

Reducing Costs of Legal Research: Best Practices Onshore and Offshore

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Agenda

- Online v. Print
- Negotiating Online Contracts
 - Single Provider Considerations
 - Contract Renegotiation
- Cost Recovery
- Training
- Outsourcing Legal Research



Introductions

- Mary Anne Fry
 - Director of Libraries and Records
 - With firm since 1977
- King & Spalding Overview
 - Thirteen Offices (5 International)
 - 1000+ users of library resources
 - Practices – Transactional and Litigation
 - Library Environment
 - Library staff – 16.5
 - Centralized helpdesk & research support
 - 24/7 on-call research support
 - Print collection cut over last 6 years with focus on electronic for ease of shared access

Online vs. Print

- The Premise
 - Online resources will replace print
- The Reality
 - Discussions to eliminate print started in early 90's
 - Online resources are not the “magic bullet” to replace all print
 - Dark side
 - Costly and licensing issues
 - Not best for all print
 - Risky if used improperly

Online vs. Print Issues to Consider

- Users
 - Different needs
 - Location – domestic / international
 - Accessibility
 - General differences
 - Research skills
 - Training needs

Online vs. Print Issues to Consider

- **Benefits of online format**
 - Accessibility
 - Timeliness and efficiency
 - Case law, primary law, regulations and corporate data
 - Pin-point references and cite checking
- **Benefits of print format**
 - Traditional research skills
 - Cost is less than online
 - Treatises, indexes, opinions, digests

Online vs. Print Issues to Consider

- Cost control
 - Easy cuts in online and print
 - Duplication
 - Underutilized resources
 - Use of recovery software
 - Monitor usage
 - Weed underutilized resources
 - Subscriptions
 - Licensing fees – concurrent and single users
 - Rate and annual publisher increases

Online vs. Print Issues to Consider

- Cost control continued...
 - Extra expenses beyond the online subscriptions
 - Licensing fees – concurrent and single user
 - Out-of-contract resources
 - Downloading and printing
 - Extra expenses beyond the print subscriptions
 - Unexpected new versions and editions
 - Rental space and labor to maintain
 - Tax and shipping
 - Expensive to go back to print after it has been cut

Online vs. Print Issues to Consider

- Ethics of charging the Client
 - Online rate is higher than annual print subscription
 - Firms do not charge for print
 - Clients consider it “overhead”

Online vs. Print

In summary

- The decision is not choosing online or print
- The decision is how best:
 - To gain the most cost effective and useful results
 - By creating a balance between online and print

Introductions

- **Marcia Burris**
 - Library Manager
 - With Ogletree since 2001
 - Ten years library consulting experience, Burris Library Associates
- **Ogletree Deakins Overview**
 - Thirty-five Offices Nationwide
 - 450+ attorneys
 - Firm has tripled in size since 2002
 - Practices – Labor & Employment, Benefits, and Immigration
 - Library Environment
 - Library staff – 11
 - Centralized research support
 - Print collection reduced in recent years

Online Contracts

- The Goal
 - Online resources will replace print
 - Online resources should provide value to the firm and client
 - The Reality
 - Online resources can be very expensive
 - Vendors have historically been able to charge high rates
- BUT
- Law firms have added leverage in current economic climate
 - Firms can reduce costs in this area

Online Contracts

Contract Types

- Flat rate
- Pay – go
- Reverse Window/Modified Subscription
- Select Content
- Transactional use without contract

Online Contracts

Online Vendors

- Traditional Legal Content Providers
 - LexisNexis & Westlaw
- Younger Competitors
 - LoisLaw
 - FastCase
 - CaseMaker
- Specialty Content
 - BNA
 - CCH
 - RIA

Online Contracts Issues to Consider

- What are other firms paying?
 - American Association of Law Libraries survey – 2007
 - Law firms 150-225 attorneys – Median \$900,000 online budget
 - Law firms 301-400 attorneys – Median \$2,200,000
 - American Lawyer AmLaw 200 survey – 2008
 - Average Westlaw expense in 2007 – \$1,998,674
 - Average Lexis expense in 2007 – \$1,154,860

Online Contracts Issues to Consider

- What are other firms doing?

AmLaw 200 Survey 2008

- Flat Rate Plans

- Lexis 81%
- Westlaw 85%

- Moving toward Single Vendor Approach in next five years?

- 2007 18% of firms say YES
- 2008 12% of firms say YES
 - 10 of 12 respondents reported leaning toward Westlaw

Online Contracts

Single Vendor

- Single Vendor Option may dramatically cut firm expenses
 - AmLaw firms spend an average of \$1.2m for Lexis and \$2m for Westlaw
 - Immediate savings to the firm
 - Savings will be offset by increased costs for supplemental resources
 - Savings will not equal subscription cost, particularly if cost recovery is in place

Online Contracts

Single Vendor

- Evaluation Process
 - Which service has higher attorney use?
 - Which service has lower subscription cost?
 - Which service offers greater discount to the firm?
 - Which contract renews first?
 - Which service includes unique content?

Online Contracts

Single Vendor

- Adopting a Single Vendor Policy
 - Start planning 1 Year in advance
 - Evaluate current costs per attorney
 - Determine which online service is more heavily used, and evaluate usage trends
 - Consider usage by database
 - Determine unique content and research alternative sources, including print
 - Test vendor claims!
 - Communicate change to users several months in advance
 - Work with new Preferred Vendor on contract enhancements
 - Consider a backup plan

Online Contracts Negotiation

- Opportunity to reduce costs
- Prepare
 - Review current usage and costs
 - Review Excluded / Ancillary usage
 - Vendor reports, QuickView or PowerInvoice

Online Contracts Negotiation

- Contract Renewal
- Change of Circumstance
 - Per capita increase OR decrease
 - Full contract can be renegotiated mid-term
- Merger
 - Acquired firm's contract typically added
- Content Add-on at any time

Online Contracts Negotiation

- Contract Renewal
 - Remove underutilized content from contract
 - Compare “Retail” cost to current value of add-on
 - Renegotiate Cost Per Attorney
 - Share non-confidential firm financial information with vendor
 - Published decline in Profits Per Partner
 - Publicly announced staff reductions

Online Contracts Negotiation

- Content Add-on
 - Vendor rule of thumb: Sell add-on at 2x current usage
 - Vendor Goal: Increase monthly revenue commitment
 - Law Firm rule of thumb: Add-on should pay for itself
 - Goal: Decrease cost through reduction of outside contract use
 - Negotiate vendor concessions as condition of add-on purchase

Online Contracts Negotiation

- Vendor Strategies
 - “Partnership” Bundling
 - “Multiple Platform” Bundling

CAUTION

- Determine cost of each component line item
- Beware of long-term commitments to redundant content
- Consolidation
 - Acquiring content and offering via one platform
- Positioning to become “Single Provider”

Online Contracts

In summary

- Determine your online needs
- Seek common ground with the vendor – but also stand your ground
- Seek the best deal possible for your firm
- Listen to your gut
- Value to the firm results in value to your clients

Introduction

- **Rachelle Rennagel, Esq.**
 - Chief Knowledge Officer
 - Oversee library, litigation support, knowledge management and marketing technologies
- **Sheppard Mullin Overview**
 - Eleven Offices (1 International)
 - 1000+ users of library resources
 - 20 + Practice Groups
 - Library Environment
 - Library staff – 7.5
 - Quasi-Centralized helpdesk & research support
 - Print collection continually being cut with focus on electronic for ease of shared access and real estate savings

Cost Recovery

The Basics

- The Idea
 - Recoup Lexis charges through client bill-back
 - Various bill-back methodologies
 - Justification: on-line research is a more efficient way to do research
- The Current Reality
 - Overall decline in cost recovery has rapidly accelerated, in part due to abysmal economic conditions
 - Partners writing off Lexis charges on bills
 - Attorneys charging research to client development or other non-billable client matters

Cost-Recovery

The Reality

- **Mounting client pressure**
 - Clients refusing to pay for Wexis charges – perceived as part of overhead and value-add of law firms
 - Extreme example -Lawsuit against prominent firm for Wexis bill-back
- **Cost recovery software not a fool-proof solution**
 - Requires FTE(s) to monitor and act as “enforcers”
 - Challenges with accounting and billing cycles

Cost-Recovery

The Results

- **Wexis and other service provider charges are far outpacing rate of inflation (or, ahem, deflation)**
 - Furthers the tremendous gap between Wexis fees and amount of research costs actually recovered
- **The library seen as a “growing” cost-center**
 - Staffing pressure...
- **Uneven distribution of costs – clients willing to pay v. those unwilling to pay**

Cost-Recovery Is There a Solution?

- (Re)Define your firm's business strategy with respect to cost-recovery
 - Explore alternatives to traditional cost-recovery methodologies
 - (Re)Visit Policies, SOPs, terms and exceptions
 - (Re)Visit language in engagement letters – clarity around disbursements

Cost-Recovery

Is There a Solution?

- (Re)Secure commitment from senior leadership
 - Top down approach
 - Gather statistics on lost recovery opportunities – a very good motivator
- Create realistic cost-recovery budgets
 - Analyze historical performance
 - Set and manage expectations

Cost-Recovery Is There a Solution?

- Appoint pre-billing “tsars” and systemize procedures
 - Explore technology enablers
 - Help gather data for alternative fee arrangements on true cost of legal research – more accurate profitability metrics
 - Great opportunity to identify training needs and provide 1-on-1 assistance with attorneys

Cost-Recovery

It's a Training Issue Too

- Educate, Educate, Educate (repeat, repeat, repeat)
 - “If you build it, they may not come”
 - Internal communication
 - Client education regarding the value of on-line research
- Work closely with Wexis and other information providers

Outsourcing Legal Research

**Ali G Defamation Lawsuit Thrown Out
Thanks To Legal Outsourcing To India**



Outsourcing Legal Research

- Benefits
 - Potential cost reduction
 - Current economy
 - Shrinking profits
 - Meet client needs
 - ability to meet Fix Fee projections
 - client requirements
 - Competitive pressures
 - Increased efficiency – quicker turnaround times
 - Increase bandwidth for smaller firms

Outsourcing Legal Research

- **DrawBacks**
 - Data Security
 - Quality of Work
 - Client Confidentiality and Conflict
 - Cultural Differences
 - Ethical Considerations

Outsourcing Legal Research

- Ethical Issues – Unauthorized Practice of Law?
 - Is research considered the practice of law?
 - Suggestions that it is considered “preparatory in nature”
 - Must have sufficient oversight by lawyers
 - No published court opinions addressing issue directly

Outsourcing Legal Research

- **Ethics Opinions (see take-aways)**
 - ABA Opinion (08-451) Lawyer's Obligation When Outsourcing Legal and NonLegal Support Services (2008)
 - Florida State Bar Association Opinion 07-2 (2008)
 - North Carolina State Bar 2007 Formal Ethics Opinion 12 (2008)
 - San Diego CBA Legal Ethics Opinion 2007-1
 - Association of the Bar of the City of New York Committee on Professional and Judicial Ethics Formal Opinion 2006-3 (2006)
 - Los Angeles County Bar Association Professional Responsibility and Ethics Committee Opinion 518 (2006)