

# Failure Means Opportunities

**Abstract:** Lawyers are threatened as never before by the commoditisation of services and the automation of legal advice. Information professionals have been facing such threats for years. In this keynote article, Tim Buckley Owen asks whether it is time to make common cause?

**Keywords:** marketing; legal information professionals

## Introduction

It is still not really possible to tell how far back the seeds of the current recession were planted – probably before the first subprime mortgages were bundled up with other investments that were actually worth having and sold on as inextricably entwined mortgage-backed securities. What is fairly certain is that a comprehensive failure of oversight – whether by regulators or the credit reporting agencies – ripened the conditions for economic collapse. But is this quite the universal catastrophe it seems? Of course not. For the legal profession, failure usually generates opportunities.

About a year ago, I was commissioned to write an article for *Information World Review* finding out how the law, regulation and tax information sector was faring in the credit crunch.<sup>1</sup> We need a convenient starting point from which to analyse the current state of affairs as far as legal information professionals are concerned and to imagine as far as possible what the future might bring. This seems as good a one as any.

Despite the downturn, the signals coming from the people I spoke to were nevertheless mixed. One legal information professional confirmed that the sector was having to make some hard decisions, in some cases drastically scaling down subscriptions, or even choosing between the two major players, LexisNexis and Westlaw, in the light of the increasing challenge from the third player, PLC. Budgets were undoubtedly going to be tighter and firms would probably be seeking reductions in the cost of the information they acquired. One supplier doubted whether cost was such a big issue, claiming that the products and services it offered were fundamental to its customers' businesses. Based on a similar feature I wrote a year earlier, it pretty much looked like business as usual.

An independent legal information professional to whom I spoke did fear that, faced with the need to cut costs, most senior executives would take the quick and easy decision and retrench on research. But he also pointed out that information became even more valuable during economic downturns, since it was easy to make

money in booms and much harder in slowdowns. So let's hold on to that for a moment.

In its 2008 market forecast and trends report for legal, tax and regulatory information, the consultancy Outsell stated that the sector had indeed long been a stable and fairly predictable segment of the overall information industry. Information providers in this segment sold to a legal services industry that had been resistant to large swings in fortune and to rapid change in workflow methods. It meant that the segment had traditionally been relatively immune to the twists and turns of the overall economy and to rapid technological change.<sup>2</sup>

Then came the sting. Fundamental changes in this industry were likely to inject an increasing amount of uncertainty into the segment in the longer term, Outsell believed. The disruptive factors it cited included open access – public bodies of all kinds making their information directly available to users – and peer-to-peer – a new generation of professionals who had grown up with social media and who increasingly turned to their colleagues when they needed to acquire knowledge.

## The End of Lawyers?

Information professionals have agonised for years about disintermediation: more and more information available at information users' desktops; cleverer and cleverer ways of presenting it, often in anticipation of those users' needs; and above all the widely held view, not just among digital natives but frequently among their baby-boomer purse string holders too, that convenience trumps quality.<sup>3</sup> But it may or may not comfort you to know that lawyers could be facing exactly the same fate.

In *The End of Lawyers?* Professor Richard Susskind (IT adviser to the Lord Chief Justice) paints a picture of a world where legal services are commoditised, IT renders conventional legal advice redundant, clients and lawyers are collaborators under the one virtual roof and online systems and services compete with lawyers in providing access to the law and to justice.<sup>4</sup> 'For the conservative

legal adviser, the message is bleak,' Susskind suggests. 'For the progressive lawyer, an exciting new legal market emerges.' Substitute 'information professional' for 'lawyer' and 'information' for 'legal' and exactly the same message applies. (A review of *The End of Lawyers* appears at page 228 of this issue. Ed.)

Take Outsell's first disruptive element: the growth of open access to public sector information. Susskind is also chair of the Advisory Panel on Public Sector Information (APPSI) – the body charged with advising ministers on how to encourage and create opportunities in the information industry for greater re-use of information created by government and its agencies, usually at taxpayers' expense. It is inconceivable that he didn't have this greater access to legal, regulatory and compliance information in mind when he said what he did about lawyers.

Of course, the established commercial packagers of legal information have been exploiting public sector information in the way APPSI aspires to for years. They no longer do so in an environment where the source documents are difficult to find and fiddly to acquire, as was the case when platoons of junior functionaries spent their days tending shelves full of loose-leaf binders. Legal information professionals may continue to find it convenient to have aggregators garner and package the official content they and their lawyer clients need to do their job. But they are no longer necessarily dependent on such publishers, and they must certainly be in a stronger position to negotiate.

Outsell's second disruptive element was peer-to-peer. Just over a year ago, LexisNexis and Martindale Hubbell in the US jointly commissioned a *Networks for Counsel Study*.<sup>5</sup> This revealed that almost 50% of attorneys were members of online social networks and over 40% believed it had the potential to change the business and practice of law over the coming five years. However, fewer than 10% felt that they could rely on their current network to help them work more efficiently and cost effectively, and there was a high degree of interest in joining an online network designed specifically for their profession.

Legal information publishers have been responding to these developments with a steady stream of new products and services – finding more and more relevant ways of packaging their products for specific clients, and facilitating social networking. Last April, for example, LexisNexis and Westlaw made almost simultaneous announcements, heralding new products that were sharply focused on specific client groups. Going for the potentially highly lucrative professional support lawyer market, LexisNexis trumpeted its Lexis Legal Intelligence product as 'an intuitive knowledge driven support system'<sup>6</sup> and Westlaw's claim was that the navigation of its Securities-UK Centre was built on a specialised search taxonomy that reflected the 'unique language of the business law professional'.<sup>7</sup>

Anticipating peer-to-peer developments, LexisNexis has also been busy forging links with LinkedIn through its

Martindale-Hubbell Connected professional network for lawyers. When the network launched formally last March, it already had 3,000 direct members plus a handful of professional bodies as alliance partners. But the integration with LinkedIn allowed that network to extend informally into potentially millions of further personal connections.<sup>8</sup>

### 'Focused, predictive, analytical'

So legal information publishers are reading the runes, confronting their challenges and exploiting their opportunities. What about information professionals? Where do their opportunities lie? It may not always look like it at the moment, but they actually seem to be legion. Information guru and past Special Libraries Association president Stephen Arnold summed up neatly what all information professionals, and legal information professionals in particular, should be aspiring to, in an address to last year's Internet Librarian International Conference. He suggested that they should be pushing to their clients information that is 'focused, predictive and analytical'.<sup>9</sup>

Let's take 'focused' first. In a somewhat self-congratulatory 10,000th *Out-Law* newsletter earlier this year, the law firm Pinsent Masons nevertheless offered some really valuable pointers for information professionals. 'Law firms all too often embrace Web 2.0 for the sake of it,' the newsletter's editor Struan Robertson said. 'This strategy prompts RSS feeds that deliver nothing but law firm press releases that clients don't need and podcasts that waste the listener's time with absolute drivel. There are so many bad podcasts out there that they're damaging the medium for the good ones.' And his coup de grace: 'Law firms are also prone to launching terrible blogs that die the lonely death they deserve'.<sup>10</sup>

On the presumption that it is the information professionals within a law firm who profess some expertise in Web 2.0 and its applications, surely it should be they who take the lead in ensuring that any such initiatives focus on applications that either make clients' lives easier or the business more efficient, as Robertson puts it. It is of course for those professionals to determine where that focus should lie, from their own reading of the legal media and discussions with colleagues, such as professional support lawyers. Let me put forward just one possible tentative focus of my own: information liability.

It has been a bad year for those who make their living from the advice they provide, not just the credit rating agencies who failed to rate toxic debt correctly, but also accountants who failed to spot Bernie Madoff's Ponzi scheme and investment banks that failed to protect their investors from it. It all points to individual companies taking much greater control over the 'expert' opinions they use in the future, and some great due diligence opportunities for information professionals.<sup>11</sup>

So what about 'predictive'? Well it's a risky business and you don't always get it right (as my last cited instance may still prove!). But it's an essential activity for any business, and information professionals cannot afford to opt out of it. Regulatory compliance, interpretation of business intelligence and assessment of credit ratings may be for the experts in their respective fields, but it's the information professionals who should be able to manage the processes, detect patterns in the intelligence they receive and give the experts due warning. We aren't usually hired, or qualified, to assess risk or interpret business intelligence, but we are paid to have sensitive antennae.

Take the due diligence issue we were looking at a few moments ago. An Economist Intelligence Unit report of last October, *From Burden to Benefit*, predicted that a key initiative for companies over the next three years would be the formalisation and documentation of compliance processes – allowing for the effective management of multiple compliance projects and the minimising of duplication of effort across different regulatory environments.<sup>12</sup> It sounds as if it offers a core business opportunity for information professionals and we ought to be able to spot it, if not actually predict it.

When it comes to 'analytical', we may be on firmer ground. Information professionals in specialist areas such as law have long moved beyond the simple activity of 'rip and ship', as a Dow Jones Factiva Infopro Alliance webinar in October 2008 demonstrated.<sup>13</sup> But the webinar went further than that. 'Business intelligence dashboards have trained the user to expect to receive charts, graphs, and visuals,' said the webinar presenters Ellen Maccabe and Ken Sickles. 'Enterprise content management solutions are presenting information to them in context, and directly in their workflow. In other words they are expecting to see what the data means, when they want it, where they need it – not just the raw data.' I may be wrong but I suspect that, for many information professionals, presenting their data compellingly may represent an extra mile that they still have to go.

## Chutzpah

Which leads us neatly on to a final strategy to help legal information professionals survive and thrive: marketing. Karen Wilson, the author of another Outsell report, *Strategic Marketing for Information Management*,<sup>14</sup> told Free Pint VIP's LiveWire bulletin last April that information managers were very aware of the need to market their services within their organisations, but their attention was often focused on providing the information service rather than promoting it. Some were very savvy about marketing, she continued, but knowledge of the psychology of selling had not previously been as necessary as it was now in the Google era.

One of her suggestions was to consider hiring a marketing professional. You might regard this as an unrealistic luxury in a recession, especially when she warns that a downturn will not necessarily make it any easier to pick up a charismatic individual who would not normally be available. Nevertheless, she concluded, if the library was just perceived as 'overhead', that was a clear sign that more expertise in positioning might be required.<sup>15</sup>

Perhaps this expertise also requires the sort of chutzpah demonstrated by Simon Drane, head of knowledge solutions at LexisNexis, when I put it to him for that *Information World Review* feature that his customers were talking really tough about costs.<sup>1</sup> Acknowledging that a customer partnership approach was essential for the future, he nevertheless added: 'As customers experience our new or improved products and better customer service, we are finding that the cost of the products and services they regard as fundamental to their business is less of a talking point.'

If legal information professionals want to make the future work for them, instead of the other way round, it looks as if it has to be even more than simply being 'focused, predictive and analytical' – crucial as these factors are. To these three characteristics we also need to add 'visible' – in more ways than one.

## Footnotes

<sup>1</sup>Buckley Owen (Tim) Court in the crunch. *Information World Review* September 2008. Available at <http://www.iwr.co.uk/information-world-review/features/2225257/court-crunch>.

<sup>2</sup>Curle (David) *Legal, Tax & Regulatory Information: 2008 Market Forecast and Trends Report*. Outsell, October 2008. Purchase details at <http://www.outsellinc.com/store/products/771>.

<sup>3</sup>Law (Derek) Convenience trumps quality: how digital natives use information. *FUMSI* June 2008. Available at <http://web.fumsi.com/go/article/use/2971>.

<sup>4</sup>Susskind (Richard) *The End of Lawyers? Rethinking the nature of legal services*. OUP 2008. ISBN13: 9780199541720. ISBN10: 0199541728.

<sup>5</sup>Leader Networks. *Networks for Counsel 2008*. Available at [http://www.networksforcounsel.com/2008\\_Study\\_Results.html](http://www.networksforcounsel.com/2008_Study_Results.html).

<sup>6</sup>LexisNexis. Press release: LexisNexis Launches Lexis Legal Intelligence an Intuitive Knowledge Driven Support System for Lawyers, 2 April 2009. Details at <http://www.lexisnexis.co.uk/media/press-release.aspx?id=1240581182294672>.

<sup>7</sup>Thomson Reuters. Press release: Westlaw Business expands global platform, introduces Securities-UK Centre, 2 April 2009. Details at [http://www.thomsonreuters.com/content/press\\_room/tlr/tlr\\_legal/379821](http://www.thomsonreuters.com/content/press_room/tlr/tlr_legal/379821).

<sup>8</sup>LexisNexis. Press release: Transformation of LexisNexis Martindale-Hubbell reaches major milestone with launch of online professional network, Martindale-Hubbell Connected, 31 March 2009. Details at <http://www.lexisnexis.com/about/releases/1094.asp>.

<sup>9</sup>Fenton (Jill) Internet Librarian International 2008. *FUMSI* March 2009. Available at <http://web.fumsi.com/go/article/share/3602>.

<sup>10</sup>Robertson (Struan) Law firm web strategies: some thoughts after 10,000 pages of Out-Law. *Out-Law* 8 May 2009. Available at <http://www.out-law.com/default.aspx?page=10000>.

<sup>11</sup>Buckley Owen (Tim) 2009 – the year of information liability? Free Pint VIP LiveWire 31 December 2008. Available at <http://www.vivavip.com/go/e14956>.

<sup>12</sup>Economist Intelligence Unit. *From Burden to Benefit: Making the Most of Regulatory Risk Management*. EIU, October 2008. Available at <http://www.eiuresources.com/mediadir/default.asp?PR=2008101001>.

<sup>13</sup>Maccabe (Ellen) and Sickles (Ken) *The Evolving Role of the Business Researcher: a Dow Jones Research Study*. Dow Jones Factiva, October 2008. Link to webinar at <http://www.factiva.com/infopro/index.asp?node=menuElem1103>.

<sup>14</sup>Wilson (Karen) *Strategic Marketing for Information Management*. Outsell April 2009. Purchase details at <http://www.outsellinc.com/store/products/804>.

<sup>15</sup>Buckley Owen (Tim) No headhunted bargains in recession. Free Pint VIP LiveWire 27 April 2009. Available at <http://www.vivavip.com/go/e19130>.

### Biography

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# 40 Years On – Ensuring an Academic Law Library is Fit for Purpose

**Abstract:** The Kent Law School at the University of Kent celebrated its 40<sup>th</sup> Anniversary in 2008 and Diane Raper, the current law librarian, reviews the changes that have taken place over the years in relation to user comment and feedback, and external drivers which have ensured the provision of a first-class library and information service for staff and students. She also considers the major changes in the modus operandi of the service over the last 40 years.

**Keyword:** academic law libraries

### Introduction

Articles on academic libraries and academic librarianship written nearly 40 years ago<sup>1</sup> and the early SPTL standards<sup>2</sup> describe a world of fewer students and many

multiple sets of printed series of law reports and journals. Academic law libraries were often housed in separate buildings from the main library. With fewer law students there was less of a market for student books and less options available for law libraries to expand their stock. Titles went out of print and could become quite