

Access to Case Law: a Response

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There is much in Peter Meyer's paper that I agree with. The purpose of this commentary is to ponder over parts of the paper which I feel need further clarification.

Meyer states

If the publisher cannot provide access to an authorised report series, it is natural to expect that the publisher will not be keen to promote the status of that series. Instead, their alternative case series will be offered as sufficient for their customer's purposes.

Generally, I agree because I have noticed in many Butterworths' publications that precedence is given to Butterworths' publications ahead of rival publications. For example, *Australian Law Reports* is cited ahead of either *Australian Law Journal Reports* or *Commonwealth Law Reports*. However, in the compilation of *Australian Current Law*, Butterworths does attempt to give citations to all reported series that have reported the unreported cases digested during the year, regardless of whether they have been published by Butterworths, CCH, LBC Information Services or elsewhere. *CaseBase* (Butterworths) also attempts to provide all citations to a particular case. Likewise the *Australian Digest* (LBC), the *Australian Legal Monthly Digest* (LBC) and the *Australian Case Citator* (LBC) attempt to provide case citations for all citations of a case. Some of the earlier CCH reporters may have been omitted and LBC hope to rectify this situation. Added to the above is the fact that both Butterworths and LBC Information Services are prolific publishers of casebooks which often have extracts from the law report series of their rivals, and with due acknowledgements.

So despite the intense competition that occurs within legal publishing there has been, and still is, a remarkable degree of cooperation.

'Essentially there is a lack of convenient, competitive online access to authorised reports' This is a point I differ with. Elsewhere in the paper Meyer strongly recommends the use of authorised reports. The *Australian Digest* and the *Australian Legal Monthly Digest* for many years have used the catchwords and headnotes from the various authorised reports. See the acknowledgement to Butterworths and others for allowing LBC to use their headnotes in the *Australian Digest*. Whether this is still the case is possibly unlikely. But, in effect, by using the *Australian Digest* online users would have access to most of the authorised reports going back to 1824. Although not full text, this database provides the vital headnotes and sifting process which Meyer has lauded in his paper. What more could you ask for? Admittedly the *Australian Digest* is an under-utilised resource by many practicing lawyers and even some law librarians!

Nowhere in Meyer's paper does there appear an inkling of praise for the unauthorised series of law reports, whether they be the general series such as *Australian Law Journal Reports*, *Australian Law Reports* or the specialist series. These series perform a valuable service of providing access to recently handed-down decisions. The editors of these series also make a sifting process of what they consider to be of precedential value. When one examines the table of cases judicially considered in the various authorised series of law reports, there is a healthy display of unauthorised reports cited. This judicial imprimatur must surely count for something. No one is denying the importance of authorised reports, however, in the absence of their publication researchers will continue to rely on the unauthorised reports whether they be in hard copy or in electronic format.