DOCUMENT DELIVERY IN THE 1990s
AND BEYOND

By Richard A. Danner

QuickLaw, and others. The definition does not require a library role in the process.

2. Any information delivered by a library to a patron, whether or not the library owns the item. This definition is library-centred, and includes such activities as delivering a photocopy to a professor or judge in her office whether or not it had to be obtained from a source outside the library.

3. Information delivered by the library from its own holdings to secondary or external patrons. Under this definition, the library is itself a document provider, rather than an intermediary or recipient of document delivery services.

Mary Jackson, a frequent writer and speaker on document delivery defined the term in a Law Library Journal article as “the purchase of photocopies, usually of journal articles, from document delivery suppliers, whether they are libraries or commercial firms...sent by the most efficient available delivery method, and...supplied either to libraries or directly to end users.”

This definition covers all the alternatives listed above, and also raises the key issues in considering the role of document delivery services in law libraries:

What should be the library’s role vis-à-vis commercial and other document delivery services, many of which are directly accessible to information seekers? The library (at least at the present time) must play some role for most library patrons, if only as the place where sought-after information can’t be found. Most law library patrons will look first to the library to see if the information is there.

Should only “purchased” information be included within discussions of document delivery systems? Perhaps it is better to think in terms of the ultimate ownership of the item obtained. Whether purchased or not, most documents obtained through document delivery won’t be returned to the supplier, but will remain with the recipient of the document, rather than the library that obtained them. This raises issues of copyright and publisher compensation.

What are the most efficient delivery methods? The opportunity and need to choose the best delivery method for a particular transaction based on cost, delivery time, and other criteria is a key issue differentiating the concept of document delivery

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1 This paper was delivered at the Conference of the Canadian Association of Law Libraries, Montreal, May 1994, in the context of a programme presented jointly by the Academic Law Libraries Special Interest Group and the Courthouse and Law Society Libraries Special Interest Group.

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from traditional interlibrary loan services.

My own definition of document delivery services is simple: it is the means by which a library patron obtains the full-text of information not held physically in the library. This definition purposely avoids saying "owned" by the library in order not to exclude full-text electronic databases. In law libraries, full-text databases like Lexis and Westlaw are important document delivery mechanisms, but are licensed, not owned.

Document Delivery versus Interlibrary Loan

Until recently, libraries have placed few resources into ILL services compared to those resources devoted to acquisition of materials. Studies show little historical concern with the performance of document delivery systems; slow deliveries of requested materials were expected and improved speed of delivery was a low priority. Richard Dougherty recently noted that librarians have done an excellent job creating a "bibliographic version of super highways" for information about periodical titles and monographs, but that the library's "ability to use other electronic super highways as delivery mechanisms has languished in the Model-T era." As a result, "Bibliographic information that can be located in a matter of minutes might take days or weeks to arrive at the desired destination via courier services or the U.S. mail."2

Despite this record of spotty performance, use of ILL services has grown. Over a recent 10 year period, borrowing rose by 108% among ARL libraries, with much of the increased traffic in photocopies: the generation of an actual copy of the information for the "borrower" to keep, rather than to read and return to a lending library.

Primary among the reasons for this increase is the rising costs of library materials, which have forced all libraries to cancel serials subscriptions and to purchase fewer new titles. With their own holdings depleted, libraries need more often to look to other sources to meet patron requests. Nearly as important to the increase in interlibrary loan traffic is the availability of online and CD-ROM indexes, which have increased patrons' knowledge of and demand for delivery of outside materials. Additionally, greater interest in international and interdisciplinary research has increased the demands of scholars for information outside their primary areas of concern.

The greater emphasis on access to information has forced libraries to adopt a change in philosophy about interlibrary borrowing and document delivery more generally. As libraries turn to a "just-in-time" rather than a "just-in-case" approach to meeting patrons' needs, ILL becomes more than a peripheral service for obtaining rarely-used materials, but a core service, essential to meeting the varying needs of patrons.

In turn, the change in philosophy creates pressures to streamline, simplify, and sustain ILL services so that they meet patrons' needs in the same ways that purchased materials do. In a 1992 article, Elizabeth Roberts argued that libraries should give their ILL and document delivery services as high a priority as acquisitions in terms of appropriate funding and staffing, and should promote the services to make faculty and students feel that document delivery is a reasonable alternative to purchasing lesser used titles.4

Sources for Documents

In 1994, Roberts' suggestions might not go far enough. At a time when end-user access to document delivery technology is expanding, and commercial services offer 24-hour or faster delivery services, interlibrary loan does not, and perhaps cannot, meet all demands for fast and efficient access and delivery of information. One consequence of the growth of commercial document delivery services is that law libraries now have the opportunity to choose from among an increasing variety of sources for document delivery.6

Still, interlibrary loan and other services offered through the bibliographic utilities (RLG/RLIN, OCLC, WLN, ISM) remain primary sources for libraries needing to obtain information not found in their own holdings. Interlibrary loan is needed particularly for books, which are generally not supplied by commercial document delivery services, but remains a major source for copies of articles and other documents, as well.

Are photocopies obtained from other libraries a better bargain than those obtained through commercial services? Upfront costs of commercial services might seem higher, but a recent ARL/RLG study found that it typically costs a research library $18.62 to borrow an item once staff time, and all other costs are factored in.7 Plus, as with other forms of interlibrary loan, the speed of delivery is up to the lending library, while the requesting library has little recourse to wait with a potentially dissatisfied patron.8

In addition to their facilitation of interlibrary loan, the utilities also offer gateways to commercial document delivery services. RLG/RLIN's Citadel service includes online indexes, including AALL's Index to Foreign Legal Periodicals and the World Law Index from the Law Library of Congress. Document delivery services are available from some Citadel index files (although not the legal files). The user chooses from among several suppliers and delivery mechanisms: (mail, telefax, or Ariel, RLG's Internet-based image transmission system). OCLC FirstSearch includes articles and table of contents services (ArticleFirst and ContentsFirst), and also allows users to choose among vendors for delivery.

In addition to services offered through the utilities, libraries can obtain materials by dealing directly with both commercial and library-based document providers. Increasingly popular are online table of contents services such as UnCover and Faxon Finder/Xpress, which provide access to published articles through issue tables of contents and indexes, and offer rapid delivery of copies of articles, with copyright fees paid. In addition, law libraries can deal with various independent information brokers, who use libraries or other sources to fulfill requests for documents. (In the United States, such services are often based in Washington, D.C., and focus on federal government information.) Library-based document delivery services in law include Boalt Express, offered through the University of California-Berkeley Law Library.
Although there are apparent advantages in relying on document delivery sources outside traditional interlibrary loan services, libraries are urged to proceed cautiously in choosing among competing vendors.9 The providers may offer a wide range of titles and are usually up-to-date with current issues, but their holdings may go back only a few years. Charges might also be higher than for materials obtained through interlibrary loan after fees for royalties, searching, handling, and delivery are added in, and might not be justified when rapid delivery is not essential for the patron. (The charges will normally include copyright fees, however.) Advertised turnaround times might not always be met at times when demand for articles exceeds the abilities of the supplier to provide and send materials; also, the issue containing a needed article may not be available for transmission, even if it appears in an index. Copy quality should be monitored.

Law librarians, especially, should also be aware of the document delivery capabilities of the online legal services (Lexis/Nexis, Westlaw and Dialog, QuickLaw). Licensing allows access to, printing, and downloading of the full text of articles in the databases offered through the Lexis and Westlaw databases; Dialog’s ERA service helps with copyright issues for materials obtained through its full-text databases. The online legal services offer advantages as document delivery mechanisms in that they are self-service devices for users and the licenses allow for multiple uses and copies. The primary disadvantage is that the services do not reproduce the published images of the original documents, but typically provide only ASCII text: imperfect replicas of original printed texts, which do not include illustrations, most tables, or the aesthetic advantages for readability of varieties in typefaces and pleasing page layouts.10

There is emerging technology for new forms of electronic document delivery, using electronic images, which are stored online or on CD-ROM products and retain the original appearance of the document with typefaces, text, graphics, and other aesthetic features intact. RLG’s Ariel software allows libraries to transmit and receive images over the Internet. UMI’s ProQuest system provides local electronic storage and retrieval of journal articles. Bell Laboratories RightPages service stores images on a central computer accessible for searching and viewing via the Internet.

Trends in Document Delivery

What will the changing forms of document delivery mean for libraries and researchers as more and more information can be obtained directly in digital format, and as more commercial vendors and services enter the document delivery market in competition with or in place of library suppliers?

In a recent Library Journal column, Carol Tenopir reminded readers of F.W. Lancaster’s 1983 prediction of two evolutionary stages in electronic publishing.11 In the first stage, automation is used primarily to facilitate the continued publication of materials in paper. Although texts are digitized during the processes of creation and production, and can easily be transformed into full-text electronic publications, first stage publishers remain primarily interested in the printed publica-

tions. The income to be gained from electronic versions of published articles or documents, like that from reprints and photocopies, is considered secondary. For the most part, electronic texts are made available, not from the publisher itself, but through licenses granted to online vendors, such as Dialog, Mead Data Central, or West.

In Lancaster’s second stage, publishers begin to exploit the potential of direct, initial publication of works in electronic form. Income from the digitized products becomes primary rather than supplementary. As network access to digitized material and the ability to make electronic copies become increasingly available to researchers and libraries, publishers become more concerned with protecting their investment in and rights to electronic copying of the material. In the face of declining subscriptions to printed products, and to control access to the material, publishers may themselves provide direct access to digitized information products. Tenopir finds that we are today at a point where both stages exist simultaneously.

Reports of the November 1993 hearings before a sub-group of the U.S. Information Infrastructure Task Force are revealing for their insights into the differing visions and fears of librarians and publishers for the emerging era of electronic publishing and document delivery. Publisher statements reported in the Chronicle of Higher Education12 show concern that global networking and digitization of information will facilitate unauthorized copying and distribution of copyrighted information anywhere in the world without payment of royalties or other return to creators or publishers.

Librarians, on the other hand, were concerned that the same technological developments would lead publishers to impose such tight restrictions and security measures that only those who pay user fees or are covered under restrictive licenses will have access to digital information. Publishers testifying at these hearings appeared to favor transaction-based systems in which the publisher is compensated for each “use” (view? copying?) of the information, and were developing technology to monitor individual uses.

Per-use charges for information clearly differ from the traditional “just-in-case” system, in which a library purchases a book or subscribes to a journal. If the library owns the item, numerous library patrons are free to view and read the information without direct charge, and some fair use copying of the material may be allowed without violating copyright law. What would be the effects of a pay-per-use system on scholarship? According to Brian Hawkins, vice-president of academic planning and administration at Brown University, the pay-per-use model “is not consistent with the values of the academy or of society at large.”13 Hawkins identifies at least three likely outcomes from the transaction-based model, none of which are desirable:

1. Because the model assumes purchase of access, rather than ownership, traditional forms of cooperation between wealthier institutions and those less well off, such as interlibrary loan, would cease and the gap between the institutions would widen.
2. Some of the information that libraries have traditionally purchased for its potential research value, with the understanding that levels of use might not be high, will no longer be available through commercial sources, because of the lack of demand.

3. Less rigorous scholarship will result from a system in which the costs of research depend on numbers of references examined. Duplication of research effort will follow, as will the possibility of harmful conclusions or results.14

Licensing is a likely alternative to per-use payment systems in academic and other library settings. Law librarians (at least in the United States) are already familiar with licensing systems for the electronic information provided through Lexis/Nexis and Westlaw. Academic law library licenses provide generous access to information for law school students, faculty, and staff, but not to other library patrons (students and faculty from other departments, local attorneys, and the general public). How will the legitimate needs of these patron groups be met as law libraries reduce their investments in print resources? Secondary patrons will have ways to access the information in licensed legal databases for additional fees, but surely this is not the same as having the library's specialized collection of legal information readily available to an entire university community. Reliance on licensed access to information also places the library and its institution at greater risk of losing that information than do the patterns of traditional ownership. For possible insights into the future information environment, one need only monitor the speculation and other comments of law librarians and others on electronic discussion groups after the Mead Data's announcement that it wished to sell the Lexis service, or the reactions in the library press to Mead's temporary termination of its general academic contract at San José State after a disagreement over signs posted in the library.15

New Models for Library-based Document Delivery

How will the library's role change as approaches to document delivery rely more and more on digitized information and network delivery systems? What are the implications for libraries of looking outside the library community for document delivery services?

One model for future library-based document delivery services is presented in a paper by Harvard Law School librarian Terry Martin and Curtis Hendrick: "A User-centred View of Document Delivery and Interlibrary Loan."16 Martin's scenario follows definition 2 in the first section of this article: the delivery model encompasses any information delivered by the library to its patron. The paper shows how a Harvard faculty member, with a joint appointment in Law and Urban Policy, could use a networked terminal in her office to arrange for delivery of a range of articles and other materials through the campus library information system. For the user, it is largely unimportant whether the materials she seeks are available at Harvard or from outside sources. She simply selects a number of appropriate locally-mounted, remote, online, and CD-ROM databases (the Harvard catalog, catalogs of other libraries, databases like RLIN, and index and abstracts databases) to search, then runs a single search through all the selected databases and arranges for delivery of the items that she wants to see. Most selected items are delivered with no charge to the professor; the charges for some from outside vendors are deducted from pre-established library and individual accounts. The system is designed to conform to the requirements of copyright law and licensing agreements.

A similar model, perhaps written less from a librarian's perspective than from a publisher's, is presented by Richard S. Pearse in a 1994 Law Library Journal article.17 Pearse's "Mother and Brood" model (mother is the material stored on the computer as data; brood is the data transferred to the requester) envisions an electronic library consisting of indexing and full-text data, in which the operating system allows the copyright holder to determine the material's use based on the identity of the user. Depending on the agreement struck by the publisher with the library for particular classes of users, some material would be available freely for viewing or reproduction by authorized users; other material could be used only on a pay-for-use basis. Pearse provides examples of how the system would work for a Canadian law student.

How close can law libraries come to meeting the service goals of these models now? At the Duke Law Library, using a combination of local, campus and consortia resources, we have attempted to maximize faculty and student direct access to resources through the law school network.18 All faculty offices at the law school are networked, as are about 150 carrels in the library.

Through network menus provided by the Law Library, the campus-wide online catalog, and services provided by our regional network, law school terminals provide access to the catalogs of all major research libraries in the area, a range of legal and non-legal indexes from online or CD-ROM sources, as well as direct document delivery services, such as Uncover, FirstSearch, and Faxon Finder. Faculty and students can order documents directly from these sources using credit cards. If the materials are not held in the library, the Law Library will reimburse faculty members for their direct orders.

Duke has a main library system (the university library and its branches), as well as separately-administered professional school libraries for law, business, and medicine. With strong collections in each, most document delivery requests can be fulfilled on campus, presumably at costs lower than through commercial services. Shared online cataloguing, acquisitions, and serials systems create the means to find out quickly whether a serial title and a specific issue are available on campus. Despite the sharing of bibliographic information, however, long histories of independent policies among autonomous libraries make it hard to establish uniform service standards and pricing.19 Although a nascent interlibrary document delivery service is directly available to all Duke faculty and students, it does not meet the service standards of the Martin and Pearse models. Even single campus systems can suffer from the traditional delivery problems of interlibrary loan.
In part to facilitate delivery of materials not available on campus, the Duke Law Library, like many United States law libraries, is a participant in both law library and multi-type library consortia.38 Most law library consortia provide free (and expedited) ILL by mail or fax to members. These services make it easier to rely on other libraries to obtain materials, but the collections of all participants are similar: at least for larger law libraries, law library consortia may be useful mainly to replace missing journal issues, etc. And, as for all ILL services, the requesting library is still dependent on other libraries’ good will for timely fulfillment of requests.

Law libraries belong to other types of consortia and networks, which provide access to a wider range of materials, opportunities for cooperative collection development, and shared responsibilities for foreign collections. Consortia and regional networks may be able to plan for and have resources to provide improved document delivery services, which remain library-centred and provide access to books as well as items that can be copied and delivered. Our local consortium, the Triangle Research Libraries Network (TRLN), provides Law Library users access to the catalogs of libraries at North Carolina Central University, North Carolina State University, and the University of North Carolina-Chapel Hill, as well as those of libraries at Duke. To date, however, document delivery service remains the weak link in the group’s activities. Although a truck service runs regularly among the libraries, it has been difficult to develop shared standards for acceptable delivery times, and to rationalize complicated multiple pricing schemes.

Yet, it may be that consortia-based document delivery systems may prove to be the most efficient ways for most libraries to approach the delivery standards of the Martin and Pearse models. An example under current development is the TRLN Document Delivery Project, which is funded by a United States Department of Education grant. If successful, the TRLN project will meet and exceed at least some criteria of Martin’s ideal. The project is grounded in the history of resource sharing by the member libraries and their universities,39 and will rely heavily on the ready availability of online catalog information from all member libraries on each campus. Both commercial indexes and catalog information will be available through any networked terminal on each campus. When a user locates a needed item, a request for delivery will be made through the network, with automated routing for fulfillment locally (within the consortium) if possible, or through outside services if necessary. The system aims for full integration of electronic document delivery into a library-based system, with a preference for digitized order fulfillment through the network.40 Network-wide standards will be established for response time and costs. Initial service goals endorsed by TRLN in May 1994 call for retrieval and shipment of photocopies within 24 hours of receipt of request, delivery of requested books within 24 hours, and (at least during the initial test period) waiver of all document delivery charges for patrons.

Such goals sound ambitious, but might be necessary in light of the publicized standards of the commercial document delivery services. Most importantly, programs such as TRLN’s and new library-centred models for document delivery services like those offered by Terry Martin and Richard Pearse, provide a means for effective and efficient delivery of materials to researchers in ways that maximize a university or other organization’s continued investment in its library resources. They also envision an active and integral role for librarians in creating and developing the services.

ENDNOTES


5 Roberts, supra note 3, at 33.


7 See Roche, supra note 5 at 4. The total cost of a typical transaction for both the lending and the borrowing library was found to be $29.55.

8 But see Kathleen Kurosman and Barbara Ammerman Dumiak, “Document Delivery: A Comparison of Commercial Document Suppliers and Interlibrary Loan Services” (1994) 55:2 College & Research Libraries 129, for a report on a comparative study at Vassar College concluding that the use of commercial suppliers was not more effective or efficient than interlibrary loan.

9 See Jackson, supra note 2 at 611-612.

10 Lexis and Westlaw also are on-request document providers. West’s WESTfax service provides individual court opinions by fax for attorneys and others who do not subscribe to Westlaw. Lexis’s LEXDOC service provides the ability to order hardcopy public records documents through Lexis.


14 Id.


16 Available via the Internet on the ARL gopher.


19 In addition, the long-standing fee-based document delivery services offered by some of the libraries to outside clients make it difficult for them to provide lower cost deliveries within a standardized program for campus clients.

