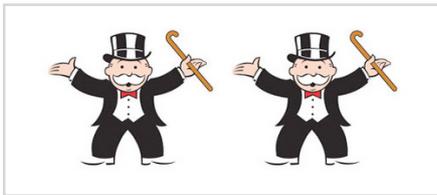


KEVIN O'KEEFE'S

REAL LAWYERS HAVE BLOGS

ON THE TOPIC OF THE LAW, FIRM MARKETING, SOCIAL MEDIA, & BASEBALL

Could LexisNexis and Thomson Reuter legal publishing model go up in smoke?



Tim Worstall (@worstall), a fellow at the Adam Institute in London, predicts in Forbes that Elsevier's publishing model might be about to go up in smoke.

Academic publishing is a very good game indeed if you can manage to get into it. As the publisher the work is created at the expense of others, for free to you. There are no advances, no royalties, to pay. The editing, the checking, the decisions about whether to publish, these are all also done for free to you. And the market, that's every college library in the world and they're very price insensitive indeed.

Back when physical, paper, copies of the journals were an essential part of any scientists' life the cost structure could, perhaps, be justified. It is expensive to typeset, proofread, complex texts and then print them in numbers of hundreds or perhaps low thousands. However, now that everything is moving/has moved online then the amounts charged for access to the journals seems less defensible. More like the exploitation of a monopoly position in fact.

Elsevier, the scientific and medical publishing arm of Reed Elsevier, is a sister company of LexisNexis, the American arm of the Reed Elsevier legal publishing empire. The same things putting Elsevier's business model at risk put LexisNexis' and Thomson Reuter's legal publishing model at risk.

One, with the advent of the Internet and free access to information, why should libraries and law firms pay huge subscription fees to the LexisNexis -Thomson Reuter (Westlaw) duopoly?

Two, also with the advent of the Internet and access to free publishing tools and free distribution, why would law professors and practicing lawyers do legal writing for free and give up their licensing rights to the duopoly?

British mathematician Tim Gowers, cited by Worstall and who has written for Elsevier, shares a few reasons why he's no longer going to do so.

1. It charges very high prices — so far above the average that it seems quite extraordinary that they can get away with it.
2. One method that they have for getting away with it is a practice known as “bundling”, where instead of giving libraries the choice of which journals they want to subscribe to, they offer them the choice between a

large collection of journals (chosen by them) or nothing at all. So if some Elsevier journals in the “bundle” are indispensable to a library, that library is forced to subscribe at very high subscription rates to a large number of journals, across all the sciences, many of which they do not want. (The journal Chaos, Solitons and Fractals is a notorious example of a journal that is regarded as a joke by many mathematicians, but which libraries all round the world must nevertheless subscribe to.) Given that libraries have limited budgets, this often means that they cannot subscribe to journals that they would much rather subscribe to, so it is not just libraries that are harmed, but other publishers, which is of course part of the motivation for the scheme.

3. If libraries attempt to negotiate better deals, Elsevier is ruthless about cutting off access to all their journals.

Sound familiar to LexisNexis’ and Thomson Reuters Westlaw’s ‘got you by the short hairs’ practices?

The legal publishing duopoly’s business model can only continue in the Internet age if law libraries and law firms feel compelled to keep paying the hefty subscriptions so as to keep with other libraries and law firms and academics and lawyers feel compelled to keep giving their content to the duopoly to preserve their thought leadership status.

We’ve already seen Reed Elsevier’s model that ‘you have to buy because every other law firm is buying’ fail in the case of their Martindale-Hubbell directory. As soon as a significant percentage of law firms stopped paying the hefty subscriptions, other law firms no longer felt compelled to subscribe. A \$300 Million a year product is going up in smoke.

We’re seeing that getting published in legal journals, periodicals, treatises, and manuals is no longer needed to build a reputation as a subject matter expert. In the Internet age, we have blogs. We also have sharing of content from legal blogs across other social media (Twitter, LinkedIn, Facebook) to further establish one’s reputation as a trusted and reliable authority.

It may take a little time to play out, but it sure seems to me that the legal publishing model of LexisNexis and Thomson Reuters is no longer sustainable in the Internet age.

By Kevin O’Keefe on January 28th, 2012

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