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EVALUATING THE FINANCIAL IMPACT OF LEGAL RESEARCH MATERIALS: A LEGAL RESEARCH CLASSROOM EXERCISE¹

BY KATHRYN HENSIK

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More than ever, law students must be able to critically evaluate legal information and legal resources. When law students enter the “real world” as practicing attorneys, they will regularly make choices about how they conduct legal research. Not only do practicing attorneys have to pick the right resource, but they must also select the best format, taking into consideration cost considerations, ease of use, and whether or not the resource is readily available. As young lawyers mature into leadership roles in the profession, they will be called upon to make choices about the libraries and legal resources in their work environments. Whether the setting is a large law firm or a solo practice, making informed purchase decisions and calculating the financial impact of legal resources on the bottom line is expected in today’s competitive legal market. It is no surprise that library budgets are often a target when attorneys are looking for ways to cut costs. Attorneys are forced to make difficult choices about the types of legal resources they will be able to maintain to support their practice. Given this backdrop, I developed an instructional exercise for my advanced legal research students that not only focused on evaluating legal information in general but also stressed the financial impact of legal resources and how the two ideas were related.

¹ A shorter version of this article appeared in the 12th National Legal Research Teach-In Training Resource Kit (2004).

In most advanced legal research courses, we spend a great deal of class time talking about evaluating information. Typically, we emphasize evaluating information in the context of using freely available Web sites for legal research. Many of us use acronyms or other instructional methods to demonstrate that students must consider accuracy, timeliness, and authority when searching for legal information on the Web. In my view, talking about evaluating information solely in the context of using the Internet for legal research is not enough in today’s world. Evaluation skills should carry over into all parts of legal research instruction and these skills should be discussed throughout the course of a semester. Whether using print sources, costly electronic sources, or freely available Web sites, evaluation skills should be part of the research process.

In particular, a part of the evaluation process that tends to get overlooked is taking into account the financial impact of legal resources. As librarians, we evaluate resources all the time based on financial considerations. This same evaluation goes on in law firms and legal departments as well. Librarians play a significant role in this process but, often, it is the managing partners or leaders of a corporate legal department who evaluate the usefulness and value of a particular legal resource and ultimately decide whether to purchase or retain the resource. The financial realities of practicing law and, in particular, the escalating cost of legal research materials, are part of the day-to-day experiences of today’s lawyers. However, these issues are not addressed in the standard law school or legal research curriculum. For this reason, I developed a classroom exercise designed to sensitize future attorneys about the financial realities of paying for legal resources.

Designing the Exercise

To create the exercise, I developed a list of possible legal resources in various formats. I picked resources that students would encounter in practice but I also included resources that would make some of the choices difficult. In addition, I decided to make this a law firm with a strong emphasis on employment law. I chose employment law but clearly any other specialty would

work just as well. Next, I created the handout for the exercise. I divided the handout into three columns. The first column described the type of resource and the format. The second column contained comments from me that were intended to challenge the students. For example, for LexisNexis® and Westlaw®, I mentioned that 64 percent of attorneys preferred Westlaw. This added a challenge for the students because Westlaw was more expensive than LexisNexis. The third column detailed the cost for each resource. I assigned random prices to the various resources. To be honest, I don't have a clue about what resources cost in the real world. But, I didn't see this "unreal" part of the exercise to be a significant limitation to achieving the ultimate goal of the exercise. Since the point of the exercise was to get students thinking about evaluating materials and the costs associated with those materials, the actual dollar amounts were not critical. For instance, the cost associated with unlimited access to LexisNexis and Westlaw for one year by far made up the majority of the budget. In the same manner, I assigned high dollar amounts to print resources that I knew the students preferred such as state annotated codes. Another challenge I added to the exercise was listing access to the *BNA Labor Relations Reporter* in both print and electronic format. The comments column mentioned how associates clearly favored the electronic version but senior partners (and the primary rainmakers) preferred the print format. The total for all of the resources on the list was \$1,753,000.

Implementing the Exercise

After creating the exercise, it was time to put it into action in the classroom. This exercise works best if it is done in the middle of the semester. By this time, students have been exposed to a wide variety of print and electronic legal resources. They have learned that print resources are still valuable and in some cases easier to use than the electronic counterpart. If the exercise is done too early in the semester, students may automatically favor the electronic resources and pay little attention to the print versions. I did this exercise during the class period immediately following a lecture I gave on evaluating legal information found on the Web. I

wanted to tie the two classes together and illustrate to students that evaluation skills apply to other types of decisions associated with legal research.

To administer the exercise in class, I divided the students into groups of three or four. The instructions I gave them were these:

"You are a managing partner in a newly formed law firm of about 150 lawyers. The law firm is known for its labor and employment law practice. This section of the firm has the most attorneys and generates the most profits. As members of the Management Committee, you need to select and purchase items for the firm library. After soliciting input from the members of the firm, you compiled this list of resources. The combined cost of these resources is \$1,753,000. The firm has only \$1,000,000 to spend on the library. Look at these items and the comments and trim \$753,000 from the library budget. Please be ready to present (and defend) your final budget to the entire committee in 20 minutes."

Students responded very well to the exercise. While working in their groups, they appeared animated and actively engaged in the process. I overheard spirited discussions about the value of certain print resources versus the electronic version. After 20 minutes, I asked each group to present their recommendations to the Management Committee (me and the other students). The presentations went well. It was clear that the students were conflicted about some of their decisions but they defended their recommendations well when I asked them to clarify some of the more controversial decisions.

I would definitely include this exercise again in future advanced legal research courses. It is a nice opportunity to change the pace of the class and have students work together. To improve the exercise, I would solicit more input from law firm librarians so that I could provide more realistic examples of costs and competing interests that often surface in the private law firm setting. Having realistic figures would also provide students with some insight into what they will be

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facing in the “real world.” Also, to promote more meaningful discussion and critical thinking, I would ask each group to share what they considered to be the most difficult choices.

Evaluating the Financial Impact of Legal Research Materials

Resource	Comments	Cost
Unlimited LexisNexis (one year)	36% of the attorneys prefer LexisNexis.	\$400,000
Unlimited Westlaw (one year)	64% of the attorneys prefer Westlaw.	\$500,000
Collection of major treatises in substantive areas of the law practiced by the firm	Most other major law firms in the area have these treatises.	\$120,000
<i>American Jurisprudence 2d</i> (Am Jur®) —print	Used mostly by new associates and summer clerks.	\$10,000
<i>Corpus Juris Secundum</i> ® (CJS®) —print	Used mostly by new associates and summer clerks.	\$10,000
<i>West's</i> ® <i>Legal Forms</i>		\$10,000
<i>American Jurisprudence Legal Forms 2d</i>		\$10,000
Federal reporters (<i>Federal Supplement</i> ®, <i>Federal Reporter</i> ®, <i>Supreme Court Reporter</i> ®)—print		\$120,000
<i>United States Code Annotated</i> ® or <i>United States Code Service</i> —print		\$40,000
<i>Code of Federal Regulations</i> —print		\$25,000
<i>West's Federal Practice Digest</i> ®		\$30,000
Illinois reporters—print		\$40,000
Illinois statutes—print		\$10,000
<i>Illinois Administrative Code</i>		\$8,000
<i>West's Illinois Digest</i>		\$10,000
Major Illinois treatises and practice materials (other than Illinois Institute of Continuing Legal Education (IICLE))		\$15,000
<i>General Digest</i> ®—all cases reported/digested		\$75,000
Annotated codes for all 50 states	You receive a deep discount from the publisher if you purchase all 50 states (normally \$10,000 per state).	\$100,000
<i>Harvard Law Review</i> , <i>Yale Law Journal</i> , <i>Stanford Law Review</i>		\$15,000

Resource	Comments	Cost
BNA <i>Labor Relations Reporter</i> —print	10 of the 20 partners in the Labor and Employment section (and the biggest rainmakers) insist the library have a print copy of this reporter. They will not use the electronic version.	\$75,000
BNA <i>Labor Relations Reporter</i> —electronic	All 20 associates in the Labor and Employment section prefer the electronic version—it’s much easier to use.	\$50,000
IICLE publications covering major practice areas of the firm—print	Most senior partners really like these publications and prefer the print versions—very practical. Not available on LexisNexis or Westlaw.	\$25,000
IICLE publications covering major practice areas of the firm—electronic	Most associates prefer electronic access. Not available on LexisNexis or Westlaw.	\$25,000
PACER Software—to search dockets in federal court, file documents electronically	Most associates want this. Most partners have no idea what it is.	\$30,000
Total		\$1,753,000

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“Computers are good at swift, accurate computation and at storing great masses of information. The brain, on the other hand, is not as efficient a number cruncher and its memory is often highly fallible; a basic inexactness is built into its design. The brain’s strong point is its flexibility. It is unsurpassed at making shrewd guesses and at grasping the total meaning of information presented to it.”

—Jeremy Campbell, *Grammatical Man: Information, Entropy, Language, and Life*, ch. 16 (1982).
