

AMERICAN ASSOCIATION OF LAW LIBRARIES



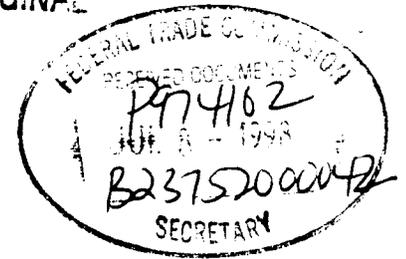
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WASHINGTON AFFAIRS REPRESENTATIVE

Robert L. Oakley
Director of the Law Library & Professor of Law
Georgetown University Law Center

ORIGINAL

July 8, 1998



Laura J. DeMartino, Attorney
Federal Trade Commission
Sixth Street and Pennsylvania Avenue, N.W.
Washington, D.C. 20580

**SUBJECT: Interpretation of Rules and Guides for Electronic Media - Comment
FTC File No. P74102**

Dear Ms. DeMartino:

I am writing to you on behalf of the American Association of Law Libraries concerning the proposed policy statement on the applicability of F.T.C. Rules and Guides to electronic media as published at 63 Fed. Reg. 24996 *et. seq.*

The American Association of Law Libraries is an organization of over 4,800 members who endeavor to meet the legal information needs of lawyers and judges, law students and faculty, and the general public. Collectively, we are probably the major consumers of legal information in all forms, print as well as electronic.

The American Association of Law Libraries believes that the F.T.C. Guides for the Lawbook Industry (16 C.F.R. 256) have greatly benefited consumers of legal information by curbing some of the anti-consumer practices that had existed prior to the time the guidelines were first issued. The Association would strongly support the proposed clarification that would extend the terms of the guidelines to electronic media. We would also welcome the opportunity to participate in the discussion of issues that might be included in any such clarification or in any revision to the Guides for the Law Book Industry.

Some of the issues regarding the Guides are obvious, and could be dealt with as simply as adding electronic formats to the definitions. For example, it is clear that we are no longer just dealing with law books; we are now dealing with legal information in all formats, whether in book form, on CD-ROM, or on the World Wide Web. In addition, advertising and solicitations today may be done electronically as well as in print form. As a result, information products should be covered regardless of the format in which they appear, and solicitations by e-mail or on the Web should be subject to the same rules as solicitations made by direct mail.

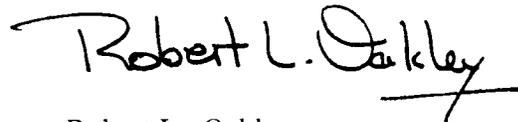
We also believe it is likely that as your investigation proceeds, other important issues will become apparent. For example, the nature of a transaction for an electronic work may be substantially different from the purchase of a print work. Print works are normally sold, and ownership of the physical object is transferred at the time of the sale. Electronic works are frequently not sold, but rather are made available under a license agreement. The updated guidelines should set out requirements for clear and conspicuous disclosure of the terms of any such license. Examples of terms that should be explicit include, among other things: the price; the nature of the access permitted (single user, multi-user, or site license); the length of term of the license; the nature of what is permitted under the license; and any limitations on what is permitted, such as any limitations on printing or downloading, or a waiver of the user's rights under the Copyright Act (Title 17 U.S.Code.).

Further, if the information acquired requires the use of specific hardware, software, or supplemental technology, that fact should also be disclosed.

The American Association of Law Libraries welcomes the F.T.C. initiative to clarify its Guidelines for electronic media. We recognize the importance of updating the Guidelines to include new media, and we realize that our comments today contain only a few of the issues that will need to be considered.

We look forward to working with you as the effort progresses, and we will welcome an updated set of Guidelines for the Legal Information Industry. Thank you for your efforts on this matter, and please feel free to contact me for further information.

Sincerely,

A handwritten signature in black ink that reads "Robert L. Oakley". The signature is written in a cursive style with a prominent horizontal line at the end.

Robert L. Oakley
Washington Affairs Representative
American Association of Law Libraries