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Computer Media for the Legal Profession

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COMPUTER MEDIA FOR THE LEGAL PROFESSION

*Eugene Volokh**

INTRODUCTION

This is a review not of a book, but of a set of communication media. The year 1995, we're told, was the year of the Internet.¹ Anything as heavily hyped as the Net has been is guaranteed to have gotten overhyped, and many have become justifiably skeptical of claims about How Cyberspace Is Changing Our Lives Even As We Speak.

Still, there are indeed many cyberspace resources that are already useful to lawyers, law professors, and law students; and there are valuable opportunities for legal professionals to profit from creating more such resources. In this review, I want to briefly explain what the new communication media are, what their best specimens today seem to be, and how people can benefit both from using what's already out there and from creating new resources themselves.²

Cyberspace — which encompasses more than just the Internet — includes at least three different kinds of media:

Electronic Books, Bookshelves, and Libraries: The much-talked-about World Wide Web is essentially a collection of electronic books, bookshelves, libraries, and other research tools. Each Web site is a collection of material that you can go to and read, like a book, but is generally free, accessible directly from your computer, and more easily searchable.

Electronic Newsletters: Just as you can subscribe to magazines or newspapers that will arrive in the mail, so you can subscribe to electronic magazines and newspapers that come in the e-mail. Like electronic books, though, electronic newsletters are cheaper to produce than their print counterparts and as a result tend to be available for free.

* Acting Professor, UCLA Law School (volokh@law.ucla.edu). My thinking in this area was significantly influenced by my participation in Trotter Hardy's *cyberia-l@listserv.aol.com* mailing list, and I'd like to thank all its members for their assistance, direct and indirect.

1. See, e.g., Amy Harmon & Robert Burns, *1995-96: Review and Outlook*, L.A. TIMES, Dec. 27, 1995, at D1.

2. I won't talk about how the new media can be useful in legal education; there's a lot to be said about that, but no room here to say it.

Electronic Conferences: Here we come to the famous Internet “discussion lists” or “news groups”; conferences on non-Internet services, such as Prodigy, Compuserve, America Online, and, especially relevant for the legal profession, Counsel Connect, also qualify. These groups let one participant communicate (more or less through e-mail) with all the other participants, and can be fora for debate, for asking questions, for floating trial balloons, and for other things.

These new media — under optimal circumstances — can be considerably cheaper, timelier, and more flexible than their physical-world analogs, and this means two things. First, it makes it possible for some of them to supplant the old media, at least to some extent. Thus, Cornell’s LIIBULLETIN, which delivers abstracts of U.S. Supreme Court cases (and, if you like, the entire decisions) the day they come out, is a viable competitor to BNA’s U.S. Law Week Supreme Court opinions service. LIIBULLETIN currently has 6600 subscribers.³

Likewise, <http://www.census.gov> contains a vast amount of U.S. census data, which one would otherwise have to go to the library to get;⁴ other Web sites house similarly valuable material. Many electronic conferences, though certainly not all, let you participate in thoughtful, substantive discussions with some of the best people in the field, often more productively and certainly much more cheaply than could happen at a traditional conference.

Second, and in some ways more intriguing, the medium’s low cost and greater flexibility make possible publications that otherwise never would have seen the light of day. If only a few hundred people throughout the country want a certain sort of information — for instance, instant updates to a casebook, or abstracts of articles on constitutional law, or a collection of material on an esoteric legal topic — the information won’t get published. Printing and mailing it to subscribers, or distributing it to law libraries, costs too much. But online, the only serious cost is the editor’s time — a nontrivial matter, but one that can be much less of a barrier.

3. E-mail from LIIBULLETIN to author (May 2, 1996). The U.S. Law Week people wouldn’t tell me how many subscribers they had. Telephone conversation with BNA Customer Services Representative (Jan. 18, 1996).

4. The address — <http://www.census.gov> — is something called a “URL,” a Uniform Resource Locator. URLs tend to begin with “http:” (which stands for “hypertext transfer protocol”), followed by two slashes, the identifier of the computer on which the site resides (“www.census.gov”), and, optionally, more slashes and names further identifying the site. Thus, <http://www.usps.gov/ncsc/lookups>, mentioned below, resides on the “www.usps.gov” computer, in a file named “ncsc/lookups” (more or less).

Occasionally, you’ll see addresses with names such as “gopher:// . . .” rather than “http://” — these are also URLs and can also be accessed from Web browsers.

I. WORLD WIDE WEB SITES

A. *The Electronic Book (or Bookshelf)*

A Web site is a way for someone to make material available to anyone who has Internet access. Setting up such a site is like publishing a book, but generally a good deal cheaper both for the author and for the readers, assuming both already have computer hardware adequate to the task.⁵ There are no printing and distribution costs, and no publishers, bookstores, or libraries to be persuaded that it's worthwhile to print the book and stock it. Put the data on the Web site, and that's that.

For instance, as I mentioned above, the Census Bureau has put an amazing amount of statistical data on its <http://www.census.gov> site: population information arranged by state, by county, by race, by language spoken in household, by income, and by various combinations of these and many other factors. Of course, this information is listed in various print publications, but few of us have them in our offices. But if we have an office computer with access to the Internet and a so-called "Web browser" program (such as Netscape), the census site lets us get the information in minutes.

Likewise, the Library of Congress puts many recent legislative documents (for instance, the text of pending bills) at <http://thomas.loc.gov>; the SEC puts the text of regulations and proposed regulations on <http://www.sec.gov>; the FBI puts information from the Uniform Crime Reports on <http://www.fbi.gov>; and other government agencies put their material on sites of their own.⁶ A lot of this information changes quickly, so it might not even be easily available in print — the Web sites may be the only convenient and cheap places to get it.

For the last few years, most appellate courts have made their new decisions available online, many legislatures have put many of their state codes online, and some law reviews have created sites with the text of their recent issues. Various Web sites, such as Villanova University Law School's <http://www.law.vill.edu> and the Lawyer's Legal Research Index (LLR) site at <http://www.llr.com> provide access to this material. If you want, for example, the text of a recent Ninth Circuit opinion, you can go to one of those sites and view it, print it, or download it to a disk file. The LLR site even lets you do full-text searches of recent case law. Cornell Law School

5. This isn't an unreasonable assumption. Most law professors and many law students and lawyers have personal computers; those not already on the Net can get on for the cost of a modem plus about \$20 per month for an online service. Most law schools and many law firms have computers that can be set up for electronic publication, through Web sites or distribution lists. Even those without the right hardware can rent computer time fairly cheaply.

6. See, e.g., <http://www.fcc.gov>.

maintains many legal materials, including some otherwise hard to get foreign texts, at <http://www.law.cornell.edu/source.html>;⁷ there's also an impressive collection of international links at <http://www.hg.org>. Today, probably the best index of all the law-related material online — which contains pointers to these and many other sites — is <http://www.findlaw.com>.

Public interest organizations also use the Web to maintain clearinghouses of information that support their causes. For instance, the Second Amendment Foundation (<http://www.saf.org>) and the National Rifle Association (<http://www.nra.org>) have Web sites for anti-gun-control information. The Electronic Frontier Foundation keeps a Web site containing archives on cyberspace freedom and in particular on electronic censorship cases at <http://www.eff.org/links.html>. The ACLU has a Web site at <http://www.aclu.org>; free-market activists have one at <http://www.free-market.com>.

On a more practical note, <http://www.usps.gov/ncsc/lookups> will give you the ZIP-plus-4 for any address in the United States — again, you can also get these numbers, or at least the first 5 digits, from a book, but few of us have that book in our offices.⁸ The <http://www.switchboard.com> site contains over eighty-five million phone and address listings compiled from White Pages all over the country; you can search them by first name, last name, city, state, or any combination. Similarly, <http://www.four11.com> has a pretty good directory of people's e-mail addresses. The <http://www.books.com> site will let you mail-order books from a selection of over 400,000 — the equivalent of a print catalog, but bigger, easier to use, and more accessible. Finally, the <http://www.cdconnection.com> and <http://www.cdnw.com> sites let you mail-order CDs from a selection of over 100,000, and at a nontrivial discount from store prices.

These examples illustrate the six advantages of online documents: They're (1) more accessible, (2) timelier, (3) cheaper, (4) easier to search, and (5) easier to copy into your own electronic documents; and, because of the cost savings, (6) the Web makes it possible to publish items that otherwise never would have been distributed publicly at all. It still takes time and money to put this material online, but much less than it would cost to print it and distribute it throughout the nation.

7. There is no need to worry about remembering the individual <http://...> address every time you want to access a Web site; your Web browser will let you record the address the first time you access the site, and then will let you get back to the site just by clicking on the right line in the address list.

8. A tip: If you can remember only the top-level pointer in an address, in this case www.usps.gov, try just going to that pointer, <http://www.usps.gov>; usually you'll get a top-level screen that will send you in the right direction.

B. *What the Web Is and Why It's Called the Web*

We often speak of a "Web site" or a "Web page" as a physical object or a physical place, but a Web page is generally just a file on a computer that's directly connected to the Internet. At its simplest, it's only a bit more complicated than a WordPerfect document.

If you have an article, for instance, that you want your colleagues to be able to read, you can simply ask your Internet service provider to put the article on the provider's computer. My provider is UCLA Law School's computer services department, so if I want to put something up it'll be called *http://www.law.ucla.edu/* followed by the document name. Once this address is assigned, I can send an e-mail to my friends — or, for instance, post a message to an electronic conference — saying "If you want to read my article, look at *http://www.law.ucla.edu/whatevnameischosen*."

I might want to get more complicated than that. For instance, I might want to create a clearinghouse of information on freedom of speech and workplace harassment, an area in which I have done some research. I might want to put up copies of articles (both my own and others'), copies of relevant cases, the scanned-in text of some unpublished cases, and so on.

I wouldn't just gather these all into one document, because then someone would have to slog through the whole file to get the snippet he wants. Rather, I'd put each one in a separate file, a separate "Web page." Then, I'd set up a master page — perhaps called *http://www.law.ucla.edu/harass* — that would contain a list of all my other pages; and inside the master page I'd put special markers that tell Netscape, or whatever browser the user is using, the addresses of those other pages. Whenever the user clicks his mouse on the name of a page, Netscape would automatically bring it up for him.

What's more, my document could point not just to my other documents, but to documents in others' collections, too. For instance, if I want to put a case on my page but the case already exists at some other site — for instance, on a Web page maintained by the court — I can just put in a link to that case. I don't actually have to copy the text onto my computer; I only need to enter the case's address.

This is why the Web is called the Web: It's a network of documents that contain both data of their own and pointers to other documents. Linking thus makes it especially easy to create compilations of existing information. You can create valuable things with the Web without actually writing a lot of text yourself. If you can find enough interesting material that's already on the Web, you can quickly put up an index page that can be useful to a lot of people.

Web pages can be more sophisticated still. They can include graphics; they can prompt you for information and then pass that information to the computer on which they're running; they can automatically send e-mail, and do various other things. But the majority of Web pages are simply collections of data — the pages or the chapters of an electronic book.

C. *What's Currently Useful to Legal Professionals*

For legal professionals today, the Web is mainly useful for non-legal research: As I mentioned above, there's a lot of government, scholarly, and current-events material available online. And there are good search tools that can be used to find this data, which I discuss below in section I.D. Law professors might still prefer to take advantage of their trained reference librarians, though the librarians themselves might end up finding the data on the Web. But law students and many lawyers don't have this luxury; for them, the Web may be the best place to start looking.

Unfortunately, today the Web is of limited use to legal professionals seeking traditional legal materials: cases, statutes, regulations, and commentary. Some such information — mostly the information created very recently, after some courts, legislatures, and law reviews began to publish their materials online — has found its way onto the Web, but the bulk of material important to lawyers, law professors, and law students has not. Putting it on the Web would be very expensive: LEXIS, Westlaw, and the CD-ROM manufacturers have invested in this process, but Villanova University and others who offer the material for free have not.

Of course, someone could set up a pay Web site and scan in the print material, or try to buy licenses from current players such as LEXIS. This, though, effectively would be LEXIS itself. LEXIS and Westlaw aren't implemented as Web sites, but they're basically the same things, though they had much higher startup costs than Web sites now have.

If LEXIS, Westlaw, and CD-ROMs didn't already exist, Web sites of statutes and case law, with all their limitations, would seem very promising: They'd provide free access and computerized searching for at least some material. But for law professors and law students today, LEXIS and Westlaw leave the Web sites in the dust. Even for cost-conscious lawyers, the best bet is probably to use CD-ROMs, and perhaps access Web sites just to get the latest material.

In years to come, more and more statutes, administrative materials, law reviews, and even treatises will go online; the case law databases will also become richer. But for now, the main uses of the Web for legal professionals are:

(1) Nonlegal research.

- (2) Free research on recent developments such as new cases and new proposed laws and regulations.
- (3) Downloading the text of material that's available on the Web. The Web copies, unlike LEXIS and Westlaw printouts, generally don't have that annoying header information at the start of each page, and they also can be forwarded freely to electronic conferences and used in other ways that might violate a LEXIS or Westlaw contract. When I post the text of a new case to an electronic conference, for instance, I tend to download it from a Web site.

D. *Searching the Web*

Finding what you want on the Web isn't trivial, but it turns out to be easier than one might think. The new technologies increase information overload, but they also make available new tools that can help manage the overload.

There are two kinds of these tools available: topical directories and search services. Most Web browsers provide access to both; for instance, Netscape's "Net Directory" and "Net Search" — available from the first screen — each provide both a topical directory and access to several search engines.

The topical tools organize thousands of Web pages into various categories. For instance, at the first screen you get when you enter Netscape's "Net Directory," you'll see a list of general topical areas — art, politics and law, science, and so on. If you click on one of these areas, you'll see a list of subareas; if you click on one of the subareas, you might get a list of subareas within that. Eventually, you'll reach a list of Web sites devoted to a particular narrow topic. As of this writing, the major topical tools are Excite, Yahoo, and Infoseek; Excite is the default option in Netscape's "Net Directory," Infoseek is the default in Netscape's "Net Search," and Yahoo is available as an option in the "Net Directory" screen.

The topical services, then, are good if you just want to get the lay of the land. If you're looking for something more specific, you should use the search tools, which let you search for all Web pages that contain certain keywords. For instance, if you need the National Crime Victimization Survey results, you can select one of the search engines — Netscape provides access to several — and enter *national crime victimization survey* in the space provided. You'll get ten Web sites that seem related to this topic; if none of them looks helpful, you can ask for ten more Web sites, and so on.

The engines are fairly sophisticated. They generally let you search with and/or/but-not logic, and some have thesauruses that will search for synonyms of the phrase you entered. But they are also getting pretty good at optimizing even the simplest searches.

For instance, if you just type in some keywords, most search engines will look for any sites that contain one or more of those keywords, but they'll show the sites containing more keywords first. Thus, if there are sites that contain "national," "crime," "victimization," and "survey," these will show up at the beginning; sites that contain only three of the words will show up later.

Excite, Yahoo, and Infoseek have keyword search mechanisms as well as topical directories, but as of this writing, the most powerful search facility seems to be Alta Vista, available from Netscape's "Net Search" screen.

E. *Opportunities for New Legal Publications*

What the Web currently offers to readers, though, is only half the story; the other half is the opportunities it presents to would-be writers. The new technology should make people ask: Is there some information that I could profit from making publicly available, that I couldn't make available before because of printing and distribution costs, but that I could make available now on the Net? In some areas people are seeing already that the answer to this is "Yes." Some examples:

Casebook Supplements: Casebooks invariably omit a good deal of useful material. New cases come out after the book goes to press. Relevant cases and articles are cut for space reasons. Also, readers' post-publication reactions sometimes lead the author to consider making changes. The yearly supplement allows for some additions, but at a fairly significant delay, and with considerable space limitations of its own. The author might instead, or also, create a Web page to supplement and update his casebook.⁹ Teachers using or considering the casebook can study this material and might suggest it to, or print it out for, their students. For an example, see <http://www.law.uh.edu/faculty/CJoyce/cb2.html>, a supplement to Joyce, Patry, Leaffer, and Jaszi's *Copyright Law*.¹⁰

A professor can set up a Web page relatively easily, especially with the help of a law school's computer-services staff. New material can be added as it becomes available. The profit to the author would come through increased consumer satisfaction, and potentially greater sales. Having such a Web page may eventually become a competitive requirement.

Information Clearinghouses: As I mentioned above, low cost and timeliness can also be valuable to public interest projects that want to set up information clearinghouses. A poverty law project,

9. My colleague, Daniel Lowenstein, author of *DANIEL H. LOWENSTEIN, ELECTION LAW* (1995), suggested this idea to me.

10. CRAIG JOYCE ET AL., *COPYRIGHT LAW* (3d ed. 1994).

for instance, can set up a Web site with relevant statutes, forms, instructions, and litigation tips. Any lawyer who works in the field could then easily access this information. This can save the project money and further the cause at the same time.

Professional organizations that see service to the legal community as part of their mission might also contribute. A bar association, for instance, could set up a Web site housing a comprehensive set of professional ethics materials. Such a site can relatively cheaply ensure that all Internet-connected lawyers have free access to the various rules, opinion letters, articles, and the like — a good deal more information than most lawyers buy in printed form. Likewise, specialized bar groups can create topical Web pages; the Federal Communications Bar Association has a good one at <http://www.fcba.org>.

F. *Concerns: Readability, Reliability, Accessibility, and Continued Affordability*

People have pointed out several possible obstacles to the flourishing of Web-based legal information:

Readability: Online material is more cumbersome than print material. You can't easily read it while lying on the couch or walking down the hall. Even with the better quality of modern computer screens, it isn't as easy on the eyes. I've been working with computers since I was twelve, but I'd still rather read a law review article in print than on a screen.

But against these disadvantages one has to weigh the substantial benefits — including convenience — of computer text. It's easier to read part of an article online than to go to the library. Given the convenience, cost, and selection benefits, many legal professionals won't be daunted by the new technologies. We'll lose something by shifting to a large extent from print to electronic, but we'll gain more.

Reliability: By eliminating the intermediaries — editors and publishers — the Web also eliminates the checks they provide against errors. Anyone can put up anything they please, without any citechecking, verification of credentials, or guarantee that the data will be updated when it gets stale.

This leads to three problems:

- (1) When an author moves his Web page to a new address, other Web pages that point to the old site might never get properly modified. When you try to follow the link, you get an error message.
- (2) Some of the information on the Web, especially that found on personal pages, is untrue, greatly distorted, or incompetently gathered. To borrow a line from a recent science fic-

tion book, "It's not called the Net of a Million Lies for nothing."¹¹

- (3) Other information simply has slight errors, for instance scanning or transmission errors that were never caught because people don't hire citecheckers for free Web pages.

The upshot is that Web information, while useful, must be taken with a grain of salt. Problem (1) sometimes makes Web-surfing a frustrating experience, but at least doesn't raise the risk of incorrect data. Problem (2), however, means that information from unofficial sites should be at most the starting point for further research. Finally, because of problem (3), even data from official sites might prove less reliable than that found in books backed by responsible publishers.

On the other hand, LEXIS and Westlaw contain computer glitches too, and we generally live with this without much trouble. In years to come, I suspect that there'll be both free services that provide access to unproofread public-domain material, and relatively cheap services that sell reliable access to proofread public-domain material. For now, it's good to be cautious.

Accessibility: When people speak of how the Web makes material accessible to the public at low cost, they refer to that part of the public that has access to computers and Internet connections. Left out are those who can't afford these things, don't like these things, or are too busy to get these things and learn to use them.

Today, this is certainly a serious concern. If you publish online, there'll be some people you just won't reach. Though most law professors have Net accounts, some don't, and it seems that relatively few are comfortable using the Web. Likewise, many lawyers, like most laypeople, don't have Net access.¹²

In the coming years, though, legal professionals will probably become much more Net-connected,¹³ precisely because there's a good deal of material out there. Net access among the public at large is growing quickly, and lawyers are demographically the sorts of people most likely to join up — educated and relatively affluent. They tend to have personal computers already; they could go online for the price of a modem (if they don't already have one) plus \$20 a month for an online service.

Continued Affordability: Finally, some suggest that cyberspace materials won't remain free (or even cheap) for long. As the in-

11. VERNOR VINCE, *A FIRE UPON THE DEEP* 228, 309, 431 (1992).

12. As of late 1994, 58% of the 500 largest U.S. law firms had Internet access; as of early 1995, 21% of sole practitioners and small firms had used the Net, and 45% had intended to use it in the next 12 months. See M. Ethan Katsh, *Is Cyberspace Lawyer-Friendly?*, *TRIAL*, Dec. 1995, at 36.

13. *Cf. id.* at 37-40.

fobahn becomes crowded, they argue, communication costs will rise; as it becomes easier to charge for material online, the providers of the really valuable material will begin to do so.

I agree that much of the most sought-after cyberspace content will eventually pick up a price tag, but I believe it will remain relatively cheap. Electronic publication creates genuine economies, and competition will cause providers to pass these economies on to users. The author of a new treatise certainly wouldn't put it online unless he could charge for access. But he needn't charge as much as he charges for the book version, because the online version saves distribution and printing costs.

The Web obviously has its weaknesses, and in years to come it may develop more. But the weaknesses aren't fatal, and, compared to other media, the Web still has many valuable advantages.

II. E-MAIL DISTRIBUTION LISTS

A. *Electronic Newsletters*

Electronic books, like paper books, are best at storing more or less fixed data. They can be updated more easily than paper books, but they still aren't as good at communicating frequently changing information. People probably won't want to take the time to check a Web site every week, looking for new material.

That's where e-mail distribution lists — the electronic analogs of newsletters, newspapers, or magazines — come in. Just as *Newsweek* and *The New York Times* come right into people's homes, every week or every day, so distribution lists deliver information into people's e-mailboxes as it becomes available.

A great example is the Cornell Legal Information Institute's Supreme Court Bulletin (*liibulletin@listserv.law.cornell.edu*). To subscribe to it, you just need to send the message

subscribe liibulletin *yourfirstname yourlastname*
to the address *listserv@listserv.law.cornell.edu*. (As with all such listserv commands, the command should be the first and only line of the message; the subject line is irrelevant.) Then, whenever the U.S. Supreme Court hands down a decision, the syllabus of that decision will appear in your mailbox within a few hours. If you want the whole text of the case, you can just take the case number given in the syllabus and send the message

get US*casenumber* (e.g., get US95-6789)
to the same *listserv@listserv.law.cornell.edu* address. The opinions will arrive by e-mail within minutes.

This, of course, is an electronic counterpart of the BNA U.S. Law Week Supreme Court opinions service. It's not as easy to read, but it's quicker and it's free. It's free, of course, because Cor-

nell is providing it as a public service; but Cornell is providing it as a public service because it really isn't that costly for them to produce — it takes a bit of time from some computer-services people, and a rather small fraction of the computer's horsepower. Cornell also produces LIIBULLETIN-NY (*liibulletin-ny@listserv.law.cornell.edu*), which sends out student-written summaries of key decisions of the New York Court of Appeals, usually within a few days of the decision. Similarly, the FCC puts out a daily digest of FCC actions, public notices, and other technical material (*digest@info.fcc.gov*).

For most electronic newsletters, the subscription instructions pretty closely follow those for LIIBULLETIN. If the address of the list is *listname@a.b.c* — *liibulletin-ny@listserv.law.cornell.edu*, for instance — send the message:

subscribe *listname yourfirstname yourlastname*
(for example, “subscribe liibulletin-ny Eugene Volokh”) to the so-called “listserv” address, *listserv@a.b.c* (in our example, *listserv@listserv.law.cornell.edu*).¹⁴ This is the command format expected by the most popular automatic list software, called “listserv.”

From here on, I won't repeat this whole subscription information for most lists, but just give the list address. Some lists, though, use other subscription formats, such as “majordomo” format or manual subscription. When a list doesn't use the standard listserv format, I'll note this in a footnote.

While the LIIBULLETINs are cheap and quick alternatives to print media, electronic newsletters are best at providing information that might never even see print. A good example is material that's of interest mostly to academics, such as book reviews of scholarly works and abstracts of forthcoming articles. Printing and mailing these would cost a lot, and even a public-spirited law school might not want to foot the bill. Electronically composing and e-mailing the materials is much cheaper, though of course someone still must be willing to contribute the time to doing it.

Thus, the Law and Politics Book Review (*lpbr-l@piranha.acns.nwu.edu*), published by the Law and Courts Section of the American Political Science Association, sends out about one book review a month, each a few pages long. Law and Economics Abstracts distributes summaries of forthcoming law and economics articles; Corporate/Securities/Finance Law Abstracts does the same for its fields; Constitutional Law Abstracts, which I edit, sends abstracts of forthcoming law review articles on constitutional law.¹⁵

14. In some places on the Net, you might see a list's listserv address given as *listserver@a.b.c* or *listproc@a.b.c*, but even then *listserv@a.b.c* usually should work, too.

15. Subscription to these three journals isn't automated; to subscribe to any, send a message to *sandy_barnes@journal.com* indicating who you are and which journal you want.

The University Law Review Project at Stanford also provides abstracts for many fields — to subscribe, visit <http://diglib.stanford.edu/lawcgi/join/add.cgi>, or send an e-mail (contents irrelevant) to subscribe@thames.stanford.edu.

Electronic newsletters can also be useful for public interest organizations, which usually don't have a lot of money to invest in printing and mailing, and which don't want to reduce their audience by charging subscribers. Thus the Electronic Frontier Foundation puts out the EFFector! (effector-online@eff.org),¹⁶ which contains news and opinion about cyberspace freedom issues. Outside the legal area, the campaign of Libertarian Presidential candidate Harry Browne set up announce-request@harrybrowne96.org,¹⁷ a distribution list for press releases, campaign information, and the like. Shortly afterwards, the Democratic Party created several campaign-related distribution lists of its own, news@democrats.org, news-digest@democrats.org, and events@democrats.org.¹⁸ The ACLU offers news@aclu.org, a general news service, and cyberliberties@aclu.org, a newsletter devoted to issues of freedom in cyberspace.¹⁹ Even individual activists are getting involved; Christopher Stamper's *News Nuggets* (nuggets@listserv.syr.edu) distributes Stamper's own politically conservative spin on the news to subscribers.²⁰

Some people and organizations also provide more or less objective newsletters as public services. Jonathan Rosenoer writes and distributes *Cyberlex*, a monthly summary of recent legal events related to cyberspace, and *Cyberlaw*, a monthly essay on cyberspace law.²¹ Every other day, Educom, an education and technology institute organized by various universities, distributes edupage@educom.unc.edu, a summary of cyberspace-related news events,

16. This is *not* a normal "listserv" list. To subscribe, you must send just "subscribe effector-online" — without your first name and last name — to listserv@eff.org.

17. This list has an unusual subscription format — to subscribe, send a message to announce-request@harrybrowne96.org containing the word "subscribe" in the subject line, not, as is usual, in the text.

18. This is a "majordomo" list, not the more common "listserv" list. To subscribe to a majordomo list, send a "subscribe *listname*" to majordomo@a.b.c, rather than a "subscribe *listname yourfirstname yourlastname*" to listserv@a.b.c. Thus, to subscribe to news@democrats.org, send just "subscribe news" — without your first name and last name — to majordomo@democrats.org.

Unfortunately, no single format will work for both kinds of lists. Some majordomo lists also accept messages that go to listserv@a.b.c, but even then they may insist that you not include your first and last name.

19. These are also majordomo lists — to subscribe, send just a "subscribe *listname*," without your first and last name, to majordomo@aclu.org.

20. This is a normal listserv list.

21. To subscribe, send a message containing your name and your institutional affiliation to cyberlaw@cyberlaw.com; the operator processes the subscriptions by hand.

law-related or not. Edupage also comes out in French, German, Hebrew, Hungarian, Italian, Portuguese, Romanian, and Spanish.

Finally, on a frivolous note, I recommend:

- (1) *this-is-true@netcom.com*, a weekly list of eight to ten funny stranger-than-fiction news stories.²²
- (2) *mini-air@air.harvard.edu*, a longish monthly from the editors of the *Annals of Improbable Research*, the science humor magazine.
- (3) *dilbert_list@internex.net*, a monthly humorous column by the author of the comic strip *Dilbert*.
- (4) *lotd@world.std.com* (Laugh Of The Day), a joke a day. Occasionally funny but uneven.²³
- (5) *gunn56@inslab.uky.edu* (The Internet Funnybone), a joke every few days. Again, occasionally funny but uneven.²⁴
- (6) Two edited electronic poetry magazines, RealPoetik (*rpoetik@listserv.wln.com*), which specializes in free verse, and the Occasional Screenful (*occasional-screenful@netcom.com*), which specializes in formal verse.²⁵

This Is True, incidentally, has 150,000 readers in over 100 countries. Despite being free, it has become a little business for its author, who has taken advantage of his online success to sell *This Is True* books and to license the newsletter to print newspapers.²⁶

B. Opportunities for New Legal Publications

As with Web pages, the growth of electronic newsletters should lead legal professionals to ask: Is there some periodical information that I could profit from making publicly available through electronic newsletters, that I couldn't make available before because of printing and distribution costs? A few thoughts on some of the people for whom the answer should be "Yes":

Lawyers: Lawyers profit from paying clients, and a good way to get clients is to show others how much you know. That's why many lawyers write articles and put on seminars — to build their reputations among potential clients, in-house counsel, and other lawyers who might provide referrals.

22. A majordomo list, *see supra* note 18.

23. A majordomo list, *see supra* note 18.

24. This is another manually operated list; to subscribe to it, you should send any message that includes your full name to *gunn56@inslab.uky.edu*.

25. RealPoetik is a normal listserv list; the Occasional Screenful, edited by my brother and me, is a majordomo list — to subscribe to it, send the command "subscribe occasional-screenful" (without your name) to *listserv@netcom.com*. Both have respectable circulations for poetry magazines; RealPoetik has over 1000 subscribers, and the Occasional Screenful has over 1650.

26. John M. Glionna, *Site Gags*, L.A. TIMES, Jan. 3, 1996, at E1.

The Net can be very handy here. A lawyer who specializes in a sufficiently unusual area can publish a newsletter that discusses current developments or provides helpful tips. It need not be long; indeed, many readers might prefer it short. Of course, it will take a good deal of the lawyer's time to produce something that readers will appreciate, but many people would be willing to occasionally invest the time if they could avoid the substantial out-of-pocket mailing and printing costs. And while a one-page newsletter on cheap paper might look unprofessional, a several-paragraph e-mail looks just fine.

Jonathan Rosenoer, who writes *Cyberlaw* and *Cyberlex*, says he's gotten a lot of professional benefit from his work, both direct (new business) and indirect — media exposure, invitations to speak at conferences, and other things that can lead to new business. He has over 1200 subscribers, his service has been licensed to America Online, and his columns are reprinted regularly by a number of computer user group newsletters.²⁷

Advocacy Groups: Advocacy groups succeed by communicating their ideas to as many people as possible and by raising money, which in turn allows them to communicate still further. Electronic newsletters can help them do both of these things.

An electronic newsletter lets the group distribute facts and arguments that support its agenda, information about news events that might be of interest to its supporters, and details of its latest victories. Certainly the group's press releases to the traditional media should go to the electronic distribution list, too — after all, it's essentially free. The Electronic Frontier Foundation's EFFector! mailing list, described above, is an example, but non-cyberspace-related groups sometimes do the same.

In print or electronically, advocacy group newsletters in large measure preach to the converted; but after all a big part of a preacher's job is precisely to make sure that the converted stay converted, and perhaps even become more devout. By keeping in touch with its members and sympathizers, the group can increase their willingness to contribute money. A request for contributions that follows a dozen substantive informational mailings shouldn't offend anyone. The request even might ask people to reply with a name, credit card number, expiration date, and amount.²⁸

Legal Academics: Academics profit by having people hear about their work and by hearing about others' work that relates to

27. Telephone conversation with Jonathan Rosenoer (Jan. 16, 1996).

28. The legal defense fund for Philip Zimmermann, a cryptographer who is being investigated for possibly violating export control laws by making one of his programs publicly available, did something like this, and apparently got quite a few donations this way. Robert J. Ambrogi, *Empowered or Enslaved?*, LAW OFFICE COMPUTING, Dec./Jan. 1996, at 37, 38.

their research interests. The Law and Economics Abstracts and Constitutional Law Abstracts services mentioned above show how electronic newsletters can help academics on both fronts: They make it easy for academics to publicize their new works to their colleagues — often many months before those works go to print — and they make it easy for them to keep up on the new scholarship.

In my view, every area of the law should have its own Abstracts newsletter. Newsletters aren't hard to set up, and enterprising academics can do themselves and their colleagues a favor by creating them. Law librarians can help out with this; linking readers and writers is, after all, the essence of their job.

Academic organizations with a bit more time, money, or student labor, such as institutes specializing in particular areas of the law, could perform a public service and spread their fame by publishing brief newsletters devoted to recent legal events. They could even download important recent cases from public Web sites and distribute them to their subscribers. LIIBULLETIN-NY is a good prototype; academics applying the same model can spread news of recent developments in poverty law, indigent criminal defense, and the like.

In many areas, professional print publishers already provide such services, and that may be the best solution; though print newsletters cost money, the profit motive might translate into higher quality. Other areas, though, might be underserved.

Publishers: Finally, even publishers of traditional legal materials can profit from going online. They'll still want to charge for the service, but they could charge less and publish in a timelier fashion. Online distribution does increase the likelihood of unlawful copying, but the benefits to publishers — coupled with the competitive pressure from free or cheap online services such as LIIBULLETIN or LIIBULLETIN-NY — should in many cases outweigh the costs. And web sites can also be good promotion for other material. American Lawyer Media's California law site, <http://www.callaw.com>, is an interesting example: It provides free access to some news and analysis stories from ALM publications, as well as free access to recent California and Ninth Circuit case law, to all subscribers to the *Recorder* — an ALM publication serving the San Francisco area. Nonsubscribers who are outside the San Francisco area can get access to the web site for \$60 per six months; nonsubscribers within the San Francisco area, however, would have to subscribe to the *Recorder*.

C. *Differences Between Electronic and Print Newsletters*

I draw an analogy between electronic and print newsletters, but some differences are worth considering. Electronic newsletters are

a new medium. They look different and people read them differently. What's effective communication in one medium may not be effective in another.

I'm not aware of any serious studies of how to communicate well through an electronic newsletter, and the medium is probably still too young for us to have any definitive answers. Still, I want to offer a few tentative observations.

One Story Per Issue: Electronic newsletters, I believe, work best when they distribute one story per issue — for instance, one article every few days, rather than ten articles in a single monthly issue. People have relatively limited online attention spans; they often get their e-mail at work, where they might have only a few minutes to read it. They might take the time to read one story. Presented with ten stories, though, they might skim over one or two, and skip the rest.²⁹

Having one story per issue is also convenient for other reasons. For readers, it's easier to forward a single-story issue to interested friends or to an electronic conference, or to save it to an e-mail folder. For distributors, especially distributors of timely material, it may be better to start thinking in a distribute-when-you-can mode rather than a wait-until-the-next-issue mode.

Of course, one shouldn't overdo things: If you send issues out too often — say, one or more a day — the subscribers might feel flooded, even though each issue is only a few paragraphs long. Conversely, a newsletter with five separate one-paragraph blurbs is unlikely to tax the reader's patience. But aside from these extremes, individual stories seem more effective than compilations.

Visual Presentation: E-mail is harder to read than print, and authors ought to compensate for this. A few tips:

- (1) *Length:* Keep the message short. I'd guess that few e-mails that are longer than two or three screens get read in their entirety.
- (2) *White Space:* Use lots of white space. Skip lines between paragraphs. Indent the first line of each paragraph. Skip two spaces after each period.
- (3) *Paragraphs:* Keep each paragraph short, five or six lines at most. Don't be afraid of using single-sentence paragraphs; though frowned on in print, they may be necessary in e-mail.
- (4) *Formatting:* Keep each line shorter than seventy characters; your e-mail program probably has a line-length setting that will do this automatically. Some programs let you fit more characters on a line, using proportional spacing, but you shouldn't use

29. Of course, subscribers could save the e-mail and read one story every couple of days, but my sense is that many people don't like doing this — they want to process their incoming mail and get it out of the way.

- this feature — if your subscribers use a different program, then your long lines will come out hard to read.
- (5) For the same reason, don't use any special formatting features — italics, boldface, colors, special characters — that your e-mail program provides. (In time, this may change, as standards develop.) If you want to emphasize something, embedding a word between *asterisks* has evolved as a convenient eye-catcher.
 - (6) When you make a complicated point — for instance, when you articulate a multipart test or a multipart argument — use bulleted or numbered lists.

III. DISCUSSION GROUPS

A. *The Electronic Conference*

The basic principle of an electronic conference is that any of the hundreds or thousands of participants can send a message to all the others. Any recipient can then respond, and the response will also go to all the other participants. The result is an online conversation, much like a panel discussion at a physical conference, but without expensive airplane tickets.

Discussion: Thus, if you have an interest in the law of government and religion, you can subscribe to ReligionLaw (*religionlaw@grizzly.ucla.edu*), an Internet electronic conference that I operate. Once you've subscribed, you can send a message to the *religionlaw@grizzly.ucla.edu* address — not the *listserv@...* address — and the host computer will distribute the message to all the conference subscribers. One or more of them might respond; if enough people jump in, an interesting discussion can start up.

These discussions can be valuable in several ways. Most obviously, they might bring up some arguments that one hadn't really focused on before. They can also serve as news sources; many developments in the cyberspace law area I first learned about online rather than through the traditional media.

Beyond this, a window into the thoughts of ones' colleagues has value even if one has heard and rejected those views before. The very fact that smart people make a particular argument with a straight face might lead us to take that argument more seriously, to confront it more thoroughly when we write a brief, teach a class, or write an article.

Much of what legal professionals do is guided by what they see as the unspoken norms of their field: Argument *A* is respectable; argument *B* isn't even worth mentioning. Unfortunately, we sometimes err — we dismiss an argument that we should have addressed more closely. Frequent informal contact with one's colleagues can help dispel these misconceptions.

Research: You can also use the conference as a research tool. For instance, computer-based legal resources are ill-cataloged and constantly growing; before writing this article, I asked people on Cyberia-L (*cyberia-l@listserv.aol.com*), a list devoted to the law of cyberspace, if they knew of any valuable resources I might have missed, and they responded with many good suggestions. On Law-Prof (*lawprof@chicagokent.kentlaw.edu*), a list inhabited by over 700 law professors, people often ask questions about how other law schools set up their curves, assign credit for law review tasks, and so on.

Likewise, people often use conferences for guidance on substantive legal questions. People ask cyberspace law questions on Cyberia-L and copyright questions on CNI-Copyright (*cni-copyright@cni.org*). At least one person usually answers, either “on-list” — by posting the reply to all subscribers — or “off-list” — to the questioner directly. A patent lawyer I met through Cyberia-L sometimes asks technical questions on science-themed conferences; on several occasions, the answers have led him to patent-invalidating prior art.³⁰ Obviously, no one with any serious interest in a question should take the answers of conference participants as gospel, but these answers often provide good departure points for further research. Finally, conferences are good places to test article ideas. I’ve often gotten interesting counterarguments and supporting arguments this way.

Publicity: Because conferences contain a ready audience of people interested in a topic, they are good tools for publicizing matters related to that topic, such as a symposium your school is putting together or an article you’ve written and of which you’re offering reprints. People tend to frown on blatantly commercial publicity, but flyers for public-spirited or nonprofit enterprises are generally readily accepted.

When I finish a new article, I always post offers of reprints, or even prepublication drafts, in online conferences. For my most recent article, this led to over seventy requests, and that’s seventy people who are likely to actually read the piece.

Schmoozing: Finally, conferences are also good places to meet others in your field and either impress them or persuade them that you’re a fool. This can be particularly valuable (or harmful) to junior academics, and, particularly on Counsel Connect, to lawyers who are trying to get business. Especially when only a few hundred people throughout the country work in a particular area, it’s good

30. E-mail from Bruce Hayden to author (Jan. 7, 1996); *see also* Electronic post to *h-law@msu.edu* (a legal history conference) (Jan. 26, 1996) (“My profound thanks to [conference members who responded to a question]. . . [A]n inquiry posted here is worth easily a week of nosing around a library.”).

for the field if these people get to know one another and get a sense for each other's qualities and interests.

Participant Quality: All this works only if the list includes knowledgeable people who respond to ideas and answer questions. This varies widely from list to list. Many of the top cyberlaw professors in the country participate in Cyberia-L. ReligionLaw gets posts from many of the most prominent writers on the law of government and religion. FirearmsConLaw (*firearmsconlaw@ssiinc.com*) has some of the top Second Amendment scholars, though rather heavily biased towards the anti-gun-control side. CNI-Copyright has a number of sharp copyright people. On the other hand, a list I set up on free speech law called CLSpeech (*clspeech@ftplaw.wuacc.edu*) lies mostly dormant — while it has some good people on it, questions often go unanswered, conversations peter out after one or two posts, and weeks can go by without a message.

In sum, with electronic conferences, you can:

- (1) Participate in and listen to online discussions.
- (2) Keep up with the news.
- (3) Get a sense of the currents of colleagues' opinions.
- (4) Find answers to questions.
- (5) Float trial balloons to get an early reaction to an idea.
- (6) Publicize relevant events.
- (7) Simply enjoy chatting about interesting issues.
- (8) Get to know others who work in your field.

I'm an addict — I'm on over a dozen conferences, including four I've founded (ReligionLaw, CLSpeech, FirearmsConLaw, and FirearmsReg). But even less cyber-hooked legal professionals can find one or two conferences on matters of interest to them.

B. *The Mechanics of Conference Participation*

Before I go further into the medium's costs and benefits, a few technical aspects of electronic conferences are worth explaining. First, while I speak generically about "electronic conferences," they actually come in three different flavors:

Internet Discussion Lists: These conferences work via e-mail. When you send the required subscription request to a particular Internet address (the so-called "listserv address"), you'll be added to the list of subscribers. Then, whenever you send a message to another address (the "list address"), that message will be passed along to every subscriber. When you reply to a message, your reply will also by default go to the whole list.

Thus, to subscribe to ReligionLaw, you'd send the message
subscribe religionlaw *yourfirstname yourlastname*

to the address *listserv@grizzly.ucla.edu*.³¹ Thereafter, to send a message to all the subscribers, you'd send it to *religionlaw@grizzly.ucla.edu*. The similarity between the two addresses isn't coincidental: As a general rule, a list called *x@y.z* would require you to send a "subscribe *x yourfirstname yourlastname*" command to *listserv@y.z* — as with the distribution lists described in Part II — and then to send messages to *x@y.z*. Some lists have different subscription instructions, but this model (the "listserv" model) is the most common.

If you want to stop getting messages from the list, you'd send
unsubscribe religionlaw

to the same *listserv@grizzly.ucla.edu* address. For most lists, you may also tell the software to send you each day's messages in one combined message; the command is

set *listname* mail digest

To turn off messages temporarily — say, when you go on vacation — send the command

set *listname* mail postpone

To turn them back on, send the command

set *listname* mail ack

Again, though most lists understand these commands, some use a different syntax. The command "help" will usually get you a brief description of all the permissible commands.

Internet Newsgroups: For years, the main vehicle for most discussions on the Net has been the newsgroup. Rather than arriving in your mailbox, newsgroup messages go into a separate place on your local network, where you can read them from your computer using a "news reader" program. Some people, especially those whose e-mail enters through their office network, dislike this; they find the need to run the news reader a bit of a bother. Others prefer it because they don't want to be interrupted by conference e-mail, and because a news reader makes it easier to ignore those conversations in which they aren't interested.

Currently, the overwhelming majority of discussion of interest to legal professionals takes places on discussion lists, not newsgroups. The one group with quality legal discussion is *misc.int-property*, which focuses on intellectual property. Three other legal newsgroups, *misc.legal*, *misc.legal.computing*, and *misc.legal.moderated* are generally frequented by laypeople, not by lawyers or academics. I mention newsgroups here mostly to clarify the difference between them and discussion lists — many people get the two confused.

31. The "subscribe" command should be the only line in the body of the message.

Non-Internet Dial-In Services: Finally, some electronic conferences aren't on the Internet proper, but are rather on "dial-in services," such as Prodigy, America Online, Compuserve, or, most important for our purposes, Counsel Connect.

When people say something is "on the Internet," they generally mean that it's accessible from any other Internet site. If you and I are on the Net, I can send you an e-mail message. If your Web site is on the Net, I can use Netscape to access it. If your electronic conference is on the Net, I can access it from my computer.

This isn't true of discussion groups on, say, Prodigy. Prodigy users can dial in to the Prodigy computer, access its discussion groups, and talk to other Prodigy users. But they can't talk in those discussion groups to America Online users or to people — such as most law professors — who have a direct Internet connection. Prodigy, AOL, Compuserve, and Counsel Connect users *can* access Internet discussion groups, because those services let their customers reach the Internet. But because the services don't let Internet users access the service's computers, discussion groups on each service are limited to customers of the service.

Perhaps because of this, legal discussion groups that would be of value to legal professionals haven't really thrived on those services. (Compuserve's LAWSIG discussion area, and especially the lawyers-to-lawyers subforum, seems to be a slight exception.) But they have thrived in a big way on one special lawyer-only service, Counsel Connect.

Counsel Connect: Counsel Connect costs considerably more than most online services. The basic rate is \$89 per month; that falls to \$39 per month if one connects to it in a special but somewhat cumbersome way. Nevertheless, Counsel Connect had 35,000 subscribers as of April 1996, up from 18,000 in April 1995.³²

This service may be worth its price tag to many lawyers because it can (1) lead them to new business and (2) connect them with lawyer-specialists who can provide off-the-cuff advice about particular legal issues. Counsel Connect's software provides special mechanisms that link in-house counsel with outside lawyers: Corporate counsel can anonymously post legal questions for outside lawyers, and if an answer is impressive enough, business can be done.

Counsel Connect also hosts many special-purpose discussion groups, some quite lively, others rather dead. Most that I've seen have pretty thoughtful and substantive conversations. I don't know how much business the typical Counsel Connect user gets from the

32. E-mail from Mark Obbie of Counsel Connect to author, Apr. 23, 1996, and Apr. 24, 1996.

service, but I do know several people who have indeed found clients in this way.³³

I've found Internet discussion lists to be more convenient than Counsel Connect, especially because I get my Internet messages without having to dial in anywhere. Discussion-list posts come directly to my e-mailbox, so I can retrieve them in a few seconds; reading a CC conference takes some time while my computer is dialing up CC, and accessing each message or switching between conferences takes longer, too. CC even seems slower than many dial-in Internet providers, such as Compuserve or Netcom. On the other hand, some prefer the way Counsel Connect organizes its posts; they think the CC display format makes it easier to sift the interesting material from the irrelevant.

C. Conference Quality

How useful a conference will be to you turns on several factors:

- (1) The number of messages that appear on it every day.
- (2) The number of frequent participants who are knowledgeable, articulate, and willing to constrain themselves to the conference topic.
- (3) The number of people who might not participate often, but who could answer your questions if you ask them.

These factors roughly correspond to the various diseases of electronic conferences. The worst, the "dreck deluge," comes when there are lots of messages, often twenty or more a day, and most of them are stupid or off-topic. In the mild form of this disease, "low signal-to-noise," the messages aren't very good but there still aren't too many. If ten messages arrive each day, six silly and four interesting, you still might derive value from the list, especially once you learn which messages you should delete unread based on their subject lines or their authors.

At the other extreme, many conferences are "dead" — no messages for weeks on end. Many of them are both dead and unresponsive: If you ask a question, you get no answers, or at least no useful answers. These conferences aren't much use, but they aren't much burden either.

Conference operators can do three things to try to cut down on bad posts:

Limit Access: Internet discussion lists can be set up to allow the list operator to screen each subscription request. Only law professors, for instance, can join the LawProf discussion list. I limit the CLSpeech, FirearmsConLaw, and FirearmsReg lists to people who

33. See Eugene Volokh, *Technology and the Future of Law*, 47 STAN. L. REV. 1375, 1402 n.154 (1995).

do research in the relevant areas or at least seem well-versed in the subject.

Screening creates extra work for the operator. He must check each subscription request and, if necessary, question the subscriber about his bona fides, a sometimes unpleasant chore. The typical list, however, receives only a few subscription requests per month, and the work tends to be concentrated during the list's first few days.

Moderate: The operator also can screen each message before it's forwarded to all the subscribers. Most operators are pretty liberal about what they pass along; they tend to screen out only "flames" (personal insults), "spam" (advertisements that are posted indiscriminately to lots of groups), kooks, and errors, such as messages posted to the list but meant for only one person. Operators also can weed out repetitive material as well as messages that stray off the conference's topic. Moderating a list takes some time; Mary Brandt Jensen, who co-moderates the CNI-Copyright discussion list, tells me that moderating it has generally taken about fifteen minutes a day.³⁴

Informally Shepherd: Finally, an operator might act informally. When a discussion veers off-topic, he can send a warning to the participants or to the whole conference. When someone insults another participant, the operator can come to the victim's defense. Many offenders willingly return to the rules, and other conference participants tend to defer to the operator's lead, largely because they, too, want the conference to stay polite and on-topic. In my experience, these sorts of informal controls have worked fairly well.

Some conferences have consciously chosen to remain unconstrained. They often lose some subscribers who dislike the high volume and the relatively high level of junk, but other subscribers have a greater tolerance for high traffic and are willing to invest the relatively little time it takes to delete the off-topic messages. I've often wished Cyberia-L had a moderator, but it remains a valuable resource.

Conference operators can also do some things to attract more good posts, not just fewer bad ones. A good operator can keep an eye out for interesting discussion topics or recent developments. When traffic dies down or veers in an off-topic direction, he could start some on-topic threads. An operator might contact top people in the field and encourage them to join. It helps, of course, if he can assure them that traffic is moderate and that most of it is intelligent and on-topic.

34. Conversation with Mary Brandt Jensen (Jan. 18, 1996).

Finally, in my view — a view not shared by all — a conference operator should define the conference topic narrowly, even if it means excluding some relevant related topics. For example, though general discussions about the Free Speech Clause may be relevant to a conference on education law, they should probably be excluded. The participants on the conference might be education law experts, but they probably aren't experts on free speech theory. The free speech theory discussion will probably not be very good; it will probably end up repeating what most participants have already heard elsewhere; and it's quite unlikely to resolve issues that constitutional law experts have debated for decades. Likewise, on the ReligionLaw list, the rule is no discussion of theology as such or of the philosophy of religion and law, even when these points are relevant to a question about the law of government and religion. They might be relevant, but discussing them probably won't be very useful.

Choosing a Conference: To choose a good conference, start by subscribing to those whose subjects interest you. I list some in the appendix; <http://www.lib.uchicago.edu/cgi-bin/law-lists> contains a master list that's searchable by subject. Then, you should:

- (1) Listen in for a week or so to get a feel for the type and quality of discussion.
- (2) Get used to deleting messages unread if you don't find their subjects or authors interesting.
- (3) Switch to digest mode the conferences that seem interesting but too high-traffic for you to read each message as it comes in.
- (4) Unsubscribe from the conferences that seem useless. You'll probably leave some conferences and end up staying with one or two active ones as well as a few relatively quiet ones (which are neither a great benefit nor a great cost).

New electronic conferences usually take a few weeks to settle down. There's often an initial surge of activity while enthusiasts let out what they've been carrying around inside them for months or years; and there's often a lack of consensus about what the topic of the conference really is. After a few arguments and after several messages from the list custodian explaining the topic, things usually quiet down. Don't judge a conference by the first few frenetic weeks.

D. *Tips for Conference Participation*

Curiously, on all the conferences that I've seen, only ten to twenty percent of the subscribers ever post messages; the remainder "lurk," reading messages without posting any themselves. This seems to be something of a testament to the medium's quality: a lot

of people apparently find the conversations worth reading even if they're not the ones talking.

If you decide to talk, you may want to keep in mind a few basic guidelines:

Formatting: The same concerns that I mentioned when talking about electronic newsletters apply here. Keep the message short, keep the paragraphs short, use lots of white space, avoid special formatting features, and use more general formatting gimmicks such as bulleted or numbered lists.

Also, stick religiously to standard capitalization and spelling rules. Because e-mail is a somewhat less formal medium than print, some otherwise cautious writers put aside basic rules, in my view much to their detriment. The most egregious offenses are all-caps text, all-lower-case text, and messages that use shorthand such as "u" for "you" or "2" for "two" — they're hard to read, and annoy many people to no end.³⁵

Good spelling and good organization are also critical. Without the cues provided by face-to-face communication — the intelligent look in the eyes, the respectable suit — meandering or badly proof-read e-mail makes the author look surprisingly bad. Some messages make their authors look like fuzzy thinkers, others like downright cranks.

Content: Some of the tips for online electronic-conference participation are well-known by now: Be careful with sarcasm and facetiousness in a medium in which the normal verbal and visual signals are absent; never post a message to hundreds of people when you're angry; when trying to respond off-list to a message, be sure it goes just to the author. Here are two less publicized pointers:

- (1) When you check your e-mail after some time away from it, try to read through all the posts to a conference before responding to any one of them. Often someone else will have already said what you want to say.
- (2) Readers appreciate descriptive subject lines, which help them decide what's of interest and what's not. Replies to messages automatically incorporate the original message's subject line, but if your reply veers off in a different direction, change the subject line accordingly.

E. *Opportunities for New Electronic Conferences*

In my view, every area of the law ought to have an electronic conference. Even if the conference doesn't produce rich debate,

35. Shorthand for common legal phrases — "1st Am" instead of "First Amendment," for example — seems more accepted.

the other functions — research, publicity, community building — remain useful.³⁶

It's probably best to define the conference topic fairly narrowly. A conference on the law of government and religion, for instance, seems more manageable than a conference on the First Amendment or on constitutional law. You lose something by generally ruling out allied fields, but the lower traffic is likely to be more consistently interesting to all the subscribers.

In most cases, legal conferences should also be limited in membership to lawyers, with room for case-by-case exceptions. There may be categorical exceptions to this principle, especially when the legal topic is linked closely to a nonlegal field — Cyberia-L, for instance, benefits from the presence of thoughtful computer experts. Nonetheless, in my experience, legal conferences work better without laypeople.

Laypeople simply view the law in a different way than lawyers; they often make arguments that (1) lack analytic rigor; (2) seem more philosophical than legal; (3) are reasonable in the abstract but are recognized by lawyers as sure losers (for instance, because of contrary precedents); or (4) have already been studied for years by lawyers in law school. Lawyers sometimes do the same, but laypeople do it more often; though the occasional lay perspective can be a welcome breath of fresh air, a constant stream tends to be distracting.

I'm not trying to be a snob here. Most laypeople, very much including me, would be out of place at a physicists' conference, where we'd probably say things like "Light is a particle *and* a wave? That makes no sense!" Law can be as technical as physics, and while laypeople can sometimes add something valuable to a conference, their contributions often tend to be more distracting than useful. In a perfect world, everyone would know the rules of the conference — for instance, thoughtful and informed legal discussion only — and everyone, professional or lay, would abide by them. In reality, though, people often disregard the rules, and laypeople ignore the rules more often than professionals. Policing individual violations is complicated enough that a prophylactic bar, with exceptions made on a case-by-case basis, is probably the better bet.

36. Not all service providers are willing to set up conferences — a conference might involve a good deal of overhead for the computer system, more than is involved with an electronic newsletter or even a Web site. If a conference sends ten messages per day to 200 subscribers, the computer must process 2000 messages daily, not a crippling amount but not an insignificant one. Fortunately, a number of public-spirited institutions, especially Chicago-Kent Law School and Washburn Law School, have been good enough to set up a number of conferences on their computers, and might be open to more requests.

Once the membership is limited, it's probably unnecessary that the conference be moderated. The list custodian should, however, keep an eye out for rudeness, for departures from the topic, and for threads that get repetitive. A few off-list messages to the transgressing participants, and an occasional on-list message, usually solve any problems.

Finally, don't be too disappointed or surprised if the conference ends up being very quiet. Some conferences never attract a critical mass of talkative and thoughtful people. I don't know why, for instance, the conference on the Religion Clauses has succeeded but the conference on the Free Speech Clause has mostly failed. Perhaps it's because Religion Clauses specialists are rarer, and they therefore feel more isolated at their schools and more in need of electronic interaction. In any case, a conference is at the mercy of its participants — if they stay quiet, nothing will happen.

CONCLUSION

The new electronic media — electronic books, electronic newsletters, and electronic conferences — can be of great help to legal professionals, both readers and would-be publishers. They can make material more accessible, timelier, cheaper, and easier to search and use. Even more important, they allow for the creation of legal resources that never could have been cost-effectively produced in print.

Today, the new media are still in their infancy. There's useful legal material out there, but often less than one would hope. Over the next few years, though, a lot more material should come around as lawyers, academics, and public interest groups find ways to profit from creating it.

Will cyberspace radically change our lives as legal professionals, or the way the legal system functions? I doubt it; any such radical change remains to be proven. LEXIS and Westlaw, for instance, influential as they have been, haven't done this.

On the other hand, LEXIS and Westlaw may be good benchmarks for us to consider. From weird and expensive technological frills, they've become the everyday tools of law professors and law students, and important in the lives of practicing lawyers, too. They've changed the way legal professionals do research, and in some significant ways they increased the sorts of research that are possible.

Cyberspace will do the same, though probably more quickly. Its exact impact on the profession is impossible to predict, but it seems to me certain that it will be significant.

APPENDIX: INDEX TO SELECTED CYBERSPACE LEGAL RESOURCES

For most list servers called *listname@a.b.c*, you can subscribe by sending the message "subscribe *listname yourfirstname yourlastname*" to *listserv@a.b.c*. For those marked "majordomo," you should send the message "subscribe *listname*" — without your name following the list name — to *majordomo@a.b.c*. Those marked "send message to . . ." are manually operated; just send a message to the address identifying yourself, and the operator will subscribe you.

WEB SITES — LEGAL

Lawyers' Legal Research Index (allows full-text searches through recent case law)	http://www.llr.com
The Legal List Legal Research Index	http://www.lcp.com/The-Legal-List/TLL-home.html (capitalization important)
The Findlaw Index	http://www.findlaw.com
Index of Law-Related Conferences	http://www.lib.uchicago.edu/cgi-bin/law-lists
Index of Federal & State Case Law	http://www.law.vill.edu
SEC Information	http://www.sec.gov
FCC Information	http://www.fcc.gov
Bills in Congress, et al.	http://thomas.loc.gov
Communications Law Information	http://www.fcba.org
International Documents	http://www.law.cornell.edu/source.html

WEB SITES — GENERAL

Census Information	http://www.census.gov
Zip Code Information	http://www.usps.gov/nvncse/lookups
Combined White Pages	http://www.switchboard.com
Directory of Personal E-Mail Address	http://www.four11.com
Mail-Order Book Catalog	http://www.books.com
Mail-Order CD catalogs	http://www.cdnw.com
	http://www.cdconnection.com

ELECTRONIC NEWSLETTERS — LEGAL

Supreme Court Decisions	liibulletin@listserv.law.cornell.edu
FCC Daily Digest	digest@info.fcc.gov
Law & Politics Book Review	lpbr-l@piranha.acns.nwu.edu
Law & Economics Abstracts	send message to sandy_barnes@journal.com
Corp./Secur./Fin. Law Abstracts	send message to sandy_barnes@journal.com
Constitutional Law Abstracts	send message to sandy_barnes@journal.com
Various abstracts services provided by the University Law Review Project	visit http://diglib.stanford.edu/lawcgil/join/add.cgi or send an e-mail (contents irrelevant) to subscribe@thames.stanford.edu
Cyberlex	send message to cyberlaw@cyberlaw.com

ELECTRONIC NEWSLETTERS — HUMOR AND POETRY

This is True (weekly)	this-is-true@netcom.com (majordomo)
Annals of Improb. Research (monthly)	mini-air@air.harvard.edu
Dilbert List (monthly)	dilbert_list@internex.net
Laugh of the Day (daily)	lold@world.std.com (majordomo)
Free verse (every week or two)	rpoetik@listserv.wln.com
Formal verse (every week or two)	occasional-screenful@netcom.com (majordomo)

ELECTRONIC CONFERENCES — LEGAL

This is a necessarily limited list. Counsel Connect has many conferences in many areas, and there are many others on the Net proper — check out <http://www.lib.uchicago.edu/cgi-bin/law-lists> for a more complete directory.

<u>Topic</u>	<u>Membership</u>	<u>Msgs/day</u>	<u>Address</u>	<u># of Members</u>
Administrative Law	acad	<1	<i>adminlaw@cali.kentlaw.edu</i>	150
Commercial	acad/prac	0-2	<i>ucclaw-l@assocdir.wuacc.edu</i>	300
Copyright	acad/prac	10-30	<i>cni-copyright@cni.org</i>	1600
Criminal Law	acad	0-10	<i>crimprof@chicagokent.kentlaw.edu</i>	275
Cyberspace Law	mixed	15-20	<i>cyberia-l@listserv.aol.com</i>	550
Cyberspace Legal Ed.	acad*	<1	send message to <i>mlemley@mail.law.utexas.edu</i>	50
Election Law	acad	0-5	<i>election-law@chicagokent.kentlaw.edu</i>	125
Evidence	acad	0-5	<i>evidence@chicagokent.kentlaw.edu</i>	200
Free Speech	acad*	<1	<i>clspeech@ftplaw.wuacc.edu</i>	125
Gun Control	acad*	5-10	<i>firearmsreg@ssiinc.com</i>	75
Legal Education	acad*	0-10	<i>lawprof@chicagokent.kentlaw.edu</i>	725
Legal History	acad*	0-5	<i>h-law@msu.edu</i>	725
Patent	acad	0-10	<i>patent-l@ftplaw.wuacc.edu</i>	325
Religion Clauses	acad	5-15	<i>religionlaw@grizzly.ucla.edu</i>	225
Right to Keep & Bear Arms	acad*	10-15	<i>firearmsconlaw@ssiinc.com</i>	75

Legend:

- acad Aimed primarily at academics
- lay Aimed primarily at laypeople
- prac Aimed primarily at practitioners
- acad* Aimed primarily at academics, with subscriptions limited to those approved by the list custodian