

June 7, 2018

Via Federal Express and Email

Mike Walsh
CEO Global Legal Business
230 Park Ave, Suite 7
New York City, NY 10017
mike.walsh@lexisnexis.com

Dear Mr. Walsh:

On behalf of the American Association of Law Libraries (AALL), I am writing to ask that LexisNexis cease its recently enacted policy of tying access to its electronic and print publication products to the purchase of a license to its Lexis Advance search product. AALL believes this practice is anticompetitive and detrimental to the long-term relationship between LexisNexis and AALL's constituents.

As you may know, AALL is a national association representing the interests of legal information experts, and is focused on supporting its members' efforts to provide timely and relevant information to their professional colleagues. Its members include law librarians, Chief Knowledge Officers, marketing and business development research analysts, web content and materials managers, judges, and other information specialists. Many of these members work for law firms and in similar corporate settings, supporting the work of practicing attorneys.

Historically, law firms have been able to purchase from LexisNexis publications and search services that fit the needs of their practice. This practice allowed firms to license access to specialized materials, such as Moore's Federal Practice, leading treatises such as Nimmer on Copyright, Chisum on Patents, or Collier on Bankruptcy, relevant trade publications such as the various Law360 titles, or analytical tools such as Lex Machina, without necessarily licensing Lexis Advance, LexisNexis' legal search product.

Since July 2017, however, AALL has received numerous reports from law firm-affiliated members that LexisNexis has adopted a new sales policy. Under the new policy, firms are required to purchase a license to Advance before they can purchase access to other LexisNexis publications and products. And those firms that do not wish to purchase Advance, for whatever reason, have been foreclosed from accessing other products they have used in their practice for years and, in some cases, for decades.

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It is evident that LexisNexis has elected to leverage the demand for certain products and publications to extract purchases of its Advance search product. Such conduct is anticompetitive and likely prohibited by law. Equally as important to AALL, this new policy is detrimental to its members and the law firms they serve.

It also has put LexisNexis at odds with standards AALL has promulgated for its members and publishing professionals. The *AALL Guide to Fair Business Practices for Legal Publishers* describes standards for the business practices of publishers that most directly affect librarians and other legal information consumers. These recommended practices are premised on the belief that good customer service and positive customer relations benefit legal publishers as well as customers. With this aim of mutual benefit in mind, Section 3.2 of the *Guide* provides that "Publishers should engage in open and fair negotiations with customers regarding licensing agreements and other contracts." LexisNexis violates this standard by coercively tying access to publications regularly used and relied upon by legal professionals to a subscription to Advance. Likewise, by refusing to consider granting the type of stand-alone licenses it previously provided, LexisNexis fails to provide its customers an opportunity to negotiate contract terms as required by Section 3.2(c). Through its violation of these standards, LexisNexis has placed itself in opposition to the interests of the very law firms that it and AALL seek to serve.

The AALL Committee on Relations with Information Vendors (CRIV) has attempted to open a dialogue with LexisNexis regarding the impact of its anticompetitive policy on law firm libraries and on law firms. But, to date, LexisNexis' response has been vague, incomplete, and unsatisfactory, evincing no interest or intent to revoke or otherwise modify the practice in question.

Therefore, I ask on behalf of AALL that representatives of LexisNexis commit to a meeting with AALL leadership, which prefers and encourages open dialogue on this issue, as opposed to legal or commercial action.



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Sincerely,

MICHAEL BEST & FRIEDRICH LLP

A handwritten signature in black ink, appearing to read "Jim Fieweger", written over a thin horizontal line.

James P. Fieweger

cc: Paul Specca, Vice President, Large Law & Law School Markets,
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