

HOUSE OF REPRESENTATIVES
COMMONWEALTH OF PENNSYLVANIA

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House Resolution 110

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House Judiciary Committee

Room 205
Ryan Office Building
Harrisburg, Pennsylvania

Wednesday, November 28, 2001 - 9:56 a.m.

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BEFORE:

Honorable Thomas Gannon, Majority Chairman
Honorable Jerry Birmelin
Honorable Raymond Bunt
Honorable Daniel Clark
Honorable Brett Feese
Honorable William Gabig
Honorable Timothy Hennessey
Honorable Kevin Blaum, Minority Chairman
Honorable Joseph Petrarca

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ALSO PRESENT:

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Majority Administrative Assistant

Mike Rish
Minority Executive Director

Beryl Kuhr
Minority Counsel

Cathy Hudson
Minority Administrative Assistant

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Pennsylvania School Boards Association

1 CHAIRPERSON GANNON: The House Judiciary
2 Committee will come to order. Today's meeting is to, the
3 purpose of today's meeting is to undertake public hearings
4 on House Resolution 110 dealing with the publication of
5 legal notices in newspapers in the Commonwealth.

6 Our first witness is Mr. H. Reginald Belden,
7 Jr., Esquire, President of the Pennsylvania Bar
8 Association. Welcome, Mr. Belden. And you may begin when
9 you are ready.

10 MR. BELDEN: Thank you very much. I'm very
11 pleased to be able to come before this committee on this
12 important subject and honored to be permitted to offer
13 testimony on behalf of the 28,000-member Pennsylvania Bar
14 Association.

15 Before I begin, I'd like to commend the
16 committee and particularly Chairman Gannon for engaging in
17 the study that is important as directed by House Resolution
18 110. As you know, legal notices that are required to be
19 published in newspapers of general circulation by statute
20 are also required to be published in a legal journal that
21 is designated by the local Court of Common Pleas.

22 These notices are important to the general
23 public because they enable the public to protect their
24 interests. The statutes that generally require publication
25 in newspapers of general circulation and in the designated

1 legal journal are ones which deal with important individual
2 rights and also important notices to the public in general,
3 to the legal community, and to the business community.

4 They include such things as corporation
5 creation and dissolution; notices of sales of real property
6 by the sheriff, by tax claim bureaus; judicial sales; and
7 various other matters that affect property rights. They
8 also include, of course, the all-important estate notices,
9 notices of audits of estates, fictitious name registration,
10 and various other important public notices.

11 And as a matter of fact, my wife reminded me
12 last night that they also include notification of the
13 termination of parental rights in those cases where that
14 becomes necessary by virtue of an inability to find the
15 natural parent.

16 The Supreme Court, by virtue of statutory
17 authority, designated the Pennsylvania Bar Association as
18 the entity most representative of the bar of the
19 Commonwealth of Pennsylvania. We consider this to be a
20 unique opportunity but also a broad responsibility to speak
21 out on matters of this nature that are of such public
22 importance and particularly of importance to the legal
23 community.

24 The Pennsylvania Bar Association itself does
25 not have a legal journal; however, many of the county bar

1 associations do have legal journals and have a significant
2 interest in this study that is ongoing. And you will be
3 hearing from some representatives of county bar
4 associations I understand later today and at later hearings
5 which may be scheduled.

6 Because of the importance of the subject, the
7 Pennsylvania Bar Association convened meetings of
8 representatives of leaders of the county bar associations
9 and of the editors of local legal journals designated by
10 the court. We acted as a facilitator.

11 And I chaired those discussions. And I can
12 tell you that they were thorough and educational. We asked
13 the bar association representatives to conduct a survey
14 among themselves to let us know about their publication
15 rates, the kinds of notices that are published in those
16 legal journals, as well as the use to which those funds are
17 put by the various associations.

18 We discovered in those meetings and as a
19 result of the survey that some of these folks have been
20 involved in the legal publication notice business for
21 decades and they're probably the people who are most
22 familiar with the subject and most knowledgeable about it.

23 We learned that the, with regard to the
24 publication rates, that most of the legal journals that are
25 designated by the courts are weekly journals. There are a

1 couple dailies, but most of them are weekly journals. And
2 with regard to the cost, they are, I believe of the 26
3 reporting counties, 20 of them were less than the charge
4 made by local daily papers of general circulation; and 5
5 were about the same; and 1 was, I think, exactly the same.

6 With regard to the notices, as you know, a lot
7 of the notices are published by governmental entities.
8 However, a substantial amount of the funds paid by
9 governmental entities for notices in legal journals are
10 passed on to other entities.

11 For example, in the case of estates, the
12 estate notices, although the check to the legal journal
13 comes from the register of wills, the register of wills has
14 collected that money from the estate during the process of
15 the administration of the estate.

16 The same is true for the fees for the
17 advertisement of the audits of estates. Those costs are
18 ultimately borne by the estates themselves. This is also
19 true, for example, with sheriff sales. The cost of the ads
20 for the sheriff sales, although the check may come from the
21 sheriff's office to the legal journal, those costs are
22 borne by the plaintiff who has brought the sheriff sale
23 action.

24 The same is true for tax sales. The cost of
25 the advertisement of tax sales and tax claim bureau sales

1 are ultimately borne by the purchaser of the property at
2 the sale as opposed to the, the bureau which initially
3 sends the money to the legal journal.

4 So it's important to understand that part of
5 the process because while on its face it may appear that
6 governmental entities are spending a fair amount of money
7 on these legal notices, in fact, most of those costs are
8 being passed on to other entities.

9 The survey revealed that of the revenues
10 that legal journals receive, the amount paid by
11 governmental entities -- and as I said, part of which is
12 passed on -- ranges from 1 percent at the low end to 11
13 percent at the high end.

14 We also wanted to know what happens to the
15 funds, to the revenues from these legal journals. And so
16 we inquired in the survey and at the discussions about the
17 use of those funds by county bar associations. And we
18 found that they are used for very important programs which
19 either directly or indirectly benefit the public.

20 An example is the legal assistance programs
21 that support pro bono programs, that support legal clinics,
22 that support the, the call-in shows that you hear on the
23 radio or that you see on television once in a while. Those
24 dollars come from the funds that are generated by the
25 publication of the legal journals.

1 They are a source to which the legal community
2 and the business community and the public in general can
3 look at a single place for the publication of legal notices
4 because there is only a single designated legal journal in
5 each county. So that it's unnecessary then for the public
6 to look at more than one publication to find these
7 important notices.

8 The funds, in addition to the legal assistance
9 programs, are also used for educational programs such as
10 the public law schools that are held at community colleges.
11 I think in most counties, for example, the public will pay
12 a dollar for each session of these general legal
13 information programs that are put on at community colleges.

14 They're also used for programs that, things
15 such as the heart walks and the children's programs, the
16 youth education programs that are taken into the schools by
17 the various bar associations, such as I Signed the
18 Constitution and Project Peace with which the Pennsylvania
19 Bar Association partners with the Office of the Attorney
20 General and the county bar associations, The Stepping Out
21 Program that is put on by the county bar associations as
22 well.

23 It's these kind of programs that are supported
24 by the funds that are generated by the legal journals. And
25 they are important public programs that would suffer as a

1 result if there were not this revenue source.

2 These are efficient ways to publish legal
3 notices. As I said, it is a single source to which the
4 public and the legal community and business community can
5 turn for important notices with regard to all sorts of
6 items that affect the business lives and the daily lives of
7 the public in their property ownership, to notify them of
8 lawsuits, of tax liens, of mortgages, of deed transactions,
9 of court schedules, court opinions, and things of that
10 nature.

11 These are well-run, edited journals which
12 provide the public and the legal and business communities
13 with an important source of information. We would urge
14 that, as this study continues, you inquire if you would
15 like for us to provide any additional information that we
16 can.

17 As I said, you will be hearing from
18 representatives of county bar associations I understand.
19 And we would be happy at any time to provide any additional
20 information to the committee. We think that these
21 designated local legal journals are an important source of
22 information to the public and that the revenues support
23 important public programs.

24 And the Pennsylvania Bar Association would
25 urge the committee to not impair the abilities of those

1 journals to provide that notice to the legal communities
2 and public and to enable the bar associations to benefit
3 the public in the programs that are supported by those
4 revenues.

5 Thank you very much for the opportunity to
6 appear on this very important subject.

7 CHAIRPERSON GANNON: Thank you, Mr. Belden.
8 Any questions from any of the committee members?
9 Representative Feese.

10 REPRESENTATIVE FEESE: Thank you, Mr.
11 Chairman. Thank you, Mr. Belden, for your testimony. I
12 guess my question is, Why can the, or why can't the public
13 just gain the information from the newspaper advertisement?
14 I mean, why the duplication with the legal journal?

15 MR. BELDEN: Well, I don't know what the, the
16 sources are in other counties. I'm from Westmoreland
17 County. We have, oh, I don't know, probably 20 newspapers.
18 If I had to look at every newspaper every day to find the
19 kind of information that I need to properly serve my
20 clients, to make sure that they're, the notices were made
21 known to them and if the public had to look at that many
22 newspapers every day to find whether or not there was a
23 notice that affected their property rights or their
24 individual rights, it would be terribly burdensome.

25 I know that each week, I get the local legal

1 journal. And I read through it. And I look at the estate
2 notices, I look at the sheriff sale notices, the tax sale
3 notices, and so forth. And I can go to that single source
4 without having the burden to me or my clients to have to
5 research every publication every day.

6 REPRESENTATIVE FEESE: Well, isn't that a
7 burden to the attorney, not the public? I mean, how many
8 members of the general public read the legal journals?

9 MR. BELDEN: I can't answer that question.
10 But it's important to -- that's who we serve, is the
11 general public. And it's -- the general public is our
12 clients. That's what constitutes our clients. And so when
13 our burden is increased to look at these notices, that
14 increases the burden on the public because that's a cost
15 that must be passed on.

16 And if it's a single source as opposed to
17 multiple sources, then it's important.

18 REPRESENTATIVE FEESE: Some counties do not
19 have legal journals, I believe; is that correct?

20 MR. BELDEN: There is always a designated
21 legal journal. Sometimes it is not owned by the county bar
22 association. I'm not sure that --

23 REPRESENTATIVE FEESE: But the designated
24 legal journal in some counties can be a newspaper?

25 MR. BELDEN: That's correct.

1 REPRESENTATIVE FEESE: So some counties will
2 just use newspapers?

3 MR. BELDEN: I think there are several that
4 do, small counties where there is only one newspaper in the
5 county.

6 REPRESENTATIVE FEESE: I practice in Lycoming
7 County. And I do a lot of work in Sullivan County, a very
8 small county, which does not have a legal journal published
9 by a bar association.

10 MR. BELDEN: But there are only 3 lawyers, I
11 think.

12 REPRESENTATIVE FEESE: I think there's 4 now.
13 Not to mention everyone from Lycoming and Bradford that go
14 there. With 6,000 people, 1 lawyer to 2,000 is a good
15 ratio. But they have a Sullivan Review. And the
16 Williamsport Sun Gazette goes up into Sullivan County and
17 the Towanda Daily News down into Sullivan County.

18 They don't really have a separate legal
19 publication. And there are a lot of estates there. There
20 are a lot of people that move. There are a lot of will
21 estate actions to quiet title where you can't find the
22 people who may have an interest. You have to do it through
23 publication, et cetera.

24 And everything seems to work fine without a
25 separate legal journal. I'm just, I'm just troubled by the

1 sometimes duplication and the extra costs because although
2 they are passed on, so to speak, somebody pays them. No
3 matter who they're passed on to, there's always somebody at
4 the end who pays them.

5 I'm just troubled by the fact that, you know,
6 we have to do sometimes a duplicate publication both in the
7 legal journal and then a newspaper of general circulation.

8 MR. BELDEN: I understand your concern. And I
9 think that the, the single source is the answer to that
10 concern.

11 REPRESENTATIVE FEESE: Thank you.

12 CHAIRPERSON GANNON: Representative Gabig.

13 REPRESENTATIVE GABIG: Thank you, Mr.
14 Chairman. Good morning, Mr. Belden.

15 MR. BELDEN: Good morning.

16 REPRESENTATIVE GABIG: The question I have has
17 to do with the, with the rates. And I followed your
18 testimony. It sounds like there were some rather large
19 differences, variations I guess you'd say, throughout the
20 Commonwealth.

21 If somebody has, you know, a statutory or
22 legal requirement to put notices in some of the areas that
23 you discussed in your earlier testimony, my feeling is that
24 there should be some kind of minimal cost there that they
25 should have to pay if they're legally required to get these

1 notices by statute.

2 The cost due, especially in our legal
3 journals, our county legal journals, should be, you know,
4 enough to pay for the -- and there shouldn't be additional
5 costs to fund all these different programs and -- do you
6 see what I'm saying?

7 And if somebody else wants to advertise in
8 there, then there might be a separate advertisement. But
9 if you have legally required notices you have to put in
10 there, are there separate fees for those versus some other
11 notices that maybe they're not required? Do you see the
12 difference?

13 MR. BELDEN: Oh. Well, I can tell you that
14 the advertising rates for the required legal notices are
15 substantially less than, for example, a court reporter
16 putting an ad in the legal journal or somebody advertising
17 a bank, for example. Those rates are much higher than the
18 rates for the required legal notices in the legal journals.

19 REPRESENTATIVE GABIG: So those -- the rates
20 that you're talking about in your testimony, those have to
21 do with the required legal notices?

22 MR. BELDEN: Correct.

23 REPRESENTATIVE GABIG: And those are the ones
24 that are either below or competitive with their local
25 newspapers?

1 MR. BELDEN: That's correct. In 80 percent of
2 the case, it's below.

3 REPRESENTATIVE GABIG: And then there's higher
4 rates for advertisement. You don't have any information on
5 the breakdown between the revenue generated between the 2?

6 MR. BELDEN: Well, the breakdown that we
7 do have is that in the legal journals from which we
8 heard -- and I think we heard from almost all of
9 them -- those funds which came from governmental entities;
10 that is, the sheriff's office, the register of wills, and
11 so forth, represented a range from 1 percent of the revenue
12 to a top of 11 percent of the revenue of the legal journal.

13 So it was not a significant amount in any
14 case. The highest being 11 percent.

15 REPRESENTATIVE GABIG: My second -- I think
16 some of the counties are moving to web-based or E, you
17 know. Did you find that in your survey or in your,
18 whatever that project you were involved with?

19 MR. BELDEN: There are no publications today
20 of a legal journal on line. The only on-line publications
21 by county bar associations are newsletters. I think about
22 a half dozen have newsletters published by not only paper
23 but also on line if somebody wants them that way.

24 For example, I'm an associate member of the
25 Allegheny County Bar Association. I get their on-line

1 publication a couple times a month, something like that.

2 But those don't contain any advertising.

3 REPRESENTATIVE GABIG: Is there any effort by
4 the Pennsylvania Bar Association to move that? I'm in
5 Cumberland County, and I don't know what's going on up in
6 the Williamsport area. Is there any, anything on the
7 horizon, to your knowledge?

8 MR. BELDEN: Well, there is always an ongoing
9 look at available technology to determine whether or not
10 it's cost-efficient to try to move toward that and also to
11 determine whether or not it still gets where it needs to
12 go. We are, for example, continuing to determine how many
13 lawyers have on-line capabilities.

14 We have at least 2 programs that are going to
15 every county in Pennsylvania, a malpractice avoidance
16 program and now we've got a new on-line legal research
17 program. And through those 2, we are attempting to
18 determine how many lawyers in Pennsylvania have on-line
19 capabilities.

20 To try to extend that to determine how many
21 members of the public would be able to access that
22 information on line is something that would be beyond our
23 ability to undertake.

24 REPRESENTATIVE GABIG: Well, I would
25 incur -- and I guess that would get to Representative

1 Feese's question about the public. I think they would have
2 more access to something that was on line versus the, you
3 know, traditional county legal journals. I think the
4 public would have a lot better access to that.

5 So that's why -- I think that would be a good
6 thing to look into. But thank you for your answers. Thank
7 you, Mr. Chairman.

8 CHAIRPERSON GANNON: Representative Clark.

9 REPRESENTATIVE CLARK: Mr. Belden, you're the
10 president of the 28,000-member Pennsylvania Bar
11 Association --

12 MR. BELDEN: Correct.

13 REPRESENTATIVE CLARK: -- of which I am a
14 member.

15 MR. BELDEN: Wonderful.

16 REPRESENTATIVE CLARK: And you are here today
17 to tell us that legal journals are good; they're justified;
18 and they're cost-effective.

19 MR. BELDEN: Correct.

20 REPRESENTATIVE CLARK: What about the 4
21 counties that I represent in my legislative district that
22 have no legal journals and have to pay the cost of a weekly
23 newspaper, which is sometimes 5 or 6 times the cost of a
24 legal journal? Has the Bar Association done anything to
25 look into that segment of the expense on this issue?

1 MR. BELDEN: Well, as a matter of fact, I
2 learned only recently myself that there are a number of
3 counties that do not have designated legal journals. The
4 problem is that in those areas, the county bar associations
5 are typically small, don't have an office. And their
6 business is run out of the president's office, and his or
7 her secretary does all of the work for the bar association.

8 And one of the things, as a result of the
9 barnstorming efforts that we did this year, is that we're
10 going to look into things such as that where the
11 Pennsylvania Bar Association can aid the smaller counties
12 in administrative things.

13 And perhaps that would be an ideal thing for
14 the Bar Association, the Pennsylvania Bar Association to
15 look to to help county bar associations in that kind of
16 administrative work. I think it's a terrific idea.

17 REPRESENTATIVE CLARK: And I think it's a
18 terrific idea that this has come to light. And perhaps in
19 the bar association's office downtown, you could hang a
20 sign that there are other people between, you know, the
21 Allegheny Mountain and the Susquehanna River. Thank you.

22 CHAIRPERSON GANNON: Any other questions,
23 questions from committee members? (No response.) Mr.
24 Belden, where there is no legal journal for the county, the
25 bar association does not have one, a newspaper is

1 designated as the legal journal in those counties where
2 that occurs?

3 MR. BELDEN: Yes.

4 CHAIRPERSON GANNON: Where there is a
5 requirement that advertisement be made in the legal journal
6 for the county as well as a newspaper of general
7 circulation, how is that handled in those types of
8 counties, do you know?

9 MR. BELDEN: I do not. Apparently, they are
10 one in the same. So the statute theoretically is not
11 complied with.

12 CHAIRPERSON GANNON: Well, thank you very much
13 for appearing before the committee today and enlightening
14 us on the importance of legal journals to the legal
15 community and to the public with respect to the publication
16 of legal notices.

17 MR. BELDEN: It was my pleasure to be here.
18 Thank you very much.

19 CHAIRPERSON GANNON: Our next witness is Mr.
20 James Webb, President of the Pennsylvania Newspaper
21 Publishers; and Karen Dolphin-Beem of the Pennsylvania
22 Newspaper Publishers; and Brian Gottlieb, General Manager
23 of MyPublicNotices.com. Welcome, gentlemen and lady. And
24 you may proceed when you're ready.

25 MR. WEBB: Thank you. Good morning, Chairman

1 Gannon and Chairman Blaum and members of the House
2 Judiciary Committee. My name is Jim Webb, Publisher of
3 Berks-Mont Newspapers. Thank you for inviting the PNA to
4 testify at this hearing.

5 This study gives PNA and its more than 220
6 members a great opportunity to highlight our industry's
7 superior history of providing timely publication of public
8 notices and address additional ways our industry
9 disseminates public notification at no additional cost to
10 public agencies.

11 When the first members of Congress met in
12 1789, these lawmakers agreed that the best medium for
13 public notification was the newspaper. While there were
14 other forms of notification, such as employing the town
15 prior or posting leaflets, these original lawmakers
16 recognized the newspaper was the best form for public
17 notification.

18 To this day, in spite of many forms of mass
19 communication, such as radio, television and yes, even the
20 Internet, the law still recognizes the newspaper as the
21 best form for public notice. Newspapers are the only
22 printed publications that appear frequently enough and are
23 distributed widely enough within our geographically defined
24 communities to achieve the notice constitutionally due to
25 the public.

1 Unlike a broadcast, unlike a broadcast
2 transcript or a web page, reproduction of the newspaper
3 speaks for itself as an authentic record of publication
4 because the newspaper's basic format -- dated editions that
5 are fixed in print and sold in thousands -- makes it
6 possible for judges, lawyers, and litigants to determine
7 quickly and conclusively whether a public notice was or was
8 not given in accordance with the law.

9 Electronic communications require mechanical
10 reproduction or transcription before they can be introduced
11 as evidence in a legal proceeding. The Worldwide Web in
12 particular lacks the archival standards and resources of
13 the newspaper industry.

14 Many web sites have pages that a computer,
15 many web sites have pages that a computer repeatedly builds
16 with information drawn from a connected database at a
17 user's request. The content of such pages does not have to
18 have a fixed form and can change literally minute by
19 minute, user by user.

20 Although broadcasters and webmasters do
21 archive their content, those archives simply can't compare
22 to the newspapers' archives in terms of accessibility,
23 security from alteration, permanence, or any other aspect
24 of authenticity.

25 As you know, public notices are an essential

1 ingredient of a representative democracy which depends upon
2 the participation of educated, responsible citizens.
3 Public notices preserve the fundamental rights and
4 interests of the citizens of Pennsylvania.

5 Merely having public notices available for
6 those who routinely review public notices is not the
7 mission of public notification. The purpose since the
8 founding of this country has been to inform citizens of
9 governmental activities.

10 Without a doubt, newspapers are still the best
11 medium for getting information to the general public
12 without regard or distinctions, to distinctions of age,
13 sex, ethnicity, income, and other personal characteristics.
14 The newspaper is virtually the last medium of content
15 communication that serves the entire community.

16 Newspapers regularly reach and serve the
17 public without regard to its social, ethnic, religious or
18 cultural divisions and are among a handful of institutions
19 that can still claim to offer universal public service.
20 Most Pennsylvanians, whether or not they have cable or
21 Internet service, consider the newspaper the primary source
22 of information about their local community and
23 neighborhoods.

24 Dependability is the hallmark of newspapers.
25 Week in and week out, regardless of weather conditions,

1 holidays, and other factors that might affect production
2 and distribution, the newspaper appears on the doorstep or
3 on the news racks.

4 When a government or private advertiser places
5 a public notice in the newspaper, it can count on the ad
6 reaching the public within the time specified by law. And
7 citizens can expect to stay informed on a timely basis when
8 they read the newspaper.

9 The Worldwide Web, on the other hand, is not a
10 mature enough medium to be the sole communicator of
11 government information. Because of the diffusion of the
12 web's audience and the multiplicity of web sites, the
13 Internet of today is an inappropriate medium for
14 public -- I'm sorry -- for publishing public notices.

15 Web sites are routinely subject to
16 interruptions and intrusions by hackers and others
17 impersonating or stealing identities to access private
18 information. It's impractical for government agencies in
19 Pennsylvania to self-publish their public notices on the
20 Internet.

21 There are hundreds of local agencies that
22 don't have a single desktop computer on which to create and
23 transmit digital ads, let alone the resource to publish
24 their own web sites. It will take considerable effort to
25 find and read the ads, especially for lawyers, government

1 vendors, public officials, and others with the duty to
2 conscientiously monitor public notices.

3 The Commonwealth would assume a tremendous
4 operational and funding burden if it hosted a central
5 statewide web site for all public notice ads. The
6 Commonwealth would be responsible for receiving and
7 processing literally hundreds of thousands of
8 advertisements annually and would also be responsible for
9 archiving and verifying the advertisements.

10 It would require government support of
11 hardware and software, as well as service providers,
12 information managers, liaisons to each department, and
13 archiving managers. There are hundreds of local agencies
14 that don't have a single desktop computer on which to
15 create and transmit digital ads, let alone resources to
16 publish their own web sites.

17 The considerable hardware and software,
18 bandwidth, maintenance, and training costs required to
19 equip all local agencies will either have to come from the
20 Commonwealth treasury or be imposed on local agencies as an
21 unfunded state mandate. The Commonwealth would assume a
22 tremendous operational and funding burden if it hosted a
23 central statewide web site for all public notices.

24 Since public awareness and education is the
25 primary purpose of public notice, the newspaper industry

1 actively supports auxiliary methods of public notice, such
2 as the Internet, that complement but do not replace
3 newspaper ads.

4 As a public service and at no additional cost
5 to advertisers, public or private, PNA members have created
6 a web site, MyPublicNotices.com, for collecting public
7 notices from around the state. The web site is a valuable
8 adjunct to printed notices and a good method of promoting
9 active and informed citizenship.

10 The state or its local government agencies
11 should not expend public funds to duplicate MPN. MPN
12 operates in conjunction with Pennsylvania newspapers to
13 increase the audience of public notices in a way that
14 multiple government-managed web sites can't.

15 MPN provides the public with free, convenient
16 access to public notice ads through an easy-to-use search
17 tool. Furthermore, it has created an unprecedented
18 information resource for government vendors, retail
19 lenders, small businesses, law firms, and other
20 enterprises.

21 Anyone connected to the web can view current
22 public notices through MPN without cost and with a minimal
23 amount of advertising intrusion. A simple search tool
24 helps users quickly locate a particular public notice or
25 all the public notices related to a particular community or

1 topic.

2 In addition, the public can search archived
3 public notice ads, visit participating newspapers' web
4 sites, and acquire aggregated public notices in a
5 customized digital format. Operating in conjunction with
6 newspapers, MPN helps them expand the audience for public
7 notice advertisements, promote their own web sites, and
8 keep the public informed about community affairs.

9 The newspapers do not pay a fee for
10 participating and are provided with the necessary technical
11 help and information. Attached is a list of the newspapers
12 currently uploading their public notices to MPN. Many
13 other newspapers are in the process of starting daily
14 uploads. And MPN will collect public notice ads from
15 newspapers throughout America in the near future.

16 Once again, I thank you for the opportunity
17 for presenting PNA's views on this subject. And I'd be
18 happy to answer any of your questions.

19 CHAIRPERSON GANNON: Thank you, Mr. Webb. Are
20 any of the other individuals there with you offering
21 testimony or just there for backup?

22 MR. GOTTLIEB: Mr. Chairman, we're here to
23 answer any questions that you may have. But Mr. Webb's
24 statement is for all 3 of us.

25 CHAIRPERSON GANNON: Thank you. Questions by

1 the committee?

2 REPRESENTATIVE PETRARCA: Just one question,
3 Mr. Chairman. Where is this list, the list of papers
4 attached?

5 MS. DOLPHIN-BEEM: Yeah, I have that list. I
6 can --

7 REPRESENTATIVE PETRARCA: Thank you.

8 CHAIRPERSON GANNON: Representative Gabig.

9 REPRESENTATIVE GABIG: I'm glad I listened to
10 the last part of your testimony about the dot com. I
11 didn't get the web site. But the point I made with the
12 Pennsylvania Bar Association is sheriff sales, let's just
13 take sheriff sales as an example.

14 I'm looking for some mountain property here in
15 the great state, Commonwealth of Pennsylvania. And I want
16 to look at sheriff sales across the state. I'm going to
17 look at the Williamsport paper and all the papers across
18 the Northern Tier, wherever I'm looking.

19 It would seem if there was a centralized site,
20 that would make it easier. Then I could go to maybe, once
21 I've narrowed my search, so to speak, to their paper. So I
22 guess -- what did you call it, auxiliary or backup or
23 enhancing? What was the term that you were using in terms
24 of the web?

25 MR. GOTTLIEB: It was an auxiliary resource.

1 That's right.

2 REPRESENTATIVE GABIG: And what was the web
3 site for that?

4 MR. GOTTLIEB: Yeah, the address is
5 www.MyPublicNotices -- that's notices plural -- dot com.
6 And that's all one word. There's no spaces and no
7 punctuation.

8 REPRESENTATIVE GABIG: And then your thought
9 is that, therefore, in terms of our E-government
10 initiatives here in Pennsylvania, that we can stay away
11 from that. And then you guys have sort of covered that
12 web-based notice in terms of these legal notices. Is
13 that --

14 MR. GOTTLIEB: That's correct.

15 REPRESENTATIVE GABIG: Okay. All right.
16 Thank you, Mr. Chairman.

17 CHAIRPERSON GANNON: Any other questions from
18 any of the members of the committee? (No response.) Just
19 one question. Why, why does it cost more -- from what we
20 heard in the testimony of the prior witness -- why does it
21 cost more to advertise in the newspaper than it does in the
22 legal journal? Apparently, there's a big difference in the
23 advertising rates there.

24 MR. WEBB: That may be true in some cases. At
25 least in mine, I have weekly newspapers in Berks County.

1 And I know ours, our legal rate is less than the legal
2 journal. I don't know if the legal journal's rate is less
3 or more than the Reading paper, which is The Daily in Berks
4 County. But our rate is less than both The Daily and the
5 legal journal.

6 CHAIRPERSON GANNON: Now, is your, is your
7 particular paper, the weekly, is that the designated legal
8 journal for that county or --

9 MR. WEBB: No. We get, we get estate notices,
10 those types of things.

11 CHAIRPERSON GANNON: Is your circulation
12 county-wide or --

13 MR. WEBB: No, it's regional. I have 4 weekly
14 newspapers in Berks County, and they're each regional. One
15 in Kutztown, one in Hamburg, one in Birdsboro, and one in
16 Boyertown. They're regional in nature in the county.

17 MR. GOTTLIEB: Maybe I can just add something
18 very quickly to that, Mr. Chairman. And that is that --

19 CHAIRPERSON GANNON: Sure. Can you identify
20 yourself for the court reporter?

21 MR. GOTTLIEB: Yes. My name is Brian
22 Gottlieb. And I'm General Manager of the web site we were
23 talking about earlier, MyPublicNotices.com. There really
24 isn't -- as far as I know, nobody's undertaken any kind of
25 a comprehensive study of ad rates across the Commonwealth

1 for either the newspapers or for the bar journals.

2 What Mr. Belden testified to this morning, the
3 survey of the bar journals is the, obviously it covers a
4 part of that territory but not the general circulation
5 newspapers. So I don't know that it is a fact that the
6 rates are higher in newspapers of general circulation.

7 The statutory scheme for setting rates, as the
8 committee knows well, is essentially a market-driven
9 system. Newspapers get to determine their rate. They have
10 to make it public. They have to notify advertisers in the
11 event that they intend to raise the rate at any time.

12 But essentially, the statutory scheme leaves
13 it up to the market and, because newspapers are local
14 products, the local markets to determine what the ad rates
15 are. So, you know, it's our position that that,
16 considering our economic system, that's an appropriate way
17 for the cost of the advertising to be set.

18 And just one other thing to point out, and
19 that is that as Mr. Webb testified to, in many of our
20 counties, we have numerous -- both private advertisers and
21 government agencies have several choices as to which
22 newspaper or which publication they'll place a legal notice
23 in.

24 And of course, newspapers compete with each
25 other in terms of getting advertising. And that

1 competition helps keep rates down for, for the customers.
2 And therefore, the competition helps keep the legal notice
3 rates, the publication rates, you know, within fair
4 market-related levels.

5 CHAIRPERSON GANNON: How are you disseminating
6 the fact that you have this web site that contains these
7 legal notices?

8 MR. GOTTLIEB: We're doing several things.
9 One thing we're doing is in the next few weeks, we're going
10 to be starting a print campaign. We have a -- we put
11 together a series of house, what are called house ads,
12 basically ads that newspapers can run to promote the
13 content within the newspaper itself.

14 And those ads are educational. They try to
15 inform the public of the importance of legal notice, what
16 kind of content is in there, what kind of information is in
17 there, and where in the newspaper they can find those.
18 We're also using -- if any of you have a chance to go to
19 the web site, you can see that really a lot of the content
20 on the web site, in addition to the notices themselves, is
21 intended to educate the public and members of the business
22 community about the importance of legal notice and how they
23 can use the information in legal notices to, in their
24 business lives and in their everyday lives.

25 And then also, we've undertaken a campaign of

1 publicizing the web site and legal notices in general to
2 communities that have particular interests in public
3 notice; for example, the legal community, the banking
4 community, the real estate community.

5 And we do that by direct, essentially by
6 direct marketing. We send E-mails, we send faxes that
7 highlight, you know, individual notices and say these are
8 representative of the kinds of, the kind of information
9 that you'll find when you look in the legal notice section
10 of the newspaper.

11 CHAIRPERSON GANNON: Representative Hennessey.

12 REPRESENTATIVE HENNESSEY: Thank you, Mr. Webb
13 and Mr. Gottlieb. Most media type, most media sources, I
14 guess, survey people and find, so they can determine what
15 their readership is, what their representative households
16 are tuned into a particular TV station.

17 I assume you do that in PNA across the board
18 probably for, or at least its member newspapers might do it
19 to find out what their total circulation is and perhaps
20 justify increases of advertising rates as a result of that.
21 Has anybody ever surveyed what percentage of the population
22 at large reads the legal section?

23 I mean, has anybody ever asked that specific
24 question? I know in my hometown, I might get a call asking
25 if I read the Mercury or get the Daily Local out of West

1 Chester. But nobody's ever asked me if I read a particular
2 section of the newspapers, and I'd be interested if
3 anybody's ever done a survey like that.

4 MR. WEBB: Not that I'm aware of. We, we had
5 done surveys before. But we've never -- and usually, it's
6 sections, that we ask for sections of our newspaper what
7 they like and dislike in the survey. I don't believe we've
8 ever asked if anyone's actually read legal notices.
9 Classified in general, yes. But not the legal notices.

10 REPRESENTATIVE HENNESSEY: They'll probably
11 tell you they can't read it because the print is so small.
12 As I get older, it gets harder and harder to read.

13 MR. WEBB: I agree with that. It does get
14 harder and harder.

15 REPRESENTATIVE HENNESSEY: As a matter of
16 interest, it might be enlightening for us at some point in
17 time for, if you ever do have a survey that specifies the
18 legal section of the newspaper, to find out what percentage
19 of your readership reads it on a routine basis, not just,
20 you know, on a special occasion when they might have an
21 estate notice in but on a regular basis.

22 If you would, I'd appreciate that information
23 at some point. Thank you. Thanks, Mr. Chairman.

24 CHAIRPERSON GANNON: Representative Feese.

25 REPRESENTATIVE FEESE: Thank you, Mr.

1 Chairman. I believe, Mr. Webb, you indicated the
2 association has 262 members?

3 MR. WEBB: 220.

4 REPRESENTATIVE FEESE: 220 members. The list
5 that was passed out of the newspapers that were
6 participating with MyPublicNotices.com is less than that.
7 Why doesn't everyone just participate? I think --

8 MR. WEBB: I can't speak for everyone. As
9 soon as we could, we did. We thought it was valuable for
10 our readers. We have our own web site. So we thought it
11 was valuable for our readers. I don't know. Maybe Brian
12 could talk to that.

13 MR. GOTTLIEB: I would say that it's primarily
14 a technical issue. And I have not yet encountered a
15 publisher or an editor who has said no about participating
16 in MyPublicNotices. They all recognize the importance of
17 legal notice.

18 And they want to participate. It's just a
19 question of marshalling the resources that it takes to get
20 the data up on the web site. It's a, it's a somewhat
21 complicated process because every newspaper -- not every
22 newspaper -- but there's a wide variety of software
23 platforms and publication applications that newspapers can
24 use to put their content out into the public.

25 And therefore, the problem that somebody like

1 I have when you try to aggregate information from those
2 many sources is that you have to find some kind of a
3 universal format that everybody's content will fit into so
4 that when a person goes to the web site, they can see
5 everybody's content and it's in the same form, it looks the
6 same way, it has all the same fields of information in it.

7 So it's essentially a technical issue. I
8 think we're making very good progress in terms of getting
9 newspapers on board. If you do look at the list, you'll
10 see that most of the major daily newspapers from around the
11 state are already members. And we're doing the best we can
12 to pick up the smaller newspapers as well.

13 REPRESENTATIVE FEESE: Another question. The
14 220 members of the association, what percentage of the
15 population or how many, how many readers do the 220 have
16 total? Do you have any idea about that? I'm trying to
17 get -- or maybe look at how many newspapers are there that
18 would be eligible to join the association.

19 I'm trying to get an idea of how many people
20 the 220 newspapers cover, that if they all were involved
21 with MyPublicNotices.com --

22 MR. GOTTLIEB: Well, first of all, every
23 newspaper of general circulation in Pennsylvania that I,
24 that I know of, that the association knows of is already a
25 member of the association. There are very, very few

1 newspapers as we understand that term; that is, you know,
2 publications that publish daily or weekly would qualify as
3 periodicals under US Postal Service regulation that have
4 editorial content for the general public as opposed to, you
5 know, hobby enthusiasts or people who live in a particular
6 housing development, something like that.

7 Virtually all of those newspapers are members
8 of the Newspaper Association. And I would say that, that
9 virtually everybody in Pennsylvania is covered, if you
10 will, by, by one of those members.

11 REPRESENTATIVE FEESE: Thank you. Thank you,
12 Mr. Chairman.

13 CHAIRPERSON GANNON: Thank you very much, Mr.
14 Webb, Mr. Gottlieb, for appearing before the committee this
15 morning and providing us with this important information
16 about the function of newspapers of general circulation and
17 legal advertising. Thank you.

18 MR. WEBB: Thank you very much for having us.

19 MR. GOTTLIEB: Thank you.

20 CHAIRPERSON GANNON: Our next witness is
21 Shelley Houk, or Houk, Director of Research, Pennsylvania
22 State Boroughs Association. Is that correct, Houk?

23 MS. HOUK: Houk.

24 CHAIRPERSON GANNON: Houk. Welcome, Ms. Houk.
25 And you may proceed when you're ready.

1 MS. HOUK: Thank you. Good morning, Mr.
2 Chairman and members of the Judiciary Committee. I've been
3 Director of Research for the Pennsylvania State Association
4 for the past 15 years. And I'm very pleased today to
5 testify on behalf of the 962 boroughs in the Commonwealth.

6 While I was preparing my information, I had
7 looked back in a file that I prepared. There are 38
8 provisions in the Borough Code, the Sunshine Act, the
9 Municipalities Planning Code, and the Local Tax Enabling
10 Law that requires legal advertisements, as you will note
11 from your handouts.

12 And most people pass more than one ordinance a
13 year. Some multiply the advertising requirements by the
14 number of ordinances they amend, repeal, or enact for the
15 very first time. This also increases substantially the
16 cost when they're advertising property for sale, when
17 they're going out for bids.

18 And there are times when no bids are received
19 and they have to go back and re-advertise again. According
20 to a telephone call and E-mail poll that we conducted at
21 the office, the ranges of the advertising expense run from
22 \$600 a year for the small borough of Biglerville in Adams
23 County to over \$9,600 a year for Westmont Borough in
24 Cambria County. And there are many variations in between.

25 In your request for information, you asked if

1 we would have some information as well as staff time. Most
2 municipal secretaries, managers I know do more than one
3 task at one time. So it was a little bit difficult to
4 calculate that they would be picking up the phone, they
5 would be taking care of someone at the, at the window. And
6 it was very difficult to calculate.

7 Our members have told me over the years that
8 it is very expensive to advertise. I was told, for
9 instance, to advertise 3 lines in one paper in the North,
10 it was \$138. Also, we do have some suggestions from our
11 members as well as our staff.

12 We do ask for paring down or a reduction in
13 some of the advertisements, not to totally eliminate it.
14 But for instance, Act 511, the Local Tax Enabling Law of
15 1965, when you intend to adopt an ordinance for the very
16 first time, you must advertise it once a week for 3
17 successive weeks. We would like to see that reduced
18 perhaps to 2 times or even 1 time.

19 Another very, very costly advertisement is at
20 the end of the fiscal year when an annual audit is done.
21 And I present Exhibit D to you. Section 1043 of the
22 Borough Code states it must state everything in its
23 entirety.

24 What we would recommend for this section,
25 amendment to 1043, is that you allow us to put a notice

1 that the annual budget is available for inspection during
2 normal business hours, which is what we do with the
3 municipal budget.

4 As we say, we do not intend to eliminate or
5 remove any contact to the public to view these ordinances,
6 to see government in the making. We just ask that they
7 would be pared down. I look forward to working with you in
8 any way that I may, I can. And I would welcome any
9 questions you have at this time.

10 CHAIRPERSON GANNON: Representative Feese.

11 REPRESENTATIVE FEESE: Thank you, Mr.
12 Chairman. I don't have a question. I just want to thank
13 Ms. Houk for her testimony. And it's nice to see you.
14 We've had an opportunity to discuss many, many issues over
15 the years over the telephone.

16 You've been extremely helpful. And the
17 Boroughs Association is certainly well-served. And
18 Shelley, nice to see you. And thank you.

19 REPRESENTATIVE CLARK: I'll echo that.

20 CHAIRPERSON GANNON: Representative Gabig.

21 REPRESENTATIVE GABIG: Just briefly, Mr.
22 Chairman. You know, I've sometimes found when I'm trying
23 to communicate with people that it's cheaper to mail them
24 stuff than put it in the newspaper when you look at your
25 advertising budget, you know. And we've all had to try to

1 communicate with people in various ways in our lifetimes.

2 And direct mail sometimes can be, as I said,
3 cheaper than advertising. And then you can get people that
4 say I don't want to be on that mailing list. I never read
5 the notices in the paper. I don't care about the sheriff
6 sale. Take me off.

7 What's your thoughts on -- I guess what
8 we're -- you know, that's one of the things that we're
9 doing here. I mean, what's your thoughts on -- do you
10 think that that money that's being spent could be more
11 wisely spent in another way at the borough level?

12 MS. HOUK: I do receive questions about why do
13 we have to advertise when nobody shows up for the meetings
14 other than the regular people. By no means should we ever
15 totally eliminate the advertisement. You need to get
16 notice out to the public.

17 But there might be additional ways. The
18 Worldwide Web, that was one thought. As long -- maybe in
19 place -- if there's 2 advertising requirements, maybe one
20 in the newspaper and, in addition, into the paper. But
21 when it comes to the new technology, surveying our members
22 as far as who has the Internet, not a lot of people do.

23 And you'll have some folks -- I know they've
24 done national surveys -- that will refuse to use the
25 Internet forever. But we're just asking for maybe the

1 Worldwide Web to supplement it or just to cut down,
2 especially those 3 advertisements, down to 1 perhaps under
3 the Act 511 as I mentioned before.

4 REPRESENTATIVE GABIG: Thank you very much.
5 Thank you, Mr. Chairman.

6 CHAIRPERSON GANNON: Ms. Houk, what
7 does -- you're telling us that an ad, this has to appear in
8 its entirety?

9 MS. HOUK: This has to appear in its entirety.
10 You cannot put a summary and say the complete audit is
11 available for inspection at the borough hall.

12 CHAIRPERSON GANNON: What's an ad like this
13 cost, do you know?

14 MS. HOUK: No. I'm sorry. No one was able to
15 supply me a figure.

16 CHAIRPERSON GANNON: How many times does this
17 have to appear?

18 MS. HOUK: One time. It usually appears in
19 your paper around March 31st, a little bit thereafter.

20 CHAIRPERSON GANNON: I notice here on the
21 schedule of advertising requirements, there was one that
22 struck me. It said that street opening, Section 1732, it
23 says at least 15 days' notice. Now, does that ad have to
24 appear in a newspaper of general circulation?

25 MS. HOUK: Yes, it does.

1 CHAIRPERSON GANNON: And the next one is a
2 street vacation. It says 30-day notice to affected
3 property owners. Does that also have to appear in --

4 MS. HOUK: That is my understanding. Yes, it
5 does.

6 CHAIRPERSON GANNON: Because the thing that
7 caught me was affected property owners, which would
8 probably be the people that live adjacent to that street.
9 And maybe a telephone call or a postcard would serve the --

10 MS. HOUK: Well, there is a requirement for
11 registered mail in addition.

12 CHAIRPERSON GANNON: Okay. In addition to
13 the -- what's that run, about 3 or 4 bucks a letter,
14 registered letter?

15 MS. HOUK: Uh-huh.

16 CHAIRPERSON GANNON: Are there any other
17 questions from the committee members? (No response.)
18 Well, thank you very much for appearing before the
19 committee and providing us with the information from the
20 Pennsylvania State Boroughs Association with respect to the
21 legal advertising, or the advertising of legal notices.

22 Our next witness is Mr. Thomas W. King, III,
23 Solicitor for the Pennsylvania Sheriffs' Association.
24 Welcome, Mr. King. And you may proceed when you're ready.

25 MR. HNATH: Good morning, Mr. Chairman. For

1 those of you who know Mr. King, I'm not Mr. King. My name
2 is Michael Hnath. I'm an associate with Mr. King's firm.
3 Due to his back injury, I've been asked to provide the
4 testimony here this morning. So my name is Mike Hnath.
5 I'm here today --

6 CHAIRPERSON GANNON: Well, you're welcome,
7 too.

8 MR. HNATH: Thank you very much. If anybody
9 knows Mr. King, he's about a foot taller than me and much
10 darker hair. So -- but I'm here today on behalf of the
11 Pennsylvania Sheriffs' Association, along with Mary Beth
12 Hill, the Executive Director of the Association. And we'd
13 like to thank the committee for the opportunity and the
14 invitation to speak here today on the issues before it.

15 As indicated in Mr. Belden's earlier
16 presentation, the sheriff's office is primarily involved in
17 the publication of legal notices in conjunction with the
18 role of the sheriff in conducting mortgage foreclosures and
19 sheriff sales and executions on money judgments obtained in
20 the Courts of Common Pleas throughout the Commonwealth.

21 There is one primary rule that governs the
22 sheriff's obligation in this regard, and it's Rule of Civil
23 Procedure 3129.2. And for those of you who are not
24 familiar with the rule, essentially it requires publication
25 in 2 manners.

1 One is the handbill, which contains
2 information on the property and the judgment, must be
3 posted in the sheriff's office and must be posted on the
4 property being subject to sale. In addition to the posting
5 and tacking of the handbills, the sheriff's office is
6 required to advertise, both in a paper of general
7 circulation and in a county legal journal, if designated,
8 notice of the advertisement once a week for 3 consecutive
9 weeks.

10 So in those counties in which there is both a
11 general paper as well as a designated journal, the sheriff
12 would be required to advertise on 6 occasions for each
13 sale. And what we've provided in our written
14 submittal -- and I can summarize for you here today -- we
15 did contact several sheriffs' offices across the
16 Commonwealth to get an idea of the number of personnel that
17 are required in those various locations.

18 And they do range, as you might suspect, by
19 the size of the counties as well as the volume of
20 foreclosure business being conducted through the sheriff's
21 office. In Butler County, where we are located, as well as
22 in Bradford County, there is only one deputy involved in
23 preparing the advertisements and submitting them to the
24 newspapers and legal journals for advertisement.

25 In Erie County, there are 2 people involved in

1 this. In Allegheny County, we were advised that there are
2 3 people involved. And the process varies between the
3 counties. In those counties where there are more than one
4 newspaper of general circulation, I think the general
5 practice is to alternate between those newspapers either on
6 a monthly or weekly basis.

7 As we indicated, in Delaware County, in
8 Philadelphia County, there are higher volumes. In Delaware
9 County, they reported to us that there are approximately
10 150 sheriff sales per month. In Philadelphia, the volume
11 is so great that there is actually an outside company
12 involved in doing the legwork in preparation of the legal
13 publications and notices that do get provided to the
14 newspapers and the legal journals.

15 What's interesting to note is that in Delaware
16 and in Philadelphia, they have in fact utilized the web
17 sites that are available as a supplement to the requirement
18 for advertising of the judicial and foreclosure sales
19 conducted by the sheriff.

20 There are a few points that we'd like to echo
21 that I think have been raised here this morning. The
22 sheriff is -- the sheriffs' offices across the Commonwealth
23 certainly are cognizant of the committee's concerns over
24 cost-effectiveness.

25 And I think the role of the legal journal

1 needs to be examined to determine if in fact it is
2 cost-effective, if the general public utilizes those
3 publications to obtain information.

4 The other thing that we would like the
5 committee to examine if it can would be what must be
6 contained in a legal description. I think the practice
7 varies as to whether or not it's a simple description or a
8 complete metes and bounds description for those who
9 practice in the area of real estate, which are rather
10 lengthy. And of course, the cost for the advertisements is
11 generally a factor of the length of the advertisement.

12 As indicated by the Borough Association
13 representative, I think the -- and the association believes
14 that the requirement for advertising in 3 consecutive weeks
15 ought to be examined as well. We're not sure that that's
16 absolutely necessary.

17 And the final thing that we would recommend is
18 that the committee in fact contact the various counties,
19 Philadelphia and Delaware in particular, and talk to them.
20 And we can help provide information on their utilization of
21 web sites to get notice to the public.

22 CHAIRPERSON GANNON: Thank you. Mr. Hnath?

23 MR. HNATH: Correct.

24 CHAIRPERSON GANNON: Any questions from the
25 committee? (No response.) Just one question. That

1 requirement of 3 consecutive weeks, is that both in the
2 legal journal and the newspaper?

3 MR. HNATH: That's correct. If a legal
4 journal is designated, it would require advertisement in
5 both on 3 consecutive weeks.

6 CHAIRPERSON GANNON: One of the things that
7 strikes me -- you mentioned Delaware County, and that's my
8 county -- that the legal journal is circulated in the
9 county entirely. Every lawyer in the county who's a member
10 of the bar association receives a copy of the legal
11 journal.

12 Most of the newspapers in general circulation
13 are not circulated in the entire county. Does that mean
14 that the sheriff's department has to place an ad in each of
15 those papers so that the entire county is covered or just
16 one of those newspapers?

17 MR. HNATH: Mr. Chairman, I'm not familiar
18 with what the circulation extent is for those newspapers.
19 Whether they have to be placed in more than one newspaper,
20 I wouldn't be able to tell that.

21 CHAIRPERSON GANNON: Well, let me just place
22 it in more of a hypothetical then. That is, if a newspaper
23 does not circulate within a county entirely, whether it's
24 Delaware or any county, does the sheriff's department place
25 an ad in every paper to make sure that, or general

1 circulation to make sure that the entire county is covered?

2 MR. HNATH: I don't think that the requirement
3 is that the newspaper be circulated in the entire county.
4 The rule specifically says a newspaper of general
5 circulation which would be available. Now, I'm not sure
6 that means it physically has to be distributed to all
7 points in the county.

8 In Butler County, for instance, the
9 publication is the Butler Eagle. And if you go to the
10 corners of the county, you know, that may not be
11 circulated. But that is the newspaper of general
12 circulation within Butler County.

13 CHAIRPERSON GANNON: So you have a situation
14 where you're paying for an ad for the legal journal, and
15 that's being distributed within the entire county to every
16 lawyer and I guess other --

17 MR. HNATH: Anybody else who subscribes to it.

18 CHAIRPERSON GANNON: Subscribes to it and may
19 be interested in that type of advertising, banks or
20 mortgage companies, attorneys. And then you have the
21 newspaper of general circulation, which is only maybe being
22 distributed in part of the county.

23 So really, you know, there's a problem. As I
24 see it, there's a problem. The thrust of the law is to
25 provide general information to the public. Yet by nature

1 of the circulation of that newspaper, the general public in
2 that county isn't entirely getting that information.

3 MR. HNATH: That may well be the case. And
4 the rule also, as I indicated, does require the notice to
5 be posted outside of the sheriff's office. And of course,
6 the county seats are accessible to the public even though
7 it may be some miles away.

8 CHAIRPERSON GANNON: Well, thank you very much
9 for appearing before the committee today and providing us
10 with the views and information from the Pennsylvania
11 Sheriffs' Association.

12 MR. HNATH: Thank you very much.

13 CHAIRPERSON GANNON: Our next witness is Mr.
14 David Blaner, Esquire, Executive Director of the Allegheny
15 County Bar Association. Welcome, Mr. Blaner. And you may
16 proceed when you're ready.

17 MR. BLANER: Good morning. Just a correction.
18 I am not esquire. I'm not an attorney but an administrator
19 for the county bar association. As I stated, I'm the
20 Executive Director of the Allegheny County Bar Association.
21 And we are located, headquartered in Pittsburgh,
22 Pennsylvania.

23 We have 6,900 members which are attorneys and
24 judges from Allegheny County and surrounding counties in
25 Western Pennsylvania. And why should we be here to testify

1 is the fact that the Allegheny County Bar Association is
2 quite unique in that we own and publish the daily
3 Pittsburgh Legal Journal.

4 And we are the only bar association,
5 metropolitan bar association in the United States that owns
6 a major daily legal journal. All of the others are owned
7 by commercial entities, private families, et cetera. Our
8 legal journal has been in existence since 1853.

9 The bar association itself was created and
10 established in 1870. So the legal journal dates back
11 before the actual formation of our association and was
12 providing legal notice and publication to the community.
13 We are the official -- the bar association's legal journal
14 is the official publication, the legal newspaper for the
15 Allegheny County Court of Common Pleas.

16 And we also serve as the paper for giving
17 notice for the United States District Court for Western
18 Pennsylvania, United States Bankruptcy Court. And
19 obviously, we publish notices for the Supreme Court, the
20 Commonwealth Court, and the Superior Courts of
21 Pennsylvania.

22 We have a circulation of 4,500, even though
23 our membership is 6,900. It's subscription-based. And a
24 number of the attorneys who really do not practice in
25 certain areas feel there isn't a need to purchase the

1 journal and receive its benefits.

2 Types of notices that we publish on a routine
3 basis: Sheriff sales, adoption notices, estate notices,
4 treasurer sales, tax liens, termination of parental rights,
5 notice of condemnation, articles of incorporation, change
6 of name, and then something called miscellaneous ads which
7 tend to pick up a number of areas, also fictitious name
8 registrations, notice for private sale of real estate,
9 foreclosure notices.

10 We also publish the trial list on a daily
11 basis and then any of the rule changes that are going into
12 effect in Allegheny County for the Court of Common Pleas or
13 rule changes that have been adopted by the various courts,
14 be it the federal government or the local court.

15 In preparing our remarks, one of the things
16 that we tried to ask ourself was, Who reads the legal
17 journal? And it's not only attorneys and judges and the
18 court personnel but, you know, bankers, real estate agents,
19 insurance companies, municipalities. You've heard from the
20 boroughs. You heard from the solicitors' groups.

21 In my prior career, I was a city manager for
22 11 years in Clarion Borough, Upper Saint Clair Township,
23 and Robinson. So I had responsibilities for publishing all
24 of these notices. I also had the responsibility for making
25 sure that when people moved out of the community, they paid

1 their taxes prior to moving out. We called them lien
2 letters.

3 And we used the local legal journal as the one
4 source to be able to make sure that the people who were
5 going into bankruptcy, we were able to put a claim in
6 before they left the community. So even before working for
7 the association, I had firsthand experience working with
8 the legal journal. I used it as a source for information.

9 I read the law, or the legislation before
10 making comment. And the thing I picked up is that it
11 states that the law was enacted to give the public printed
12 notice of activities of the government and legal
13 proceedings.

14 And my concerns about looking at an
15 alternative method, the Internet which I've heard this
16 morning, has some problems with it because of the fact of
17 not only do we not have general circulation but I'm not
18 sure that there are web sites and computer systems around
19 that are accessible to every member of the community.

20 There's something going on -- and it's been
21 published about -- called the digital divide. And it's the
22 people who are computer literate and have access to
23 computers versus those who don't. And the demographics,
24 they're saying that people of lower income and lower
25 education means tend not to have access to computers or

1 have them.

2 And so in some ways, by possibly changing
3 these legal notice requirements and going from maybe a
4 print medium to print and Internet in my opinion could
5 become somewhat discriminatory because you have people who
6 could be needing to receive notices of discontinuation of
7 parental rights by the Internet when in reality they don't
8 have it and they're not going to get it, they're not going
9 to see it. It could create some real concerns.

10 In talking to a number of our members, they
11 brought up the issue that they're unaware that the, any of
12 the courts in Pennsylvania have ruled on whether notice by
13 the Internet is considered due process because the current
14 statutes say it has to be printed.

15 And one of the things that we provide to the
16 attorneys when we publish these notices is the proof of
17 publication, which they need to provide to their client to
18 ensure that they've met the requirements of the law for
19 proper notice.

20 And I haven't seen anyone develop that system
21 on the Internet. And we're even looking at it ourselves.
22 We have tried and not modestly. We have spent over
23 \$400,000 in developing computer systems to deliver the
24 information in our legal journal to our members and the
25 public.

1 And unfortunately, we have not found the
2 utilization that we would like. To date, we've only had
3 about 100 of our members who have signed up to use our web
4 site and service by the Internet. And it's a fee that's
5 cheaper than buying a subscription to the journal.

6 I think our daily subscription rate is \$150,
7 and it's \$75 to get it by E-mail or fax. And when we've
8 done surveys of these attorneys, they say the law requires
9 it to be in printed format and I use the electronic medium
10 as a backup; I don't rely on it because I'm not sure it's
11 dependable.

12 We've been doing it for 8 years. And we
13 have redundancy systems in that if one system goes down,
14 the next one will pick up. There is a lack of
15 confident -- they're not confident of our ability to
16 deliver that electronically versus the legal journal that
17 shows up every day.

18 The costs are extensive to create these
19 software systems. The costs to actually maintain them are
20 pretty expensive. We're very unique, unlike the other bar
21 associations throughout Pennsylvania, you know. We're a
22 major metropolitan area and a large membership and a lot of
23 legal notices. We can reinvest those dollars into these
24 projects.

25 A lot of my colleagues don't have the same

1 advantages. They're in rural counties with less
2 publications. They don't have the dollars to so-called
3 invest in technology. And so that's obviously a concern.

4 In terms of eliminating notices, I've heard
5 from the boroughs and I've heard from the sheriffs there's
6 a concern about the impact that could have. And I'm going
7 to talk about bid notices, while they're not published in
8 legal journals.

9 But the trend has been -- and when I was in
10 city government -- to publish more of these so that you had
11 minority vendors and contractors that were involved in the
12 process and to open that process up to other individuals.
13 And my concern is that by eliminating current notice
14 requirements and possibly putting them on the Internet, you
15 could actually diminish or reduce the number of contractors
16 and vendors who might participate. And the overall impact
17 would be loss of jobs. And I think that's something that
18 you should be concerned about and think about as you're
19 considering any amendments.

20 We heard earlier from the sheriffs'
21 department, or Sheriffs' Association about sheriff sales.
22 The purpose in those sales is to recoup dollars for clients
23 or for financial institutions. And when you publish those
24 notices, the intent is to give the broadest notice to as
25 many people to get the greatest amount of money for those

1 judgments and those sales.

2 And by reducing the requirements, it could, in
3 essence, reduce the amount of individuals who want to
4 participate in the sales or in some cases if some people
5 couldn't artificially manipulate the sale prices for their
6 own interest. And I think the public notice process has
7 permitted more involvement from the public at large.

8 And then finally, my closing comment is the
9 web systems that are available to us and the technology may
10 not be available in some of the rural areas. And given the
11 amount of activity in Allegheny County, we can reinvest
12 those dollars to build those systems to make it available.

13 But I'm concerned in rural counties around us,
14 Fayette, Greene County, whether there's that type of
15 activity that would be able to support putting these things
16 on the web, at least at this point. I envision that we'll
17 be able to put these notices out on the web. We could
18 probably do it in 6 months. The question is, Will anyone
19 use it?

20 Thank you for an opportunity to come and
21 present testimony. And I'd be happy to answer any
22 questions that you might have.

23 CHAIRPERSON GANNON: Thank you, Mr. Blaner.
24 Representative Gabig.

25 REPRESENTATIVE GABIG: Thank you, Mr.

1 Chairman. Welcome to Harrisburg --

2 MR. BLANER: Thank you.

3 REPRESENTATIVE GABIG: -- from the big borough
4 of Pittsburgh. I spent a lot of my, actually spent a lot
5 of my youth in Pittsburgh attending law school there when
6 Frank and Wally's was still open across from the school.
7 And the Pittsburgh Law Journal is, I think, sort of unique.

8 When I was there, they even had, you know,
9 those newspaper (indicating) by the courthouse and
10 those -- I don't know. Do they still do that?

11 MR. BLANER: The pickup boxes? No, we've
12 gotten away from that. It's really subscription-based.
13 And that's been the best way for us to market that to our
14 members.

15 REPRESENTATIVE GABIG: And this sort of
16 answers the Chairman's questions about Delaware. I mean,
17 it is county-wide. And isn't it the sole for legal
18 notices? It seems like that's what everybody's looked at.
19 I don't know if it's the sole.

20 MR. BLANER: Yes, it's the newspaper of record
21 for the Court of Allegheny County. So all the notices have
22 to be published --

23 REPRESENTATIVE GABIG: The Post-Gazette and
24 the Tribune --

25 MR. BLANER: Are the other 2 papers of general

1 circulation. And I just did a quick comparison of some
2 rates before I came out. And overall, our rates on legal
3 ads are literally within dollars of one another. I'm not
4 sure if the Post-Gazette or the Tribune-Review looks at
5 what our published rates are and then sets theirs either a
6 few dollars higher or a few dollars lower. And the same
7 with the Tribune-Review. But the rates are traditionally
8 not substantially different in most cases.

9 REPRESENTATIVE GABIG: But I do want to -- I'm
10 not necessarily taking issue with you. But this thing
11 about the web, I still don't -- in Central Pennsylvania, I
12 don't look at the Pittsburgh Journal. And if, say, you
13 get involved with the legal journals throughout the
14 state -- and I think you're certainly, if not the leading
15 one -- want to get involved with the newspapers on this web
16 and somehow partner on that, I could much easier access.
17 And people from across the country and from across the
18 world could do it.

19 And when you talk about a digital divide,
20 which clearly is there, but let's talk about a print
21 divide. Let's look at who looks at the legal journal
22 compared to who would get up on the web. And tell me
23 there's not a print divide as well as a digital divide.

24 In my town of Carlisle, which is a borough,
25 there is, in the poorest part of the town, a free

1 cyberspace they call it where kids and, and elder people
2 can go in there and access the web. We also have it in our
3 public libraries and in our public schools.

4 So there are free public access to the web
5 even if they don't have it at home. Unfortunately, kids
6 today, you know, reading, TV, and being on the computer, I
7 think they're going to be more computer literate than they
8 are newspaper literate. I still read the newspaper.

9 But I don't think that's a good excuse, quite
10 frankly. And I think that the efforts you're making are
11 good. And I commend you. And I just want to be -- I would
12 stay up front on that. We're moving in that area with
13 E-government. And, and I wouldn't get discouraged with
14 that, I guess is the way I feel.

15 MR. BLANER: We're prepared to do what it
16 takes to provide information to our members electronically.
17 And Mr. Belden reported that we have an electronic
18 newsletter that we just initiated in October. So I believe
19 we're in the forefront.

20 The issue that the Legislature has to look at
21 is that you have a law that says it has to be in printed
22 format. And there's publication notice, proof of
23 publication requirements. And until that's changed and the
24 courts rule, you know, somebody brings up the issue that,
25 you know, they gave notice by electronic means, Internet,

1 et cetera, and the courts, and the case is brought up that
2 that potentially wasn't due process and the courts say that
3 they have upheld it, then I think you're going to see more
4 willingness on the part of attorneys to use that
5 technology.

6 But to my knowledge, that type of case has not
7 been reviewed by any of the courts in Pennsylvania. And so
8 as a result, everybody's relying on the current media and
9 the current regulations which say it has to be in print
10 format.

11 REPRESENTATIVE GABIG: Thank you, Mr.
12 Chairman.

13 CHAIRPERSON GANNON: Any other questions?
14 Representative Hennessey.

15 REPRESENTATIVE HENNESSEY: Thank you, Mr.
16 Chairman. Mr. Blaner, I notice that the Pittsburgh Legal
17 Journal has a total circulation of 4,500.

18 MR. BLANER: Yes.

19 REPRESENTATIVE HENNESSEY: And the
20 advertisements that are, that are advertised in the legal
21 journal, are they also required generally to be advertised
22 in a general circulation newspaper?

23 MR. BLANER: That's correct.

24 REPRESENTATIVE HENNESSEY: So you have dual
25 coverage?

1 MR. BLANER: Yeah, dual coverage in the
2 county.

3 REPRESENTATIVE HENNESSEY: Are there
4 situations where advertising in the legal journal itself is
5 sufficient?

6 MR. BLANER: Not that I'm aware according to
7 the statute because it requires --

8 REPRESENTATIVE HENNESSEY: There's so many
9 different statutes. That's why I'm wondering.

10 MR. BLANER: No. The notices that I read to
11 you, those are required to have 2 notices, one in our
12 publication and one in the newspapers of general
13 circulation.

14 REPRESENTATIVE HENNESSEY: We heard from one
15 of the earlier witnesses that in Allegheny County, there
16 are 3 -- or no. I'm sorry -- the Pittsburgh Post-Gazette
17 and Tribune, that they alternate. I guess it was in
18 Philadelphia that they go, alternate between 3 different
19 newspapers.

20 In the -- do you know, just from your
21 experience, in the month or months that they're not
22 advertising in a particular paper, does that paper direct
23 people to the other paper and say, you know, this month's
24 sheriff sale notices are contained in the Philadelphia
25 Inquirer as opposed to the Philadelphia Daily News?

1 MR. BLANER: I'm not aware of any relationship
2 between the papers in Allegheny County, the commercials,
3 that that exists. I really don't have any knowledge that
4 they're doing that. You know, I've read in our journal
5 where there have been sheriff sales.

6 And I'm flipping through the Post-Gazette, and
7 I see the same ones. They're obviously using the
8 Pittsburgh Post-Gazette. I don't know if there's something
9 going on between those papers. I've never heard of that.

10 REPRESENTATIVE HENNESSEY: It strikes me that
11 if I'm reading the Post-Gazette one month and I see the
12 sheriff sale notices the next month, I might go there again
13 to look at the sheriff sale notices if I'm particularly
14 interested in those. And if they're not published, I might
15 assume that there's nothing being sold this month.

16 Maybe they're on a 2-month cycle, which I
17 assumed, probably submitted my assumption when I read it
18 the third month in the, in the Post-Gazette again. I
19 figure it's on a 2-month cycle. Now, that's a little
20 naive. But I think probably I'd have more contact with the
21 court system to know that that was not the case.

22 But to a casual reader, that assumption might
23 take place. And it just strikes me that perhaps a notice
24 ought to be placed when that's happening to direct people
25 to a different publication of that particular time. Thank

1 you. Thank you, Mr. Chairman.

2 CHAIRPERSON GANNON: Are there any other
3 questions from any committee members? (No response.) Your
4 newspaper is a daily. It has news articles I would imagine
5 as well?

6 MR. BLANER: On occasion, it has news
7 articles. I brought a sample because I thought somebody
8 might ask that question. It is really legalese. On the
9 front, civil division, general docket, family division,
10 arbitration awards, wills. On the inside are trial lists
11 from all of the various courts.

12 As you can see, it's really legalese. You get
13 into -- the legal notices start in the back and cover the
14 back section. So this is really a working publication for
15 attorneys who are trying cases, involved in arbitration
16 matters at the local level, at the federal court level.

17 We have another publication that comes out
18 twice a month to all of our members free of charge that
19 really handles editorial content. Occasionally, we will
20 put some editorial. But when we've surveyed the members
21 who utilize the legal journal, they said we use this as a
22 publication to give sufficient notice as per the
23 requirements of the law and we want to be able to go right
24 to that information, find what we want.

25 And in large firms -- there's several of them

1 in town -- 200 attorneys plus, not all of them receive a
2 copy of this. Maybe one paralegal working with several
3 attorneys will get this and then photocopy it, cut and
4 paste it, send E-mails back and forth as to where the
5 requirements are as per the legal notice, legal trial list,
6 et cetera.

7 CHAIRPERSON GANNON: Does this, the daily
8 edition report cases also or is that the --

9 MR. BLANER: That comes in our bimonthly.

10 CHAIRPERSON GANNON: The bimonthly?

11 MR. BLANER: Right. We have court opinions
12 that we publish twice a month, and those are all the local
13 court opinions. And then we also report out Supreme Court
14 and Commonwealth Superior Court opinions to all of our
15 members.

16 CHAIRPERSON GANNON: Well, thank you very
17 much, Mr. Blaner, for appearing before the committee on
18 behalf of the Allegheny County Bar Association.

19 MR. BLANER: Thank you.

20 CHAIRPERSON GANNON: Our next witness is
21 Shannon Martin with the Department of Communications with
22 the University of Maine. You may proceed when you're
23 ready.

24 DR. MARTIN: Thank you.

25 CHAIRPERSON GANNON: Thank you.

1 DR. MARTIN: Good morning. My name is Shannon
2 Martin. And I'm a faculty at the University of Maine in
3 Orono. And I bring greetings from the State of Maine where
4 life is the way it should be. I'm an author of a book
5 published 3 years ago by Praeger titled Newspapers of
6 Record in a Digital Age: From Hot Type to Hot Link.

7 I have researched the subject of public
8 records law and legal notice for more than a decade and
9 have published extensively on the topic. And I appreciate
10 the concerns you have about moving this area of the law
11 into a digital environment. I thank you for the
12 opportunity to testify today on the purpose and the value
13 of public notice.

14 In many of my published papers, I have
15 advocated the inclusion of public notice posted on the web
16 through existing record newspapers. Let me say that once
17 again. In most of my published work, I have advocated web
18 posting of legal advertisements in addition to but not
19 instead of newspapers of record.

20 Today, I will confine my testimony to 2 of the
21 topics among your list of concerns. They are -- though not
22 necessarily in the order of importance -- first, the number
23 and demographics of public reached utilizing current
24 methods, including the identification of any target
25 segments of that public; and second, analysis of the

1 effectiveness of current publication methods, including
2 opinions regarding continued need.

3 So let us begin with demographics and current
4 methods of publishing legal notices. As you know,
5 Pennsylvania's population is about 12 million. We also
6 know from the 2000 census data that Pennsylvania's
7 population is largest in the middle age to late middle age
8 bracket.

9 And we know from readership studies that that
10 population is more likely to be newspaper readers than any
11 other. We also know through Audit Bureau of Circulation
12 verification that Pennsylvania's daily and weekly newspaper
13 circulation is about 4 million paid subscribers.

14 This is a very conservative numeration because
15 many weekly newspapers cannot afford ABC verification and
16 so rely on their postal service paperwork in gaining their
17 circulation verification. The rule of thumb, however, of
18 estimating readership to subscribers is that about 2 1/2
19 readers are represented by one paid subscription. It can
20 be assumed then conservatively that about 10 million
21 readers are served by the newspaper industry of
22 Pennsylvania.

23 Clearly, the population of Pennsylvania is
24 substantially served by the newspaper industry; and
25 therefore, public notice in those papers reaches most, if

1 not all, of the state's citizens. In addition, a national
2 Pew Research Center survey reported last year that 63
3 percent of those surveyed said they read the daily
4 newspaper regularly and that 54 percent of the population
5 said they go on line at least sometimes.

6 While this comparison is a little bit of
7 comparing apples and oranges, that is the highest bracket
8 of newspaper readership with the lowest likelihood of
9 on-line use. It's illustrative for argument's sake. Of
10 those 54 percent who go on line at all, only about 25
11 percent of them access the web for news.

12 The majority use on-line access for E-mail.
13 That means that at best, only 13 percent of the population
14 access the web for news while 63 percent of the population
15 read newspapers regularly for news. By gathering together
16 these 3 sets of current reports on census, newspaper
17 circulation, and media users' data, we should expect to
18 find that Pennsylvania residents are still more likely to
19 be newspaper readers than web surfers for news information.

20 If the Legislature is interested in preserving
21 the broad distribution of public notice, then newspapers
22 are still the best venue serving that interest and better
23 than any other format today. Most of the population is
24 sure to be reached and the geographic distribution is known
25 with newspaper distribution of legal notices.

1 Now I want to talk about item number 2; that
2 is, the effectiveness of current publication methods,
3 including opinions regarding continued need. Pennsylvania
4 Consolidated Statutes Annotated Title 45 details the kind
5 of circulation, the frequency of publication, the size of
6 the news product, and range of content in order to
7 establish a suitable vehicle for inclusion of public notice
8 and distribution of these notices.

9 In fact, Section 302, Part 1 says that the
10 intention of the statute is to create uniformity in the
11 publication of legal notices and official advertisements.
12 Systems now in place assure that circulation figures are
13 accurate; that the notice actually appeared; that nothing
14 in the notice was changed from the original text; that the
15 notice was distributed; and that a certain necessary
16 geographic area was reached by the publication of, of that
17 notice no matter who the publisher of the newspaper is and
18 no matter who the politician in office is.

19 And the statutes encourage uniformity of
20 presentation so that legal notices are recognized
21 immediately as such; that is, the print's too small.

22 An overarching premise found in both federal
23 and state-level governments of the United States as well as
24 many republics around the world is that information about
25 government activities must be equitably accessible in order

1 for the electorate to make well-informed decisions.

2 The earliest federal legislative mandate of
3 this premise is the September 15th, 1789 Acts of the First
4 Session of the First Congress, requiring the Secretary of
5 State, and I quote, to publish in at least 3 of the public
6 newspapers printed within the United States every bill,
7 order, resolution, vote of a house of congress, as well as
8 Presidential objections of these actions so that the public
9 might know what their government was doing, end quote.

10 Characteristics of the newspaper that seek
11 record newspaper status -- and these requirements are found
12 in all 50 of the United States jurisdictions -- are
13 publication format, geographic distribution, verified
14 subscribership, general news content, and frequency of
15 publication.

16 I ask you to consider these characteristics
17 and their obvious usefulness in equitable distribution of
18 public notice on the web. These characteristics are not
19 now easily met by current on-line distribution means. For
20 example, when anyone examines a Porcupine's Gazette from
21 1797, there is no doubt about the integrity of that record.

22 I in fact brought some newspapers from that
23 period for you to look at.

24 CHAIRPERSON BLAUM: Are these originals?

25 DR. MARTIN: They are. I brought several

1 newspapers from the period with me to demonstrate the ease
2 with which we use them 200 years after their publication.
3 These are not facsimiles, and they are not reproductions.
4 These are the actual newspapers held in the hands of our
5 founding framers and read for the important legal notices
6 of that day.

7 There is no doubt about the accessibility of
8 that record, and there is no doubt about the readership of
9 that record. If the intention of public notice or legal
10 notice is to provide the widest possible distribution of
11 official documents and government reports in a uniformed
12 format to a verifiable constituency, then on-line
13 distribution as an additional means of publication would
14 seem to meet the overarching premise of the US federal and
15 state governments.

16 But clearly, the current characteristics
17 described in most state rules for such designation as
18 newspaper of record, official newspaper, or legal newspaper
19 for such purposes do not reach on-line publication and
20 would need comprehensive revision before such a need was
21 met.

22 May I suggest that these revisions could
23 minimally include the use of current newspaper product,
24 production, circulation, and distribution systems; the
25 Audit Bureau of Verification Services to substantiate

1 subscriber and user circulation statistics; the use of
2 digital signature software to verify authenticity of the
3 legal notice content as distributed in the digital news
4 product. And the archiving already provided by the state's
5 newspaper community is an obvious institution to continue
6 such a program.

7 If these suggestions or similar rule
8 adjustments are not made, then many of us will have the
9 same sort of problems accessing legal notices that some of
10 us now have in viewing, for instance, our Betamax
11 videotapes or opening our E-mail from the mid-1990s.

12 Are any of you even able to find a computer
13 that takes a 5 1/4 inch size floppy disk or one that can
14 read magnetic tape? Librarians learned this lesson in a
15 costly and painful way when the United States Government
16 Documents Office decided to move everything into a special
17 very tiny microform.

18 And now the machines are nowhere to be found.
19 Their eventual solution was to return all the documents to
20 paper formats and use Band-Aids and rubber bands and gum to
21 keep those very special microform readers in operation as
22 long as possible.

23 I urge you not to put the citizens of
24 Pennsylvania in that kind of frustrating situation.
25 Instead, adjust the law to include traditional record

1 newspaper publication of a web version public notice. Let
2 that industry pay the cost of experimenting, and then you
3 can pass the savings of research and development on to your
4 constituents.

5 Thank you again for the opportunity to provide
6 testimony in these important deliberations. I'll take any
7 questions if there are some.

8 CHAIRPERSON GANNON: Thank you very much, Dr.
9 Martin. Questions? Representative Gabig. I'm sorry.
10 Representative Bunt.

11 REPRESENTATIVE BUNT: Yes. I don't know if
12 you had testified to this. I'm going back to your earlier
13 remarks. Looking at this chronicle and just in hearing
14 constituents, there seems to be less of a readership of
15 newspapers today than there generally is.

16 And you make, you make a case about our
17 forefathers. And I won't question the literacy rate in
18 London in 1759, but I would question the literacy rate in
19 Philadelphia in 1759. And I question just how many people
20 were literate enough to read a newspaper then, most of the
21 time when advertisements -- and especially that declaring
22 the Declaration of Independence -- were posted on
23 buildings.

24 And people congregated, and one of whom was
25 literate would explain to the others. If you don't believe

1 that, just look at a strong little neighborhood when a
2 public sheriff's sale is posted in a newspaper. It's not
3 seen by a lot of people, but it's known by a lot of people.

4 And so, you know, I question, I
5 question -- you can't have it both ways. You can say that
6 the poor people don't read newspapers and at the same time
7 say that an Internet posting would not, would not satisfy
8 the legal requirements. Don't kill the messenger.

9 If we hear anything from county commissioners
10 and townships and boroughs, quite often it is the large
11 expense of advertising. And they consider it advertising.
12 They don't see it as public notices. Most people buy a
13 newspaper, buy a newspaper -- it's a segment of the
14 population.

15 One segment buys it strictly for sports. And,
16 you know, there's a member of my household just goes to the
17 funny papers. And those people who are out of work maybe
18 are not regular subscribers to a newspaper. But if they're
19 out of work, they will buy a newspaper and go right to the
20 classified.

21 Twenty years ago, I think people read more
22 editorials than they do today. Yet they'll see the front
23 page when it sits in the box, newspaper box. But
24 generally, people don't go looking for public notices.
25 Even elected officials don't. But the word gets out pretty

1 quick. Would you care to comment on that at all?

2 DR. MARTIN: I could give you several courses
3 on that, any portion of that that you've just touched on
4 because there's a rich history of newspaper readership in
5 coffee houses in the 1750s. And even though not everyone
6 was capable of personally reading the newspaper, it was
7 passed around quite a bit and read out loud.

8 So there was a listenership that literally
9 read the, heard the paper from cover to cover, absolutely
10 every aspect of it. And one of the things that's
11 interesting about that period is that the legal notices;
12 that is, the notices about the law, were mixed in with
13 general sorts of information, community news that made the
14 legal aspect of the news less remote. It was part of the
15 community.

16 REPRESENTATIVE BUNT: But would not the legal
17 notice be -- there's a segment of our population thinks,
18 thinks that that should be news and not, not have to be
19 paid for to be broadcast as news.

20 DR. MARTIN: My understanding and my
21 experience in the communities that I've lived in is that
22 there's an enormous amount of notification of the public
23 that goes on just in the regular news sections, notices of
24 meetings coming up that aren't the explicit legal notice
25 that's required by law that's complete but simply a

1 notification that there will be this county meeting or this
2 city meeting going on and the result of that county meeting
3 or city meeting, not in its complete form but enough of a
4 form that those who are interested have any interest and
5 might even stumble on that piece of news on their way to
6 the sports boxes.

7 And so there is a real need to keep legal
8 notices in the company of general news so that people do
9 stumble on it. I think the news industry does go out of
10 its way to provide community news that happens also to be
11 covering government.

12 REPRESENTATIVE BUNT: Well, I agree with you.
13 But there's a significant amount of our population that
14 does not agree. And they just, they see it as an extra
15 burden on the part of local government to have to pay for
16 these advertisements.

17 Now, I don't want to encumber newspapers with
18 full-page listings of sheriff sales and public notices as
19 well. But there is a significant amount of our population
20 that really sees, they feel it is a waste. I disagree. I
21 agree with you.

22 But the call for legislation like this comes
23 from others, and that's the purpose of this very issue.

24 DR. MARTIN: I think self-government is
25 burdensome and expensive, but I think it's something that

1 we all appreciate and tend to support.

2 REPRESENTATIVE BUNT: And you must be a good
3 instructor in communications to bring along something like
4 this. Thank you very much.

5 DR. MARTIN: Thank you.

6 CHAIRPERSON GANNON: Representative Gabig.

7 REPRESENTATIVE GABIG: Thank you, Mr.
8 Chairman. Doctor, if I could, out of personal
9 interest -- I know it's running late -- but how was it that
10 you came here from Maine to testify before us? Were you
11 invited by --

12 DR. MARTIN: I was invited by the Pennsylvania
13 Newspaper Association.

14 REPRESENTATIVE GABIG: I'm sorry?

15 DR. MARTIN: I was invited by the Pennsylvania
16 Newspaper Association.

17 REPRESENTATIVE GABIG: Because your position
18 does seem to be similar to, I think, the position which was
19 to augment the paid advertisement in a newspaper legal
20 requirement with web sites. And I think you've even said
21 that twice to make sure that I heard it or others that were
22 out there.

23 But when you go back, if we want to get
24 historical -- you hit on something that just interests me.
25 Philadelphia was the Capital of the country at the time,

1 and it probably had a third of the nation's population or
2 close to it.

3 And I think the literacy rate was much higher
4 back then than it is today, whatever it is. Sixty percent
5 of the kids in 4th, 5th, 6th grade in Philadelphia can't
6 even read. I think actually the literacy rate was higher
7 back 200 years in Philadelphia than it is today. And we
8 can have a talk about that.

9 But there was no post office. There was no
10 opportunity for direct mail across the country. There was
11 no web. There was no radio. There was no TV. That was
12 the only means to really communicate to the voters, if you
13 will, the only means. And now we have other means 200
14 years later. That would be one point that I'd make.

15 And the second point is those newspapers, the
16 one, the Porcupine, for example, those were just pure
17 political newspapers. They were funded. Thomas Jefferson
18 funded one. John Adams funded, or Hamilton, Alexander
19 Hamilton funded the other one.

20 And those were their paid, bought-for editors.
21 I wish I had one in my hometown. I'm sure all of us do.
22 And it was a way to give them some money to help them with
23 their -- we're going to give you some money because we're
24 in control of it. That's where all this advertising goes
25 back to if you want to look at the history of it.

1 So we do get a lot of news in the newspaper
2 about public meetings. And the question does -- a lot of
3 people say, Why do you have to pay for this advertising if
4 this is good government? And why is it under sort of the
5 commercial end of it, if you will, versus -- and I think
6 those were some of the questions that were being raised.

7 But nobody's going to walk away with here that
8 I am against newspaper advertisement. Valley Times Star in
9 Newville, I'm glad they have the sheriff sale notices in
10 there. It's a small town, less than 2,000, surrounded by
11 farms. And a lot of people read it.

12 And I'm glad when I'm in there, and I'm glad
13 the sheriff sales are in there. But I bet you you've never
14 read it. And if you were interested in what's going on in
15 Cumberland County, you could get up on the web and check it
16 out. That's what I'm saying.

17 Actually, it would be an opportunity -- when
18 you read those statistics, those statistics were all
19 related to the people that look at that newspaper. And if
20 you don't look at that newspaper, you're being
21 discriminated against is what I'm saying.

22 And if you're in Pittsburgh and you want to
23 look at Cumberland County, you've actually broadened the
24 public access to that information. So that's my general
25 point. I'd agree with you that they should combine. But I

1 don't think that we should negate the importance to the
2 democratic process of the, of the web potential. Thank
3 you.

4 CHAIRPERSON GANNON: Thank you, Representative
5 Gabig. Representative Hennessey.

6 REPRESENTATIVE HENNESSEY: Thank you, Mr.
7 Chairman. Thank you, Dr. Martin. I might take a stab at
8 this other question I asked earlier. Perhaps you, with
9 your academic background, you might have done some research
10 on what percentage of the people who actually read
11 newspapers ever get to the legal sections of the
12 newspapers.

13 DR. MARTIN: I know of 2 studies that were
14 done.

15 REPRESENTATIVE HENNESSEY: Representative Bunt
16 indicated some people buy it just for the sports; some
17 people buy it to, just to read the editorial page; some
18 people buy it for the front section or the business
19 section. But how many people actually on a routine basis
20 buy a newspaper of general circulation to look at the legal
21 ads that are included in it?

22 DR. MARTIN: I know that there were 2 studies
23 done -- one in Illinois and one in Arizona -- of readership
24 of legal ads. And they're slightly self-serving studies.
25 So I hesitate to point to them as anything that's exactly

1 what you intend because they were done by the newspaper
2 associations there.

3 They found a very high readership. And I
4 think you might be surprised. As often as people complain
5 about those very dark spaces that are the legal ads, people
6 read them, especially in the small communities. And they
7 read them because it's their way of knowing really what's
8 going on instead of what they hear is going on.

9 So I admit that my friends aren't a
10 particularly good sample. But my friends read them a lot
11 because it's their way of knowing really what's happening
12 at home rather than what someone has told them is happening
13 at home, including reading the front page of the paper,
14 which can be selective in its content.

15 REPRESENTATIVE HENNESSEY: Okay. Well, it
16 would seem to me that even -- it might just be interesting
17 academically to know that number, percentage of readership
18 might be. But it would seem to me that, you know, even
19 back in the 1700s, you know, you printed something and
20 posted it on handbills or whatever in the hope that someone
21 would read it and then they would pass that knowledge on.

22 It's not a case of, you know, the only way you
23 get this information, as you were talking about at the
24 coffee houses, is not to read it yourself but to listen to
25 the discussion it conjures up -- or not conjures up -- but

1 it creates. So that, you know, while a statistic might be
2 helpful, I suspect that if somebody hears that Tim
3 Hennessey's going to lose his house to a sheriff's sale,
4 that, you know, other people who didn't read that in
5 the -- by the way, I'm not.

6 DR. MARTIN: Good.

7 REPRESENTATIVE HENNESSEY: But people who read
8 that might call up and pass it on by word of mouth. That,
9 you know, at the risk of offending the Newspaper
10 Association, is probably still the best means of
11 communication among people.

12 The talk that it creates, I think, you know,
13 sort of belies the statistic that maybe not a whole lot of
14 people or, as you said, maybe a large percentage that I
15 think read the legal notices. You know, that statistic
16 wouldn't really tell the whole story, I think, as far as
17 how much information you spread once the publication does
18 appear.

19 DR. MARTIN: Its intention, I believe, is to
20 act something of an alert system; that is, it provides the
21 opportunity to read it. And I'm surprised at the number of
22 times someone will say to me, Did you see? And I may not
23 have read it the first time.

24 But being alerted to the fact that something
25 was there, I'll go back. And I'll dig out, even out of my

1 recycling bin, the stack in which I'm going to find that
2 particular issue on that particular day. So I think that
3 the conservation spurs people to go back and find the whole
4 information rather than just what they've heard.

5 REPRESENTATIVE HENNESSEY: Thank you. Thank
6 you, Mr. Chairman.

7 REPRESENTATIVE BUNT: Mr. Chairman, one --

8 CHAIRPERSON GANNON: Representative Bunt.

9 REPRESENTATIVE BUNT: -- one more observation.
10 Most of Pennsylvania law requires municipalities or
11 counties in the definition of municipalities, that a public
12 notice be advertised in at least 2 newspapers of general
13 circulation.

14 I represent a part of Montgomery County. We
15 have a population of about 780,000 people, which is a
16 substantial amount population. But there is no one
17 newspaper that has general circulation within that entire
18 population. In fact, there's about 17 newspapers that
19 circulate within that county.

20 And so the county commissioners would just
21 pick out 2 newspapers. Well, it just so happens that
22 outside of the Philadelphia Inquirer, every other daily is
23 owned by one company out of Trenton, New Jersey. So where
24 the county commissioners used to be able to buy one
25 advertisement or used 2 different newspapers, now they're

1 required to use even more costly advertising rates, which
2 would be the larger metropolitan urban newspapers, and then
3 into this new Trenton conglomerate.

4 And so now they picked up an additional cost
5 because a full-page ad in the Philadelphia Inquirer is
6 substantially more than, say, the Norristown Times Herald
7 or the Pottstown Mercury or the North Penn Reporter. And I
8 know that those smaller newspapers, when they were owned
9 locally, depended a great deal on those advertising
10 revenues.

11 But now when you find that, that a publication
12 is owned by a conglomerate from another state and they own
13 40, 50 newspapers -- I guess even the Philadelphia Inquirer
14 is owned by Knight-Ridder. Is it Knight-Ridder? They own
15 newspapers throughout.

16 You know, I question, I question whether that
17 revenue is absolutely needed today. Maybe it was really
18 needed 15, 20, 30 years ago. We just don't have those
19 small newspapers anymore that are locally owned, except for
20 weeklies.

21 DR. MARTIN: I don't know how to address the
22 question because every time I say it's --

23 REPRESENTATIVE BUNT: Well, I guess I just
24 wanted to make it a part of the record so when people read
25 over it, maybe they'll come to some different conclusions.

1 But I think the resolution is timely. I think it's
2 something we need to discuss. I think it's been something
3 that's discussed with individual legislators, by county
4 commissioners. It's long overdue.

5 And when you look at what the Federal Congress
6 did, they permitted signatures to now be transmitted by fax
7 and considered legal documents. That never was the case
8 before. And E-mail signatures, electronic signatures, all
9 these are legal documents today.

10 And the law was revised to accept that new
11 technology today. Maybe this is just another area that
12 needs to be revamped as well.

13 DR. MARTIN: I agree that we do see a lot of
14 technology advancements in administering legal documents.
15 I would only ask you to consider that not everyone is part
16 of that community. And it would be a shame to leap so
17 quickly into that environment that we forgot about other
18 aspects of legal records that we want to maintain.

19 I don't own a fax machine. And if I were
20 served by, something by fax, I wouldn't know what to think
21 of it. I guess I would have to go to Kinko's or something
22 to find it. That would be distressing in itself. So I
23 guess I would hope that you would consider keeping all of
24 the population in mind instead of just those populations
25 that are easily and perhaps best served by the technology

1 now.

2 REPRESENTATIVE BUNT: You could buy a
3 fax/scanner/copier for \$199, color.

4 DR. MARTIN: Yes, I'm sure that's true. Thank
5 you.

6 CHAIRPERSON GANNON: Representative Gabig, did
7 you have a question?

8 REPRESENTATIVE GABIG: I made my speech
9 before, Mr. Chairman. Thank you.

10 CHAIRPERSON GANNON: Thank you. Dr. Martin,
11 we have an exhibit here from one of our witnesses. It's
12 a -- it says, The Report of Independent Certified Public
13 Accountants. And it's for the Borough of Steelton.
14 There's 133 lines, not including spaces in here.

15 And I would imagine the newspaper would charge
16 by line. And it has information; for example, due from the
17 sewer operations fund. And that line is blank. So it
18 costs more to put that ad in, or to put this line in this
19 ad than, than the dues from the sewer operation fund.

20 And my point is, do you think -- or would you
21 agree that perhaps it wouldn't, it's not really necessary,
22 if we're going to require public notice publication, that
23 we provide all of this information, some of which has no
24 information and that perhaps we permit a bureau to say,
25 Look, you can publish a notice that this audit was done and

1 that the audit's available at the public, at the borough
2 office for anyone who would want to inspect it, instead of
3 requiring all of this detail in that type of notice or
4 alternatively provide the notice that this is available and
5 then publish it, make it available on line, on the
6 Internet, if you will, all of the details so if an
7 individual has access to a computer, he can go down to the
8 library or have one in their home or at their business,
9 they can go in and take a look at the details if they wish
10 rather than have the taxpayers put up all the expense in
11 publishing all this detail in a newspaper advertisement
12 that will probably show up one time in a daily or one time
13 in a weekly? What's your thoughts on that?

14 DR. MARTIN: I'm glad you give me an
15 opportunity to respond to that particular point. It's a
16 sore one with me. I would respectfully disagree that it's
17 a good idea to allow a summary, in part because it's
18 important for people to know when there is nothing on that
19 line. I know it seems like a waste.

20 I understand it seems expensive. I also think
21 that it's important that the record be maintained and it be
22 maintained in a transparent and very public form. When you
23 allow the government agency that is responsible for the
24 audit, for the distribution of that audit to provide a
25 summary, you allow that agency to determine what goes in

1 the summary.

2 And by allowing that agency to determine what
3 goes in the summary, you allow them to prejudice it. I'm
4 not saying that they would. I'm simply saying that when
5 you're not responsible for it, you need to ask yourself how
6 might someone arrange the record to best reflect on their
7 efforts rather than arrange the record for --

8 CHAIRPERSON GANNON: No. I'm sorry. I think
9 you misunderstood my question. I wasn't suggesting that
10 the newspaper, that the borough publish a summary of the
11 audit but to simply publish a notice that the audit has
12 been done --

13 DR. MARTIN: Yes. I understand.

14 CHAIRPERSON GANNON: -- and it's available for
15 inspection period.

16 DR. MARTIN: I understand.

17 CHAIRPERSON GANNON: That's all. There's no
18 content other than that in the publication in the
19 newspaper --

20 DR. MARTIN: Right, right.

21 CHAIRPERSON GANNON: -- but that the audit
22 itself, this document --

23 DR. MARTIN: Right.

24 CHAIRPERSON GANNON: -- is available for
25 inspection in the borough office.

1 DR. MARTIN: I understand. I do understand.
2 I do understand. And what I'm suggesting is that even
3 though it seems burdensome to produce all of this in an ad,
4 it seems expensive, especially when there are lines that
5 have nothing in them, that it's important for everyone to
6 understand who might have anything to do with putting this
7 notice in the paper that there are blanks; that there is
8 nothing in that expenditure; that there has been nothing
9 done in that area in this audit.

10 It's -- the audits are done to help us have a
11 third party or an outside interest look at what's been
12 done. And if we put layers between the people that that
13 work is done for, which is all of us, and our ability to
14 see that record, then we just make it harder for all of us
15 to know what's going on or to have at least those people
16 who care to look paying attention for the rest of us.

17 And I advocate not putting too many layers
18 between us and this information. I should add New Jersey
19 did exactly what you're suggesting while I was living in
20 that state. And I am anxious to see if anyone finds
21 instances in which the abbreviations or even the
22 announcements of the availability are paid any attention
23 to.

24 This is a lot more commanding than 3 lines
25 saying that the audit's available. And it would easily be

1 missed. This somebody's going to pay attention to.

2 CHAIRPERSON GANNON: So it would be your
3 position on, for example, the notices on the sheriff sales,
4 which we've heard testimony go into great detail, including
5 the metes and bounds of the property which can go for pages
6 in some deeds, that that should also be published in the
7 notice as opposed to simply a notice that this particular
8 property at this particular address owned by these
9 particular individuals is subject to a mortgage foreclosure
10 or sale or whatever in this amount, which may be, say, 5
11 lines?

12 But publishing the metes and bounds of the
13 property and all the other requirements could go pages.
14 You would agree that we should go pages? That information
15 has to be out there because we don't want any layers
16 between our government and our newspapers.

17 DR. MARTIN: In principle --

18 CHAIRPERSON GANNON: Is that a fair statement?

19 DR. MARTIN: Yes, yes. In principle, I have
20 to say that that would be consistent with my previous
21 statement. I certainly understand and appreciate your
22 interest in conserving tax dollars on this particular
23 expense. My understanding is that the advertisements
24 actually are paid for not through tax dollars in that
25 particular case.

1 CHAIRPERSON GANNON: I believe that when
2 there's a foreclosure, the bank pays the advertisements.

3 DR. MARTIN: Right. I'm willing to let the
4 bank pay for it.

5 CHAIRPERSON GANNON: Were you compensated to
6 come here today by either expenses reimbursed or paid for
7 your time?

8 DR. MARTIN: My travel time, my travel
9 expenses were provided.

10 CHAIRPERSON GANNON: And that was by the
11 Pennsylvania Newspaper Association?

12 DR. MARTIN: Yes.

13 CHAIRPERSON GANNON: Well, thank you very
14 much. It's been very informative and very helpful, your
15 testimony. And obviously, you've examined this issue very
16 closely and have given us some food for thought. Thank
17 you.

18 DR. MARTIN: Thank you.

19 CHAIRPERSON GANNON: Our next witness is Mr.
20 Jim Haigh, assistant publisher of a whole bunch of
21 newspapers.

22 MR. HAIGH: I'm the assistant publisher of
23 Penny Power, Limited, which is a free community paper in
24 the Commonwealth of Pennsylvania. I'm here on behalf of my
25 publication and also the Mid-Atlantic Community Papers

1 Association.

2 MR. SNYDER: My name is Jim Snyder. I'm
3 General Sales Manager at Kapp Advertising in Lebanon,
4 Pennsylvania.

5 CHAIRPERSON GANNON: And is it Mr. Haigh?

6 MR. HAIGH: Mr. Haigh. Jim Haigh.

7 CHAIRPERSON GANNON: You may proceed when
8 you're ready. Thank you.

9 MR. HAIGH: Okay. First, I want to start by
10 thanking the Chairman and members of the committee for
11 having me here to participate in democracy. I want to keep
12 this very simple, basic, brief. Our point is very simple,
13 basic. We are free community papers. And all that we're
14 talking about right now is communication.

15 The Commonwealth wants to communicate with her
16 citizens to keep them informed and to invite them to
17 participate in democracy. She finds herself communicating
18 less and paying more for this process. It's time for her
19 to look at her own publishing industry and to hear the
20 voices of her communities that rely on this industry.

21 It is time for her to place her words legally
22 where her citizens look for and have most access to her
23 information, community papers of mass dissemination. And I
24 want to start by saying, too, is that we're not looking to
25 supplant newspapers.

1 We're looking just to be another option for
2 local government, for local municipalities, and for the
3 public at large. We're universally distributed in the
4 communities that we serve; therefore, the public, the
5 readers, and the members of those communities have
6 universal access.

7 This is all about giving the most notice to
8 the greatest number of people possible. We are a
9 legitimate source for that. We have in the appendices
10 market coverage comparisons of our papers versus other paid
11 papers. And those would be in Exhibit C, Exhibit D, and
12 Exhibit E.

13 And I just want to bring a case study to, say,
14 Richland Township, which is ZIP Code 18951, where you've
15 seen a 58, 58 percent increase in population over the last
16 20 years. Our papers, Penny Power, covers 100 percent of
17 Richland Township.

18 The Morning Call, which is a regional daily,
19 has 22 percent of the households in that community. The
20 Daily Intelligencer, another newspaper of general
21 circulation, has 15 percent of the households in that area.

22 Right now, a township supervisor for Richland
23 is required to put in either of only, is excluded to the
24 option of those 2 papers. He could only use those 2
25 papers. So if he puts notices out to the general public

1 and has, he wants to have more people participating in his
2 democracy, he doesn't find people showing up for school
3 board hearings, doesn't find people showing up for township
4 meetings or finds the same handful of people and wants
5 another option, he has to use, then legally take out of his
6 budget to use these papers.

7 And if he really wants to reach the community
8 at large, which on occasion local government does -- and
9 that's also in our documentation -- he has to go above and
10 beyond his budget and his call of duty, his legal call of
11 duty and use our papers at an additional expense.

12 We propose that if a township supervisor wants
13 to reach the most people and knows that he, knows what
14 options are available to him or her, he should have the
15 option or she should have the option to do so. And
16 basically, we are excluded from doing what paid papers are
17 doing right now and have the legal right in mandate to do
18 just because they are, quote, paid.

19 And we're excluded from doing what we do for
20 the public, for the citizens of the Commonwealth, for the
21 businesses of the Commonwealth, excluded from doing that
22 for the government just because we're gratuitously
23 distributed.

24 I make, I make mention in there of the case
25 of, the case of Martin Luther and his 95 theses, that the

1 whole process of reformation, the world that was once known
2 was changed. And history's been changed ever after because
3 of circulars that were posted and distributed gratuitously.
4 That because something is paid does not make it necessarily
5 that much more legitimate.

6 In communities where you have over 75 percent
7 or even more of a community that is not being reached, it
8 is not paying or purchasing a newspaper, they are
9 undisseminated, they are unnotified, and that there's got
10 to be a better way for the state to reach them.

11 And we propose that our papers are a vehicle
12 for local government to do that should local administrators
13 decide at their discretion to use us. And that's basically
14 our case in a nutshell. We don't understand why we are not
15 an option for local government.

16 We are read by the people. We are used by the
17 people. We demonstrate usership. Our information comes
18 from the masses. But we offer universal public
19 distribution.

20 CHAIRPERSON GANNON: Representative Bunt, do
21 you have a question?

22 REPRESENTATIVE BUNT: I agree with him, too.

23 CHAIRPERSON GANNON: Short speech.

24 REPRESENTATIVE BUNT: Well, you know, as he
25 says in his testimony or alludes to, newspaper readership

1 is down. At KYW Radio in the Philadelphia region, as I was
2 traveling up the Turnpike, was advertising today that more
3 people contact KYW News for their news and gather news from
4 their radio station than -- and they kept listing all the
5 newspapers over and over and over. Very easy to check.

6 So they must have some, some audit that's out
7 there that backs up their claim. People get their news
8 from other sources now than from mainstream newspapers,
9 traditional mainstream newspapers. So you should have the
10 ability to do so. And it can apply to --

11 MR. HAIGH: The way the law is written, the
12 way I understand Title 45, the exclusionary language is not
13 about news. The way the law describes news and its
14 content, we abide by those same. It would very much
15 describe our papers.

16 Where the law restricts us is by the
17 deliberate and, the very deliberate and repeated use of the
18 words free, free, free, cannot be paid, cannot be paid, and
19 must also be eligible for consideration for second class
20 mails. It's arbitrary language and very restrictive
21 language.

22 And that same language restricts the flow of
23 information to the public. And that we submit that by
24 taking, just taking out the language of free from the
25 definition or by creating another category of paper called

1 community papers of mass dissemination, using the
2 definition that exists for newspaper and taking out just
3 all mentions of the word free, free, free, must be paid and
4 second class mail status, creating that as an alternative
5 definition within Title 45 and then within Chapter 3 say
6 that that category of paper, community papers of mass
7 dissemination is an alternative, can be used as an
8 alternative to newspaper, definition of newspaper at the
9 discretion of local government and/or those concerned.

10 We go to every -- in the communities we serve,
11 we go to over, we go to 100 percent of the households, or
12 approaching 100 percent of those households. We are in the
13 process of a complete statewide audit by Circulation
14 Verification Council.

15 Every community paper, every math book paper,
16 and a paper that would hope to be eligible to give notice
17 to the public official legal notice would be 100 percent
18 audited. Many of the papers that are being used right now
19 are not audited, the other, the community weekly basis.

20 And the daily basis papers that are audited
21 right now show, if you do the market comparisons, a
22 staggering disproportion. So many people are not being
23 given notice now because the law is using the restrictive
24 word, restrictive words of free, free, free.

25 And what we've talked about today are free

1 measures of giving notice to public. We're talking about
2 the web. That's free access. At the moment you even
3 consider the web, you're saying that because of publication
4 or because something is paid, you're saying that free
5 should no longer be an issue and should be taken away from
6 Title 45.

7 CHAIRPERSON GANNON: Representative Bunt.

8 REPRESENTATIVE BUNT: Yes, Mr. Chairman. I
9 asked my secretary right before I came over here to get in
10 touch with, on the computer to the web site of various
11 newspapers just to pick up the lead stories today. And I
12 didn't buy a newspaper. And I have, you know, they're just
13 printed right out for me.

14 And so even the newspapers are feeding into,
15 on the web site. So I mean, everybody's going to have to
16 accept this change in technology and move forward. We just
17 can't be stuck in one place. And this is not, this isn't a
18 measure to penalize newspapers.

19 This is a measure to recognize the technology
20 advancing and the life-styles of the public changing as
21 well. And people need to be accommodated. The grocery
22 store doesn't care to be open 24 hours a day, but they have
23 customers that come in at 3 o'clock in the morning. And
24 they didn't have a market for that 35 years ago. Today,
25 they do. So the newspaper industry has to change with

1 this.

2 MR. HAIGH: Sure. I suggest that the
3 definition of newspaper itself should have to change. We
4 talked earlier today about a wide divided print between
5 legal papers and newspapers. That same divide exists
6 between our papers, which our communities rely on.

7 I defined community reliance and demonstrate
8 community reliance within the submitted testimony. That's
9 why I didn't want to get into that. I assume that that
10 will all be read. But we're all talking about getting more
11 people to participate in a democracy when less and less
12 people are doing so.

13 Less and less people are showing up for the
14 school board meetings, for township hearings, for all the
15 types of things that we would like them to do. And there
16 is a reason for it. And I think that we should, of course,
17 look to technology.

18 But as we're looking at technology, look at
19 what exists here today. And our papers exist. That people
20 count on our papers for -- I mean, they send us notices for
21 their church picnics. for their services. When they lose
22 something or find something in the street, the first place
23 they look and send a notice to is our papers.

24 A wide variety of information is given to us
25 by the community, and we give it back to the community.

1 We're community bulletin boards. We are relied upon, and
2 we're universally disseminated. We should at least have,
3 be an option for local government to do what they intend to
4 do. And that is serve their community and invite them to
5 participate.

6 CHAIRPERSON GANNON: Representative Gabig.

7 REPRESENTATIVE GABIG: Thank you, Mr.
8 Chairman. The list that you have in the back of your
9 papers that you've defined as community papers, is that
10 exhaustive; or are those just the members of your
11 organization?

12 I'm wondering why my local community paper
13 isn't in there from -- what's it called, The Guide? -- The
14 Guide Newspaper.

15 MR. SNYDER: These are a list of our current
16 members of MACPA, Mid-Atlantic Community Paper Association.
17 Not all free community papers belong to us in the state or
18 the surrounding states. We're constantly working on those.

19 REPRESENTATIVE GABIG: And I know in The
20 Guide, that, which is my local paper, that sounds like it
21 fits your description. It does have legal notices in
22 there. So what -- are those, are those just being put in
23 as extras? Is that what you're saying?

24 MR. SNYDER: Yes.

25 MR. HAIGH: I would believe that those are

1 being put in in addition to the legal mandate to publish.
2 I believe that the municipality or the agency doing that
3 has already, has already at that point paid a paper to do,
4 to fulfill the letter of the law and has put money out
5 there and is probably all but exhausted the budget but now
6 wants to fulfill the intent, which is to let the community
7 at large know. And that's why they will use a free
8 community paper.

9 REPRESENTATIVE GABIG: If I put it in the
10 weekly Valley Times Star, the Newville paper out in
11 Cumberland County, I put it in there so if there's any
12 challenge, they can say, Well, it went to everybody. I got
13 you.

14 How about -- did you hear some of the
15 questions from the Chairman on, you know, putting a notice
16 of an audit in here? And -- but you could call 1-800, and
17 we'll mail it to you. Heck, that would be cheaper I bet
18 than, you know, to anybody that's really interested in
19 terms of this divide between the citizens and democracy.

20 Do you have any thoughts or responses on that?
21 Say we did include you in the official thing. What would
22 your response be to that?

23 MR. HAIGH: I want -- how would I explain
24 this?

25 REPRESENTATIVE GABIG: Let me put it this way:

1 Do you agree with the Chairman?

2 MR. HAIGH: Yes, I do.

3 REPRESENTATIVE GABIG: All right. Good
4 answer. No further questions.

5 CHAIRPERSON GANNON: A couple questions. Are
6 your newspapers, or is your newspaper, are you members of
7 the Pennsylvania Newspaper Publishers Association?

8 MR. HAIGH: No, we are not.

9 MR. SNYDER: I guess the definition of -- we
10 are not newspapers. We're termed free community papers.
11 For many years, we've been called shoppers and so forth.

12 CHAIRPERSON GANNON: And how are you
13 distributed now, is it by mail or by delivery?

14 MR. SNYDER: My company personally, we have
15 our own carrier system, all carried. And most of our
16 publications are. There are some who mail. There are some
17 who mail, some of our members who do mail. But quite a
18 bit -- a majority of us, we have our own carrier set up.

19 CHAIRPERSON GANNON: I'm sorry. Could you
20 identify yourself for the --

21 MR. SNYDER: Yes. Jim Snyder of Kapp
22 Advertising.

23 CHAIRPERSON GANNON: Does your papers, do any
24 of your papers cover an entire county or do they just cover
25 portions --

1 MR. SNYDER: Yes, sir. Yes, sir.

2 CHAIRPERSON GANNON: -- of the county? So
3 would that be most instances or some instances?

4 MR. SNYDER: In most instances. We are
5 audited publications. I know personally my company has
6 been audited for -- we're in existence over 50 years and
7 have been audited for most of that time. Other than -- we
8 don't use ABC because they audit paid subscriptions. We
9 are CVC-audited, a company out of St. Louis.

10 And we are distributed -- we are audited at 98
11 percent, 98.9 percent coverage in an area where we're
12 reaching. Yes.

13 CHAIRPERSON GANNON: I have a weekly newspaper
14 that comes to my home. It's called Town Talk.

15 MR. SNYDER: Yes.

16 CHAIRPERSON GANNON: You've heard of that?

17 MR. SNYDER: Yes.

18 CHAIRPERSON GANNON: And that when I look at
19 the banner across the top, it covers certain towns;
20 although, I've seen Town Talk in other areas of the county.
21 If I put an ad in the Town Talk, does that just appear in
22 that local edition for those towns or does that appear in
23 every edition throughout the county? Do you understand my
24 question?

25 MR. SNYDER: Yes. And I guess for me to

1 answer that question with the Town Talk, I'm not sure of
2 their, how they do things. Depending on what you're
3 purchasing from them, it may or may not. That's the best
4 way I can answer that.

5 CHAIRPERSON GANNON: I may have to pay
6 additional in every --

7 MR. SNYDER: Let me explain it this way: We
8 have 10 independent, 10 different publications that we
9 produce. They're all regionalized. You can place it in
10 one publication or all of them and pay accordingly. Yes.

11 CHAIRPERSON GANNON: Well, you have an exhibit
12 here, G. And I couldn't help but start to peruse some of
13 these ads. It shows how important this local type of paper
14 is to the community because somebody put an ad, "Does
15 anyone know what happened to the large, one-eyed goose that
16 lives near the skating pond on Mill Street in Quakertown?"
17 He took off for Thanksgiving.

18 The other thing, just to comment, too, and
19 that is with the Town Talk that I receive, it's delivered
20 to my home by a young, a young girl. And about once a
21 month, she comes around and gets a voluntary contribution.
22 It's 25 cents to pay for the, to pay for the paper. She
23 comes around with her mom. So I don't know whether that
24 makes that a paid newspaper or not.

25 MR. SNYDER: No, no.

1 CHAIRPERSON GANNON: Any other questions from
2 the committee? Representative Hennessey.

3 REPRESENTATIVE HENNESSEY: Thank you, Mr.
4 Chairman. Gentlemen, we were given by somebody a copy of
5 section, or Title 45, Section 101. And I think in looking
6 through this, that's probably where you're running aground.
7 The definition of newspaper -- for those of you who have
8 it, it's on page 421 of this Title 45, which was
9 distributed, up at the top of the right corner.

10 It says Allegheny Bar Association. On the top
11 of page 422, there are 2 exceptions. It says, A printed
12 paper or publication, regardless of size, contents, or time
13 of issue, or number of copies issued, distributed and
14 circulated gratuitously, is not a newspaper. That's one of
15 the problems that you have with this, the law.

16 The second exception says that a printed paper
17 or publication not entitled to be entered as second class
18 matter in the United States mails is not a newspaper. If
19 we wanted to, it would seem to me that the House or the
20 Legislature could delete that exclusion in number 2.

21 It says that if it's free, it's not considered
22 a newspaper. What could we do to change the exclusion as
23 it exists in paragraph 3, which says if you can't -- us
24 changing paragraph 2 doesn't automatically entitle you to
25 be considered second class mail under the Postal Service

1 regulations I would think.

2 And it would seem to me to that extent, we're
3 powerless to help you. Well, even if we change paragraph
4 2, we can't affect paragraph 3, can we?

5 MR. HAIGH: I don't think so. What we're
6 doing is Exhibit A. Exhibit A is the proposed changes to
7 the Pennsylvania Consolidated Statutes, which adds a new
8 definition of community papers of mass dissemination, which
9 is taking all the language of newspaper with all words of
10 free and must be paid deleted and also adding for certain
11 measures that it should either be distributed through the
12 US mails to entire local ZIP Codes or distributed by
13 audited carriers to all known addresses within local
14 community boundaries and then sets a provision in Chapter 3
15 of Title 45 for use of community papers of mass
16 dissemination.

17 Any government unit may, at its discretion,
18 authorize publication in a community paper of mass
19 dissemination in substitution for a publication in a
20 newspaper.

21 REPRESENTATIVE HENNESSEY: Okay. I guess the
22 question I was asking -- maybe I wasn't clear on my
23 thinking. We could get rid of paragraph 2 and 3 in the
24 definition of newspaper in the Pennsylvania code, or the
25 Pennsylvania Consolidated Statutes.

1 Is there a way -- I mean, what is it that
2 keeps you from being considered second class mail under the
3 postal regs? We couldn't change that -- I think -- I'll
4 correct myself. We could just eliminate that exclusion
5 from the definition. But what keeps you from being
6 considered second class mail?

7 MR. HAIGH: I think a certain level of paid
8 subscribers.

9 MR. SNYDER: And editorial content.
10 Subscription and editorial content because --

11 REPRESENTATIVE HENNESSEY: And that's a matter
12 of postal regulations.

13 MR. SNYDER: Correct.

14 REPRESENTATIVE HENNESSEY: Okay. Flip back
15 with me to Exhibit E, if you would. It's probably about 10
16 pages back from the back of the book. In looking over
17 this, the Franklin Shopper is the newspaper of mass
18 circulation that you're targeting, right, or be advocating
19 for? And the others are paid newspapers or paid --

20 MR. HAIGH: Yes.

21 REPRESENTATIVE HENNESSEY: -- subscription
22 newspapers, whatever?

23 REPRESENTATIVE HENNESSEY: If I'm reading the
24 bottom line of your comparison, is that the Franklin
25 Shopper's rate is \$17.16 per open inch and, you know, the

1 Record-Herald is 9.80 and the News-Chronicle is 5.50. I
2 mean, is this, is that comparable across the state?
3 Because if I had, if I'm a person who has to decide how
4 much to pay for my legal ad, I'm going to put it in the
5 cheapest paper I can probably.

6 And if I'm motivated by the idea of getting
7 the biggest circulation, I might take that into
8 consideration and pay higher numbers. But if you're doing
9 any type of volume, it would seem to me that the Franklin
10 Shopper in this particular situation is almost always going
11 to lose out to the News-Chronicle because it's, the
12 News-Chronicle's rates are a third of what yours are, what
13 the Franklin Shopper's are.

14 MS. EHLE: I'm Margaret Ehle, and I'm the
15 publisher of the Franklin Shopper. And the reason for the
16 comparison is, the reason for the comparison is if you were
17 running a county-wide ad, you would be advertising in 3
18 publications and paying that rate to the Public Opinion,
19 the Record-Herald, and the News-Chronicle.

20 That's what my county has to run to cover the
21 county. In comparison --

22 REPRESENTATIVE HENNESSEY: If they run -- I
23 mean, they might say that the, you know, the Public Opinion
24 Newspaper is a newspaper of general circulation. Even
25 though it doesn't get to every segment of the county, it

1 would seem to qualify under the statutory law we have now.
2 So they wouldn't have to do all 3. It might if they wanted
3 to.

4 MS. EHLE: Correct. Our comptroller said that
5 she uses 3 papers to reach the county versus our total
6 county rate and circulation. They could go with one
7 publication. Now, we also do what the Chairman referred
8 to. We can zone. We have different rates.

9 You could buy just the Record-Herald's area in
10 our county and pay a lesser rate. And that's not reflected
11 here.

12 REPRESENTATIVE HENNESSEY: Okay. What rate
13 would that be if you went to -- are you talking about
14 zoning for -- you'd only cover the eastern half of the
15 county.

16 MS. EHLE: \$5.35 versus the Record-Herald's
17 \$9.80. We actually --

18 REPRESENTATIVE HENNESSEY: By cost comparison,
19 if the commissioners or whoever is using every paper in the
20 news, in the county, then it's cost-effective to go with
21 the one general, the free paper here --

22 MS. EHLE: Correct.

23 REPRESENTATIVE HENNESSEY: -- the Franklin
24 Shopper.

25 MS. EHLE: Correct. And that's the point.

1 And also, in a municipality, if -- because we do zone in
2 many of the free publications, and our association do zone.
3 We have 3 separate zones within the county. That it can be
4 cost-effective for you, if you're just in the Waynesboro
5 area, which is the Record-Herald again, to choose that zone
6 of our publication for \$5 --

7 REPRESENTATIVE HENNESSEY: And the rates come
8 down?

9 MS. EHLE: -- \$5.35. It also saves manpower
10 for the comptroller. Rather than having to contact 3
11 separate publications if she's covering the county, to
12 contact just 1.

13 REPRESENTATIVE HENNESSEY: Okay. Thank you.
14 Thank you, Mr. Chairman. Those were all the questions I
15 have.

16 CHAIRPERSON GANNON: So if I understand, if
17 the county government wanted to publish a notice to the
18 entire county -- and this is Bucks County?

19 MS. EHLE: This is Franklin County.

20 CHAIRPERSON GANNON: Franklin County. What's
21 the county, Franklin County? So if I wanted to cover the
22 entire county, that would run me 17.16 per line?

23 MS. EHLE: Well, it's actually per column
24 inch.

25 CHAIRPERSON GANNON: Per column inch. Okay.

1 I'm sorry. But if I was a local township or borough and I
2 just wanted to cover the borough or, you know, in that
3 general area, I would go to one of your regional papers --

4 MS. EHLE: Correct.

5 CHAIRPERSON GANNON: -- and it would be \$5.35
6 per column?

7 MS. EHLE: It would be the rate for that zone.

8 REPRESENTATIVE HENNESSEY: Or you could go to
9 them if we change the definitions and pay a lesser rate.

10 CHAIRPERSON GANNON: Well, that's what I'm
11 saying.

12 MS. EHLE: Correct.

13 CHAIRPERSON GANNON: I'm just assuming that
14 you could use --

15 MS. EHLE: And as Jim Snyder alluded to, they
16 have different zones in their publication where you can
17 reach a wide area with one purchase. Or you can just be in
18 the Hanover or the Gettysburg zone, and the rate is
19 representative of the circulation.

20 CHAIRPERSON GANNON: So what you're suggesting
21 is that we redefine a newspaper of general circulation to
22 include this mass circulation --

23 MR. HAIGH: Mass dissemination, yes.

24 CHAIRPERSON GANNON: -- mass dissemination
25 meaning? Are there any questions from any of the committee

1 members? (No response.) Well, I would like to thank you
2 for appearing before the committee today and providing us
3 with information about the Mid-Atlantic Community Papers
4 Association and its position on this important topic.
5 Thank you very much.

6 MR. HAIGH: Thank you.

7 CHAIRPERSON GANNON: We have some witnesses
8 who wanted to provide information to the committee. They
9 could not be here today. So they have submitted written
10 information. And that is the Dauphin County Commissioners,
11 the American Civil Liberties Union, and Pennsylvania Legal
12 Services. And we're going to include their information in
13 the official record of this meeting.

14 Any other matter, business to be brought
15 before the committee? (No response.) There being none,
16 this meeting is adjourned. Thank you very much.

17 (Whereupon, at 12:10 p.m., the hearing
18 adjourned.)
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1 I hereby certify that the proceedings and
2 evidence are contained fully and accurately in the notes
3 taken by me during the hearing of the within cause and that
4 this is a true and correct transcript of the same.

5

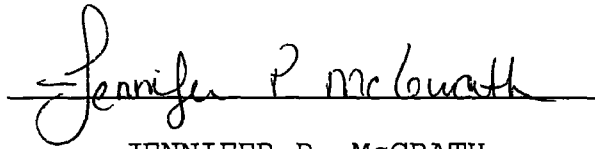
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Registered Professional Reporter

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17 My Commission Expires:

18 April 30, 2005

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