

# Online CLE Publications Task Force Report

April 21, 2006

## Table of Contents

Executive Summary .....	2
Background .....	3
Task Force Goals .....	4
Task Force Meetings .....	4
Task Force Recommended Proposal .....	4
Information Considered by the Task Force .....	6
Other Issues and Ideas Discussed by the Task Force .....	7
Conclusion .....	9

## Executive Summary

An eight member Online CLE Publication Task Force was created as a result of the House of Delegates' and Board of Governors' decision to develop a subscription program for online CLE publications. During six meetings, the Task Force reviewed CLE Publication Department offerings and costs, a number of subscription models, and several pricing matrices and estimated revenue streams. The Task Force has proposed the following annual fee structure for subscription to the Oregon State Bar online CLE product:

1. That Oregon-based sole practitioners, law firms, corporate legal departments, district attorney offices, governmental legal departments, and the state judiciary be charged based on the number of Oregon licensed attorneys in the firm or office, as follows:

Number of Oregon Attorneys in Firm	Annual Subscription Fee
1	\$395
2	\$595
3-5	\$795
6-9	\$995
10-19	\$1,395
20-29	\$1,695
30-49	\$2,495
50-99	\$3,995
100-150	\$4,995
Each Additional 10 Attorneys	\$295

2. That county and state law libraries and educational institution law libraries be charged based on the library's county or regional service area population, and without regard to whether the library is within or without the State of Oregon, as follows:

County or Regional Service Area Population	Annual Subscription Fee
0 to 19,999	\$395.00
20,000 to 49,999	\$695.00
50,000 to 99,999	\$1,395.00
100,000 to 299,999	\$1,695.00
300,000 to 800,000	\$1,995.00
800,000+	\$2,995.00

This Task Force Report includes background information on the creation and make-up of the Task Force, the goals of the Task Force, details of the pricing structure and product offerings recommended by the Task Force, a recap of information considered by the Task Force, and other issues and ideas discussed by the Task Force.

## **Background**

The Online CLE Publications Task Force was created as a result of a House of Delegates Resolution directing the Board of Governors to develop a subscription or licensing model for online CLE publications in lieu of the mandatory fee program proposed in 2004. The resolution read as follows:

*Resolved, That*

1. The Board of Governors develop a subscription or licensing model for online CLE publications in lieu of the mandatory fee program proposed in 2004; and
2. The Board of Governors will solicit three members of the House of Delegates to work with the board's Member Services Committee in developing the new delivery model for online CLE publications.

The Board of Governors Member Services Committee recommended calling the group that was created as a result of this resolution the Online CLE Publications Task Force, to emphasize that the group existed for the specific task of developing a subscription-based product for online CLE publications. A solicitation to participate was sent to all HOD members, and five members expressed an interest in being on the Task Force. The Member Services Committee recommended that all five be on the Task Force to ensure a quorum of three HOD members at each meeting, and also recommended that two Board of Governors members and the CLE Publications Manager be on the Task Force. The full BOG accepted the Committee recommendations.

The Task Force consisted of the following members:

- David Andrews, Hershner Hunter LLP, Eugene – HOD Member
- John Bachofner, Bullivant Houser Bailey PC, Vancouver – HOD Member
- Robert A. Browning, Browning Law Offices PC, Forest Grove – HOD Member
- Susan Glen, Dunn Carney Allen, Portland – HOD Member
- Timothy Siegel, Sole practitioner, West Linn – HOD Member
- Richard Yugler, Landye Bennett Blumstein LLP, Portland – BOG Member
- Bette Worcester, West Linn – BOG Public Member
- Linda L. Kruschke, Lake Oswego – OSB CLE Publications Manager

## **Task Force Goals**

The Task Force identified two primary goals that it needed to keep in mind throughout the process. The first goal was to create a product that would make CLE publications accessible to a wider range of members, especially those who currently don't have access to CLE publications due to cost considerations or inaccessibility to a law library. The second goal was to create a product and pricing structure that would insure that the CLE Publications Department continued to comply with OSB Bylaw 16.1, which provides that "the entire CLE function will be operated out of the Bar's general funds, but must be generally self-supporting or as nearly so as possible, with. . . publication prices fixed accordingly." A lesser but important goal was to ensure that when the HOD next meets in the Fall of 2006 it would timely receive information about the conclusions and work of its Task Force.

## **Task Force Meetings**

The Task Force met six times between December 2005 and April 2006. The CLE Publications Manager provided the Task Force with information about the CLE Publications Department's budget, products, and sales, as well as information about what other bars have done in terms of online publications offerings.

The Task Force recommends that the Board of Governors reconvene the Task Force in 18 months to review the level of success of the online CLE publications proposal, and to possibly recommend pricing adjustments based on market response to the product.

## **Task Force Recommended Proposal**

The Task Force developed a proposal to offer all CLE Publications as a single database product, accessible via password from any computer having internet access. This product will include a keyword search feature, the ability to browse the list of books included, and the ability to save chapter sections in a "favorites" list. The books will be viewable by section, and the user will be able to copy and paste text – either for use in a brief or to copy citations into a primary research tool such as Casemaker, Lexis, or Westlaw. The user will also be able to download forms into either WordPerfect or Microsoft Word.

The Task Force recommends that the staff make every effort to "roll out" the online product prior to the HOD meeting in the Fall of 2006, and that the product become available by the end of the calendar year.

There are two different pricing structures for this product, depending on the type of user.

### **Pricing Structure #1**

This pricing structure applies to sole practitioners, firms, corporate legal departments, district attorney offices, and government legal departments (referred to

herein as “firm”). The pricing is based on the number of active OSB members in the firm. The pricing under Pricing Structure #1 is proposed to be as follows:

<b>Number of Oregon Attorneys in Firm</b>	<b>Annual Subscription Fee</b>
1	\$395
2	\$595
3-5	\$795
6-9	\$995
10-19	\$1,395
20-29	\$1,695
30-49	\$2,495
50-99	\$3,995
100-150	\$4,995
Each Additional 10 Attorneys	\$295

A firm will receive the number of licenses represented by the upper end of the firm size range within which it falls. For example, if a firm has 14 attorneys licensed in Oregon, it will pay a fee of \$1,395 and receive 19 licenses. If a firm wants to obtain more licenses than granted for its firm size range, it has the option to “buy up” to the next level and obtain more licenses for distribution to non-lawyers in the firm. However, a firm will not be allowed to “buy down” to a smaller firm size price.

If a firm is out of state, it will be charged based on the number of Oregon attorneys, but not less than the price for one attorney even if it has no Oregon attorneys. If the out-of-state firm without any Oregon attorneys wants to have more than one license, it will be charged the individual subscription fee times the number of licenses it wishes to purchase.

All online subscribers will be allowed to purchase print copies of any CLE Publication at a 40% discount. This discount can be combined with the 10% early-bird discount that is offered on all books when they are first released.

There will also be an early-bird discount offered off the prices in the pricing matrix for anyone who subscribes in the first two months after rollout as an inducement to quickly achieve a high level of market penetration.

The CLE Publications Manager discussed with the State Court Administrator the possibility of treating the Oregon Judicial Department and all Oregon judges as one firm under Pricing Matrix #1, with the purchase to be coordinated through the State Court Administrators’ Office. The Administrator agreed that this could be worked out, and it was determined that this could provide a substantial savings to the judiciary.

## Pricing Structure #2

This pricing structure applies to county and state law libraries, and to college, university, and law school libraries. The pricing under Pricing Structure #2 is proposed to be as follows:

County or Regional Service Area Population	Annual Subscription Fee
0 to 19,999	\$395.00
20,000 to 49,999	\$695.00
50,000 to 99,999	\$1,395.00
100,000 to 299,999	\$1,695.00
300,000 to 800,000	\$1,995.00
800,000+	\$2,995.00

All library subscribers will be allowed to purchase print copies of any CLE Publication at a 40% discount. This discount can be combined with the 10% early-bird discount that is offered on all books when they are first released.

### Information Considered by the Task Force

The Task Force recognized both that there are certain economies of scale that apply to mid-sized and large firms, and that the price needed to be sufficiently attractive to provide an excellent value to all size firms. It also recognized that the online product needed to be priced at least as high as what an average user spends in a given year in order to prevent an overall loss in revenue from purchasers switching to online from the print product.

In developing the recommended pricing structures, the Task Force reviewed data on the average amount spent per firm (broken down by size) or library (broken down by county population size) on CLE Publications in 2004 and 2005. For example, the average amount spent by solo practitioners during those years was \$304, and the average amount spent by firms of 20-29 attorneys was \$1,056. For law libraries, the county libraries in the largest counties spent on average \$1,920 per year, and the libraries in the smaller counties spent on average \$423.

The Task Force also reviewed data on the pricing of print publications. The average cost per year to acquire the approximate 9 to 14 titles released annually is \$1,115. Each title is updated approximately every 5 years. Over a three year period, a purchaser who wanted to maintain a complete updated print library would spend approximately \$3,345.

Under the pricing structure developed by the Task Force, a solo practitioner would spend \$1,185 over a three-year period for a complete online library, and a nine person law firm would spend \$2,985 – making the online product a very good value for small and medium size firms. All firms would enjoy the convenience of having all

firm members having access online, anywhere and anytime, simultaneously at a modest per lawyer price, e.g. \$50 per lawyer per year for a 49-person firm.

The Task Force also considered various software programming issues affecting the ability to bring the product online, the indirect costs of producing CLE publications, principally overhead costs such as staff costs for editing, the actual print costs for each title, and the additional programming costs that will be incurred in making the publications available online. The Task Force anticipates that there will be some decrease in the sale of print publications, probably among its most numerous consumers - solo and smaller firms.

To predict the probable financial impact of the online CLE publications product, the Task Force looked to the experience and pricing structure used by the Illinois Institute for CLE in pricing their online book database. The Task Force also reviewed financial information from IICLE showing that there was a loss in the first year but their overall revenue stream increased by 78% since the launch of their online book database product five years ago, and that their print book revenue had increased by 31%. It was generally agreed that the Illinois model with certain adjustments was a sound one on which to base the OSB product pricing, and for projecting how the market for OSB print publications will respond to the online product.

One of the Task Force members also created a spreadsheet based on the cost to produce the online product and to update it each year. This spreadsheet confirmed that the pricing proposed by the Task Force would be sufficient to cover the cost of developing the product in the first year, and that it should more than cover the cost of maintaining the product in subsequent years as the sale of print publications decrease revenue. The pricing allows flexibility for the CLE Publications Department to lower prices if the online product is purchased in greater volume than projected, and if the drop in the sales of print publications is less than expected.

For the law library pricing, the Task Force also considered feedback from a survey of county and law school librarians conducted by the CLE Publications Department with the assistance of the Oregon Council of County Law Libraries.

### **Other Issues and Ideas Discussed by the Task Force**

During the deliberations of the Task Force, a number of matters came up which were ultimately perceived to be outside the scope of the charge given to the Task Force, or were rejected or set aside as, while being within the scope of the charge, either duplicative of efforts or contrary to the need to create a plan that would be amenable to a relatively simple and timely rollout. However, rather than lose these matters, the Task Force has included them here.

1. Initially, the Task Force discussed presenting multiple options to the Member Services Committee for consideration. However, once the Task

Force got into more in-depth discussions they ended up agreeing on one proposal as being the best for initial rollout.

2. The Task Force discussed a subscription to individual books, with an initial rollout of only a few books. This was the first alternative that the Task Force looked at. Ultimately, the Task Force determined that this model would not serve either of the goals it had identified. If an individual book was offered for a one-year subscription at less than the full price of the print book this would adversely affect the Department's revenue stream. If it were offered for the same price as the print book (as some other bars do) it would not serve the purpose of making the books more widely available.
3. The Task Force also discussed a subscription to mini-libraries of books, rather than to the whole database. Ultimately, the Task Force determined that the level of complexity of mini-libraries might be a deterrent to purchasing. It would also be much more difficult to price, especially if the option to purchase all books was included. It was agreed, however, that this could be added at a later time if warranted once users became accustomed to the online offerings.
4. The CLE Publications Manager proposed offering one free print copy of all books released during the subscription term to law libraries that subscribe. Ultimately, the Task Force determined that offering free publications on such a large scale was a policy decision that was not within the Task Force charge.
5. The CLE Publications Manager also suggested a larger discount of 50% or 60% on books released during the subscription term, but the Task Force decided not to recommend this.
6. The Task Force discussed pricing based on years in practice, i.e., a lower proposed price for newer attorneys. Ultimately, the Task Force decided that this was not a useful distinction and should not be part of the pricing structure.
7. Including linking to Casemaker from the online publications was discussed. Because of concerns about Casemaker not being able to deliver on their end of the process, the Task Force determined that linking, if done at all, should be left for phase 2 or 3 of the online project and that the initial rollout should happen without linking to primary law. It was noted that other bars have successfully provided an online product without links to primary law. Also, because the user will be allowed to copy citations, they can easily use the legal research tool of their choice by simply pasting the citation into that tool.
8. The Task Force also discussed at great length whether a firm or other entity should be allowed to select how many licenses it wanted to

purchase. The Task Force determined that the pricing structure should be based on firm or entity size (number of active OSB members in firm or legal entity) instead of on how many licenses a firm wanted. It was agreed that the prices per number of licenses would have to be much higher than what the Task Force is proposing if firms and other legal entities were allowed to purchase fewer licenses than there were attorneys in the firm or entity. Otherwise, the overall revenue stream of the Department would be adversely impacted.

9. The Task Force questioned the allocation of overhead and space utilization costs to the Department, but found that to be beyond the scope of the Task Force charge.
10. The Task Force also questioned the BOG policy of having the CLE Department break even given the countervailing desire to improve the provision of legal services in Oregon by having CLE materials available to all members. Again, this matter was determined to be beyond the scope of the Task Force charge.

### **Conclusion**

The members of the Task Force have appreciated the opportunity to present the preceding to the Board of Governors, the House of Delegates, and the general membership of the bar. The Task Force recognizes that the preceding proposal may not satisfy all members of the bar, but they have diligently sought to construct a product and pricing model which will satisfy the competing goals of revenue retention for the CLE Publications Department and wide availability and affordability of the product for the members of the Bar.