

ORIGINAL

HOUSE OF REPRESENTATIVES  
COMMONWEALTH OF PENNSYLVANIA

IN RE: JUDICIARY COMMITTEE HEARING  
ON HOUSE RESOLUTION 110

FRIDAY, SEPTEMBER 6, 2002  
10:00 A.M.

CITY COUNCIL CHAMBERS  
PITTSBURGH CITY HALL  
414 GRANT STREET  
PITTSBURGH, PENNSYLVANIA

BEFORE:

HON. THOMAS GANNON, CHAIRMAN  
HON. STEPHEN MAITLAND  
HON. KATHY MANDERINO

ALSO PRESENT:

MICHAEL SCHWOYER, ESQUIRE  
RICHARD A. SCOTT, ESQUIRE  
JANE MENDLOW, RESEARCH ANALYST



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T2002-115

1           REPRESENTATIVE GANNON: The hearing  
2 will come to order. This is held pursuant  
3 to House Resolution 110.

4           All the testimony will be made part of  
5 the record and copies provided to every  
6 member of the committee concerning the  
7 report and recommendation that the  
8 committee will make to the full House.

9           With that said, I'd like to call the  
10 first witness, Mr. Jim Haigh, Assistant  
11 Publisher, Penny Power, Limited and  
12 Legislative Director of the Mid-Atlantic  
13 Community Papers Association; Ted Benson,  
14 Publisher of the Pittsburgh Pennysaver; and  
15 Mr. Tim Bingaman, president of Circulation  
16 Verification Council.

17           Gentlemen, come up here. And Mr. Bill  
18 Weaver of the Pittsburgh Pennysaver.

19           Welcome, gentlemen, and you can  
20 proceed when you are ready.

21           MR. HAIGH: On behalf of the  
22 Mid-Atlantic Community Papers, I would like  
23 to thank you, Mr. Chairman, and members of  
24 the committee for the opportunity to be  
25 here.

1           I am Jim Haigh, COO of Penny Power,  
2           and legislative director of Mid-Atlantic  
3           Community Papers.

4           We're here because we believe the  
5           printed word dated by edition and published  
6           at regular intervals is the best means of  
7           giving notice to the public.

8           Further, such a publication  
9           distributed to every member of the  
10          community for free should be a viable  
11          option for those charged with giving notice  
12          to their communities.

13          Our distribution our demographics and  
14          our readership make our papers such a  
15          viable means of delivering public notice.

16          We are here only asking to be an  
17          option to the publishing of legal notice.

18          That being said, Bill Weaver of the  
19          Pittsburgh Pennysaver will talk about  
20          readership. Tim Bingaman, president of  
21          CVC, will talk about statewide audit and  
22          leadership survey, and Ted Benson from the  
23          Pittsburgh Pennysaver will speak about the  
24          intent of the law.

25                        REPRESENTATIVE GANNON: Thank you.

1           MR. WEAVER: Thank you. My name is  
2 Bill Weaver, general manager of Pennysaver  
3 publications. We circulate generally in  
4 the western Pennsylvania area.

5           During the last several years, there's  
6 been a great decline in circulation of paid  
7 newspapers, not only in Pennsylvania but  
8 throughout the country. There's been a  
9 reduction of paid for newspapers as far as  
10 the actual number of Pittsburgh market  
11 alone, in the last 20 years we've lost a  
12 number of paid for papers.

13           In Allegheny County, the two primary  
14 papers, the Post-Gazette and  
15 Tribune-Review, have lost circulation, and  
16 according to the Audit Bureau of  
17 Circulation, approximately 36.5 percent of  
18 the people in Allegheny County --  
19 households in Allegheny County receive the  
20 daily Post-Gazette. The Tribune-Review is  
21 actually 11.2 percent.

22           The legal notices that we're talking  
23 about appear in the classified sections of  
24 these papers. According to the Media Audit  
25 Report, and this is the report that's

1 produced by International Demographics that  
2 does studies for all medias and  
3 approximately 90 cities across the country,  
4 of those people receiving the daily  
5 newspaper, particularly the Post-Gazette,  
6 only 38 percent actually read the  
7 classified sections.

8 They further go on to say that of the  
9 households in Allegheny County -- the  
10 adults, and there's a million 2,100 adults  
11 in Allegheny County, according to their  
12 study, only 8100 has read classifieds in  
13 the last week.

14 So, we're talking about approximately  
15 eight percent that are actually exposed to  
16 these people in Allegheny County -- ads are  
17 exposed.

18 When you break it down further, look  
19 at the zip codes and communities of  
20 Allegheny County, we find there's a great  
21 disparity among the people that receive the  
22 paper and read the paper. If we look at  
23 some of the communities like, for example,  
24 Clairton, North Braddock and Wilkinsburg,  
25 we find that approximately ten percent of

1           the households see actually less than ten  
2           percent, about nine percent of the  
3           households actually are exposed to the  
4           classified section.

5                    When we look at Fox Chapel, Upper St.  
6           Clair and Mt. Lebanon, we find that one out  
7           of every five, still a very weak  
8           performance by any standards, but almost  
9           three to one times the number of readers in  
10          more affluent areas.

11                   When we look at the readership in  
12          general of free publications, I can speak  
13          in the media audit report, we're talking  
14          about readership of the nine to 20 percent  
15          readership of other papers. Pennysaver is  
16          actually read by 53 percent of the  
17          population of Allegheny County and  
18          currently is the highest read publication  
19          in western Pennsylvania, according to the  
20          Media Audit Report.

21                   Once again, the Media Audit Report is  
22          an independent company that does these  
23          reports for not only publications, but for  
24          other media use.

25                   So, we're looking at one out of every

1 twelve in the less affluent areas, one out  
2 of every five in the most affluent areas in  
3 Allegheny County.

4 Thank you.

5 REPRESENTATIVE GANNON: Thank you.

6 MR. BINGAMAN: My name is Tim  
7 Bingaman, president of Circulation  
8 Verification Council.

9 CVC provides circulation audits for  
10 over 1700 paid and free publications across  
11 the country. We recently completed an  
12 audit for the members of MCPA, Mid-Atlantic  
13 Community Paper Association. MCPA  
14 represents free papers and community papers  
15 throughout the Mid-Atlantic region, 58 of  
16 those member editions are in Pennsylvania.

17 I am not here to say that free  
18 publications are better than unfree  
19 publications. That is a decision and  
20 distinction made market by market by  
21 competitive measures.

22 However, the findings that he just  
23 noted from Media Audit, which are one of my  
24 competitors, are quite similar to the  
25 findings we also find.

1           So, you have two very large  
2 independent auditors who do not share  
3 information.

4           CVC was recently contracted by MCPA to  
5 audit their publications for the period  
6 July 1, 2001 through December 31, 2001.  
7 Their initial six-month audit status, they  
8 will continuously be audited by our  
9 company, circulation is 2,272,628.

10           The vast majority, over 85 percent of  
11 those publications are delivered directly  
12 to readers homes. The balance were  
13 distributed through rack and store  
14 locations or special events in the  
15 communities.

16           During the process, a part of our  
17 audit process is to interview readers,  
18 verify several things, among them the  
19 receivership of the paper, whether they  
20 purchase items advertised in the paper.

21           During the audit process, we polled  
22 15,672 Pennsylvania households, first to  
23 verify delivery of papers. 15,483 of the  
24 households in the distribution areas, or  
25 97.3 percent, reported regular, consistent



1 delivery of the community paper. Of the  
2 households that received the paper, 75.3  
3 percent, 11,339, reported that they read  
4 the community paper delivered to their  
5 household.

6 Of the individuals who read the paper,  
7 81.5 percent or 9,244 report that they  
8 regularly purchased products or services  
9 from ads they see in the paper.

10 So, what you have are three  
11 substantial numbers as far as the delivery,  
12 readership and purchase influence of the  
13 papers that are represented by MCPA. These  
14 papers happen to be free.

15 One of the interesting things that  
16 came from the study in Pennsylvania, we  
17 also did demographic data on the readers of  
18 the publications. We prepared income,  
19 education level and age demographics. Of  
20 the three paper readers, compared to the  
21 market statistics of the general  
22 marketplace, what we found was nearly,  
23 without exception, the free paper readers  
24 mirrored the market that they served in  
25 almost every demographic category, income,

1 education and age. There were slight  
2 losses in less affluent households, slight  
3 losses in more affluent households, but  
4 between 25,000 and 99,000 household income,  
5 the numbers exceeded those of the market.

6 From those demographics, which are  
7 supplied as part of the package, you see  
8 the free community papers mirror the market  
9 that they serve and that's the important  
10 thing about these papers that were audited  
11 by MCPA.

12 In the opinion of CVC, the results  
13 compiled from the circulation level do  
14 prove that free papers have reliable  
15 distribution systems and are well read  
16 within the communities that they serve.

17 CVC provides both paid and free  
18 publications, so we're certainly not here  
19 to advocate any particular type of  
20 publication. However, in this instance,  
21 free papers are a viable option.

22 Thank you.

23 MR. BENSON: I, too, would like to  
24 thank the committee for taking this time  
25 and interest. This is an issue I come to

1           you today --

2                   Ted Benson, publisher of the  
3           Pittsburgh Pennysaver.

4                   I come to you with some different  
5           perspectives on this issue. I am a former  
6           advertising manager with a daily  
7           newspaper. For over 20 years, worked in  
8           the daily newspaper business.

9                   I have addressed this issue from the  
10          perspective of the daily newspaper and have  
11          argued this idea and the need for reform  
12          from that perspective.

13                  I come to you as a former board member  
14          of a public agency that received both local  
15          and state funding and needed to use legal  
16          advertising, and so from a board member  
17          perspective, I've addressed this issue as  
18          well.

19                  I come to you, as I said, as a  
20          publisher of the Pennysaver, free  
21          distribution weekly in the Pittsburgh  
22          market, and I come to you as a father. And  
23          I will explain that issue.

24                  My wife and I have adopted three  
25          children. Two of those children needed to

1 have their parental rights terminated prior  
2 to our ability to adopt them. This was  
3 over 15 years ago.

4 The agency legally advertised that  
5 termination or that requirement. That  
6 happens in a little local community paper  
7 in the county we were in with a circulation  
8 of 1200 instead of advertising it in the  
9 daily newspaper, because it was more  
10 expensive. The little community newspaper  
11 qualified by law, it was general  
12 circulation, it was paid circulation, it  
13 was in that community and it made my wife  
14 and I nervous that only 1200 people in a  
15 community of over close to 200,000 were  
16 being notified. But it was legal, it was  
17 okay.

18 There were no problems, I have  
19 grandchildren now thanks to that adoption,  
20 there are no problems.

21 But my point is that I think this  
22 whole perspective, the whole issue is from  
23 the perspective of the law and the intent  
24 of the law is not the intent of the law to  
25 legally advertise, whether it be for

1            termination of parental rights, whether it  
2            be to bid on a bulldozer for a community,  
3            whether it be to a meeting notice, it is  
4            the intent of the law to reach as many  
5            people within that community with that  
6            notice as possible.

7            So I'm coming from the perspective, as  
8            I said, former daily newspaper advertising  
9            manager where I lost that battle because  
10           legally, they could do it for 40 bucks with  
11           this little community newspaper instead of  
12           spending 400 with my newspaper. I lost  
13           that battle. But the intent of the law was  
14           not met.

15           I want to talk to you today about how  
16           we can possibly do that. I think a service  
17           that you could do to your constituents, the  
18           greatest service you can do will be to  
19           define why are we doing this. Why do we  
20           require this legal advertising. And if  
21           that requirement is to make sure that we  
22           reach as many people in this particular  
23           community as possible, I think that maybe  
24           should be one of the requirements, instead  
25           of simply stating in a law that, quite

1           frankly, is probably antiquated, probably  
2           hasn't been rewritten since 1776 and to  
3           Bill's testimony, yes, the newspaper  
4           industry has been losing circulation and  
5           losing market share considerably since  
6           1976.

7                     The newspaper I work for alone has had  
8           a decrease in circulation since 1976.  
9           Maybe the law was written correctly at the  
10          time. This was at a time when the daily  
11          newspaper was the only means of getting  
12          information and news. This is at a time  
13          when the daily newspaper, even weekly  
14          newspaper was the only source of  
15          information.

16                    I think we're going to hear talk about  
17          the internet. Maybe we should put up an  
18          internet site for all the legal ads and  
19          advertise the site and make the public  
20          libraries have access. But if we examine  
21          first the intent of the law, the intent is  
22          that we reach as many people as possible  
23          legally.

24                    I have a friend who is in the heavy  
25          equipment business who lost a bid because

1           it was advertised in a little community  
2           paper and he never knew about it. He could  
3           have saved that municipality -- a quarter  
4           of a million dollar bid, he could have sold  
5           the same equipment for 30- to \$35,000  
6           less.

7                     As a taxpayer in that community, that  
8           upsets me. They spent 30- to \$35,000 too  
9           much money for that same piece of  
10          equipment.

11                    If the intent is to reach people, find  
12          them, then I think that's something we have  
13          to do.

14                    In your letter from Michael Schwoyer  
15          from this committee, you indicated that you  
16          want us to focus on interpretation. That's  
17          what I'm asking you to do.

18                    Let's take a look at the law, what do  
19          we want it to do. Let's not look at how we  
20          want to do it. Let's not say it has to be  
21          in the daily newspaper. Let's make --  
22          let's quantify it.

23                    We have audits that verify circulation  
24          for the newspaper industry, for weekly  
25          newspapers and for free advertising

1 weeklies.

2 Bill Weaver mentioned to you in his  
3 testimony that in this particular market,  
4 and let's not talk just about Pittsburgh, I  
5 want to talk about the whole State of  
6 Pennsylvania, but in this particular  
7 market, the Pennysaver, scientifically  
8 documented by Media Audit Research, which  
9 both daily newspapers subscribe to, is the  
10 best read -- not best circulated, best read  
11 printed publication in this market.

12 That is typical throughout the  
13 country. It is not just in Pittsburgh. We  
14 can reach more people and get the job done  
15 that way.

16 So, I ask you if you do anything, I  
17 ask you to examine the intent of the law  
18 and come up with a solution that fills that  
19 intent.

20 Let's define the intent of the law. I  
21 have read the law, I read Act 45 and it  
22 does not define what we are supposed to  
23 do. It defines -- doesn't define intent,  
24 defines what you are supposed to do and who  
25 you are supposed to do it with.



1           Let's leave it wide open, much like  
2           they do in the State of Minnesota. My  
3           sister is recently a retired attorney in  
4           the State of Minnesota. She said when they  
5           changed that, costs came down. The law in  
6           Minnesota, they define how you have to use,  
7           doesn't say daily newspaper, weekly  
8           newspaper, doesn't say advertising weekly.  
9           It says you have to have this much  
10          penetration of the market, at least these  
11          many people and you know what happened,  
12          advertising rates went down.

13           As you talk to borough managers today,  
14          they will tell you how that impacts the  
15          budget. So I think it opens up a free  
16          market.

17           I want to say, too, the ink in my  
18          blood from many years in the newspaper  
19          business, this isn't an issue about the  
20          Pennysaver in Pittsburgh, this is an issue  
21          about let's reach the most people in every  
22          community possible and open up that free  
23          market. Because in many cases, the daily  
24          newspaper is going to win the battle.

25           In many cases, the weekly -- our

1           company also owns 16 weekly newspapers.  
2           Some communities around the Pittsburgh  
3           area, our community newspaper has better  
4           penetration than the big dailies do in that  
5           community.

6                     Let's define it as reaching the most  
7           people for the best cost and if we put that  
8           in there, I think everybody can win.

9                     Most importantly, your constituency is  
10          going to win.

11                    Thank you.

12                    REPRESENTATIVE GANNON: Thank you.

13                    MR. HAIGH: We've given our testimony  
14          and what happened last time we were here,  
15          we were asking for language as Exhibit A  
16          that we would have as proposed changes to  
17          Title 45. That is actually now in bill  
18          form, House Bill 2330, and we would urge  
19          this community to support House Bill --  
20          make it the recommendation to support House  
21          Bill 2330 in your final recommendation.

22                    REPRESENTATIVE GANNON: What's the  
23          average charge per line for classified  
24          advertising in the weekly newspapers?

25                    MR. BINGAMAN: One of the things

1 different from our publication, we have 75  
2 different publications by zip codes. So  
3 the cost per line really varies greatly.  
4 It varies from, to give you an example, a  
5 15 word ad which is approximately four  
6 lines in this market, I can't remember,  
7 would run for a five book 50,000  
8 circulation, would run approximately \$30.

9 MR. BENSON: If Allegheny County  
10 wanted to run a legal ad, they would buy  
11 our total Allegheny County circulation.  
12 But if Clairton needed to run a legal ad,  
13 they wouldn't have to buy the whole  
14 circulation, they buy the Clairton book,  
15 and instead of spending 700 to a thousand  
16 dollars, they might spend 50 to a hundred.

17 That is typical of community papers  
18 and weekly newspapers. They are able to  
19 target the community instead of buying the  
20 whole market.

21 REPRESENTATIVE GANNON: Would that  
22 cost less? In other words --

23 MR. BENSON: Our advertising rates are  
24 less than the daily newspapers.

25 REPRESENTATIVE GANNON: If I'm in

1 Clairton and want to advertise a  
2 business --

3 MR. BENSON: Considerably less.

4 REPRESENTATIVE GANNON: They would  
5 reach potentially all the audience?

6 MR. BENSON: Ninety-six to a hundred  
7 percent in Clairton.

8 REPRESENTATIVE GANNON: As opposed to  
9 the entire county?

10 MR. BENSON: Instead of the whole  
11 county. And let's not pick on Pittsburgh,  
12 talk about any daily newspaper. Daily  
13 newspaper average penetration in the  
14 country is less than 50 percent. If we use  
15 the national figure, you're reaching 50  
16 percent of Clairton, but buying all of  
17 Allegheny County.

18 We have the ability to buy just  
19 Clairton and reach 96 percent. If I were  
20 mayor of a small town, that would be very  
21 attractive to me.

22 REPRESENTATIVE GANNON: I don't know  
23 that you have any statistics on this, but  
24 I've heard the weekly papers stay in the  
25 house longer than the daily. The daily

1 newspaper has a one-time ad.

2 MR. BENSON: It's a daily newspaper,  
3 you get a new one tomorrow. So, it's not  
4 that it's a bad newspaper or anything, it  
5 changes tomorrow.

6 Yes, there are studies with we could  
7 probably cite three or four different ones  
8 that go anywhere from one, two days to a  
9 week that they stay in the house. I know,  
10 because as the father of six children who  
11 goes to garage sales, I know when you go to  
12 garage sales and it is on Saturday, the  
13 Pennysaver that came Wednesday, they have  
14 it it in their hip pocket.

15 It is the nature of the beast. It's  
16 not that our Pennysaver is better, we've  
17 dictated that kind of usage by the way we  
18 distribute.

19 MR. BINGAMAN: I can add to that.  
20 Last year we conducted over a half million  
21 interviews with paper readers across the  
22 country. The average daily paper of the  
23 seven editions was read 4.2 times -- 4.2 of  
24 the seven editions were read throughout the  
25 week. The average weekly paper across the

1 country, this includes shoppers editorial  
2 content papers, 36 percent are still in the  
3 home when the new edition arrives.

4 That's a pretty good retention  
5 percentage.

6 REPRESENTATIVE MANDERINO: I am Kathy  
7 Manderino, sorry I was late.

8 I don't know exactly who to direct  
9 this to. You refer to scientific or  
10 factual data about the penetration of free  
11 publications. I guess I'm not -- I'm  
12 thinking of everybody looks from their own  
13 experience. I get a daily paper, which I  
14 purchase, so I'm sure that that newspaper,  
15 when they count their circulation, they  
16 count paid subscriptions and that's how  
17 they tell you what their penetration is.

18 I also read regularly my weekly free  
19 community newspaper and I'm sure if you ask  
20 them, they will say that they deliver to  
21 every home in the community. But the  
22 reality is for the past four years, there  
23 hasn't been a carrier in my neighborhood,  
24 so I have to scrounge around the  
25 neighborhood to find who has that

1 newspaper, because it doesn't come to my  
2 home.

3 When you say we know our penetration  
4 is this deep, how do you know that? How  
5 can I be comfortable that you are counting  
6 it in terms of the homes it is actually  
7 delivered to as compared to this theory  
8 that we deliver to all the homes in the  
9 community?

10 Can you explain that?

11 MR. BINGAMAN: Let me start with  
12 that. When a paper is audited, there are  
13 five audit companies throughout the country  
14 who do audits. The newspaper will define  
15 their market area by number of households.  
16 Twenty thousand households within the  
17 market.

18 Typically we would end our audit with  
19 a series of calls and with that amount of  
20 -- approximately 400 to 500 calls within  
21 that market. All random dial so all 20,000  
22 are represented.

23 REPRESENTATIVE MANDERINO:

24 Statistically significant survey to  
25 verify?

1 MR. BINGAMAN: So, of those 20,000  
2 households, a specific number would be  
3 interviewed and receivership number is  
4 assigned. The receivership is a percentage  
5 of the 20,000 households that receive the  
6 paper.

7 In the course of the last audit, with  
8 the 58 Pennsylvania editions, 97.3 percent  
9 of the households report they get it.

10 REPRESENTATIVE MANDERINO: Going back  
11 to define the intent of the law, which was  
12 your point very well taken, but in thinking  
13 about it and thinking about some of the  
14 examples that you used of a friend who,  
15 because of he the circulation of the  
16 newspaper in which a large piece of  
17 equipment for a city was advertised, he  
18 didn't see it and then at the same time,  
19 suggesting that it would be more cost  
20 effective to buy a part of a circulation  
21 that only distributes in the City of  
22 Clairton. Maybe this guy lived further  
23 down the Monongahela River and still  
24 wouldn't have seen that ad anyway.

25 My question is: When defining that



1           intent, do you have any suggestion about --  
2           and the same thing with adoption. We're  
3           such a mobile community this day, that to  
4           assume that a baby that was born in Magee  
5           Hospital, community outreach is right  
6           there, it could be anywhere within a 50 or  
7           60-mile radius.

8                     How do we -- if we go the intent  
9           route, how do we define intent, and didn't  
10          it almost have to depend on the kind of  
11          legal notice you are putting in? Any  
12          thoughts about that?

13                    MR. BENSON: There are -- we could  
14          have someone, for example, the adoption  
15          example, we could have someone live in  
16          Cranberry, almost to the Butler line, and  
17          it would be a five minute ride to Butler  
18          and moved to Butler and we don't cover. I  
19          agree that is one of the problems with the  
20          law. The intent of the law is to reach as  
21          many people as possible.

22                    Often, when you see those, especially  
23          parental notification things, I was on the  
24          board for Family Services of Erie County  
25          and very often it wasn't that the parent

1 would call, it was an aunt, an uncle, a  
2 mom, a dad who would end up notifying and  
3 they were still there and we found  
4 someone.

5 I can't answer that question for you  
6 as to what is best for bidding equipment.  
7 You're absolutely right. As a member of  
8 that community or a taxpayer in the  
9 community where that happened, I would want  
10 them to put the bid out to the entire  
11 county. That seemed like the smart thing  
12 to do. They robbed Peter to pay Paul, so  
13 to speak, by buying the cheaper ad and  
14 getting less circulation.

15 I think -- I hate to throw this back  
16 in your lap, but I think that's the harder  
17 part of your job right now. I think we  
18 really need to look at it.

19 We talked about possibly the  
20 internet. I know most newspapers -- we at  
21 the Pennysaver, we have an internet site as  
22 well. We'd be happy to put up a part of  
23 that site to also put it there, too, and  
24 archive them and leave them there. If it  
25 is important, if this is -- maybe it is not

1           important anymore. Maybe you'll come up  
2           with that, I don't think so.

3                     Let's really come up with a way that  
4           defines this and defines it well.

5                     If you read this, Act 45 now defines  
6           type as something made out of metal or  
7           wood. This is the computer age. Those  
8           things are in museums now. I think we  
9           really need to take a look at this and to  
10          get back to your question on intent, what  
11          is the intent and maybe we will have to  
12          define it.

13                    If it is within a community and it is  
14          a meeting notice, obviously you only have  
15          to notify the community. If it is  
16          Allegheny County and bidding for a piece of  
17          equipment, they have the obligation to hit  
18          as many vendors as possible to know about  
19          that. Maybe that may be more defined more  
20          succinctly.

21                    REPRESENTATIVE MANDERINO: Thank you.

22                    REPRESENTATIVE GANNON: Just a  
23          follow-up.

24                    If, in fact, Allegheny County had a  
25          requirement to publish a notice, a public

1 notice as opposed to legal notice.

2 MR. BENSON: They all apply under this  
3 Act.

4 REPRESENTATIVE GANNON: But public  
5 notice, they put that notice in that paper  
6 with a circulation of 1200 that you spoke  
7 of. Would they have met their legal  
8 obligation?

9 MR. BENSON: According to this law,  
10 yes, it did. Is it the right thing to do?  
11 No. But when you're a borough manager  
12 looking at the budget and you are already  
13 over budget, we're putting them in an  
14 uncomfortable situation, but that's legal.

15 REPRESENTATIVE GANNON: That's what I  
16 was getting to.

17 MR. BENSON: There could be a half  
18 dozen weeklies or daily newspapers within a  
19 given community. The law doesn't say you  
20 have to reach as many as possible. The law  
21 says it has to be of general circulation,  
22 paid circulation.

23 Again, I advise you to call your peers  
24 in Minnesota and take a look at that law.

25 REPRESENTATIVE GANNON: That is the

1 next question, but how can a paper that  
2 that has a circulation of 1200 be defined  
3 as a newspaper of general circulation?

4 MR. BENSON: I would like you to  
5 answer that question.

6 REPRESENTATIVE GANNON: That's why I  
7 say it is rhetorical.

8 Thank you very much.

9 MS. MENDLOW: In terms of the  
10 expanding the variety of papers or other  
11 forms of communication for notices, would  
12 your expectation be that various entities  
13 responsible for the publication and  
14 individuals ultimately who were responsible  
15 for the notices that there would be an  
16 expectation that there be more resources  
17 used and thereby actually increasing the  
18 cost; i.e., that you can't eliminate, let's  
19 say, Allegheny County, but in addition, you  
20 must do something else.

21 I was just wondering about your  
22 thinking in terms of are we not perhaps  
23 only eliminating but kind of suggesting  
24 supplementing and, therefore, you know, not  
25 necessarily in all cases reducing costs?

1           MR. BENSON: Again, that comes back to  
2 defining the intent of the law. The law, I  
3 mean, in some cases, they have to put the  
4 ads in the legal journal as well. That's  
5 preaching to the choir. That's going to  
6 lawyers.

7           I would suggest, too, that maybe the  
8 law defines notification to the  
9 readership. If you pick up any daily  
10 newspaper, whether it be in this market or  
11 any other market, and you look at the front  
12 page on the index that says legal notices  
13 appear here. Is that important? Should  
14 the House address that and indicate that we  
15 want to make sure that the consumers know  
16 legal notices appear? We have an index.

17           Bill and I would be very happy to put  
18 a front page box legal notices begin on  
19 page 12, if it helps the consumer know that  
20 is where they appear.

21           To your question, I think that's a  
22 really good question and I think it needs  
23 to be defined. I keep throwing things back  
24 in the lap of the House here, I think that  
25 needs to be defined. It's a very good

1 question, needs to be addressed. Intent  
2 will define that.

3 REPRESENTATIVE GANNON: If I  
4 understand your argument, correct me if I'm  
5 wrong, for example, a government saying,  
6 whether it is county or local town, could  
7 advertise in your paper today for this  
8 week's edition with public notice, for  
9 example, the bulldozer equipment. Reach,  
10 arguably, a lot more readers, members of  
11 the public who are supposed to get this  
12 notice, which is the intent of the law, and  
13 yet the agency would not have fulfilled its  
14 obligation under the law.

15 MR. BENSON: Correct. It would be  
16 legally fulfilled.

17 REPRESENTATIVE GANNON: So, your  
18 argument is that should be a viable option  
19 by the agency you say. We'll put the  
20 notice in this particular paper, actually  
21 reach more readership, more members of the  
22 community that we're obligated to notify  
23 and fulfill our legal obligation.

24 MR. BENSON: Talk about one particular  
25 word you used, readership. There's two

1 different words you need to think about,  
2 that is circulation and readership. That  
3 is two different things.

4 Just because we put over 700,000  
5 Pennysavers in the mailboxes doesn't mean  
6 they read them. If you give me the name of  
7 that newspaper, I will call them and they  
8 would personally mail you one every week.  
9 But circulation and readership are two  
10 different things.

11 What the media audit has done, we  
12 talked about the media audit, what they  
13 have done is defined readership. You might  
14 be putting 700,000 out there, but how many  
15 are reading. They defined readership.

16 The other issue we brought up and Bill  
17 gave you some testimony on the fact of the  
18 readership of the classified section of  
19 daily newspapers is much smaller than the  
20 circulation. Those are things that you  
21 have to look at. If the law defines  
22 circulation and when we get that against  
23 readership, then you reach more people.

24 MR. HAIGH: One point, actually our  
25 community papers are being used by local



1 government agencies and when they are doing  
2 that, they are doing that above and beyond  
3 the legal mandate to publish. They have  
4 paid the paper for one or two times,  
5 fulfill legal obligations and now they are  
6 tapping further into the budget to fulfill  
7 the intent, as they see it, of the law,  
8 notify as many people as possible.

9 REPRESENTATIVE GANNON: Do you audit  
10 paid circulations? In other words, you  
11 just don't do audits?

12 MR. BINGAMAN: Approximately 200 of  
13 the 700 clients are paid papers.

14 REPRESENTATIVE GANNON: The type in  
15 the existing law?

16 MR. BINGAMAN: Yes.

17 MR. BENSON: It is also purchased by  
18 Pittsburgh Post-Gazette, Tribune-Review,  
19 KDKA television. It is the Nielson of our  
20 industry here.

21 REPRESENTATIVE GANNON: Would it be  
22 fair to say, you picked my mind a little  
23 bit, that your statistics, the numbers you  
24 gave us earlier, were based on one edition,  
25 what the readership of one edition was?

1           Frequently, legal notices require that they  
2           appear over three consecutive editions.

3                    Would it be fair to say that using  
4           that criteria, say three or two, that the  
5           actual readership numbers would actually  
6           probably get very close to a hundred  
7           percent, potentially?

8                    MR. BINGAMAN:   Conceivably they could  
9           raise ten percentage points above that 75.

10                   REPRESENTATIVE GANNON:   So, maybe 85  
11           percent?

12                   MR. BINGAMAN:   It's typically 10 to 15  
13           percent of households that simply do not  
14           read anything.

15                   REPRESENTATIVE GANNON:   I thought that  
16           was interesting when you talk about  
17           circulation as opposed to readership.   Your  
18           studies are based on readership?

19                   MR. BINGAMAN:   Because this is a free  
20           paper audit, it is important we define what  
21           circulation is.   Further of that  
22           circulation.

23                    It is important that readership is  
24           defined, you will hear reader multiples.  
25           Reader multiples are an entirely different

1 form of readership of the paper. You may  
2 hear the average paper is read 1.8 or 2.5  
3 times. That's referred to as a reader  
4 multiple.

5 Readership of a paper is the amount of  
6 circulation that is actually read. There  
7 is a distinction. Numbers can be inflated  
8 tremendously if a paper simply takes a  
9 reader multiple, multiplies the circulation  
10 by that number and calls that their  
11 readership. It is misleading.

12 In this case, the 2.2 million plus  
13 circulation, of that 785.3 were read and so  
14 the readership of that 2.2 million would be  
15 75 percent of that.

16 REPRESENTATIVE GANNON: That would be  
17 just using a multiple of one?

18 MR. BINGAMAN: Well, yes, a multiple  
19 of one per paper.

20 REPRESENTATIVE GANNON: What I'm  
21 getting to is when we go to multiples, I  
22 read the paper, my kids read the paper, my  
23 wife reads the paper and finally gets to  
24 the bird cage, which is not counted. That  
25 would be the multiple?

1           MR. BINGAMAN: That is the reader  
2 multiple. It's important to make that  
3 distinction. Any paper who says they have  
4 a readership of 2.5 million based on a  
5 multiple of 2.3 or 2.5 readers per copy, as  
6 an audit company, we do not like that  
7 measurement. We think it is misleading.

8           REPRESENTATIVE GANNON: Thank you very  
9 much for appearing before the committee and  
10 providing us with very helpful  
11 information.

12           Our next witness is Mr. David  
13 Golebiewski, Bellview Borough Manager,  
14 member Legislative Action Committee,  
15 Pennsylvania State Association of  
16 Boroughs. Are you here?

17           (No response.)

18           REPRESENTATIVE GANNON: We will we go  
19 to the next witness, then, Frederick Egler,  
20 Esquire, president of the Allegheny County  
21 Bar Association.

22           Mr. Egler, you may proceed when you  
23 are ready, sir.

24           MR. EGLER: Thank you, Mr. Chairman,  
25 members of the committee.

1           My name is Fred Egler and I am  
2           president of the Allegheny County Bar  
3           Association. We have 7,000 members,  
4           representing about 90 percent of the  
5           lawyers practicing in Allegheny County. I  
6           also was the editor for 13 years of the  
7           Pittsburgh Legal Journal. The Pittsburgh  
8           Legal Journal is published by the Allegheny  
9           County Bar Association, it is a volunteer  
10          position.

11          So, having practiced law for 23 years  
12          and also the Legal Journal, I have a  
13          perspective as a consumer and provider of  
14          legal notices.

15          One thing I think it is important that  
16          the committee realize, our publication is  
17          very different from the types of  
18          publications that the last speakers talked  
19          about. What we are dealing with is legal  
20          newspapers which have a separate status  
21          under legal notices law.

22          Our status comes from two sources.  
23          First, we are the official newspaper of the  
24          Court of Common Pleas of Allegheny County  
25          and also the United States District Court

1           for the Western District of Pennsylvania.  
2           We are designated that way by order of the  
3           board of judges in both those courts.

4                     Both of those courts, and this is  
5           common throughout the Commonwealth, because  
6           the way the rules of procedure are written,  
7           need a particular paper to be designated as  
8           an official newspaper so notices published  
9           on behalf of the court can be circulated to  
10          members of the Bar.

11                    Secondly, because of that status, we  
12          are also considered a legal newspaper for  
13          purposes of the legal notices status. For  
14          that reason, certain other legal notice  
15          publication requirements that are in the  
16          current statutes and sprinkled throughout  
17          the Pennsylvania statutes are required to  
18          be published in our paper.

19                    Now, many of these notices are also  
20          required to be published in the so-called  
21          papers of general circulation and that's  
22          the issue that was addressed by the last  
23          group of speakers. I am not here to  
24          address that issue.

25                    What I'm here today to talk to you

1           about is the function of how a legal  
2           newspaper works and why that function is an  
3           important function and one that needs to be  
4           continued.

5                        When I first started working at the  
6           Legal Journal, my suspicion was, like I  
7           think many other people, that nobody read  
8           it. It's a paper looks like a big  
9           classified ad, has lines and lines of  
10          12-point type and bewildering headlines  
11          like notice of writ and archaic words, and  
12          one wonders when ones sees a publication  
13          like this, does one really read it.

14                       I can tell you after 13 years as  
15          editor and 20 years' involvement with the  
16          Legal Journal, people read it and they read  
17          it every day. It is a very important  
18          publication, it is central to the practices  
19          of many lawyers, both in western  
20          Pennsylvania and throughout the  
21          Commonwealth.

22                       I want to speak briefly about the  
23          legal and constitutional role that legal  
24          notices play in our constitutional system.

25                       United States Supreme Court has

1 defined what is necessary in order to  
2 provide due process of law, which was a  
3 right that every citizen is entitled to in  
4 the face of any governmental action and  
5 that right is essentially two-fold:

6 Anybody who is subject to action by  
7 the government is entitled to notice and he  
8 or she is entitled to an opportunity to be  
9 heard before the government takes that  
10 action. That's the interpretation of the  
11 Fourteenth Amendment to the Constitution of  
12 the United States that the Supreme Court  
13 has adopted.

14 It is important to realize all of  
15 these requirements of legal notice have to  
16 be interpreted in that light. In other  
17 words, are they sufficient to guarantee  
18 individual citizens due process.

19 Our Legal Journal contains notices  
20 every day of many actions by the  
21 government. Some are initiated by citizens  
22 through the Court, but in the end, it is  
23 the exercise of judicial power that makes  
24 the notices important.

25 The last group alluded to -- one of



1           them -- termination of parental rights that  
2           is done by order of court. Sheriff sales  
3           are probably the other most commonly known  
4           notices of legal notices. The sheriff is  
5           permitted to convey clear title to the  
6           property and avoid other liens.

7           In order to do that, the people that  
8           have the other liens or other interests in  
9           the property must be given notice. If  
10          notice is not adequate, then the title to  
11          the property can be challenged, and also,  
12          there are questions about whether or not  
13          the people who owned interest in the  
14          property that are moved by court action,  
15          whether or not they have had their property  
16          taken without due process of law.

17          As I mentioned before, these  
18          requirements are scattered throughout the  
19          legal Pennsylvania statutes and they apply  
20          to a wide variety of actions by the  
21          courts.

22          I believe there are others later that  
23          will go through those statutes in more  
24          detail.

25          I want to return to the question of

1           whether or not the notices do their job.  
2           The misconception is that the legal journal  
3           is something that is full of notices that  
4           are published because the statutes require  
5           them and they are not read.

6                     Now, we don't have audited  
7           circulation, but what I go by is the fact  
8           that, like most newspaper editors will tell  
9           you, if the paper makes a mistake and  
10          people are reading the paper, you will hear  
11          about it.

12                    Based on that criteria, I would say we  
13          have one of the most well read publications  
14          in Allegheny County. I received telephone  
15          calls from people questioning why we have  
16          changed the headlines on legal notices, why  
17          we put them on different pages, why we  
18          misspelled people's names.

19                    The legal notices that appear in our  
20          publication get a great deal of attention.  
21          It is true most of our readers are lawyers  
22          or people that work for lawyers. Most law  
23          firms have a person whose job it is to read  
24          the Legal Journal every day. That is not a  
25          reason for reducing or eliminating notice

1 in the Legal Journal.

2 It is a way for lawyers and their  
3 clients to know there is one place to go to  
4 to find out about all the potential actions  
5 that can affect them and their clients.  
6 The central repository of notice is very  
7 important to the affected function of the  
8 court.

9 Now, if you've seen our paper or any  
10 other legal paper, it does look  
11 old-fashioned. I mentioned before, design  
12 of it is somewhat of a nightmare because of  
13 lines and lines of small type, and it is  
14 tempting to suggest that this is something  
15 that could be taken over by  
16 computerization.

17 In fact, we have made a lot of steps  
18 toward doing that. If you look at our  
19 website, which is [www.acba.org](http://www.acba.org), you will  
20 see a section devoted to the Pittsburgh  
21 Legal Journal and many of the items that  
22 appear every day are accessible on the  
23 website.

24 We intend to continue to develop the  
25 website and make as much of our editorial

1 content on the web as possible.

2 It would be a mistake to think that  
3 published legal journals could be replaced  
4 completely by the internet. First of all,  
5 there's an issue of unreliability and  
6 unpredictability of this type of  
7 communication. Newspapers are boring and  
8 old-fashioned, but they are time tested and  
9 very reliable. The twenty years I've been  
10 involved, we have never failed to publish.  
11 I'm sure that goes back many years before  
12 that.

13 We only need to look at the news in  
14 the last year or so to see what happened to  
15 many different internet and  
16 telecommunication ventures.

17 It remains an untested and untried  
18 area in many ways. In fact, one of the  
19 ironies of that, when you think about that,  
20 how you found out about the problems many  
21 internet and telecommunication companies  
22 had, you read about it in the newspaper.

23 I would also point out that there are  
24 social issues involved with confining  
25 notice to the internet because of the

1           so-called digital divide, the fact many  
2           people with low income do not have access  
3           to computers. There would be serious  
4           constitutional question about any service  
5           limited to the internet. There is still  
6           about a third of our membership, lawyers,  
7           who we can't get e-mail addresses for.

8           The computer publication is not a  
9           solution to the issue of getting out legal  
10          notice.

11          In fact, moving strictly to one  
12          particular type of notice in favor of an  
13          another would cut against the legal trends  
14          of the last 50 years in constitutional  
15          law. The Supreme Court has explored more  
16          and different types of notice and in many  
17          cases, recommended that additional notice  
18          be given in order to supplement the old  
19          ways. There was a time when you could sell  
20          a piece of property at a sheriff's sale by  
21          hanging 30 days' notice on the tree.

22          As our society grew and became more  
23          complex, we went to different forms of  
24          notice. The Supreme Court has added you  
25          have to post the property, but also put it

1 in the newspaper.

2 Similarly, it would make no sense to  
3 suggest that all of the content of our  
4 publication could be moved to computer. I  
5 fully support the use of the internet,  
6 computers as an additional form of notice  
7 both with convenience and possibly to reach  
8 people that don't subscribe to the paper.  
9 It would be a mistake to change the system  
10 that would limit the amount and type of  
11 notice that is given today.

12 The final point I want to make is that  
13 the Supreme Court has held that the best  
14 notice practical under the circumstances to  
15 test for due process. It's important that  
16 all these notice requirements be looked at  
17 as part of constitutional law.

18 More broadly, government today in many  
19 cases comes up against an image that most  
20 of its operations are done by a small group  
21 of people who have a particular interest in  
22 a particular problem.

23 Coming back on the forms of notice  
24 that is given of governmental action would  
25 only serve to fuel that perception and I

1 believe is a dangerous trend in a  
2 democratic system.

3 I've submitted a summary of my remarks  
4 in writing and I will be happy to answer  
5 any questions the committee has.

6 REPRESENTATIVE GANNON: Thank you,  
7 Mr. Egler.

8 REPRESENTATIVE MANDERINO: Thank you.

9 Do you have any comments -- one of the  
10 prior speakers talked about a definition or  
11 law describing publication by the intent of  
12 the notice.

13 On the one hand, I think that makes a  
14 lot of sense, and on the other hand, I  
15 can't imagine how difficult crafting that  
16 kind of language would be.

17 For example, you mention sheriff  
18 notices. There's lots of different intents  
19 and lots of different people that have an  
20 interest in sheriff's notice. If I'm a  
21 person looking for a house and think I can  
22 get a bargain or a developer who wants to  
23 buy a home and fix it up, I'm one audience,  
24 and I'm most likely to pick that up in a  
25 general community newspaper.

1           If I am an estate lawyer or real  
2           estate attorney or some other entity that  
3           might have mortgage holdings or things like  
4           that in a piece of property where I would  
5           be concerned about whether I had any loans  
6           or things, I'm more likely to pick that up  
7           in a legal publication.

8           So, even the same entity, the same  
9           notice could have lots of different  
10          purposes and, therefore, where you would  
11          want to publish it? There wouldn't be  
12          necessarily one or two places that it would  
13          be easy to figure out which ones make most  
14          sense.

15          I wondered if you had any thoughts  
16          about that whole notion about intent,  
17          defining it not by as the law currently  
18          does, by the vehicle per se, but by the  
19          intent of the notice.

20          MR. EGLER: Well, the short answer is  
21          I think it would be very difficult to draft  
22          a statute that adopted that type of  
23          procedure. In terms of court action,  
24          sheriff's sale, for example, that's one  
25          everyone is most familiar with, the



1 jurisdiction of the Court of Common Pleas  
2 of Allegheny County is the whole county.  
3 The fact the property is located in a  
4 particular municipality doesn't suggest  
5 that notice should only be given in that  
6 municipality. There could be people that  
7 hold liens on the property or other  
8 interest in the property that doesn't live  
9 in the municipality, and more broadly,  
10 since one of the purposes of the sheriff's  
11 sale is to provide notice of sheriff's  
12 sales is encouraging as many bidders as  
13 possible. That would tend to cut down the  
14 number of bidders.

15 So, in terms of anything involving  
16 court action, I would have a hard time  
17 justifying anything other than county-wide  
18 notice.

19 For purposes of municipal action, I  
20 think the last speaker did have a valid  
21 point with respect to some things.

22 For example, the ordinances that  
23 require be published when the municipal  
24 debt is issued, the main purpose of that is  
25 to notify the taxpayers of the particular

1           body that's going to bear the debt. It is  
2           hard to justify circulating that to the  
3           entire county if the those citizens aren't  
4           going to be the people who are required to  
5           pay for the bonds.

6           I think in those sorts of things that  
7           it would would make some sense in respect  
8           to certain municipal actions.

9           REPRESENTATIVE MANDERINO: My second  
10          question goes to penetration and readership  
11          that's been happening that we've had here  
12          and prior hearings. And I'm probably a bad  
13          example, I read lots of newspapers, but my  
14          eyes don't even see the ads. But when I  
15          was practicing law, I had a reason to read  
16          legal advertisements, you know what I  
17          mean.

18          So, again, a circulation isn't  
19          necessarily -- or penetration isn't even  
20          necessarily the best measure of how much  
21          the legal publication or notice, I don't  
22          know that there's a better measurement, I  
23          don't know that that's the best measurement  
24          of how much that legal notice actually gets  
25          to the intended audience.

1           MR. EGLER: This is a good example in  
2           the two types of publications. With the  
3           legal newspaper, you know you've got an  
4           audience that has not only an obligation,  
5           but great interest in reading. You want to  
6           direct all those people to one place.  
7           That's the most efficient and probably the  
8           cheapest way to do it.

9           With public notice, you're sort of  
10          casting bread on the waters and hoping that  
11          you reach as many people as possible.

12          So, in those situations, and I'm not  
13          an expert on circulation, my personal  
14          opinion is that the more notice the better.

15          If the prior speakers are correct, the  
16          decline of paid circulation of newspapers  
17          is well documented. And these unpaid  
18          subscription papers, certainly you see them  
19          everywhere, I have to rely on the audit  
20          people for the comments about the  
21          circulation readership.

22          I think you would find that most  
23          lawyers would agree that what you want to  
24          get out of a notice is at the end of the  
25          day, you want to say we did as much as

1 possible to notify everybody about this  
2 action. Once it's taken, you want it to be  
3 final.

4 There is a great interest in  
5 preserving a finality of occasions by the  
6 court and legislature. You need to provide  
7 the best notice you can.

8 REPRESENTATIVE MANDERINO: The ideal  
9 world is because while it is one thing to  
10 say that, it is another thing to pay for  
11 it. We're trying to figure out what is the  
12 right balance between as broad notice as  
13 possible and as reasonable cost to the  
14 entities that have to publish, and I guess  
15 that's where the hard part comes in.

16 MR. EGLER: I can tell you the other  
17 area where I had personal experience is the  
18 settlement of class action lawsuits. In  
19 order for a class action to be settled, the  
20 court has to give notice and there is a  
21 serious issue as to whether or not you  
22 could notify all the members of the class.

23 In those situations, what you usually  
24 do is pick a couple different newspapers.  
25 The problem you face is if people are going

1 to use the cheapest form all the time, you  
2 are never going to run into a situation  
3 where you have not given enough notice.  
4 You have to strike a balance.

5 My personal feeling is there should be  
6 as many alternatives as possible with  
7 regard to the publication of public notice,  
8 and as I say, that is a very different  
9 issue from the way legal journal  
10 advertising is treated, because there  
11 you're trying to sort of run everybody into  
12 the same area.

13 MR. SCOTT: My name is Richard Scott.  
14 As an attorney for the democratic  
15 subcommittee chairman, Frank Dermody, I  
16 visited your website and I guess my  
17 question is, you said the more notice the  
18 better, but if someone advertises in your  
19 legal journal, the print, what would the  
20 cost be, if any, to get on your website on  
21 the legal notice?

22 MR. EGLER: There is no cost.  
23 Anything that is posted in there is -- any  
24 advertising posted in there, we are trying  
25 to put on the website. That's our ultimate

1 goal. Mainly for technical reasons.

2 MR. SCOTT: Representative Manderino  
3 hit on it and I didn't think you hit on  
4 it. You are getting a two for one in  
5 Allegheny County. I don't know how it is  
6 in Philadelphia County. Thank you.

7 MR. EGLER: I can tell you The  
8 Intelligencer does have a website. They  
9 have -- they are a for-profit paper, it is  
10 a different situation. I know they have a  
11 section that you can only get to if I buy a  
12 subscription. What's in that section, I  
13 don't know, I don't have a subscription.  
14 Theirs is set up different, ours is free.

15 REPRESENTATIVE GANNON: Thank you.

16 I have a comment or observation and  
17 then a question.

18 Comment is this: As practicing  
19 attorney in Delaware County and member of  
20 the Delaware County Bar Association, I find  
21 our legal journal can be very important to  
22 me as a practicing attorney in terms of  
23 advertisement and the decisions that are  
24 published, also.

25 I think your point is well taken that

1 as part of that audience that the Legal  
2 Journal is specifically directed to, it's  
3 important.

4 When I open up an estate, I am  
5 required to publish three times in the Bar  
6 journal and in a newspaper of general  
7 circulation in the county. What I do is  
8 look for the most economical newspaper in  
9 the county to publish. It happens to be a  
10 newspaper that serves one community, but it  
11 meets my legal requirement.

12 Every time, without fail, when I put  
13 that notice of opening up an estate, I get  
14 a letter or two from an appraiser in the  
15 county and it will include a clipping from  
16 the advertisement. It is from the Legal  
17 Journal. Just saying if you have appraisal  
18 issue or need appraisal done on the estate  
19 they can could do that.

20 I have never received a clipping from  
21 the newspaper of general circulation. That  
22 tells me not only read that, but people in  
23 the business much doing appraisals and  
24 people who are in ancillary services other  
25 than lawyers are reading that journal to

1 provide services to attorneys and to  
2 others.

3 We heard testimony, and I think it was  
4 important what you pointed out about the  
5 constitutional requirement of due process  
6 and notice, notice in particular, which is  
7 mandated under our constitution before  
8 somebody can actually commence legal action  
9 or effectively bring legal action against  
10 someone. Yet I'm thinking that from the  
11 prior testimony we had that this newspaper  
12 had a circulation of 1200. If I wanted to  
13 sue you, the only way I can get to you is  
14 by publication, I could meet my legal  
15 requirement by putting that notice in  
16 circulation of 1200 and I know it doesn't  
17 go near where you live.

18 Assuming you weren't a lawyer, isn't  
19 that really that type of escape clause, I  
20 guess it is, that says I met my legal  
21 requirement, but putting an advertisement  
22 in the newspaper that I know the object of  
23 my litigation is really very minimal chance  
24 that he or she will read that.

25 It circumvents, doesn't meet the



1           intent of the constitutional requirement  
2           that I give notice and an opportunity to be  
3           heard.

4           I know the probability of you getting  
5           notice is very minimal, yet once you find  
6           out I have a judgement against you and I  
7           completed the process to effectively get a  
8           judgment against you, you can't come in and  
9           say I didn't know about this, because I can  
10          hold up that notice and say I published it  
11          in the newspaper and met my requirement. I  
12          don't see where the court under current law  
13          would be able to say, Mr. Egler, you didn't  
14          give legal notice.

15          How do you respond to that type of an  
16          argument?

17          MR. EGLER: I think, again limiting my  
18          comments to the newspapers of, quote  
19          unquote, newspapers of general circulation,  
20          that there are two problems that you hit  
21          on. One is the problem of out and out  
22          abuse. Somebody says I know the defendant  
23          lives in X municipality and I will publish  
24          in Y municipality. That is an abuse of  
25          tactic, and if the statute allows somebody

1 to do that, then the statute ought to be  
2 changed.

3 The second issue is the issue of cost,  
4 and this is the issue we all face. I have  
5 done the same thing you described,  
6 advertising in some of the smaller paid  
7 circulation papers in the county instead of  
8 the Post-Gazette, especially in  
9 Philadelphia County. It is three  
10 insertions in the paper and the big city  
11 paper is very expensive.

12 To me, when you look at the purpose of  
13 these notices, it doesn't make a lot of  
14 sense to allow the type of publication you  
15 are talking about, opening up an estate.  
16 The main reason for publication is to  
17 notify creditors. If you're publishing in  
18 a 1200 circulation paper, you are not doing  
19 a good job of that.

20 I think the other thing you have to  
21 keep in mind is as, the prior speaker  
22 alluded to this, papers of unpaid  
23 circulation play a much bigger role today  
24 than they used to. I think the greatest  
25 measure of this is the number of newspaper

1 boxes you see.

2 Most of these are unpaid, they popped  
3 up over the years. Some have a lot of  
4 circulation. My understanding is one of  
5 the problems with allowing unpaid  
6 circulation papers allowing to publish  
7 legal notices, it was difficult to document  
8 who was reading them. You have testimony  
9 now indicating that they accomplish that.  
10 To the extent they accomplish it, it would  
11 appear a legitimate basis for using it.

12 REPRESENTATIVE MANDERINO: One of the  
13 comments raised to me about this issue you  
14 just reminded me of, I know this can't be  
15 said across the board because there's no  
16 more Pittsburgh Press and no more  
17 Philadelphia -- I forget what it was  
18 called.

19 MR. EGLER: Bulletin.

20 REPRESENTATIVE MANDERINO: There you  
21 go.

22 One of the comments was with the  
23 smaller free newspapers that you see in the  
24 boxes on the corner, they might be here  
25 today and gone tomorrow, but the chance of

1 the longevity of the mass circulated paper,  
2 like the Pittsburgh Post-Gazette or  
3 Philadelphia Inquirer, is there.

4 So, for archival purposes and historic  
5 record purposes, these publications are  
6 important.

7 I'm turning it around to say how  
8 important in the whole scheme of things of  
9 legal or public notice is the notion of  
10 there being some logic of being able to  
11 research the historic publication. How  
12 important is that in our deliberation?

13 MR. EGLER: I don't think that, first  
14 of all, I am not going to make comment on  
15 the archiving capabilities of free  
16 circulation papers. I don't feel competent  
17 to address that.

18 REPRESENTATIVE MANDERINO: I don't  
19 mean to say one does or doesn't. Let's  
20 talk in general.

21 How important to the whole legal  
22 process and purpose and intent of legal  
23 publications or public notices is being  
24 able to go back and research historically  
25 over time the fact that those notices

1           happened or something like that?

2           MR. EGLER: For purposes of certainty  
3           and finality of government action, you have  
4           to have some record. There's a judgment  
5           entered ten years from now and someone says  
6           I never got notice, you have to have a  
7           record.

8           However, traditionally the  
9           responsibility for that has been with the  
10          litigants and government itself.

11          When you open an estate, to go back to  
12          your example, you file proof of publication  
13          with the register of wills. To the extent  
14          the register of wills keeps these records  
15          indefinitely, there would be record of  
16          publication.

17          REPRESENTATIVE MANDERINO: So it  
18          wouldn't have to go back to the newspaper,  
19          I can go to the register of wills and see  
20          it was filed?

21          MR. EGLER: I think that's true in  
22          general.

23          The other issue is convenience, how  
24          difficult or easy it is to research this  
25          stuff. That's the big reason why we're

1 moving things to the internet, not so much  
2 because of current notice, people are in  
3 the habit of reading the paper. It is a  
4 great archival function.

5 We get calls like that. In the old  
6 days, we sent people searching the back  
7 copies. The archival storage, as long as  
8 the company storing it is still around, is  
9 a great convenience.

10 REPRESENTATIVE MANDERINO: Thank you.

11 REPRESENTATIVE GANNON: Thank you very  
12 much, Mr. Egler, for appearing before the  
13 committee and providing us with your  
14 testimony.

15 MR. EGLER: Thank you for the  
16 opportunity.

17 REPRESENTATIVE GANNON: Next is Thomas  
18 Cartwright, Esquire, Chairman of the  
19 Cambria County Legal Journal and member of  
20 the Board of Managers, Cambria County Bar  
21 Association.

22 MR. CARTWRIGHT: Good morning. I  
23 thought we were coming here for discussion,  
24 so I hope my comments are short and we have  
25 a discussion.

1           Just to start, I brought copies of the  
2 Cambria County Legal Journal to show you  
3 how, even though we are a small county, we  
4 actually print a small legal journal.

5           My purpose seems to be developed  
6 around the idea of cost and effectiveness  
7 and I haven't heard anybody tell you what  
8 costs are. I put them in my prepared  
9 remarks.

10           We talked about legal notices for the  
11 Cambria County Legal Journal. I agree with  
12 the public speakers that the notices from  
13 municipalities on Sunshine Law issues  
14 really does not apply to us.

15           So, unfortunately, we have to divert  
16 into the general area of notice, it is for  
17 Legal Journal purposes. We do the sheriff  
18 sales, our cost is significantly less than  
19 the general newspaper advertisement.

20           When we advertise for an estate, it  
21 cost \$44.60. That's for three notices.  
22 The newspaper of general circulation in  
23 Johnstown costs \$145.

24           Granted, as you said, the penetration  
25 is not there. Our circulation is to the

1 approximately 200 lawyers in Cambria  
2 County, 24 financial institutions and 31  
3 copies go up to the county law library for  
4 distribution throughout the courthouse, row  
5 offices and county law librarians who wish  
6 to have a copy.

7 Our penetration is not very great, but  
8 the penetration effectiveness for the  
9 people that it is supposed to get to is  
10 probably a hundred percent. That's to the  
11 lawyers, the financial institutions and the  
12 business community.

13 We think we have a pretty effective  
14 little publication and we consider it to be  
15 a very important vehicle in Cambria County,  
16 as obvioused by the reason I am here, the  
17 time taking to come here and be part of  
18 these discussions.

19 When we get to the idea of legal  
20 notices from the municipalities as it might  
21 apply to Sunshine Law, our other legal  
22 notices we are required to have, I provided  
23 the cost per line. We know what a legal  
24 notice from a municipality could look like,  
25 sometimes two lines long, three lines



1 long. You will see our cost is \$1.62 a  
2 line. If a municipality wanted to  
3 advertise there was a public hearing on  
4 some particular issue, it might cost them  
5 \$2.70, \$3, \$4. How much cheaper can we  
6 get?

7 If we're talking about cost  
8 effectiveness, to go from maybe the  
9 sublime to the ridiculous, maybe we should  
10 pass a law that says all municipalities  
11 should advertise their notices in the  
12 Cambria County Legal Journal because it is  
13 the cheapest way to have an advertisement.

14 If you talk about loopholes, hey,  
15 maybe that is one that has to be closed or  
16 open or whatever.

17 When we were talking about coming down  
18 here, and, by the way, our committee is  
19 three people. Small county, small  
20 committees. When I was discussing this  
21 with Attorneys Wharton and Dan Levitt and  
22 our executive director, Charlie Hagens, we  
23 realized we're a little bit irrelevant.  
24 We're awfully small, but we were concerned  
25 about the possible ramifications of a law

1           that would say the municipality may not be  
2           required any longer to publish in  
3           newspapers of general circulation for  
4           budgetary reasons.

5           The extrapolation we took would be  
6           that somewhere down the road, are we going  
7           to be in a position where there is no legal  
8           publication, so to speak, in print  
9           anywhere.

10          The due process issue has been raised,  
11          we will not get into that.

12          We were concerned if, in fact,  
13          publications were never going to be  
14          required to be published, you have  
15          effectively put out of business at least  
16          our county Legal Journal for purposes of  
17          noticing the 1250 odd people that read this  
18          every week and whoever else decides to get  
19          a copy of it.

20          That would be an elimination of what  
21          we were to be a vital source in our  
22          community. We are not Allegheny County,  
23          where the prior speaker comes from. We are  
24          a small county, we don't have a lot of  
25          population, we don't have a lot of lawyers,

1 but we have an effectiveness that we prefer  
2 not to lose. That is our purpose for being  
3 here today.

4 REPRESENTATIVE MANDERINO: It's a  
5 basic question but I know that there's one  
6 place where there's the how you have to  
7 publish might be in one place in title 45,  
8 but what needs to be published appears  
9 different places, depending what the law is  
10 trying to do.

11 I assume there are certain kinds of  
12 legal notices where a Legal Journal is  
13 listed as one of the mandatory and other  
14 kinds of legal notices where you are not  
15 mandatory. Am I correct about that?

16 MR. CARTWRIGHT: I believe so. In the  
17 Pennsylvania Bar Association materials that  
18 I thought may have have presented to the  
19 community, Attorney Verlihay from Butler  
20 outlined and quoted very well the problems  
21 of different requirements.

22 REPRESENTATIVE MANDERINO: My question  
23 is from your experience, again without  
24 getting to the general circulation, are we  
25 pretty much hitting the mark in terms of

1 the kinds of things that we require be  
2 published in a legal publication as  
3 compared to a publication of general  
4 circulation so that they are appropriate?

5 Again, you made the point about a  
6 sunshine public notice that may -- doesn't  
7 make sense to be in your place, makes sense  
8 for it to be in the newspaper of general  
9 circulation of the residents who live in  
10 that township.

11 But do we have things that we're  
12 requiring be published in a legal paper  
13 that it's nice revenue for you, but doesn't  
14 need to be there, or do we have things that  
15 don't need to be published by law in your  
16 journal?

17 I'm asking about the delineation. Are  
18 we good on the delineation before we get in  
19 to what's appropriate general public  
20 circulation material.

21 MR. CARTWRIGHT: We are having a  
22 discussion. I would honestly say that the  
23 notices of incorporation for Cambria  
24 County, you go on line, you hit the  
25 Pennsylvania Corporations Bureau, you find

1 out ten times more in a matter of minutes  
2 than coming out of a corporation  
3 advertising in the Legal Journal.

4 REPRESENTATIVE MANDERINO: But we say  
5 you got to put it in the Legal Journal.

6 MR. CARTWRIGHT: Estate notices,  
7 coming down the line of importance, again,  
8 we live in a small county and, quite  
9 honestly, if someone is trying to find out  
10 who the attorney is for an estate and we  
11 have an 800 number for the register of  
12 wills, I can find out faster by calling the  
13 courthouse, because we get a person that  
14 knows the answer than waiting a week or two  
15 to get it in the Legal Journal.

16 When we get to sheriff's sales, that's  
17 where we think we have an important  
18 position to play. When a sheriff sale is  
19 listed, this goes to every attorney in  
20 Cambria County and every attorney does read  
21 it.

22 Actually, he reads it to see whose  
23 house and what property is up for sale  
24 because, quit honestly, most of the  
25 attorneys in Cambria County know everybody

1 in Cambria County. If there's a notice,  
2 they will say that's so and so, I wonder if  
3 they know what's going on because they  
4 haven't called me to represent them.

5 Quite honestly, the small county  
6 community approach is effective for the  
7 county. To lose the sheriff's sale notices  
8 and have them appear in a general newspaper  
9 puts Cambria County in a bind, because the  
10 loophole applies.

11 Most people would think the Tribune  
12 Democrat is the general newspaper, and  
13 there is the Mountaineer Herald in  
14 Ebensburg, which is the county seat.

15 Many of the attorneys working out of  
16 New Jersey come to do foreclosures, they  
17 get the Mountaineer Herald. That is  
18 literally Ebensburg, does not come to  
19 Johnstown. I don't know if it goes to  
20 Barnesboro.

21 You hit the loophole discussed earlier  
22 that causes a lot of problems, because as a  
23 Johnstown attorney, I don't read the  
24 Mountaineer Herald, but I do read the Legal  
25 Journal.

1           When you look at what we publish,  
2           sheriff sales are important, incorporations  
3           aren't. If you are up against a shefiff's  
4           sale, usually you get an attorney in that  
5           county to assist you and that's why you're  
6           going to be notified by an attorney  
7           probably if you have a property in Cambria  
8           County for sheriff's sale. The loophole  
9           does apply in our county.

10           We found this to be a difficult thing  
11           to get around. Most of us would advertise  
12           in the Tribune Democrat, but if you're from  
13           Michigan and New Jersey and doing a  
14           foreclosure for a big bank, you go to the  
15           Mountaineer Herald and nobody knows about  
16           it.

17           REPRESENTATIVE GANNON: Thank you.

18           You brought up in your comments  
19           something that is important. I'm going to  
20           be the devil's advocate here.

21           The question is whether or not the  
22           general assembly has an obligation to  
23           guarantee the financial integrity of the  
24           Cambria County Legal Journal or our real  
25           obligations make certain that the largest

1           number of people in the communities receive  
2           adequate notice of something that occurs  
3           that may be important.

4           I think you answered that question  
5           very well with respect to the sheriff's  
6           notices, particularly with respect to  
7           attorneys get those notices. I know of  
8           instances where legal notices have a period  
9           in the journal in Delaware County and as  
10          far as somebody who is a client, pick up  
11          the phone, did you know and they say no, I  
12          didn't know that.

13          So, I think that performs an important  
14          and valuable service. Perhaps the same  
15          type notice appearing in a newspaper  
16          defined as a newspaper of general  
17          circulation in the county and the example  
18          you gave one circulates in the county seat,  
19          if that was the only requirement, I may not  
20          even know it as an attorney representing  
21          somebody who might be affected.

22          I think the real question is, then,  
23          effective notice and adequate notice and  
24          whether or not current law meets that  
25          intent. Maybe it did in 1976 or 1876, and



1 I guess one of the prior speakers talked in  
2 terms of community notice. Maybe that is  
3 something that should be defined under  
4 considering what methods of communication  
5 are available today as opposed to back  
6 then. Including very important  
7 publications, like the journal, which have  
8 an audience that is a hundred percent,  
9 every member gets it.

10 I get the Legal Journal as a  
11 practicing attorney, I go through every  
12 edition. I may thumb through it, but I'm  
13 looking for things.

14 There probably would be a good  
15 argument with respect to the financial  
16 integrity of the Legal Journal because of  
17 the opinions published and they are  
18 important to know what's going on currently  
19 in certain areas of the law, and the only  
20 way I know that is getting the opinions  
21 published.

22 There is probability without the  
23 advertising that is required and published  
24 and is important to the attorneys, you  
25 wouldn't have a vehicle to publish those

1           opinions and get them to the audience they  
2           are important to. That is an observation  
3           and comment.

4           MR. CARTWRIGHT: I'd like to respond.

5           As to the observation, is the  
6           legislature supposed to guarantee the  
7           financial stability of the Cambria County  
8           Legal Journal? Absolutely not.

9           Our three-person committee has looked  
10          at what we consider to be the future. We  
11          think the future is the Cambria County  
12          Legal Journal will be obsolete. We think  
13          each individual row office will be  
14          obsolete, and that will be publication.  
15          The requirement for publication will  
16          probably be if not eliminated, certainly  
17          limited to a point where on line becomes  
18          very important.

19          I'm a member of the Allegheny County  
20          Bar Association, I receive the Allegheny  
21          County Legal Journal and I notice -- I saw  
22          Mr. Egler here, too, and talking about his  
23          moving the Allegheny County Bar Association  
24          forward, we think we have to have a  
25          website. That's the purpose for this

1 year. We are hoping that the Legal Journal  
2 will turn the development and  
3 implementation of the website to be exactly  
4 where Allegheny County is. That the  
5 website will also be the publishing agent  
6 for notices and the actual print material  
7 will probably be eliminated and we look at  
8 three years.

9 I don't know what the legislature  
10 thinks about that, we are not going to  
11 assume that the legislature is going to  
12 continue to require publication in the  
13 print media, because if the community is  
14 strapped for money, I don't want to see  
15 them in my office under chapter 9.

16 Something is going to happen and on  
17 line is less expensive, and maybe that is  
18 the general circulation because of the  
19 growth of the internet. We think it is.

20 We think row offices, at least in  
21 Cambria, are going to website notice, where  
22 you can go to the public library and find  
23 out whatever you want. That should  
24 normally be not only in the newspapers of  
25 general circulation, the Legal Journal and

1 shoppers guides and everything else that  
2 can be print media.

3 MS. MENDLOW: Could you explain, do  
4 you feel that you are anticipating in fear  
5 or welcoming that approach? Do you think  
6 that would serve all the needs and would  
7 that be the most reliable way for attorneys  
8 -- you are looking at attorneys and some  
9 of the other individuals who are looking at  
10 real estate agents or individuals who are  
11 involved in the transactions?

12 The way you're stating it, it is  
13 almost as if you feel it is inevitable.  
14 Are you saying you would think it is a  
15 welcomed change or not an advisable  
16 change?

17 MR. CARTWRIGHT: If you talk to  
18 attorneys over 35 years old, they will tell  
19 you it is absolute evil to have on-line  
20 notices. For anybody under 35, they don't  
21 understand why we are still printing.

22 So, when I say inevitable, as the old  
23 attorneys, they never die, they fade away,  
24 and the younger attorneys come in to place,  
25 you have younger people moving up who have

1           been trained since day one on computers,  
2           that's where we say it is inevitable. It  
3           is not out of fear of losing the money.  
4           Probably we will make it up when people  
5           want to advertise on the website.

6                     It is not out of any kind of true due  
7           process concern, because we reach such a  
8           limited audience. We think we're effective  
9           there as opposed to the due process for the  
10          general community.

11                    In our discussions, we think that's  
12          the wave of the future. Even though we are  
13          small, we're trying to be on the edge.

14                    REPRESENTATIVE GANNON: You use the  
15          word effective, I find that intriguing. I  
16          go back and reemphasize as a practicing  
17          attorney how poor it is for me to see  
18          opinions being published from the common  
19          pleas bench in the journal, particularly if  
20          you have an active practice and tells me  
21          where the court is going on certain  
22          issues. I find that important to  
23          attorneys, particularly effective in  
24          referring that target audience effectively,  
25          which I think the journals do.

1           MR. CARTWRIGHT: I was the Somerset  
2 County law librarian in 1990 when I clerked  
3 for Judge Casio. At that time, the  
4 Somerset Legal Journal printed an opinion a  
5 week that were published that became very  
6 important.

7           More recently, though, the Legal  
8 Journal, including ours, have been limiting  
9 the opinions that are printed because of  
10 costs, actual per page cost for us to put a  
11 10 or 12 page opinion in the Legal  
12 Journal.

13          We are asking the judges if they want  
14 an opinion printed, they pull from the  
15 judicial budget to offset the cost of a  
16 ten-page opinion in 250 publications.

17          I think maybe ten years ago, the cost  
18 didn't seem to be that bad. Now everybody  
19 is pinched and the judges on Cambria are  
20 not submitting opinions to us. That  
21 probably is a discussion for another day on  
22 the fall off of the opinions affecting the  
23 ability of the general practitioners to  
24 keep up with what the judges are thinking.

25          For purposes of the Legal Journal,

1 that is an expensive item. We don't do it  
2 anymore, and again, that, I think, is where  
3 the on line comes in to play. If a judge  
4 wants an opinion published, they will have  
5 a cote for the judiciary of Cambria  
6 County.

7 That is what we think. They say it is  
8 cost effective, hits everybody they want it  
9 to hit, and sooner or later, it is going to  
10 happen.

11 We are hoping you don't shut it off  
12 completely to the point where somebody  
13 doesn't have to publish. Whether they have  
14 to publish in the legal journal in  
15 Mountaineer Herald, Tribune Democrat or  
16 whatever, I agree with the editor in  
17 Allegheny County, due process requires  
18 publication somewhere. We're hoping that  
19 is never eliminated.

20 REPRESENTATIVE GANNON: Thank you very  
21 much, Mr. Cartwright. Your candid and  
22 forthright testimony to the committee is  
23 very informative.

24 MR. CARTWRIGHT: I take the job  
25 seriously, I don't take myself seriously.

1                   REPRRESENTATIVE GANNON: Our next  
2 speaker is William Speakman, who has  
3 submitted testimony, and Keith Bassi,  
4 Esquire of the Washington County Bar  
5 Association, Charles Keller, Esquire,  
6 Founder, Conference of Counrty Legal  
7 Journals, and G. Clayton Nestler, managing  
8 attorney of Southwestern Pennsylvania Legal  
9 Services.

10                   You may proceed. Would you identify  
11 yourself before testifying, so we have it  
12 for the court reporter.

13                   MR. BASSI: Mr. Chairman,  
14 Representative Manderino, distinguished  
15 panel members, my name is Keith Bassi, I am  
16 president of the Washington County Bar  
17 Association. I have been in practice in  
18 Washington County for over 20 years now,  
19 and I am here representing the Washington  
20 County Bar Association.

21                   The Bar Association with 300 members  
22 -- more than 300 members, and that  
23 membership represents 80 percent of the  
24 practicing attorneys in Washington County.

25                   The three points I would like to



1 stress to reiterate the comments submitted  
2 in writing by Mr. Speakman are centrality,  
3 efficiency and integrity.

4 Centrality, I would like to draw your  
5 attention to the fact that we are the only  
6 common source of circulation throughout our  
7 entire county. Our county expands from the  
8 West Virginia border to the Monongahela  
9 River. Over that stretch, there are  
10 numerous publications, not all of which  
11 have ideal circulation in all communities.

12 Moreover, as a practicing attorney  
13 along the river communities, I can tell you  
14 my practice extends into seven different  
15 counties. Part of my practice extends into  
16 the area of banking. Our banks have branch  
17 offices that go anywhere from Butler County  
18 to Washington County.

19 As a consequence of that, the other  
20 bank I represent has its home office in  
21 Greene County. As a consequence of that,  
22 if I were doing my due diligence on behalf  
23 of my client, in order to ascertain all  
24 public records, I would have to subscribe  
25 to countless publications in order to to be

1           able to review all legal notices that may  
2           pertain to my client's affairs. By having  
3           a county bar journal, that publication of  
4           those acts of the court that are pertinent  
5           to my client, I am able to subscribe to six  
6           or seven and able to handle all of the  
7           review of those proceedings in an efficient  
8           manner.

9           More importantly, when we talk about  
10          centrality, we are also talking about the  
11          archival purposes and the research purposes  
12          alluded to earlier in other people's  
13          testimony. I can tell you that there have  
14          been instances in which our archival  
15          records have had to be researched for  
16          notice purposes.

17          I can also tell you that we are a  
18          central source to go to for anyone that is  
19          interested in any proceeding at any time.

20          The second point I would like to  
21          stress is the efficiency. We are a  
22          one-stop source. There is a promptness to  
23          our publication. We are a weekly  
24          publication. If the court has a proceeding  
25          or notice that is required to be circulated

1           among individuals in a prompt and efficient  
2           manner, we are the source for that  
3           publication.

4           I'd like to touch upon, in terms of  
5           efficiency, the potential impact of  
6           computers.

7           I may not be the best person to talk  
8           to when it comes to computers, neither am I  
9           over 55 nor under 35. But I can give you  
10          my experience of the last year in which the  
11          main server in my office crashed and we  
12          lost about eight months of all of our  
13          records that were generated during the  
14          eight-month period of time in our law  
15          office in Charleroi.

16          I can tell you when I became president  
17          of the Bar Association, the Bar  
18          Association's mainframe crashed, causing us  
19          at least a one-month delay in  
20          re-establishing those records.

21          I can also tell you that the recorder  
22          of deeds, since I have been in office as  
23          president of the Washington County Bar  
24          Association has recently loss --  
25          permanently lost 20,000 scanned documents

1 over a five-month period.

2 As I said, I may not be the best  
3 person to advocate, as Cambria County was,  
4 moving into the computer age until all the  
5 bugs are worked out.

6 More importantly, I think that there  
7 is a reason for print. I think it should  
8 stay in focus until all those bugs are  
9 worked out and technology is worked out.

10 When we talk about technology on the  
11 computer, there is a push technology and  
12 pull technology.

13 Your deliberations, if you are going  
14 to mandate or suggest computer notices, you  
15 need to consider whether it is a pull or  
16 push, if it's going to generate records in  
17 the notices.

18 The last point I would like to make  
19 for you is that of integrity. The value  
20 that a Legal Journal serves is upheld by  
21 the integrity of the people behind it. We  
22 are, by and large, organized and operated  
23 under a court order. We are generically  
24 headed by court officials or court  
25 officers, more importantly.

1           As lawyers, as president of the Bar  
2 Association, I have to be a lawyer, I am  
3 responsible for my Bar journal and my legal  
4 publication.

5           As an officer of the court, my notices  
6 have to be correct, they have to be  
7 accurate. As Mr. Egler stated earlier, you  
8 hear about it when they are not.

9           For the verifications that are  
10 required to be filed in the various court  
11 proceedings by virtue of statutes that  
12 Representative Manderino alluded to  
13 earlier, we are able to provide those  
14 verifications.

15           Many of the publications on the  
16 computer publication, I don't know how that  
17 would work and it has to be verified in  
18 writing and recorded in another area of the  
19 court.

20           Lastly, I'd like to address, as far as  
21 integrity, our costs. Our cost for a three  
22 time publication for an estate notice is  
23 \$128.75. Our per line is \$2.70 per line.  
24 We are non-profit, I don't think you will  
25 find a cheaper cost anywhere in any

1 publication than ours.

2 I have attempted to summarize  
3 Mr. Speakman's notes that he has provided  
4 to you and now I would ask for Mr. Keller  
5 to further address the issues.

6 REPRESENTATIVE GANNON: Thank you.  
7 Mr. Keller.

8 MR. KELLER: My name is Charles  
9 Keller, and I am senior counsel in a  
10 Washington, Pennsylvania law firm, Peacock  
11 Keller Ecker & Carothers. I am also past  
12 president of the statewide Pennsylvania Bar  
13 Association.

14 I have experience in two areas which  
15 may be relevant to the subject before this  
16 committee today.

17 I served for 22 years as the editor of  
18 the Washington County Reports, and nearly  
19 50 years ago, I organized and served as the  
20 first president of the Conference of County  
21 and Legal Journal Associations.

22 My second credential before you today  
23 is as an active and practicing attorney in  
24 a broad spectrum of the law. I have become  
25 intensely familiar with the importance of

1 public notice and the operation of the  
2 legal and judicial system in Pennsylvania.  
3 I know its strengths, its weaknesses and, I  
4 might add, its increasing costs.

5 I have had the opportunity to read  
6 through the testimony presented to this  
7 committee at your Harrisburg hearing and  
8 that included the testimony of the then  
9 president of the Pennsylvania Bar.

10 I know you have been exposed to a  
11 broad spectrum of testimony and there is  
12 not much factually new I suspect you will  
13 hear at these particular hearings.

14 I want to keep my remarks brief, but  
15 perhaps I can provide a perspective which  
16 will be helpful, at least I hope so.

17 In the last 50 years, I have  
18 participated in at least a half dozen  
19 different studies by either industry or  
20 legislative sources on the subject of  
21 public notice and legal advertising.

22 Frankly, most of what I have read from  
23 your prior testimony, although eloquently  
24 stated, was very similar to the testimony  
25 given at prior studies.

1           The one element which you are  
2           addressing which is comparatively new is  
3           the potential use and impact of the  
4           internet for public notice and legal  
5           advertising purposes.

6           There are three points that I would  
7           like to make in the course of my  
8           testimony. I selected these partly based  
9           on the response to the kinds of questions  
10          you have put through other witnesses at the  
11          earlier hearings.

12          My first point is I hope you will not  
13          underestimate the importance of public  
14          notice and legal advertising in the  
15          operation of government, but particularly  
16          its legal system. It is not just that the  
17          legislature has passed laws for over a  
18          hundred years supporting the idea of public  
19          notice of matters of legal significance.  
20          Neither is it just that due process  
21          referred to earlier by Mr. Egler required  
22          broad public notice at tax sales and  
23          mortgage foreclosures and litigation  
24          involving title to land, the formation or  
25          dissolution of corporations and other legal



1 events of public importance.

2 Neither is it just the right to know,  
3 which is a compelling importance. Surely  
4 it is all of these factors which have  
5 caused us to develop such a comprehensive  
6 system of public notice and legal  
7 advertising.

8 So, I hope you will not underestimate  
9 the importance of continuing this practice.

10 Secondly, with specific regard to the  
11 legal journals of the Commonwealth, they  
12 occupy a special niche and the testimony  
13 that you have heard and the questions that  
14 you have asked indicate that you are pretty  
15 well familiar with that special niche.

16 Although the legislature provides the  
17 direction to do legal advertising, the  
18 actual creation of the Legal Journal in the  
19 county depends on an order of the Court of  
20 Common Pleas. That's true in Delaware and  
21 Westmoreland County, Philadelphia County,  
22 just as it is in my county.

23 A designation by the court creates a  
24 special relationship between the Legal  
25 Journal and court system of each county.

1           So it is that legal journals publish  
2 court opinions, trial lists, court notices  
3 and other material of importance to the  
4 operation of the court system at either no  
5 cost or very, very low cost.

6           My experience is that in Washington  
7 County, the Washington County Reports  
8 presents the single source for legal  
9 advertising which is, primarily, not  
10 exclusively of the legal, banking, real  
11 estate and other involved communities.

12           Questions have been raised about the  
13 dual nature of legal advertising and that's  
14 a good inquiry in a newspaper of general  
15 circulation and in the county Legal  
16 Journal.

17           I believe that the truth is that each  
18 advertising medium reaches different  
19 segments of the public. You heard from the  
20 Pennysaver and they specialize in numbers.  
21 You have heard on other occasions from the  
22 newspapers of general circulation, which  
23 not only deal in numbers but breadth of  
24 publication. That's where I read the funny  
25 papers and the bridge column and sports

1 news.

2 The Legal Journal is a different kind  
3 of an animal. If I want to read the legal  
4 news, I go to the Legal Journal. In  
5 Washington County, we're served by at least  
6 four newspapers of general circulation,  
7 none of which carry all of the legal  
8 advertising. Only the Washington County  
9 Reports does that.

10 It is worth noting, however, that many  
11 public notices, as in bond issues and  
12 public bidding, do not require dual  
13 advertising. There have been a only in  
14 newspapers of general circulation. That is  
15 the way it ought to be. We can't serve  
16 that kind of public in the legal journals.

17 In addition, I think it is worth  
18 noting that the cost of legal advertising  
19 in a Legal Journal is usually less and  
20 often substantially less than newspapers of  
21 general circulation.

22 Moreover, most costs for legal  
23 advertising are borne by the litigants and  
24 persons doing the advertising and not by  
25 government or any agency in government.

1 Washington County Reports, like the  
2 Pittsburgh Legal Journal and most other  
3 legal journals, are owned by local Bar  
4 associations and operated for the benefit  
5 of the court system and the people who rely  
6 on our legal system.

7 I urge you to recognize and protect  
8 the enormous service provided by these  
9 specialty publications.

10 My third and final point is the  
11 development of the internet as a medium for  
12 providing legal notice and legal  
13 advertising, which I think clearly is still  
14 in its infancy.

15 You heard about some of the  
16 experiences we have had in Washington  
17 County from Mr. Bassi. When the recorder's  
18 office crashed and lost 20,000 recorded  
19 documents and they had to come back to the  
20 Bar Association and say can you help us  
21 rebuild what we have lost, that is a  
22 frightening experience for those of us who  
23 work in the legal field.

24 Certainly the changes in technology,  
25 but more than that, the rate of change are

1 mind boggling to all of us.

2 Public notices require a guarantee of  
3 accuracy and authenticity, which web pages  
4 do not yet exhibit. Our law office is  
5 completely computerized, networked and yet,  
6 I note our lawyers rely primarily on  
7 Purdon's and The Pennsylvania Bulletin and  
8 Legal Journal and a host of other documents  
9 of publications which come out.

10 What this experience suggests to me is  
11 that the internet is not now suitable, if  
12 ever, to replace print media for public  
13 notice and legal advertising. Whether it  
14 is an ancillary or supplementing agency  
15 with low costs, I think the future has yet  
16 to demonstrate that.

17 I appreciate the opportunity to  
18 provide this testimony and I hope it may be  
19 helpful to you. I wish you well in your  
20 deliberations.

21 REPRESENTATIVE GANNON: Thank you.

22 MR. NESTLER: My name is Clay Nestler,  
23 I am an attorney practicing in Washington  
24 County and I am also at Southwestern  
25 Pennsylvania Legal Service, since 1979 I

1 have been associated.

2 My work provides civil matters to low  
3 income individuals in Washington, Greene,  
4 Fayette, Somerset Counties.

5 I believe the current system of  
6 providing legal notice in official  
7 publications such as Legal Journals and one  
8 publication of general circulation serves  
9 the needs of the low income community and I  
10 would like to give you examples of  
11 demonstrating that.

12 I found for the low income community  
13 in particular, there are two primary  
14 reasons for utilizing public notice --  
15 publication of legal notice. One is a  
16 pursuit of personal legal interests. A  
17 client wishes to obtain a divorce or  
18 custody, to adopt a child or change their  
19 name and they need to give notice to an  
20 opposing party whose address is not  
21 currently known to the general public.

22 There are contravening interests of  
23 cost and the circulation of the notice and  
24 requiring both a general circulation  
25 newspaper and a Legal Journal, I think,

1 balances those interests to the best extent  
2 possible.

3 We have found, as an attorney, that we  
4 will read, in particular, the Legal Journal  
5 and be alerted to actions filed by others  
6 impacting upon our clients and your clients  
7 would not otherwise very possibly received  
8 notice of.

9 Second interest is the receipt of  
10 notice of governmental actions. There are  
11 many government actions promulgated that  
12 impact upon our low income communities.  
13 Changes in eligibility rules for government  
14 programs, specific example is when the  
15 first day to apply for energy assistance  
16 each year is.

17 General example is changes in rulings  
18 of court access, and specific example in  
19 Washington County was when a result  
20 promulgated directing that if an individual  
21 party continued a custody pre-hearing  
22 conference there would be a fee assessed.  
23 Well, fees of that nature, even though they  
24 might be minimal in cost, particularly  
25 impact on members of the low income

1 communities.

2 It is particularly helpful to have a  
3 Legal Journal that is the source of  
4 publication of such notices, because  
5 although the client, member of the low  
6 income community, may not access that  
7 notice directly, we attorneys representing  
8 individuals, other interested  
9 representatives of the client, such as case  
10 workers at the public access, that the  
11 person dealing with have one particular  
12 source they can look at, obtain notice of  
13 these new governmental actions and  
14 something new is coming that may impact on  
15 them and hear something to be prepared  
16 for. A related example of that is the  
17 requirement that federal government actions  
18 be published as noticed in the Federal  
19 Register.

20 Then there's one particular individual  
21 site that an individual, interested  
22 representative of a client can look at on a  
23 regular basis with little time involvement  
24 and find that information as soon as  
25 possible and use it to help our clients.



1           Those are practical, I found in my  
2           experience, that my particular client  
3           population is particularly well served by  
4           having the requirement of publishing in a  
5           Legal Journal as well as general  
6           circulation.

7           Thank you.

8           REPRESENTATIVE GANNON: There is a  
9           comment I would invite further comments  
10          on. In different ways all three of you hit  
11          on who pays for the ad as being an  
12          important thing that we haven't discussed  
13          much, at least today.

14          For example, the sheriff's department  
15          places the ad, but the sheriff's department  
16          isn't paying for the ad, the financial  
17          institution that wants to foreclose on the  
18          mortgage is paying for that ad.

19          I don't know, probably the county  
20          government would be the best source of, you  
21          know, of the making up the hundred thousand  
22          dollars worth of advertising that I placed  
23          pursuant to legal requirements, how much  
24          did I pay for and how much did I collect  
25          from other sources.

1           I think that's an important piece of  
2 information for our consideration when we  
3 look at notice -- the cost effectiveness.

4           MR. BASSI: I think that question  
5 actually leads to a better question that  
6 deals with the due process issue. That is  
7 that if we are effectively eliminating  
8 access to our courts for litigants because  
9 of the necessity of publication costs, then  
10 we have a serious problem to concern  
11 ourselves with.

12           In a foreclosure action, the costs can  
13 run into the hundreds of dollars. I happen  
14 to represent a particular municipal  
15 authority that in the retirement of its  
16 bonds spends in excess of \$30,000 a year  
17 for the advertisement costs required by the  
18 trustee. We have no control over those  
19 costs. While that may not be germane to  
20 your particular issue, that's one example  
21 of driving the cost of government out of  
22 business.

23           The issue of access to the courts and  
24 due process, there has to be a balance.  
25 There has to be a balance. Whether there

1 is on some governmentally sponsored  
2 publication that would be considered of  
3 general circulation, other types of  
4 publications we heard this morning, there  
5 should be something done so that the costs  
6 are lifted from the litigants so that they  
7 can have access to the court and from the  
8 municipality payments.

9 MR. KELLER: Again, sales, whether the  
10 they are mortgage sales or tax sales, the  
11 costs there are worked into the sale  
12 process, and the purchaser of the property,  
13 in the long, run pays the cost.

14 REPRESENTATIVE GANNON: One of the  
15 problems that I have and one of the issues  
16 that I've seen in testimony in these  
17 hearings are about that \$30,000 cost  
18 imposed on the taxpayers. What is the  
19 effectiveness of the advertising required.

20 I don't think there's any dispute  
21 there should be publication and notice. I  
22 think the question comes down to what's the  
23 broadest notice that can be given and  
24 what's the most least expensive way that  
25 that can be done. That really goes to the

1 heart of why we are having these hearings.

2 We heard talk about the internet,  
3 Pennysaver, paid publications and also  
4 legal journals. I think the problem I see  
5 is not its inclusiveness, but exclusionary  
6 terms. The statute literally excludes the  
7 government agency from going out and saying  
8 maybe there's a broader audience that can  
9 be reached in a more economical fashion,  
10 but the law prohibits us and has literally  
11 shut the door on our ability to access that  
12 vehicle, get the required notice out  
13 there.

14 That is what I'm hearing is really the  
15 current problem. It's not pulling back,  
16 it's really the fact that government  
17 agencies can't go forward in a more cost  
18 effective manner to get that notice out  
19 there.

20 Considering the audience they want to  
21 reach, quite frankly, we heard the  
22 testimony, the legal journals have a very  
23 important niche. So we're not -- put that  
24 aside for a moment. We're looking at an  
25 agency retiring a bond and say we have to

1 spend \$30,000 because that's what the law  
2 says we have to do. Really, are we, as we  
3 heard before, are we accomplishing the  
4 intent of the law, which is getting the  
5 broadest possible notice and is there a way  
6 to do that in a more economical fashion and  
7 still meet the obligation of publishing.

8 MR. BASSI: The size of the notices as  
9 well. How frequently I looked at notices  
10 in the newspaper and found that without my  
11 glasses or my wife's glasses being handy, I  
12 simply can't read them.

13 REPRESENTATIVE MANDERINO: You're  
14 getting old.

15 MR. BASSI: I testified I'm under 55  
16 and over 35.

17 The other aspect of that is that the  
18 language contained within those notices is  
19 sometimes so archaic and in some cases,  
20 ambiguous, we're not certain what we read  
21 after we read it.

22 I think much like in the insurance  
23 industry, there has to be a clear necessity  
24 to the ability to communicate these notices  
25 in the language and the requirement that we

1 are going to actually make it readable and  
2 legible for our targeted audience.

3 But getting back to your issue as far  
4 as exclusions, for-profit newspapers are  
5 for profit. There is a reason why they  
6 station a publisher in the register of  
7 wills office. It generates revenue for  
8 them. I don't know that that's necessarily  
9 a negative. Everyone should be in business  
10 and I think that if they do a great job of  
11 doing the publications, we may have a real  
12 niche to play in our society and we may  
13 want them to bear that cost.

14 If I were a contractor, I would be  
15 stupid if I didn't subscribe to the Dodge  
16 Reports. Because there is a paid  
17 publication for which advertisers pay and  
18 subscribers pay in order to get the  
19 information that is relevant to them.

20 So, when we talk about excluding, we  
21 can't completely exclude paid  
22 publications. Maybe there should be some  
23 cost of justification as to why the cost of  
24 it is such. We can certainly justify, as  
25 Cambria County can justify, why we are so

1           inexpensive. Maybe there should be some  
2           justification as far as costs.

3                   REPRESENTATIVE MAITLAND: One of the  
4           things I heard talked about at prior  
5           hearings, and thinking for myself along the  
6           lines of description of property, what is  
7           contained in the notice that is required to  
8           be published and is there any value there?  
9           You mentioned in the languages used.

10                   As practicing attorneys, I don't know  
11           if you do real estate work, is there value  
12           to reading the detailed property  
13           description in the newspaper? Are you able  
14           to go into court and say this must be where  
15           the line is because the newspaper said so  
16           or do you rely on the deeds?

17                   MR. BASSI: You do rely on the deed.  
18           The issue is what notice is being given as  
19           to what rights are being affected in terms  
20           of the property that is subject to that  
21           particular proceeding, whether it be  
22           foreclosure or tax sale.

23                   Does a full description have to be  
24           included? In Pennsylvania now? The only  
25           thing that is actually required on the deed

1 is the taxpayer identifying number, that  
2 can be issued -- that tells me absolutely  
3 nothing. If I read in the newspaper a  
4 twelve digit number with six dashes in it,  
5 I would have no idea in Washington,  
6 Westmoreland, Fayette or the other counties  
7 I practice where that property was.

8 I would caution the committee that  
9 neither would an individual who isn't as  
10 experienced as I am in the law. A street  
11 address doesn't always cut it, because in  
12 many of the rural counties, some areas are  
13 dealing with R.D. numbers or P.O. box  
14 numbers and some of these parcels aren't  
15 even affected yet by 911 systems, so we  
16 don't have street addresses throughout the  
17 Commonwealth.

18 The only accurate way to describe a  
19 piece of property is, in fact, a metes and  
20 bounds description, if one is available for  
21 that property, site for it to be completely  
22 published. Then you get to how much is  
23 enough. The committee has its hands full  
24 with that issue.

25 MR. KELLER: I would like to add



1 something. Lawyers abbreviate as much as  
2 they can. If you can identify a property  
3 by lot number or plan, you do that. When  
4 you're getting into rural areas where you  
5 -- sometimes it is more difficult to  
6 clearly identify property by joinders or  
7 some abbreviated system.

8 So, the legitimate question, and I  
9 think every lawyer has looked at that,  
10 embarrassed by the length of the ad because  
11 so much of it is irrelevant. Yet, public  
12 notice is what is required. Accuracy is  
13 important and so you have to be careful  
14 when you take it shorter.

15 MS. MENDLOW: One last question: Can  
16 you explain regarding the legal journals  
17 across the state, there does seem to be  
18 variation about what is actually in the  
19 legal journals. In some cases, there may  
20 be more information about summary or  
21 opinion or identification of some type of  
22 action that would affect a legal services  
23 client.

24 Could someone visit as to whether  
25 there is an association that, you know,

1 kind of works on this type of thing, to  
2 look at some new formula.

3 MR. KELLER: Let me try to answer  
4 that. Legal journals exist in counties with  
5 50 lawyers and, like Philadelphia County,  
6 with heaven only knows how many lawyers --

7 REPRESENTATIVE MANDERINO: A lot.

8 REPRESENTATIVE GANNON: Some would say  
9 too many.

10 MR. KELLER: But legal journals vary  
11 greatly in content. They do provide all  
12 the required legal efforts that the  
13 legislature says they must do. They do  
14 service to the court. Depends on the size  
15 of the Bar and resources available.

16 In Washington County, we think we have  
17 a great Legal Journal and we provide a lot  
18 of services, a lot of information.

19 So, the reason for the variation  
20 depends on local services. You can be  
21 assured what needs to be in a Legal Journal  
22 is always there.

23 MR. BASSI: As far as Washington  
24 County, we do not charge for publication of  
25 opinions, that was mentioned earlier. We

1           couldn't charge for those publications.

2           MR. KELLER:   Or court notices.

3           MR. BASSI:   We do not charge for  
4           those.   We are providing additional  
5           services.   Is there one central  
6           organization that is working on this issue,  
7           I believe Mr. Keller was a member of the  
8           statewide Pennsylvania Bar Association that  
9           is working on that and there is currently  
10          no central format for all legal  
11          publications from the Bar Association.

12          MR. KELLER:   The Council of Legal  
13          Journals meets regularly in conjunction  
14          with Bar Association functions.   We are not  
15          profit, we are a service organization,  
16          that's basically what it is.

17          REPRESENTATIVE MANDERINO:   Do you have  
18          any sense of how frequently the adequacy of  
19          legal notices is challenged and how  
20          effective a challenge is?   We haven't had  
21          any discussion.

22          MR. BASSI:   In preparing for today's  
23          testimony, I have no statistics on that  
24          whatsoever.

25          MR. KELLER:   My experience is it is

1 rarely challenged. If you do what the  
2 legislature tells you, you do what you must  
3 do, you can rely on it. The courts will  
4 support it.

5 REPRESENTATIVE GANNON: Thank you for  
6 appearing before the committee.

7 Next is Mr. Northrop, publisher of the  
8 Observer-Reporter. You may proceed.

9 MR. NORTHROP: Good afternoon. Thank  
10 you for the opportunity to be here.

11 My newspaper is a daily newspaper in  
12 Washington County serving Washington and  
13 Greene Counties. Today I'm helping to  
14 represent the Pennsylvania Newspaper  
15 Association.

16 I guess in November of last year,  
17 there was a hearing and we'd like to  
18 address a few of those issues.

19 First and foremost, the two issues  
20 that take up the time is the cost of public  
21 notice advertising and propose it to  
22 recognize three newspapers as general legal  
23 notice.

24 To address the cost issue, we are a  
25 for-profit business. There is no question

1           about it. Our newspaper has been in  
2           business since 1808. We just celebrated  
3           our one-hundredth year of family ownership  
4           this past July. We are doing something  
5           right.

6           I did look at some of the  
7           municipalities to give us information that  
8           can be found out. To address some of the  
9           cost issues, the budget for Washington  
10          County is \$467,216,423. Of that, 182 is  
11          devoted to public notice advertising. Of  
12          that, 112 is sheriff's sales, and of that,  
13          47,000 is 120 days they haven't paid us  
14          yet. Which is near and dear to our heart.

15          REPRESENTATIVE MANDERINO: When you  
16          say 182, you meant 182,000?

17          MR. NORTHROP: That is correct. That  
18          is devoted to legal advertising.

19          The total percentage of advertising --  
20          legal public notice advertising for our  
21          newspaper represents three percent of all  
22          our total revenues. It is a considerable  
23          amount of income, nothing that would  
24          bankrupt us or cause us to sell the paper.  
25          It is a considerable amount of money.

1           We do have some statistics, and you  
2           have this testimony as well, Berks County,  
3           just to combat the issue in Berks County,  
4           Fleetwood Borough, population 4,018, has  
5           spent \$1,940.35 out of a budget of almost  
6           \$3 million.

7           In Delaware County, Prospect Park  
8           Borough, population 6,594 spends 1.7  
9           million a year -- 1.7 a year out of a  
10          budget of 2.3 million. The cost is not  
11          particularly exorbitant and we would say in  
12          all our studies we have done, we have not  
13          found -- we have surveyed newspapers over  
14          the state.

15          We determined the cost of public  
16          notice is an exorbitant part of the total  
17          budgets. Allegheny County declined to  
18          participate in our data and we don't know  
19          what they are doing. We don't service  
20          Allegheny County.

21          I speak for Washington and Greene  
22          Counties, both of which are county seats.  
23          Advertising rates here are roughly 40,000,  
24          39,000 in Washington and Greene County. We  
25          have different advertising rates for full

1 run, which includes both those counties or  
2 just Greene County.

3 I was trying to think of words to  
4 describe Mr. Deweese that I can be as  
5 loquacious as your esteemed colleague. We  
6 charge \$3.67, Greene County \$1.20, 14,000  
7 households in Greene County. We have 7000  
8 subscribers, 50 percent actually pretty  
9 happy with that.

10 We do have other rates, estate notices  
11 three times, \$164.12 and that is three time  
12 insertion and also includes affidavits,  
13 which is another reason the newspaper has  
14 been around since 1808, and newspapers have  
15 been around. The internet is an issue we  
16 will discuss in a little bit.

17 We are reliable, we are accurate, for  
18 the most part. And you talk about the  
19 effectiveness and do people read them,  
20 leave one out and you will see what  
21 happens. We try our best to reach probably  
22 more people in Washington County than any  
23 other newspaper for general circulation.  
24 We are certainly the largest. Pittsburgh  
25 Post-Gazette circulates in northern

1 Washington County, Tribune-Review in the  
2 valley and the north.

3 W&J College, which is a very fine  
4 institution, had an issue the other day  
5 which we reported and one of our issues is  
6 we get in trouble right now or mayor is not  
7 too fond of us and one of the county  
8 commissioners is not particularly fond of  
9 us. The other one is happy with us today  
10 but next week will be mad.

11 That's part of the deal, W&J was  
12 asking city council to approve a \$14.5  
13 million bond issue to finance building  
14 projects. They are working with the  
15 Allegheny County Higher Education Building  
16 Authority to obtain tax exempt status, so  
17 they contracted with Thorp, Reed &  
18 Armstrong in Pittsburgh and they had their  
19 meeting. They ran the public notice in the  
20 Pittsburgh Tribune-Review and not a single  
21 person showed up, because the Pittsburgh  
22 Tribune-Review circulation in Washington  
23 County is less than 2000 during the week.  
24 And the issue of a 1200 circulation  
25 newspaper, it certainly serves that



1 particular area, but people in Pittsburgh  
2 don't particularly care that W&J wants to  
3 tear down three buildings and put up a  
4 parking lot and new technology center. The  
5 people that live next door, they have great  
6 concern over the issues.

7 We obviously are -- we would love to  
8 see public notices continue in newspapers,  
9 but it can't be -- I'm rambling.

10 In Pennsylvania, the State decided  
11 that they were going to auction off mineral  
12 rights, gas and oil, for 500,000 acres of  
13 public forest and park lands, which  
14 amounted to 25 percent of Pennsylvania's  
15 1.2 million acres of forest lands. There  
16 was no news release, no press conference.  
17 It appeared in the public notice ad in  
18 Potter County.

19 Fortunately, Jim Chrysler, who is  
20 executive director of the Allegheny Defense  
21 Project, spotted the notice and the ball  
22 got rolling. So then there were public  
23 hearings; otherwise, that would have gone  
24 off without a hitch.

25 I am not sure what the population of

1           Potter County is, but presumably, it is  
2           less than Harrisburg or Susquehanna County.  
3           Ultimately, the land auctioned off was cut  
4           in half, and that may not have happened had  
5           Mr. Chrysler not seen the public notice.

6           There are lots of other issues and  
7           those types of the things.

8           Our contention is that public notice  
9           serve the rights of legal function. The  
10          legal journals serve a very important  
11          function and I understand that. But not  
12          everyone reads the legal journals.  
13          Attorneys should, and I hope do, but lots  
14          of your constituents, more particularly,  
15          would not read the legal journals. They  
16          have to get the information from  
17          somewhere.

18          There was another case in Lancaster, a  
19          landfill that there was going to be --  
20          there's a woman that was looking for  
21          environmental safeguards at the landfill  
22          and she has a group, The Red Rose Alliance,  
23          that monitors legal ads and keeps everyone  
24          apprised of what is going on.

25          My next door neighbor and I went

1 skiing down to Snowshoe, West Virginia. I  
2 can't go a day without reading a newspaper,  
3 it is how it is, so we bought the newspaper  
4 in Charleston and I started reading the  
5 legal notices and he asked why. I thought  
6 if you read the legal notices, there was a  
7 notice that the sewer authority wanted to  
8 expand their property. What does that  
9 mean, that means there's going to be more  
10 houses, some development going on.

11 Generally, I don't read the legal  
12 notices out of town, but it gives you a  
13 flavor and idea of what is happening in  
14 that community.

15 If you don't subscribe to the legal  
16 journals or Washington Business Times, you  
17 might not necessarily know that.

18 We don't have a publisher in the  
19 register of wills' office, we have  
20 reporters that frequent that. We subscribe  
21 to services for titles and housing, those  
22 types of issues. What we do have is our  
23 reporters go and ask questions and they  
24 dig. And sometimes people are offended.  
25 Mostly, it's the elected officials and we

1 ask questions, why are you doing that. We  
2 like to think that we're keeping people  
3 honest. People in that community play that  
4 role as well. There is a school board  
5 director in Washington that I think he  
6 attended every school board meeting for  
7 eight years and then ran for school board  
8 and he is one of the people that asks  
9 questions and makes these meetings last for  
10 hours, except that he's keeping people  
11 honest and asking the tough questions.

12 That's what our reporters hopefully is  
13 doing, asking the tough questions.

14 On to the internet, there are three  
15 times as many American adults that read the  
16 newspaper as log on to the internet. Web  
17 usage is particularly low among mature  
18 adults, particularly in our counties. We  
19 have nearly 50 percent of our subscribers  
20 are over 55 years. My kids are 20 and 22  
21 and they don't particularly -- I'm sure  
22 they've never read a legal notice in their  
23 life, but they're on the internet all the  
24 time looking up who knows what.

25 But the mature newspaper readers are

1           actually the people that are most active in  
2           our community and most of them are business  
3           leaders and vote, which is important to you  
4           all. My dad is 72, he just retired, he has  
5           used a computer for four years and about  
6           six months ago, he asked me how to send an  
7           e-mail. I said you've been sending e-mails  
8           for two years. He said well, I wait until  
9           someone sends me one and I hit reply. He's  
10          probably on the extreme edge.

11                 I have a niece that is nine that is a  
12          wizard.

13                 I think at this point, we might not be  
14          ready for full internet only access to  
15          legal notices.

16                 What the Pennsylvania Newspaper  
17          Association has done, we've partnered with  
18          mypublicnotices.com and out of our 220  
19          daily and weekly members, over  
20          approximately 100 are now on  
21          mypublicnotices.com, which is a from  
22          service. You can pick up the public  
23          notices and make them available to the  
24          public. That is what they are for.

25                 As a stand-alone feature, it's not

1 particularly the best.

2 This point is, we think it is fine to  
3 augment what we have already.

4 So far, we haven't found that there's  
5 any real evidence that legislative actions  
6 warrant to correct this. At the hearing in  
7 November, no one wanted rapid change. At  
8 your November meeting, there was a proposal  
9 to place free circulation and publications  
10 as vehicles for public notice. We have a  
11 couple things to say about that.

12 With no disrespect to my colleagues  
13 behind me, our position as I particularly  
14 view shoppers publications as an  
15 advertising vehicle, we have reporters, we  
16 go out and actively look for stories. We  
17 do have reporters rely heavily on all types  
18 of advertising and please read advertising,  
19 because 75 percent of our revenue is  
20 advertising.

21 We have a commitment to the community  
22 and commitment to digging up the stories.

23 Shoppers advertising rates generally  
24 are lower than paid newspapers. We provide  
25 service, we provide content, we provide

1 value. Content from shoppers publications  
2 is canned or minimal, if it is there at  
3 all, and we do have a free publication.  
4 Shoppers don't print features or articles  
5 that would enhance a reader's understanding  
6 of information generally seen in the public  
7 notice.

8 I think that the perception, and  
9 perceptions change over the years. If you  
10 were a neutral community and you had a  
11 business, where would you go to look if you  
12 started a business. You would look at a  
13 paid circulation newspaper to find the  
14 public notice.

15 Our editorial content is organized.  
16 We are generally 50 percent is editorial  
17 and 50 percent shoppers. Shoppers are  
18 advertising, they are for profit as well.

19 We are good corporate citizens, and  
20 there are certain obligations with having a  
21 paid circulation newspaper and I believe we  
22 fulfill those.

23 Finally here the majority of states  
24 and federal government do not legally  
25 recognize notice advertising and free

1           publications based on the reasonable  
2           supposition that readers will pay more  
3           attention to content of a publication if  
4           they pay for it. That is one of our  
5           strengths here.

6           In connection, if I haven't rambled  
7           too much, the law gives specific  
8           significant newspaper publication because  
9           it is the most reliable, timely, economic  
10          and accurate way of transmitting  
11          information. Unlike broadcast, transcript  
12          or web cast transmission, the newspaper  
13          speaks for itself. Public notice is an  
14          important tool and without a doubt,  
15          newspapers are the best media for getting  
16          information to the general public.  
17          Notice about public meetings, taxes,  
18          unclaimed property, elections and  
19          legislation to help run the engine of  
20          participatory self-government.

21          If the committee recommends  
22          legislation not to advertise in general  
23          circulation newspapers, who absorbs the  
24          economic loss. It is not going to kill us,  
25          we appreciate the business, but our main



1 point is we feel that irreparable damage  
2 will be done to the citizens in the  
3 communities currently served by the law  
4 requiring public notice through newspaper  
5 publication. Their interest and not the  
6 the newspapers' are served.

7 The public notice should stay the  
8 same. I appreciate the opportunity to be  
9 here and fire away.

10 REPRESENTATIVE GANNON: Thank you.  
11 Any questions?

12 REPRESENTATIVE MANDERINO: No.

13 REPRESENTATIVE MAITLAND: One quick  
14 question: In talking about why the  
15 shoppers should not be included, your last  
16 bullet point is circulation numbers offered  
17 by free circulation numbers are not  
18 audited. You jumped over that when you  
19 went through. Is that still your  
20 position?

21 MR. NORTHROP: After listening to the  
22 testimony this morning, there certainly are  
23 audited -- you can get audited numbers.  
24 Circulation and readership are different  
25 numbers. We used to publish a free shopper

1           and we would print thousands and we staple  
2           and stack them up in the corner and the  
3           only cost to print more is the cost of the  
4           newsprint or materials.

5           So, you stack them on the corner and  
6           people take them or not take them and you  
7           learn how many people will pick them up,  
8           but we do not have a shopper anymore.

9           I don't deal with the gentleman with  
10          the audit bureau. I believe they do audit  
11          those numbers, but I wasn't familiar with  
12          that.

13          REPRESENTATIVE GANNON: Thank you very  
14          much for appearing before the committee and  
15          providing us with very valuable information  
16          and your views and thoughts on the public  
17          notice requirements.

18          Thank you.

19          Next is Mr. George Verlihay on behalf  
20          of the Beaver County Legal Journal and  
21          Beaver County Bar Association.

22          Welcome, Mr. Verlihay, and you may  
23          begin when you are ready.

24          MR. VERLIHAY: My name is George  
25          Verlihay, I am a practicing attorney, I

1 have been in practice for 26 years, active  
2 member of the Beaver County Bar  
3 Association, past president of the Beaver  
4 County Bar Association, and in the course  
5 of my practice I represented  
6 municipalities, municipal authorities and a  
7 state chartered savings bank.

8 All of those clients at one time or  
9 another, for one reason or another, have  
10 occasion to advertise both in a Legal  
11 Journal and newspaper of general  
12 circulation.

13 My prepared text includes citations as  
14 to certain statutes that require  
15 advertising, both in a newspaper of general  
16 circulation and in the Legal Journal.  
17 There are also citations in there to court  
18 rules that require publication in the  
19 newspaper of general circulation and in the  
20 Legal Journal.

21 I don't want to bore the committee,  
22 but I would like to address some of the  
23 material in my presentation that I think  
24 you have indicated in your questions you  
25 need to know so you can continue your work.

1           In the course of representing Chippewa  
2           Township, I bring that to light as an  
3           example, last year the township spent a  
4           little over \$2000 in its advertising  
5           budget. This year we spent in excess of  
6           \$10,000 and the year is not over. The  
7           reason for the huge increase is the type of  
8           ordinances that we are doing this year that  
9           we did not do last year.

10           Two of the ordinances we did this year  
11           we didn't do last year were human debt act  
12           ordinance prepared by bond counsel and  
13           comprehensive zoning ordinance.

14           The zoning ordinance alone cost over  
15           \$3,000 to publish. The reason for that  
16           cost is in the municipalities' planning  
17           code, the code says the zoning ordinance  
18           will be summarized in reasonable detail.

19           There aren't too many of us practicing  
20           attorneys that want to have our zoning  
21           ordinance set aside because we didn't  
22           publish section 501 in reasonable detail.  
23           What that translates is that most times,  
24           the full text of the zoning ordinance is  
25           published. Rather than people coming in

1 and asking for a copy of the zoning  
2 ordinance, so they can see it.

3 So, we spent just recently, \$3300 on  
4 publishing that zoning ordinance.

5 We had a public hearing before the  
6 supervisors and it was extremely well  
7 attended. But not one of those people  
8 brought in to the public hearing the clip  
9 out of the newspaper what they wanted to  
10 address.

11 In fact, knowing that I was going to  
12 be doing this, I asked questions as to did  
13 you come in to get a copy of the full text  
14 of the ordinance; yeah.

15 So, I would suggest to the committee  
16 that one way that advertising costs can be  
17 cut down is simply by amending the  
18 municipalities planning code to get rid of  
19 that requirement of reasonable detail and  
20 say if you're interested in it, here is  
21 where the full text can be examined so that  
22 the public knows what action the  
23 municipality is taking, but the  
24 municipality doesn't have to be burdened  
25 with the huge cost of advertising.

1           Likewise, bond counsel doesn't want to  
2 risk the challenge that the ordinance  
3 wasn't sufficiently advertised as required  
4 by the act. That is one case where not  
5 only do you have to advertise the notice of  
6 intention to adopt the ordinance, you have  
7 to tell the public afterwards that you did,  
8 in fact, by publication adopt the  
9 ordinance.

10           We can get to the point where we can  
11 provide a reasonable summary or concise  
12 statement and indicate to the people that  
13 part of being citizens and informed  
14 citizens is not to sit back and have the  
15 information handed to you, but here is  
16 where it is, come and get it. That's a  
17 balancing test as far as the interest in  
18 saving taxpayer money.

19           That \$3,300 spent advertising the  
20 zoning ordinance, that is a factor for my  
21 little leg field.

22           Another that comes to mind, the  
23 housing authority spent \$20,000. Both the  
24 township -- I'm talking about a housing  
25 authority never spent a dime in legal

1 advertising for the Legal Journal.  
2 However, it is again the creatures of  
3 statute that require the type of  
4 advertising and the place that they are  
5 advertising.

6 You ask the question as far as cost  
7 and income for the Legal Journal and what  
8 public money is obtained from that. Last  
9 year, 2001, the Legal Journal gross revenue  
10 was \$187,000. Out of that amount, only  
11 \$2,304.80 was directly paid by governmental  
12 agencies. There was sheriff's sales, but  
13 the banks paid for those. There were  
14 estate notices, but the estates paid for  
15 those.

16 When I break it down and look at the  
17 sources of revenue, \$2300 was paid by the  
18 court or court agencies themselves. Some  
19 of those were advertisements for parental  
20 rights.

21 So far this year, our gross receipts  
22 through August are \$127,000 and 2700 this  
23 year has been from governmental agencies.

24 So, really, the cost in legal  
25 advertising to government is really the

1 insignificant part of your inquiry. It's  
2 the general circulation, the statutory  
3 requirements of the governmental entities  
4 that are paying the costs. The advertising  
5 costs in the Legal Journal, our current  
6 cost is \$1.80 per line. In a newspaper of  
7 general circulation, it is \$2.43 per line.

8 There is additional experience to the  
9 newspaper of general circulation versus the  
10 Legal Journal.

11 I'd also like to address two other  
12 comments. One was the sheriff's sales. In  
13 representing the bank, I have done many  
14 foreclosures, unfortunately. Not one have  
15 I ever summarized the legal description of  
16 the property that I was foreclosing on. I  
17 didn't want the worry of somebody coming  
18 back and saying to me what you advertised  
19 is not what I purchased. I don't know why  
20 anybody would want that worry to come back  
21 and say here is what we're saying.

22 I know of one case that was settled  
23 where the sheriff sale was set aside, but  
24 the legal description contained notice of a  
25 certain easement running through the



1 property. That was not summarized in the  
2 description and the purchaser went back and  
3 was able to have the sale set aside via  
4 negotiation. It didn't go to trial because  
5 of the full text of the description not  
6 being made available.

7 I wouldn't rely on doing a summary. I  
8 know what the rule says, I know what I do  
9 and what my client wants done. The client  
10 wants the certainty that what we have done  
11 is correct.

12 One other thing I was appalled that  
13 one of my colleagues from Cambria County  
14 indicated they don't publish court  
15 opinions. One of the things we do all the  
16 time, wherever possible, is publish the  
17 court opinions. My wife is the executive  
18 director of the Bar Association, she is the  
19 publisher of the Legal Journal and I assure  
20 you, when a court opinion is not published  
21 each week, the phone rings off the hook as  
22 to why wasn't a court opinion published  
23 that week in the Legal Journal.

24 The attorneys read those that rely on  
25 them. There are times when we don't have

1 the room to publish the full opinion  
2 because of the length of the opinion and it  
3 has to run over a two-week period.

4 In those cases, the phone is ringing  
5 off the hook saying fax or e-mail me the  
6 balance of the opinion. We know the  
7 attorneys are reading the legal journals.

8 In addition, it is not only the  
9 attorneys but my municipal clients, my  
10 banks and my boards of directors of the  
11 bank read the Legal Journal, because they  
12 want to see what's going on with regard to  
13 sheriff sales.

14 My municipal clients read it because  
15 they are also interested in fictitious name  
16 registrations and corporate registrations  
17 so the zoning officer can see where the  
18 business is located. Do we have a new  
19 business in the township, do we have  
20 somebody doing a business out of their  
21 home. It is important that it is in that  
22 Legal Journal.

23 My municipal authority wants to know  
24 whether or not they have certain municipal  
25 liens that may be divested by sheriff's

1 sale and whether they need to take an  
2 active part and provide notice of the  
3 municipal lien when the property is being  
4 sold.

5 The Legal Journal is a constant point  
6 of reference, not only for me as an  
7 attorney, but I know that my clients  
8 certainly do use it in their municipal  
9 practices and running municipal government.

10 I don't know what the bottom line is  
11 as far as the committee's facing a chore  
12 with regard to where you strike the balance  
13 and the detail of the ordinances that need  
14 to be published, but I think that's where  
15 most municipalities are going to be  
16 indicating to you that a large part of  
17 their cost and large part of their budget  
18 goes.

19 I don't think anybody has a problem  
20 with publishing the sunshine notices in a  
21 newspaper of general circulation. That's a  
22 cost of doing business, and a large cost.

23 When you are doing ordinances over and  
24 over, that budget goes up from \$2000 to  
25 \$10,000, that's where it has an impact upon

1 a municipality.

2 I hope I provided the committee with  
3 additional insight information and if you  
4 have any questions, I will be happy to  
5 answer them.

6 REPRESENTATIVE MANDERINO: Thank you.

7 REPRESENTATIVE GANNON: Thank you,  
8 Mr. Verlihay, for your testimony. Any  
9 questions?

10 REPRESENTATIVE MANDERINO: No.

11 REPRESENTATIVE GANNON: Thank you for  
12 appearing before the committee. Your  
13 information was significant in terms of how  
14 this municipality saw such a big jump in  
15 the costs because they had initiated  
16 changes in the law. That will settle down  
17 next year when they are not passing laws,  
18 but any time they are going to do something  
19 to make themselves more current with their  
20 ordinances and laws, apparently that's a  
21 significant cost.

22 MR. VERLIHAY: Based on past  
23 experience, it usually takes a couple years  
24 to settle down because you find out you did  
25 something you didn't intend to do. So now

1 we're after amendments that fall in until  
2 it shakes down.

3 REPRESENTATIVE GANNON: I thought your  
4 idea of concise statement might serve the  
5 purpose with obvious notice that the full  
6 ordinance will be available for inspection.

7 MR. VERLIHAY: How do you summarize a  
8 150 page ordinance in reasonable detail?

9 REPRESENTATIVE GANNON: Thank you very  
10 much, sir.

11 Our next and final witness is Mr. John  
12 Campfield, Esquire, immediate past  
13 president of the Westmoreland County Bar  
14 Association. Mr. Campfield.

15 MR. CAMPFIELD: Good afternoon. I  
16 have brought 30 copies of printed remarks  
17 and I apologize for not having those in  
18 advance. I am not unmindful I am the last  
19 of the day and you have heard a lot today.  
20 I hope that I am not repetitive, although I  
21 must admit I was not here for the entire  
22 session.

23 In the opening paragraph, I indicate  
24 there that the fact I've been practicing  
25 law for more than 30 years, I have a

1 concentration in municipal law and am past  
2 president of Bar Association. I have been  
3 on the board of directors for my seventh  
4 year.

5 I think I come with a multi-faceted  
6 perspective. I am here to speak on behalf  
7 of the Bar Association officially, but if  
8 the committee has questions otherwise, I  
9 will be happy to try to answer those for  
10 you.

11 I think the essence of what everyone  
12 here is concerned with is information. As  
13 much information as possible in a free  
14 society is extremely important. While this  
15 committee's charge, I know, is to deal with  
16 the use, cost and effectiveness of legal  
17 advertising, I think from some of the  
18 speakers that I had the opportunity of  
19 hearing, in my own opinion, that is only  
20 half of the equation. By that I mean, I  
21 think that I bite my lip when I am about to  
22 say this, because I think it is, in part,  
23 asks the committee to look at more than  
24 what you've been charged with, but I think  
25 to look at the total picture here, the

1 issues that should concern you on an  
2 informational basis in society is what do  
3 all the statutes require with regard to  
4 particular types and forms of information.

5 I think you've heard some of the  
6 concerns that exist about how much  
7 information has to be in the notice, are  
8 you concerned that you meet all of those  
9 requirements.

10 In addition to is it in a newspaper of  
11 general circulation as currently defined or  
12 should it be expanded to additional types  
13 of publication, should there be a  
14 duplication in the sense that notices  
15 appear in a newspaper of general  
16 circulation as well as in Legal Journals  
17 and the issue of the internet, that is part  
18 of your charge.

19 So, I think that any action that the  
20 legislature takes I hope would be an  
21 enhancement of the informational aspect of  
22 notice of information to society, in  
23 particular to individuals whose rights  
24 could be affected.

25 I think to go back and look at the

1 different statutes that over the years have  
2 come into existence and talk about the  
3 different notices, the personal notice,  
4 posted notice, mail, published notice, it  
5 is here, there and everywhere. To the  
6 extent you can simplify that, if you do  
7 undertake that whole process, as I say,  
8 with what I hope is the goal in mind of  
9 providing broad information, then I think  
10 you will perform a very valuable service.  
11 But I hope the committee and legislature  
12 doesn't look at only do they meet the  
13 letter of the law where I must send these  
14 things, but if they know there are  
15 contractors that would be interested and  
16 they would like to have them participate,  
17 they send them information so they don't  
18 miss a notice in the newspaper or they  
19 appear in the Dodge Reports or other  
20 publications.

21 I think that government seeks to get  
22 the best response to what they want in the  
23 way of contracting services. Certainly  
24 that's been my experience as a municipal  
25 solicitor.



1           I think there can be situations where  
2           it becomes difficult when you're trying to  
3           provide information from a municipal  
4           standpoint that deals with certain  
5           government activity and regulation.  
6           Certainly the land use regulations come to  
7           mind.

8           Again, I am not certain how familiar  
9           the committee is with all the different  
10          provisions of the Pennsylvania Municipal  
11          Planning Code, but there are requirements  
12          only insofar as publications appearing in a  
13          newspaper of general circulation, posting  
14          municipal offices, sending notices to  
15          particular property owners, posting  
16          property and things of that nature.  
17          There's a host of means that are used  
18          here.

19          For instance, many people think  
20          posting a property is better than putting  
21          it in the newspaper. My experience has  
22          been that the notice is a single sheet of  
23          paper typed similar to that. It's put on a  
24          tree or post or somewhere and people  
25          generally don't see it. While, in theory,

1           it may seem to be an effective or more  
2           effective notice, it is.

3           If I may go back, as you heard and I  
4           will echo, I really think that the law  
5           journal is a valuable resource,  
6           particularly for the people who are most  
7           interested in what happens to the legal  
8           system. Our subscribers, while they aren't  
9           as many as newspaper of general  
10          circulation, run the gamut from lawyers to  
11          we have a number of individuals, we have  
12          financial institutions, we have libraries,  
13          we have banks we have law schools. The  
14          libraries in law schools, we provide  
15          complementary copies of the law journal  
16          to.

17          But my point is, we have a wide  
18          subscriber base, although it is not large.  
19          These are people and businesses and  
20          institutions and municipal governments and  
21          authorities, what is going on, and this is  
22          a single source of this information.

23          We publish 52 weeks a year, mail it to  
24          our subscribers, charge \$26.50 for an  
25          annual subscription. Our mailing costs are

1           about half of what we receive in revenue  
2           from subscriptions.

3           The reason I point that out from the  
4           informational standpoint, we don't look at  
5           the money that the subscribers pay to us,  
6           the source here. In other words, that we  
7           should be charging a lot of money for  
8           people to get the information. We are  
9           making very little off of the  
10          subscription. Now we are making money.

11          I think everyone would admit that who  
12          has a law journal and it comes from the  
13          users of the law journal. The people who  
14          place the ads.

15          I echo what the other speakers have  
16          said, they wind up being paid for, by and  
17          large, by individuals and businesses who  
18          are interested in a particular matter,  
19          whether it's an estate, foreclosure,  
20          something like that. We took a look at  
21          excluding the sheriff's sales, tax claim  
22          sales, what counties paid, cities, school  
23          districts, it is less than two percent of  
24          advertising revenue. There isn't that much  
25          money that local government is paying to

1           our law journal. I think ours is probably  
2           typical for purposes of legal advertising.  
3           That money is going to the newspapers of  
4           general circulation where most of the ads  
5           are placed by municipal government for the  
6           things they are involved with.

7           I can speak particularly as to this  
8           because last evening, I had a meeting in  
9           one of the boroughs I represent. We had a  
10          conditional use hearing, it was a matter  
11          that required an advertisement on two  
12          occasions and the council was shocked to  
13          find that the advertising bill for the two  
14          notices exceeded \$800. Wasn't a long  
15          advertising, one sheet of paper as far as  
16          what was sent to the newspaper.

17          It has become an increasing cost in  
18          our area and it is a matter of concern for  
19          local government.

20          If I may also address the internet  
21          aspect of things. I think the internet  
22          should be considered as an enhancement or  
23          additional source of information. I would  
24          caution the legislature on either  
25          substituting that for some other form or

1 requiring it at this point.

2 I think it should be encouraged when  
3 these issues came up, we discussed it at  
4 our Bar Association. We have a web page,  
5 we would be willing to put the legal  
6 notices that appear in the Legal Journal on  
7 the web page, which is available to the  
8 public.

9 So, I guess with regard to the  
10 internet, I think it should be encouraged,  
11 as all forms of information, dissemination  
12 should be encouraged and I caution against  
13 substituting or requiring it. I don't  
14 think it is yet the effective means of  
15 getting to everybody who should be getting  
16 the information.

17 Thank you.

18 REPRESENTATIVE GANNON: Thank you very  
19 much, Mr. Campfield. Good testimony. Any  
20 questions?

21 REPRESENTATIVE MANDERINO: No. Thank  
22 you very much.

23 REPRESENTATIVE GANNON: Just a  
24 comment.

25 I would imagine that what the context

1 of these hearings would have to be if we  
2 were back about a hundred years ago  
3 debating whether we were going to use  
4 electric lights or candles. I can imagine  
5 what the position of the candle makers  
6 would be. History repeats itself in a  
7 different context.

8 Thank you very much, sir.

9 MR. GOTTLIEB: My name is Brian  
10 Gottlieb, I was up with the newspaper  
11 association panel. I am the managing  
12 director of mypublicnotices.com. I am  
13 appearing on behalf of the newspaper  
14 association.

15 I want to take a second to respond to  
16 a question Mr. Schwoyer raised during the  
17 testimony. He asked about a bullet point  
18 in the testimony regarding audits of  
19 circulation. I wanted to not leave the  
20 record uninformed about that if I could.

21 First of all, circulation numbers are  
22 like a lot of other numbers regarding  
23 publication and marketing and advertising.  
24 Sometimes they are complex to decipher and  
25 understand.

1           The first point I want to make is that  
2           it is our position and it's my personal  
3           experience as someone who has been involved  
4           in both web and print publishing that most  
5           free publications, whether they be shoppers  
6           or another type of free publication, don't  
7           have audited circulation figures. Some do,  
8           I would say most don't.

9           In other words, we're taking the word  
10          of the publisher for how many copies were  
11          distributed. They are self-verified, not  
12          audited.

13          My experience is most, if not all,  
14          paid publications use audited circulation,  
15          that kind of independent verification of  
16          the value their getting for the advertising  
17          dollars.

18          Second point is there are different  
19          competing entities that provide  
20          verification or auditing of circulation,  
21          and the gentleman who spoke earlier,  
22          Mr. Bingaman, represents an association  
23          called CVC. There is another organization  
24          called the Audit Bureau of Circulation. It  
25          is my experience and my testimony that more

1           snapshot of the distribution of these  
2           publications that were covered within the  
3           study on a particular time span, I don't  
4           know whether it was one day or week or  
5           month. They took a snapshot and they did  
6           some return market information to the  
7           publishers based on that data sampling.

8                   Not getting into the particulars right  
9           now, we certainly could do that and will.  
10          With respect to the testimony this morning,  
11          we can provide something to the committee.  
12          I want to point out there is a distinction  
13          between circulation and circulation  
14          auditing and a market study.

15                   REPRESENTATIVE GANNON: Thank you very  
16          much, sir.

17                   Hearing is adjourned.

18                   (At 1:10 p.m., the hearing was  
19          concluded.)  
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21  
22  
23  
24  
25



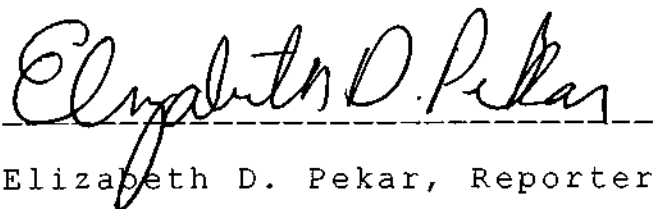
1           paid publications, especially in the  
2           newspaper industry, use ABC as an auditing  
3           bureau than CVC. Maybe Mr. Bingaman can  
4           provide something to the comment that would  
5           suggest otherwise. That is my experience,  
6           and there are different standards used by  
7           the two interests with respect to auditing  
8           of circulation.

9                        Finally, with respect to the testimony  
10           this morning, it was offered by the panel  
11           representing the Pennysavers, I want to  
12           make a point for the record. There is a  
13           distinction between circulation and  
14           marketing information. Circulation is a  
15           regular ongoing measure of the  
16           distribution, the number of copies  
17           distributed of a publication. A daily  
18           newspaper has to update its circulation  
19           figures every day, every week.

20                      The newspaper, I didn't have access to  
21           them before this morning, my understanding  
22           from the testimony that the newspapers that  
23           were spoken about this morning are not  
24           circulation numbers, they are marketing  
25           figures. In other words, CVC took a

## 1 REPORTER'S CERTIFICATE

2  
3 I, Elizabeth D. Pekar, do hereby  
4 ify that the foregoing pages are a true  
5 correct transcription of my stenographic notes  
6 n in the above-captioned proceedings on  
7 ay, September 6, 2002.

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11 \_\_\_\_\_  
12 Elizabeth D. Pekar, Reporter

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