

WALKING THE TIGHT ROPE BETWEEN LICENSED DATA ACCESS AND RESTRICTIONS

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“... And Now For Something Completely Different”

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Libraries that have public database terminals have restrictions placed on them by database vendors that law firms do not encounter in their licenses. It was once a tough sell to convince some legal database vendors to allow county or membership law libraries to even have public terminals. They wanted to sell directly to attorneys. Eventually, they realized that there are some attorneys who will never be able to afford a monthly payment to subscribe to their product. Today many county law libraries and membership law libraries have public terminals. Our library has noticed a marked increase in its public terminal use by attorneys who are with large law firms because some of them are now only keeping one of the major legal databases. Some of their attorneys prefer using the one that was eliminated, so they go to their local law library to use it there.

Although a library purchases 3 or 4 licenses for a particular database, most contracts specify that they are not to be used for off-site searching. This means that the databases can only be searched during the hours that the library is open. Yet attorneys in law firms are able to use their password to access databases remotely. Likewise, law students have access to databases when they are not in their law library. Software is available to control access to databases, so that only the required number of licenses are able to be used at one time. If someone tries to sign in and all licenses are in use, that person is notified that the service is in use and to try again later. You can even limit the amount of time that a remote user can access the database.

One of the major database vendors did conduct a pilot program at a membership law library whereby solo attorneys and those with firms of 10 or fewer attorneys could have remote access to its database for 20 minutes every 24 hours. This library had members in 36 states that joined to have access to this product. The program was very successful but the vendor cancelled the program after 6 years because it wanted to sell directly to those users. Of course this upset those who had been loyal users of the service and the law library lost about 300 members as they joined the library to exclusively use that service.

County and membership law libraries encounter some of the following when negotiating database contracts for public terminals:

- Downloading or e-mailing search results to oneself – some database vendors do not permit this
- Inability to use databases remotely
- User agreements – users must agree to the vendor’s terms in order to have access to the database
- Confidentiality clauses in the contract
- Interfaces for public terminals are not the same as for academics or law firms
- Privacy issues – saving searches on public terminals

Law firms have a defined user group – attorneys, paralegals, library staff, etc. A county law library has courthouse personnel using its public terminals as well as members of the general public. Very often a county law library or a membership law library will have 2 licenses for a database – one for the public terminals and one for “behind the desk” which is for the reference librarians to use. The latter contract is more robust content wise than the one that is available for the public terminals.

The Jenkins Law Library is a hybrid – it is a membership law library and also serves as the county law library. Legal database vendors are reluctant to make their databases available to members of the general public. Licensing requirements are very restrictive. One vendor will not allow anyone who uses their database to download or e-mail their search results – they have to print. It would cost nothing to download or e-mail search results to oneself but most libraries charge for printing – this vendor does not win the “being green” award.

In today’s world, people are used to going to a public library website and downloading an e-book, searching databases and engaging in live chat with a librarian. Some legal database vendors are unwilling to even consider making their product available remotely, even to a defined group such as a membership library’s members. However, some legal and non-legal database vendors are willing to negotiate and they will allow remote access to their product. It is often expensive but it is a real service to the law library’s members.

One database vendor required that each user of a public terminal sign a paper form that stated that they would abide by a user agreement. We were able to change that when we renewed the contract and were able to have the agreement pop up on the computer screen before the patron accessed the database. Now they just have to check a box that says they will abide by the vendor’s agreement and they are granted access to the database. We no longer have to collect those silly slips.

For several years, county and membership law libraries have had to contend with confidentiality clauses within their database contracts. Our library’s Board of Directors will not permit me to sign a contract that has a confidentiality clause in it. We cross it out and then banter back and forth with the company’s legal department for a few weeks and eventually get an executed contract without the clause. Most county law libraries are unable to sign a contract that has one in it, as they are public entities and contracts are to be available as public information.

Some of the databases offer a scaled back interface for public terminals. For the new products that are more Google like, public access subscriptions do not offer all of the bells and whistles that a law firm subscription contains. This makes the product difficult to use for attorneys who do not have a subscription to that service and visit the county law library to use that database. Also, when the attorneys attend a CLE class on how to use the new product, they are shown the full version and they become frustrated when they try to use it on one of the library’s public terminals because it is not the same as what they saw in their CLE program. This is not good public relations for the vendor.

Although this does not always come up with respect to every license, privacy issues are important. With public terminals, we make sure that the search history is wiped clean after each search.

We use a software package to manage statistics for our public terminals. We keep track of what database product is being searched, search time, and if it is a library member or a member of the general public. This helps us to track usage and gives us management statistics. We also track information regarding remote use of databases and share these statistics with our large law firm members. It has been a challenge to operate public terminals but the payoff for our members and the general public has been access to the same resources that attorneys in large law firms have and that levels the playing field.