

Turning Fahrenheit 451 Upside Down: Information Access in Times of Consolidation

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Recent social media calls for a boycott of Amazon made me think about the dependence we have on large monopolistic corporations for our access to information, whether as citizens or lawyers. A reader fully boycotting Amazon would lose access to their e-books—the ones they own, the ones they borrow through Kindle Unlimited and the public library e-books they have borrowed if they are using them with their Kindle. Since Amazon also owns Audible, they can't listen to the latest James Patterson thriller—nor can they watch the hot new series on Amazon Prime or listen to a playlist on Amazon Music.

A prudent legal researcher always knows who owns and provides the sources they rely on and is alert to the possibility that they might stop in the middle of litigation.

However, this isn't the only place where one company has control over what we read. Say you hate e-books and like to buy them from a physical bookstore like Carmichael's Bookstore. (Good for you for supporting a great local business.) You might be surprised that many of the top-selling books you buy are published by only five multinational corporations—and two of them tried to merge last year. Moreover, those "Big Five" publishers are also owned by multinationals who often own or control many of the world's newspapers, music companies and video production and distribution companies.

But that's not all. You as lawyers might get your legal materials from one of two multinational publishers, Thomson Reuters or the RELX Group (owner of Lexis and its second-cousin Decisis). And since these resources are only licensed to you, they can disappear as quickly as a Lexis programmer's keystroke.

In this article, I'll briefly discuss some of these issues, focusing mostly on legal resources. I'll also discuss some of the licensing issues for online sources and answer a frequent question about why you might want to own a resource in print.

The Big Consolidation

Well into the 20th century, Louisville-based John P. Morton and Cincinnati's Robert Clarke Co. published Kentucky statutes, digests, reports and treatises from presses often a stone's throw from Kentucky courthouses. Even as terminals for legal databases like Lexis and Westlaw arrived in the bigger law firms in the 1980s, most lawyers stocked their shelves with books from regional publishers like Banks-Baldwin Law Publishing of Cleveland, W.H. Anderson of Cincinnati and Charlottesville's Michie Publishing Co. (which published a version of the KRS). True, there was an elephant in the room—the St. Paul-based American law publishing giant West Publishing Co.—but it had gained its heft through expansion, not mergers and acquisitions.

In 1987, however, LexisNexis, then just a database company, purchased Michie Co., obtaining access to the KRS, as well as a dozen or more other state codes. Soon afterward in 1989, Canadian book publisher Thomson purchased Lawyers Cooperative, the publisher of American Law Reports (ALR), the American Jurisprudence titles, a Supreme Court reporter and dozens of treatises. The other official KRS publisher, Banks-Baldwin, was acquired by West Publishing in 1993. The nature of consolidation accelerated dramatically, however, in late 1994 when Anglo-Dutch conglomerate Reed-Elsevier—the publisher of hundreds of medical journals and treatises—announced the purchase of LexisNexis. Then, 16 months later, Canada's Thomson Publishing acquired West Publishing Co. from the descendants of John B. West for \$3.4 billion. The deal was briefly held up by the U.S. Justice Department antitrust division, but a federal judge soon approved it and the race to consolidate continued.

In 1996 Reed-Elsevier cut a deal to purchase Shepard's citator database and the Mathew Bender treatises. In 1998, Reed's efforts to acquire Dutch publisher Wolters Kluwer were derailed by EU antitrust regulators, allowing it to survive to purchase the prized regulatory and tax titles from CCH in 1996, later snapping up the law book divisions of Prentice Hall, Little, Brown & Co. and John Wiley & Sons—just as the New Year's Eve fireworks heralded a new millennium.

These mergers and other minor ones have meant that, in 2025, three foreign multinationals—Thomson Reuters (the result of a merger with the UK news giant), RELX (the latest rebrand of Elsevier) and Wolters Kluwer—own the vast majority of American legal titles. Only Michael Bloomberg's Bloomberg Law (which bought BNA Inc in 2011) has a headquarters in the U.S.

Managing Access to Legal Titles

You don't need to imagine a dystopian future to understand why you might lose access to certain legal resources. For example, years ago Westlaw and Lexis provided access to many treatises by third-party publishers that they no longer offer, because they have decided that it was more efficient to direct people to only their publications. Once the license to those third-party resources expired, they disappeared from those services. Most treatises in current online databases are proprietary; if you get used to using a LexisNexis resource, and your firm switches to Westlaw, the only tangible way to retain access is to buy the book.

A PRINTED BOOK? Why? They take up space. They can't be searched with CTRL-F. And, as Ray Bradbury reminded us, they ignite at the temperature of 451 degrees Fahrenheit! All those concerns are valid—especially the second as indexes have not improved in the last decade.

However, their physicality is also a virtue. You can own them. And once you own a "lawfully made" copy of a book, the first sale doctrine, codified at 17 U.S.C. § 109, ensures that you as the owner are "entitled, without the authority of the copyright owner, to sell or otherwise dispose of the possession of that copy." If I "own" an e-book on a corporate platform, I only license it and I can lose access if the platform drops it, the platform is abandoned or the company goes bankrupt. Years ago, I purchased an electronic copy of *The Kentucky State Constitution* on Amazon. When the Kindle debuted, Amazon quietly killed its prior e-book service, and I had to fight to get a refund.

Another reason people have for not buying books is that they come with expensive updates, whether the law has changed enough to justify it. I get that. In fact, if it is a Kentucky treatise or handbook, I often advise people

to try to buy the book without future updates and then annotate it yourself with new statutes and cases as you notice them. I'm sure you still have a ton of multicolored sticky-notes left over from law school.

However, if you are not into books, the next strategy is to be mindful of the ephemeral nature of the materials you use on Westlaw or Lexis. Make sure your key sources are downloaded into active case files, your firm's knowledge management system or storage that you control—particularly sources you might want to later cite to a court. And if your law firm is considering switching providers, make sure it considers the legal treatises it will lose access to.

Government Information ...

.. will not save you. The recent money-saving efforts by the Department of Government Efficiency (DOGE) should alert you to the possibility that government information is not immune from being removed by any new administration. Again, it is important to be mindful and download anything you need to cite or reuse. Electronic legal information, in any form, comes from servers owned by someone and it can be removed. A prudent legal researcher always knows who owns and provides the sources they rely on and is alert to the possibility that they might stop in the middle of litigation. Keep your ears open and save often is the best advice I can give.

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