business Practices for Legal Publishers*, and the *Code of Best Practices For Licensing Electronic Resources*. Each of these reflects and supports our role and responsibility as stewards of our institutional resources. I've highlighted the relevant sections of each document below.

AALL's Competencies of Law Librarianship (www.aallnet.org/mm/Leadership-Governance/policies/PublicPolicies/competencies.html) includes the following:

- 2.2 Manages all financial resources, including planning and implementing budgets.
- 3.2 Evaluates the quality, authenticity, accuracy, and cost of information resources in a variety of formats best suited to the user's needs, and conveys the importance of these to the user.
- 5.2 Makes selection decisions in consideration of all relevant factors, including the library's collection development policy, differences among formats, costs of purchase, upkeep, licensing, and copyright.

AALL Ethical Principles (www.aallnet.org/mm/Leadership-Governance/policies/PublicPolicies/policy-ethics.html) includes a section titled "Business Relationships." The third principle in that section reads: "We strive to obtain the maximum value for our institution's fiscal resources, while at the same time making judicious, analytical and rational use of our institution's information resources."

The Guide to Fair Business Practices for Legal Publishers (www.aallnet.org/mm/Advocacy/recommendedguidelines/fair-practice-guide.html) includes:

Principle 2: DISCLOSURE. Publishers should provide full disclosure about their products, services, retail prices, and terms in order to enable customers to make informed purchasing decisions.

- 2.1 CLEAR AND ACCURATE INFORMATION. All information about products, services, prices, and transactions provided by publishers to customers should be accurate, clear and conspicuous, so as not to mislead the customer.

And finally, the *Code of Best Practices for Licensing Electronic Resources* (www.aallnet.org/mm/Publications/products/procurement-toolkit.html) includes:

Practice #3: All parties should accomplish the practice of licensing electronic resources in good faith. It is important that the process be carried out as openly as possible to achieve fairness and to develop best practices. A confidentiality or nondisclosure agreement should not be a prerequisite to a license agreement.

Practice #4: It is expected that vendors will be open and transparent in their pricing structure, and will provide accurate and relevant pricing information for inclusion in the *AALL Price Index for Legal Publications*.

Price vs. Value

These reference documents refer to price, cost, and value. All of these are important factors in making informed acquisition decisions. Librarians who are part of the procurement work flow are more sophisticated than average consumers. They recognize that the value equation is subjective. The value of a given resource may depend on a number of unique factors, such as competing products, faculty interest, curriculum, collection focus, clinical needs, etc. So when we are evaluating a resource for purchase or license by our institution, why would we simply accept a price quote without understanding the context? In order to ascertain the context of a price quote, it is absolutely essential to require transparency in pricing.

Transparency in Pricing

Transparency in pricing is more than publishing list prices (which rarely reflect the actual price a library will pay) or providing a price quote. It requires that the information provider (1) share the means by which the price was established for your library (the pricing model) and (2) not limit your ability to share that information by imposing nondisclosure requirements. It's up to us as consumers to educate information vendors on these issues and hold them accountable for transparency. When negotiating with vendors, share these AALL resources in support of your efforts. This will demonstrate that you are not alone in your expectations; your profession is behind you.

Pricing Models

In my experience, one of the most common responses to a request for an information provider to share a pricing model is that it is too complex or would only cause further confusion, and thus the policy of the vendor is not to disclose the model. Most of us involved in acquisitions have advanced degrees and could understand and appreciate complex models. I believe this unwillingness to share the model only leads to suspicion and mistrust by the library consumer, as well as a widely accepted misconception that information vendors will charge whatever they can get the consumer to pay. While there may have been some truth to this idea in a pre-internet era, the modern-day vendor knows that inequitable and unsubstantiated pricing is unsustainable in a time of instantaneous communication.

In the performance of his or her duties, an acquisitions librarian has direct and immediate access to colleagues undertaking the same due diligence for their libraries. It is the responsibility of the acquisitions librarian to research what other libraries are paying for a given resource. If librarians discover significant disparities in pricing, and these disparities aren't supported by a transparent pricing model, the trust gap between vendor and consumer widens. If the model is shared, though there may not

be agreement about the model, the price disparity is no longer a mystery and the parties can move forward in good faith.

Nondisclosure Agreements

Many institutions are precluded from entering into contracts that include a nondisclosure clause. You should check this with counsel if you are part of your library's negotiating team. However, even where no such prohibition exists, nondisclosure agreements are not consistent with our professional responsibility. In fact, I would argue that they run counter to our professional responsibility and preclude us from undertaking the due diligence necessary to fulfill our fiduciary obligations to our institution. If we participate in a licensing regime in which the consumer is prohibited from sharing pricing information, we are hindering our own ability to make informed acquisition decisions.

Action Steps

In order to facilitate change, we can educate vendors about our professional responsibility, demand pricing models (not just a price), refuse nondisclosure clauses, and support one another in these efforts. Only through these advocacy efforts can we fulfill our duty as fiscal stewards of our institutional resources. Good luck in your efforts!

Sarah E. Morris Lin, Library Systems Librarian Reed Smith LLP, San Francisco

Pressure Points in Vendor Relationships: Tips for Working with Outsourced Staff

Acquisitions is the central part of a technical services department, yet at Reed Smith, as in many other private libraries, not all technical services duties are performed by Reed Smith employees. While we had long outsourced our loose-leaf filing, in 2012 we added check-in and book processing in all 12 U.S. offices. Bills are processed centrally in our Pittsburgh office by two full-time Reed Smith staff, and cataloging is also done centrally. All invoices must be preapproved by library managers in one of two ways. We have an annual list of pre-approved titles that are okay to check-in and process. All other materials require approval before processing. While we have kept the acquisition of materials in-house, adding a layer of outsourced staff complicates the acquisition process because the life-cycle of materials coming into the library is not entirely in-house.

When working with vendors, the points of communication between libraries and account representatives usually take place with regard to the following two situations:

- Access: physical issues or online products
- Payment: orders, renewals, cancellations, contesting invoices or payment

Because our outsourced staff works only a few hours a week in each location processing the mail, any problems with access or payment are necessarily delayed by their schedule and time differences between Midwest or West Coast offices and Pittsburgh. We scan and email most documentation in between offices, while hard copy delivery is available next-day. Not to say that the outsourcing is a negative experience; our staff set out with the goal that this

would be a win-win situation, so long as we were clear about expectations on both sides. Because of this, I spent a great deal of time writing procedures and duties lists before the outsourced staff joined Reed Smith, as well as providing continued training over the past three years.

One area that we did not anticipate very well was vendor relations. We assumed that since ordering and bill paying were done by Reed Smith staff, there was not much relevance to consider how outsourced staff would affect us, as well as vendor relations. For any libraries currently outsourcing their technical services work or considering such an arrangement, we would like to share the following tips that we have learned during the past three years.

Our first tip is to establish a hierarchy within your organization for outsourced workers to contact when vendor issues arise. When materials arrive incorrectly or not at all, it is very important that staff members know exactly who they should contact. Our outsourced workers each have a binder at their workstation with the very first page listing Reed Smith staff and which problems they can help resolve, as well as who is a back-up during absences.

Beyond a simple (invaluable) duties chart, the second suggestion is to create detailed procedural documentation for all known functions of the outsourced position(s), including who contacts which vendors and when. In an environment where no item is processed without approval, we cannot have items claimed without knowing whether any associated costs are also approved. This is the main reason for our pre-approval list, which, when updated annually, lets the outsourced staff know what is okay to process and also claim directly with the vendor. While this seemed like a perfect plan at the beginning, we soon learned that the new staff did not have access to email outside the firm. Outsourced staff makes phone calls or asks the local Reed Smith staff to send an email on their behalf as alternative options. For all other titles, outsourced staff alerts Reed Smith staff to make a claim. This is also an area of concern for us because when an outsourced worker contacts a vendor on our behalf, they are representing Reed Smith to that vendor. In one recent situation, an outsourced worker contacted our subscription agent to request a monthly report. The vendor then made that change for all offices, which necessitated a quick call from Reed Smith staff to change that request to better meet our needs.

As you can probably imagine, writing instructions at the outset of an outsourcing arrangement is only the start—ongoing training and communication are absolutely vital to review procedures and make any changes as circumstances arise. The actual scope, format, and frequency of training will, of course, look as different as each arrangement. For Reed Smith, with eight outsourced workers in three time zones serving 12 offices alongside four Reed Smith staff members, collective in-person training is physically impossible. There is some on-the-spot training that occurs in the offices where Reed Smith staff overlaps with outsourced staff, but we have chosen to use conference calls and webinars to train and connect our dispersed team. Two or three times per year we have gathered the entire technical services team, as well as managers from Reed Smith and the outsourcing company, to talk about procedures, reminders, or processes of interest to the group. Unsurprisingly, claims and the claims procedure have been a recurring topic at almost every training call, which has been important in making sure claims are made in as timely a manner as possible.

When everything is set up and working well, our fourth suggestion is not to walk away, but to keep tabs on how all the staff members are doing and pay attention to any issues that may arise. Sometimes this involves talking with reference staff in each location to make sure that their library's materials are flowing as expected and that attorneys have not noticed any disruption in service. Other times it has involved working individually with an outsourced staff member to resolve any question or problem that is only of local concern. For 2015, my team of four will be focusing on improving email communication. Almost all of our communication with the outsourced staff (and with most other internal and external clients) takes place through email, and we want to make sure that communication to all parties is as clear and concise as possible, especially when trying to resolve sticky acquisitions problems that can involve several parties.

Working with outsourced technical services staff has enabled us to maintain service levels within our budget. For other libraries in the same situation or considering such a move, it is worth spending time to carefully consider all aspects of the duties and staff involved, as well as which vendor relationships may or may not be affected. Planning in this area is really worth its weight in gold!

“The Right to E-Read” in Europe vs. the United States

April 23 is World Book and Copyright Day. Law libraries should celebrate this day with our sister libraries around the world and work with them to protect the needs of our users. As legal information experts, we are well placed to give better guidance on how licensing agreements should look, what borrowing should look like, and how to make fair use a good deal for both libraries and content providers.

In my visits to 13 European libraries, I learned that electronic resources were consuming an ever greater portion of libraries’ budgets (I saw between 30 and 65 percent), just as in the United States. However, licensing and research practices were different. For example, I saw far more on-campus-only databases, even for core legal databases, in Europe. The e-book issue intrigued me because my law school library is moving toward expanding the number of resources available electronically due to issues of expense and space.

During a visit to the annual European Bureau of Library, Information, and Documentation Associations (EBLIDA) conference in Athens, Greece, in 2014, a bright yellow sign with a red thumbs-up on it caught my attention. The sign read “The Right to E-Read.” I learned that this was a Europe-wide campaign to increase the amount of material available in e-book format to libraries and to advocate for fairer e-book rules.

EBLIDA’s campaign (whose details you can see at www.eblida.org/e-read/home-campaign) has four simple points: (1) libraries should be able to lend the newest version via e-book at the same time as they can lend the printed version; (2) pricing and licensing for e-books should be “fair” and “reasonable”; (3) authors should be compensated for e-book lending the same way they are for print-book lending; and (4) everyone should be able to benefit from e-book lending, regardless of income. To facilitate these goals, EBLIDA is pushing for fairer and clearer international copyright laws as well as better licensing practices. A much clearer definition of fair use is high on the list of desired changes. The American Library Association (ALA) has backed EBLIDA’s campaign. But while I just learned of it, EBLIDA’s campaign has been going on since 2012. So why mention it now?

Two recent developments led me to think that law libraries should more actively join movements like this one. The first is the recent decision in the Georgia State case (*Cambridge University Press et. al. v. Patton*, 769 F.3d 1232), which moves copyright law into the realm of uncertainty. The new test for fair

use is complicated and not intuitive. The second is that, with budget pressures weighing heavily on law schools and law firms (a recent *Slate* article titled “Get Ready for Some Law Schools to Close” by Jordan Weissmann, available at www.slate.com/blogs/money_box/2014/12/01/law_school_applications_collapse_get_ready_for_schools_to_start_closing.html), noted that law school application levels were down to what they were in the 1970s), it is likely that a larger proportion of our collections will transition toward e-book format. Indeed, in my law school library, we are deliberately moving as much as we can to e-book format for reasons of cost, saving of processing time, and accessibility. I have seen more articles in *Spectrum* and elsewhere about law libraries being concerned with e-book acquisitions, and last year’s AALL Annual Meeting had a program on e-resource-only libraries.

Licensing practices remain idiosyncratic and difficult to understand in many cases. Issues mentioned in both European and American library associations include there being no standard format for e-books, how complicated the lending process is, preservation, accessibility, and ownership. One of the biggest concerns I have heard expressed is that libraries typically license rather than own e-content. While some vendors are addressing this issue (such as ProQuest and Hein), others are not. In countries or states where there are laws requiring that libraries maintain certain content, the idea that it might disappear at the whim of a publisher is unsettling.

I encountered a vendor (Bundesanzeiger Verlag) in Germany that provides public access to the current version of the German codes online at no cost—but only for viewing, not downloading or printing. To download or print, users must go to a public library and use the print version of the codes or they or the library must pay significant costs for a subscription that allows for full access. As we move toward more e-content, we will have to work these issues out with vendors.

One final issue mentioned in EBLIDA’s campaign more than any campaign in the United States, though it is an issue for librarians in both parts of the world, is privacy. Most ILSs provide for extensive privacy in the borrowing record of users. European countries have strong privacy protections, so EBLIDA is concerned that their licensing agreements allow them to comply with these laws and protect the privacy needs of their users. Many states in the United States also have privacy laws, and we should also be very concerned with protecting patrons’ privacy.

I hope that we will join EBLIDA and ALA in working with vendors on responsibly resolving these issues that make creating a fully digital law library problematic in the future.

(Thank you to the B. Braun Fellowship from the International Academy of Life Sciences, which made my library visits and research possible.)

Sarah Kiefer, Library Relations Manager Practising Law Institute, New York

Kaye Scholer Library: The New Model for Going Digital

In December 2014, the Law Library Association of Greater New York (LLAGNY) hosted a webinar, *Kaye Scholer Library: The New Model for Going Digital*, with guest speaker Shabeer Khan, the director of information services at Kaye Scholer LLP in Chicago. Shabeer addressed not only the process of their law library “going digital” but also the reasons behind such a change along with reflections on what worked and the long-term benefits.

From the beginning, Shabeer covered the reasons and logic behind the new model for going digital. As law firms undergo more budgetary and spatial pressures, librarians need to determine how to deal with the concept of “more for less” while also providing the best possible services. The ongoing pressures that law libraries are facing include cost, space limitations, time and manpower, maintaining documents, dealing with new research needs, and determining how to quantify success. At the same time, they must know how to connect people with the right information as they need it.

Librarians also need to be knowledgeable on technology and the various tools used, such as mobile devices, legal research apps, digital content, cloud-based apps, data visualization tools, monitoring tools, and web-based communication and training tools. Shabeer stressed that information professionals/librarians should be the ones driving the change, being proactive on how to influence the change, and work with the vendors to customize their options. At the core, though, librarians should focus on the firm’s needs in order to best serve the attorneys. Therefore, it is imperative to look at what needs improvement and what tools are needed to drive that improvement.

In order to prepare for the transition to digital, Shabeer explained the evaluation processes Kay Scholer librarians implemented. The first step was to evaluate their print versus digital collections and review new possibilities with digital content along with how their collection has changed. Part of this evaluation consisted of determining the number of print items, shelf space, and their operations (processes). In their evaluation, Shabeer found that print was more costly; limited the number of copies of content; created space limitations; cost time and

limited manpower; and made it difficult to quantify success. Yet digital was more cost effective; provided them with more “copies”; was space efficient; gave automatic updates allowing the librarians to focus on other projects; provided immediate access to content; and was easier to analyze usage.

Shabeer continued his analysis of the benefits of transitioning to digital content by explaining the benefits to Kaye Scholer as a law firm. By providing digital access, the library could expand to all locations, allowing them to serve all the firm’s attorneys. The library team of 12 now serves 450 attorneys worldwide because of the digital collection.

Another aspect of the evaluation process was to understand how the attorneys worked. Shabeer explained that one of the crucial aspects of this evaluation was involving the firm leadership team to help determine the right content to keep for the attorneys. Shabeer stressed that the main purpose was to keep the information that the attorneys needed.

Once it was determined that the library would move forward with “going digital,” Shabeer explained the seven-step process to digitization. First, they took inventory by pulling a list of everything they had and weeded out the unused/unnecessary items. The second step was to survey their options, which included contract negotiations, to determine if they could replicate the print collection digitally. The library also had to experiment with digital platforms and gave pushback to vendors in order to customize their options.

The next step was to evaluate their collection to determine the print titles that had digital counterparts and also the print titles with no digital counterparts. During this step, the library heavily involved the key leadership at the firm to help evaluate the collections. The library provided usage stats, routing numbers, holdings, and other records to help with the evaluation.

The fourth step was to implement the digital collection by using familiar channels and one access point. They added links to existing MARC records and created records with new titles. Once this was handled, the next step was to introduce the new

options and keep the users informed of the changes through newsletters, emails, and memos. Shabeer detailed how they gave the users time to prepare by introducing digital resources before removing the print collection. At first, they routed both publications by offering electronic and print before removing print.

The sixth step was to train their users, which they did through email and video announcements; live and pre-recorded trainings; and an intranet page with FAQs. Shabeer and the library staff offered weekly topical trainings, monthly departmental trainings, and frequent vendor trainings. He encouraged utilizing vendor reps for trainings. Finally, Kaye Sholer's law librarians executed their plan. They set a public date for removal of their print collections and proceeded with the plan.

In the end, the library staff reflected upon what worked and what didn't. They faced challenges at first, including attorney pushback regarding print standard versus digitization; the fact that not all vendors offered digital collections and some were subpar; relocation logistics and not hindering services; and staffing needs, since the transition

required a move from New York to Florida. Shabeer expressed that one of the drawbacks to the relocation was losing library staff and the knowledge that they brought to the firm. But they moved forward with the transition, kept 30 percent of their staff, and sought new information professionals.

After the transition and move to the digital collection, Shabeer and his team were able to evaluate the benefits of digitization, such as the reduction of mail processing and filing, which freed up the librarians to assist in researching and implementing the technology. The digital collection also expanded their services, improved communications and training, and increased use of contracted resources. So far, there has been a better cost efficiency and more return on their investment. Shabeer reiterated that converting to a digital collection allowed the librarians to be part of the innovation process and help shape the industry.

Overall, Shabeer feels that technology and consumer behavior will continue to change law firms and that information professionals need to see what's going on as an opportunity. Law libraries will continue to be needed and will continue to focus on the firm's goals and priorities.