

Day and Knight Legal Resource Centre: A supplier evaluation model

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Introduction

The situation in Australian legal publishing reflects much of what is happening in Canada (Mireau 2011) the UK (Kitchen 2011) and the USA (Whelan 2011) in that a small number of publishers dominate the legal publishing market. Unlike public or academic libraries, law libraries predominantly acquire material directly from publishers, rather than from vendors who act as intermediary suppliers between libraries and publishers (Butler, 2011).

Perhaps the key reason for this is the fact that legal publishers often have exclusive rights to publish and provide commentary on primary source material – case law or legislation – in a given jurisdiction (Fong 2006). Where material used to be available in hard-copy, loose-leaf volumes, they are now more frequently – and sometimes exclusively – available electronically (Fong 2006). Electronic products – such as databases of indexed and full-text case-law, legislation and journals – are generally provided solely from the publisher, and are marketed and packaged together, often as comprehensive research tools such as Thompson Reuter’s *Legal Online* (Fong 2006; Butler 2010). This makes publishers an attractive one-stop shop for purchasers.

In this context, it is an easy next step for libraries to source texts – both hard-copy & electronic – directly from the publisher as well (Butler 2011).

Whilst vendors may not be able to provide all or even many of the resources that are crucial for law libraries, the modern models under which they operate provide some tempting incentives for library purchasers. For example, many strive to integrate with library’s workflows by providing cataloguing and end-processing services (DA Direct 2011; James Bennett 2011; Genoni, 2008).

In cases where a choice of suppliers is available, acquisitions staff may be remiss in defaulting to publishers to the exclusion of vendors. The supplier evaluation model (SEM) presented here is a decision tool developed to assist acquisitions staff at the Day and Knight Legal Resource Centre (LRC) in comparing suppliers, be they publishers or vendors, along a range of key criteria.

This report will outline the LRC’s objectives, users, and collections prior to presenting the SEM.

In the absence of an LRC collection development policy, Appendix A provides a selective overview of how the SEM criteria align to some of LRC’s current preferences/expectations, and presents some examples of what suppliers offer. Transcripts of interviews conducted in the course of developing the SEM are presented in Appendix B.

Day and Knight Legal Resource Centre

The LRC is a specialized law library in Melbourne’s CBD, established and operated through funding by the Day & Knight Foundation and private donation.

Library objectives

The LRC was established to help ensure complete and timely access to the highest quality legal resources by all sectors of the Victorian legal community. It operates under the following explicit objectives:

1. Provide exemplary customer, research, reference & referral services
2. Enable access to broad-based authoritative and current legal resources
3. Give insight into historically significant and culturally rich legal resources

4. Offer specialist user-education services on-demand and as required
Thus, the LRC sees its role not only as a curator of current and historical legal materials, but as an active agent in providing and promoting quality legal research.

Primary user groups

The LRC is a resource established for the legal community. It is not open to the public. Access is free to law students and post-graduate researchers, and available to the judiciary, court officials, barristers, and solicitors via subscription. Subscription is available to individuals or via corporate packages covering either five, ten, 15, 20 or 25 individuals.

Current usage of the LRC is difficult to calculate as it includes 800 individual subscriptions, 500 corporate subscriptions, and an untold number of students and researchers.

Many researchers access the LRC's historical Minogue Rare Book Collection, however the majority of users utilize the LRC to access its collection of legal research tools. Whilst most medium-sized law firms subscribe to a core set of research tools, few are able to afford the breadth of resources offered by LRC. Many clients are lawyers and solicitors seeking preferred or alternative commentary, law reports for a specific jurisdiction, or texts unavailable in their own libraries. Some judges access the LRC because they prefer to exercise discretion in the legal research they do within their own organization.

Description of the collection

The LRC prides itself on its impressive Minogue Rare Books Collection of early and rare legal material. However, LRC's collection is predominantly contemporary primary (case law and statutory law) and secondary (indexes, commentary) resources.

Electronic Resources

The LRC provide in-house and remote access to a number of large commercial online databases of primary and secondary resources, including *Firstpoint* (Thomson Reuters; www.thomsonreuters.com.au/legal/), *Casebase* (LexisNexis; <http://www.lexisnexis.com.au/en-au/products/casesearch-case-citator-online.page>), *Anstat* (SAI Global; www.anstat.com.au/), *Lawone* and *Point-in-time* (Timebase; www.timebase.com.au), and CCH Collections (www.cch.com.au). Other journal-related databases include HeinOnline (heinonline.org), AGIS Plus Text (Informit; www.informit.com.au/agis.html), and JSTOR (www.jstor.org/). Despite the expense, LRC justifies subscriptions to this range of products as a means of providing patrons with legal information that is:

- *Timely*: publishers may update case-law at different times
- *Authoritative*: only one resource may provide an authorized version
- *Complete*: in some cases a single publisher may have the rights to publish and comment on an area of law
- *Varied*: whilst there is a high degree of overlap in the areas covered by the publishers, they provide unique content in terms of annotations and commentary

Whilst much case-law and legislation may be available freely online (such as via AustLII; www.austlii.edu.au/), only the authorized version is mandatorily updated and usable within a court. Thomson Reuters have exclusive rights to

publish all Australian authorized law reports (Thomson Reuters, 2011), except for the Victorian Courts, which is published exclusively by LexisNexis (LexisNexis, 2011). SAI Global's *Anstat* (SAI Global, 2011) is the sole authorized source of Victorian Legislation.

Other key electronic documents include legal encyclopedias provided by Thomson Reuters (*Laws of Australia*) and LexisNexis (*Halsbury's*) – neither of which are held in hard-copy – legal dictionaries, and many born-digital and electronic versions of legal texts and journals.

Printed collection

As well as various reference works such as legal dictionaries and indexes of legal abbreviations, the LRC's hard-copy collection contains many legal texts providing commentary on various aspects of law in various jurisdictions. Many important texts, though not serials in the strict sense, are published as updated editions on a regular (even annual) basis.

The hard-copy collection is predominantly composed of serials such as annual reports, journals, annual legal texts, and loose-leaf updates of law reports and legislation, as well as a selection of magazines and newspapers.

Whilst the majority of journals are kept electronically, the LRC subscribes to a selection of key journals in hard-copy format. Similarly, certain key annual texts are kept in hard-copy as well as electronic versions, such as Nash's *Victorian Courts* (Thompson Reuters).

Although it is now legal to use electronic versions in the courtroom, in most cases hard-copy versions are still used (Butler, 2011). Hence, LRC subscribes to both the electronic and loose-leaf versions of law reports and legislation.

Supplier Evaluation Model

The SEM overviewed below is a tool for comparing suppliers (be they vendors or publishers) providing equivalent material. Therefore, the model does not extend to electronic databases that, as mentioned earlier, provide unique content and are provided exclusively by the publisher. This model was designed to facilitate selection of materials such as texts (which may be both hard-copy and electronic), and serials including annual texts (which are available both electronically and in folder format with loose-leaf updates) and journals (which may be in hard copy or electronic).

The SEM covers a range of general issues before presenting format-specific criteria relating to electronic resources, hard-copy resources, serials, and non-serial texts. The criteria themselves are organized according to ten domains:

- Product selection
- Delivery (for hard-copy resources)
- Purchase, discounts and costs
- Licences and access (for electronic resources)
- Invoices and statements
- Representatives
- Technical support (for electronic resources)
- Workflow integration
- Reports/statistics
- Other

The SEM provides space for comments relating to LRC's needs or vendor performance, and an additional space for quantitative evaluations. Numerous methods for quantitative vendor ratings are described in the literature (eg. Alessi, 1992; Lam, 2004), however, for the purpose of this SEM the rating scale in Table 1 is recommended.

Table 1 Supplier evaluation scale

1	Poor service/product Consistently disappointing, a large number of complaints or issues
2	Sub-standard service/product Occasional complaints and issues need to be addressed
3	Adequate service/product Consistent with expected performance.
4	Very good service/product Very few complaints or issues, which the vendor addresses promptly
5	Outstanding service/product Vendor takes extra steps to please the client and provides value-adding to their service

Electronic Version

An electronic version of the SEM is available in Excel format from <http://dl.dropbox.com/u/24242201/SEM.xlsx>. This version permits simultaneous comparisons of up to five suppliers, utilizing binary (yes/no) ratings or any type of numeric rating system. It provides automated scoring for a total score, and scores relating to formats and each of the criteria domains.

General Issues

Domain	Criteria	Comments	Evaluation
Product selection	<ul style="list-style-type: none"> New product alerts and information provided in hard copy and electronically Online catalogue for selection and ordering Online catalogue provides multiple search options Subject lists 		
Purchase, discounts and costs	<ul style="list-style-type: none"> Discounts offered Accepts electronic payments Service fee Minimum order to negate freight costs for hard-copy material Deals with foreign currency Transparency and adequacy of exchange-rate processes Discounts on paper products when also purchasing electronic version 		
Invoices and statements	<ul style="list-style-type: none"> Accurate Addressed appropriately Display purchase order number Well laid-out and legible 		
Workflow integration	<ul style="list-style-type: none"> Availability of pre-order bib-records Compares titles with holdings Easy access to metadata/MARC records Performs original cataloguing Adds holdings to Libraries Australia Links to reviews 		

Domain	Criteria	Comments	Evaluation
Representatives	Single point of contact (eg. for texts and serials) Appears to understand library's needs Easy to contact Provides follow up Knowledgeable re. products and supply issues Readily available for face-to-face meetings (ie. located locally) Pleasant Prepared to be flexible Professional		
Reports/statistics	Provides management reports Management reports sufficiently complete and useful		
Other	Available for collection development and management consulting Website easy to use and navigate		

Electronic Resources

Domain	Criteria	Comments	Evaluation
Product selection	Obligation-free trials Flexibility around trial periods		
Licences, access, and prices	Licence covers access from site IP Address Can licenses be modified to accommodate changes in user numbers? Can licenses for remote access be tailored to fit an approximate user-base? Advance warning of annual price increases in subscription fee or platform fee Option for pay-per view for non-subscribed electronic resources Pay-per-view price Purchase for eBooks rather than lease Platform fee for eBooks Content available as advertised Compatible client-side software for authentication and full-text linking No prohibitive copying or distribution clauses in contract Complaints of access difficulties		
Reports/statistics	Breaks data down in useful ways eg. remote versus local access Frequency of reports Provided in a usable, analysable format Provided online or automatically (eg via email) Title-level reports		

Domain	Criteria	Comments	Evaluation
Technical support	Direct access to technicians for technical support Provides adequate training for setup and use of software Promptness of response to queries or technical issues Support available through various modalities (eg email, phone)		

Hard-copy resources

Domain	Criteria	Comments	Evaluation
Purchase, discounts and costs	Loose-leaf purchase price includes binders and 12-months updates Payment after receipt of goods of hard-copy material		
Delivery	Flexibility in delivery times and frequencies Online order tracking Incorrect goods Damaged goods Speed of delivery Consolidates orders of multiple items Prompt and appropriate response to ordering/delivery problems Rush orders Permits cancellation or modification of orders Provides order confirmation Provides accurate estimates of delivery date Reports delivery errors Reports progress of order Reports delivery delays		
Workflow integration	Provides barcoding Attaches spine labels Covers texts		

Serials (including annual texts)

Domain	Criteria	Comments	Evaluation
Purchase, discounts and costs	Provides standing orders for journals, annual texts, and texts with regular editions Discounts for serials packages Will provide custom packages of journals If journal packages are pre-set, relevance and coverage of packaged titles Willing to negotiate 'break clauses' and licence renegotiations in contract eg. if material becomes free or unavailable, or if the supplier under-performs Annual price increases		
Workflow integration	Accessioning of titles Consolidation of overseas titles Handles claims for non-received issues Manages renewals Provide advance notice of price/title changes		

Non-serial texts

Domain	Criteria	Comments	Evaluation
Product selection	Option for approval profile Efficient profiling system Relevance of approval profile deliveries		
Purchase, discounts and costs	Flexibility in returning texts from firm orders Pre-pub discount		

Appendix A – LRC’s vendor service expectations

General Issues

Product selection

LRC expects suppliers to provide a user-friendly interface for accessing an online catalogue of products. Furthermore, stock should be searchable by title, ISBN, author, and/or subject, and new stock should be displayed clearly. For example, whilst Thomson Reuter’s bookshop site clearly displays new stock, and provides a useful breakdown of titles by subject area, the options for search are limited to a single search field (Thomson Reuters 2011). By contrast, DA Direct cannot provide the same capacity to browse titles by legal area, but their search interface is both simple and comprehensive (DA Direct 2011).

New product alerts should be available in both hard-copy and electronic form, including a list of products broken down according to key legal areas. Thomson Reuters offers an eNewsletter of new releases, as well as an RSS feed (Thomson Reuters 2011). James Bennett offers the additional service of sending manipulable electronic notifications customized according to client’s profiles (James Bennett 2011).

Purchase, discounts and costs

LRC expects a discount of at-least 15% on all titles, with no service fee, and no postage for any reasonably sized orders (eg over \$100). Thompson Reuters charges no shipping for any purchase made from their online store (Thomson Reuters 2011), whilst LexisNexis waives shipping fees only for orders over \$125 (LexisNexis 2011).

Payment should be possible via credit-card or direct electronic transfer.

The supplier should, where appropriate, deal with foreign currency and invoice in \$AU, and be able to demonstrate that they manage exchange rates to optimize purchasing.

Vendors should discount purchase of hard-copy products when LRC is also purchasing the electronic version, as practiced by LexisNexis, who provide a 75% discount on supplementary electronic versions (LexisNexis 2011).

Invoices and statements

Invoices should be correctly addressed, accurate, well laid-out with easily identifiable purchase order number, and, in the case of hard-copy material, accompanying the delivery.

Workflow integration

LRC has a preference to receive MARC records with all relevant acquisitions, which may mean original cataloguing by the vendor where needed. In addition, LRC looks favorably upon vendors who check products against our current holdings, and adds new holdings to Libraries Australia on our behalf. We note that James Bennet provides original and copy cataloguing, and deals with Libraries Australia (http://www.bennett.com.au/products/shelf_ready_services.php). The DA

Direct *Workgroups* tool provides easy access to bibliographic records, which are customizable and downloadable in a number of formats including MARC (<https://www.dadirect.com/books/DAdirectAccess.asp>).

Where delivery of an order is expected to take a greater than usual time, LRC appreciates the provision of a pre-order bibliographic record to keep our catalogue up-to-date in the mean time.

Representatives

LRC expects to deal directly with a single, local representative with whom we are able to establish an ongoing working relationship. LRC expects reps to be knowledgeable about their products, flexible in their negotiations, and professional (eg calls ahead to make appointments, follows up on dealings, responds quickly to enquiries).

Reports/statistics

LRC has a preference for suppliers who are able to provide regular (eg quarterly) summaries of purchases, including spending broken down according to title and subject areas. Such reports should be delivered electronically as a complimentary service.

Electronic Resources

Product selection

LRC expects fee-free trials of new electronic products, for at-least a fortnight, with the option to extend where reasonable.

Licenses, access, and prices

LRC expects access for all on-site users via IP address identification, and for remote users via password authentication. License fees should be based on a reasonable approximation of the number of users who use a given electronic resource. In addition, the license should be open for re-negotiation mid-contract given significant modification to membership/user numbers.

LRC has a strong preferences for eBook purchase rather than lease. In addition, LRC will seek out vendors with minimal eBook platform fees.

Access to non-subscribed material should be possible under a credit-card based pay-per view scheme.

The software platform for provision of electronic resources should be user-friendly, and compatible with existing systems for purposes of authentication and link resolving.

Clients must be able to print journal articles and proportions of texts consistent with federal copyright law. Library staff can keep permanent copies of certain printed documents and be able to distribute copies to clients of our research services.

LRC expects electronic resources to be consistently available, with content provided as per the product description.

Reports/statistics

Reports should be provided automatically on a quarterly basis, and provide statistics relating to usage of individual titles. Ideally, LRG would also like to be

able to see who is accessing remotely versus on-site for the purpose of rationalizing subsequent contracts.

Technical support

Training should be provided free and at the request of LRC. Business-hours phone support should be made available, and any requests for support should be responded to, where reasonable, within the same business day. Where technical issues need resolving (eg access issues), LRC expects prompt service from capable technical staff who can discuss and resolve the issue directly, rather than dealing with a rep as a middle-man.

Hard-copy Resources

Purchase, discounts and costs

LRC should have at least one month to make payments after the date of delivery. The purchase price of loose-leaf materials should include binders and 12 months of updates, as provided by Thomson Reuters (Thomson Reuters 2011).

Delivery

LRC expects goods to be delivered accurately and in good condition. It expects suppliers to be open and honest in their reporting of any delivery delays or difficulties, and to provide a system allowing LRC to track orders online. LRC expects that unwanted stock should be returnable within approximately one month of delivery.

Workflow integration

LRC prefers suppliers to provide bespoke end-processing services, including barcoding, spine labeling, and book covering.

Serials (including annual texts)

Purchase, discounts and costs

LRC expects that serials packages will be provided as standing orders, with invoices delivered two months prior to renewal and one month to pay upon receipt of the invoice. Standing orders should also be available for certain key texts that come out as annual editions, or appear semi-regularly as new editions. As many titles as possible should be available as a discounted package, with the selection of titles at LRC's discretion. Discounts for packages should exceed 30% of the price for individual titles.

LRC's preference is to pay for packages under a consolidated annual bill.

LRC expects annual price increases of less than 5%.

LRC expects that vendors will be willing to include reasonable contractual clauses to ensure material remains available in the manner specified in the contract, and that LRC will be reasonably compensated for changes to that availability, as described by (Fogden 2011).

Workflow integration

LRC has a preference for vendors/serials-agents who manage LRC's serials collections by accessioning incoming issues, handling claims, and managing renewals. Consolidated processing of overseas titles is also preferred.

Non-serial texts

Product selection

Apart from certain semi-regular titles and annual texts, LRC prefers to approve all titles purchased, and as such is willing to enter into an approval plan for non-serial titles. LRC expects the vendor to consistently demonstrate reasonable accuracy in its capacity to deliver material that is relevant and meets our needs. That is, LRC staff should not have to expend too much time evaluating material to determine whether it needs to be returned.

Vendors should supply a simple yet comprehensive system for specifying our collection development profile. For example, DA Direct's *Access* allows straightforward online profile management (<https://www.dadirect.com/books/myda.asp>).

Purchase, discounts and costs

Vendors should demonstrate willingness to accept returns on hard-copy texts from firm orders. For example, LexisNexis allows 30-day money-back guarantee for all purchases from their online store (LexisNexis, 2011).

LRC expects a discount in the order of 5% on orders for yet-to-be-published material.

Appendix B – Transcripts of Interviews with Law Librarians

Interview with Soula Stylianou at Legal Aid Library, Melbourne, Victoria

Does the library have regular suppliers of hard-copy books?

Yes, there are a few suppliers who tend to supply most of our hard copy material - LexisNexis, Thompson Reuters, and CCH.

Those are the actual publishers, right? They aren't vendors who act as go-betweens between the publisher and the library.

No, that's right. They publish and supply a lot of our hard-copy and electronic resources. As well as the big three we also deal with TimeBase, and we get Anstat through SAI Global for Victorian legislation. For a lot of resources we get the hard copy, loose-leaf, versions, as well as the electronic version, for example Bourke's Criminal Law Victoria. We use dewey for a lot of our loose-leaf material.

But legal encyclopedias, for example, aren't available in hard-copy any more. We subscribe to both Halsburys (LexisNexis) and Laws of Australia (Thompson Reuters).

Is there overlap between content provided by major databases?

Usually they each have their own titles and publications, but sometimes there is duplication. For example, both Thompson Reuters and LexisNexis have the NSW Law Reports Online. But sometimes it is good to have some duplication – it gives patrons options for where they can go to find material.

Do you have remote access to the databases?

No, our license covers our staff and two public computers. The license stuff gets really complicated, but basically we managed to get a license to cover the use of those two computers by the public.

Does most of the content from these publishers come as packages?

Yes and no. We subscribe to a lot of individual resources.

What about free content? I understand a lot of material supplied in the published databases is available for free, such as on AustLII?

Yes, AustLII has a lot of case law, plus legislation and it recently put up a number of online journals. But AustLII is an educational enterprise. We don't actually encourage our staff to use it because it is not mandated to be kept up-to-date like ComLaw is.

And the commercial databases provide commentary and annotation not provided on the free services?

Yes, that's right.

Interview with James Butler, Supreme Court, Victoria, Library

For your acquisitions, do you deal with any vendors, or do you tend to deal just with publishers?

We could go to a bookseller such as DR Direct for our texts, but they are available directly from the publishers, who we deal with directly, anyway.

Law libraries don't deal with subscription agents as far as I know, except to get English and American material.

What kind of overlap is there between publishers, and what kind of unique content do they provide?

Publishers gain exclusive rights to publish authorized reports, which is important because only the authorized reports can be used in court. Thompson Reuters (TR) has the rights to all authorized reports except the Victorian Courts, which is with LexisNexis (LN). Both TR and LN do Victorian criminal law loose-leaf services with their own commentary. Both LN and TR provide encyclopedias that cover case law and legislation, with commentary. TR specialize in tax law, and CCH do Victorian legislation.

All the publishers double up on most material, providing different commentary. Our users usually have a history with one set of commentary or the other, so we subscribe to both.

Do you tend to get hard-copy and digital versions of material?

We still get loose-leaf copies because that is most convenient for use in court. Even though digital copies are now allowed, the IT infrastructure isn't set up within the courtroom. A printed copy of a digital version is allowable.

Do the publishers provide any end processing, or cataloguing services, like some vendors do?

No. Not that I know of. HeinOnline – who provide mostly American Journals – provides catalogue records, but not any of the other major publishers.

Do you get discounts from publishers?

We get discounts on texts, but not subscriptions.

What kind of licenses do you have for electronic resources?

We have remote access for judges and court staff. The license provides access for anyone employed in the court. It's based on a very rough estimate of staff.

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