

INFORMATION ACCESS ALLIANCE

c/o Association of Research Libraries 21 Dupont Circle NW Washington, DC 20036-1118 Ph: 202 296 2296

November 29, 2006

James P. Fellers
U.S. Department of Justice
Antitrust Division Litigation III
Section 325
7th Street, NW Suite 300
Washington, D.C. 20530

Dear Mr. Fellers:

Last week, John Wiley and Sons announced an agreement to acquire Blackwell Publishing, a publisher of scientific, technical, and medical (STM) journals. As members of the Information Access Alliance, which represents the primary customers of STM journals, we are deeply concerned that this transaction will exacerbate market dysfunctions and result in further reduction in access to critical research information that fuels the entire higher education and research enterprise. Based on our experience with previous mergers in this industry and our initial analysis of this transaction, we urge the Department of Justice to challenge this proposed sale.

The Information Access Alliance consists of seven leading library organizations that serve institutions engaged in research, education, law, and health care. We have joined together because of a shared concern with the impact that the concentration among publishers of STM journals and legal serial publications has on the prices and availability of research resources.

John Wiley and Sons manages a substantial portfolio of titles in the STM and legal sectors, publishing approximately 500 journals. Blackwell Publishing publishes approximately 950 journals, the majority of which are published on behalf of scholarly societies. John Wiley and Sons will manage approximately 1450 titles after the acquisition.

The Information Access Alliance believes that this transaction will result in increased prices for the consumers of STM journals. This follows a disturbing pattern that has been documented for mergers in this market over the past decade. We also believe that the antitrust analyses of past mergers in this sector have not taken into account the way the primary consumers—libraries—purchase STM journals, particularly as publishers have moved to electronic publishing and bundled pricing models for their journal lists.

Both John Wiley and Sons and Blackwell Publishing currently use bundled pricing models. We believe that to an increasing extent, the publisher's journal bundle is the product rather than the journal titles. In recent mergers industry practice has been to combine the two companies' bundles into a single bundle exacerbating the market

advantage of the merged company. John Wiley and Sons has noted the “must have” nature of the titles involved in this transaction.¹ A combined bundle extends the ability of high quality titles to carry lower quality content over an enlarged title list. A recent study by the Association for Research Libraries gathered data from its member libraries documenting that bundling practices reduce customer choice, hurt small publishers, and create barriers to entry (see enclosed report, “Bundling Practices in the Academic Journals Market: Data Drawn from the ARL Journal Bundling Survey.”)

Press reports indicate that John Wiley and Sons are purchasing Blackwell Publishing for 16 times Blackwell’s 2005 operating profits. While increased efficiencies can produce some increased margins, data shows that these returns will be generated from significantly increased prices.² A recent study found that of the six largest commercial publishers, John Wiley and Sons had the highest average cost per article, while Blackwell Publishing had the lowest.³ Although a privately held company, Blackwell’s past focus on society journals has coincided with relatively modest prices for a commercial publisher.

It is clear to the library community that the continued consolidation of publishers in this market segment is harmful to competition and results in increased prices for customers. Moreover, these increased prices will mean further erosion in the ability to access to research information. This, in turn, impedes the creation of new knowledge and slowing innovation. Reduced competition also weakens incentives to produce high quality information products. The fact that STM journal publications are transitioning from paper to electronic format does not diminish the negative impacts of this merger or the level of our concern. Instead this transition is contributing to the concentration of market power among the shrinking group of large publishers in the market.

The Information Access Alliance urges the Department of Justice to perform a fresh analysis of this market and consider the likely outcomes of this transaction. Should you do so, we believe that you will conclude that this proposed transaction cannot survive antitrust scrutiny and should be challenged. We believe it is important to adopt a more realistic approach to antitrust analysis of transactions among publishers of scholarly publications. To this end, we enclose the white paper, “Publisher Mergers: A Consumer-Based Approach to Antitrust Analysis” that we hope may be helpful to you in your analysis. Please note that the white paper was written before the widespread adoption of bundling sales models; however, it outlines a number of other important issues in journal publisher mergers and provides analysis of other recent mergers.

In the meantime, we will continue to gather data to demonstrate the effects of this particular transaction and will forward results to you as we have them. At the appropriate time representatives of the library community would like to meet with your

¹ Press Release, 17 November 2006, <http://www.blackwellpublishing.com/pdf/wiley.pdf>

² For an analysis of the academic journal market see Nevo, Rubinfeld, and McCabe. Academic Journal Pricing and the Demand of Libraries. American Economic Review. May 2005, reprint at <http://www.prism.gatech.edu/~mm284/NevoRubinfeldMcCabe.pdf> and also the recent working paper by Mark J. McCabe, Aviv Nevo, and Daniel L. Rubinfeld, “The Pricing of Academic Journals,” posted Nov. 17, 2006 at <http://www.prism.gatech.edu/~mm284/MNR.pdf>.

³ See analysis at <http://people.cornell.edu/pages/pmd8/prices.pdf>

merger review staff to highlight how this transaction is likely to have an adverse effect on prices, the availability of STM journals, and the economic benefits of innovation. The contact for the Alliance is Karla Hahn, Association of Research Libraries (karla@arl.org or 202-296-2296).

Thank you for your consideration in this matter.

Sincerely,



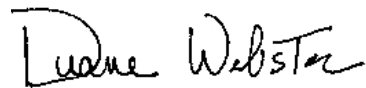
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Keith Fiels
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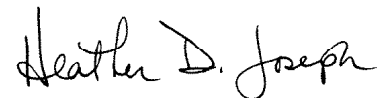
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