

ORIGINAL

HOUSE OF REPRESENTATIVES  
COMMONWEALTH OF PENNSYLVANIA  
JUDICIARY COMMITTEE HEARING

IN RE: HOUSE RESOLUTION 110, PUBLICATION OF LEGAL  
NOTICES

DELAWARE COUNTY GOVERNMENT CENTER BUILDING  
CONFERENCE ROOM 110-113  
201 WEST FRONT STREET  
MEDIA, PENNSYLVANIA

TUESDAY, SEPTEMBER 17, 2002, 9:15 A.M.

BEFORE:

HON. THOMAS GANNON, CHAIRMAN  
HON. PATRICK BROWNE  
HON. LITA COHEN  
HON. KATE HARPER  
HON. KATHY MANDERINO

ALSO PRESENT:

BERYL KUHR  
MICHAEL SCHWOYER

JEAN M. DAVIS, REPORTER  
NOTARY PUBLIC



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1                   CHAIRMAN GANNON: The House Judiciary  
2 Committee will come to order. This public hearing  
3 is held pursuant to House Resolution 110 adopted by  
4 the Pennsylvania House of Representatives directing  
5 the House Judiciary Committee to hold hearings  
6 concerning the cost effectiveness of public notices.

7                   Our first witness is Mr. John  
8 McFadden, Chairman, Delaware County Council.  
9 Welcome, Mr. McFadden.

10                   MR. McFADDEN: Good morning, Mr.  
11 Chairman.

12                   CHAIRMAN GANNON: You may begin when  
13 you're ready.

14                   MR. McFADDEN: Thank you very kindly.  
15 Mr. Chairman, please bear with me as this is my  
16 first time testifying before your committee.

17                   CHAIRMAN GANNON: Just a preliminary  
18 announcement. The Democratic chairman of the  
19 committee is not going to be here today. He had a  
20 death in the family. He will not be here this  
21 morning.

22                   MR. McFADDEN: Thank you very much,  
23 Mr. Chairman. This morning's meeting concerning the  
24 public notice advertising requirements I believe is  
25 very appropriate and timely. Current Pennsylvania

1 requirements in legal and public notice advertising  
2 are significantly out of date in my opinion with  
3 today's technology. Newspaper circulation has  
4 dropped to levels that now are far exceeded by  
5 electronic means of communication like the worldwide  
6 web. Costs of publishing legal notices once again  
7 in my opinion are excessive based on comparisons  
8 with website publishing. On top of that, current  
9 requirements force people interested in obtaining  
10 this information to purchase a newspaper to obtain  
11 their information.

12 Website publishing is much more  
13 accessible to the public and any interested parties  
14 than newspapers are now and perhaps have ever been.  
15 From the comfort and convenience of your own home,  
16 office, or even public library, this information is  
17 on the screen in front of you. No newspaper  
18 purchase is required. People from all over the  
19 region, all over our Commonwealth, even  
20 internationally, have the opportunity to have access  
21 to these website notices should they be permitted.

22 Bidders from anywhere can offer  
23 savings to local governments and school districts on  
24 myriad supplies to save our taxpayers money.  
25 Prospective buyers from anywhere can access tax

1 delinquent list, in turn which would increase the  
2 prices paid for these properties at sale and  
3 returning more of the back taxes to the taxing body,  
4 thus reducing the burden on the taxpayers to make up  
5 for any losses that are suffered. The taxpayer  
6 benefits from saving millions of dollars each year  
7 that's spent on publishing these legal notices.

8           Just in the County of Delaware in the  
9 year 2001, taxpayers spent over \$1.3 million for  
10 these ads. In an informal survey I did of the  
11 municipalities, school districts and authorities  
12 operating within our county, exclusive of the county  
13 cost, the total exceeded \$550 thousand in 2001.  
14 When you add the county expenses, you are now over  
15 \$1.85 million in total expenditures in 2001 alone  
16 for our legal governments, county and authorities.

17           Imagine the amount spent across our  
18 Commonwealth. Many tens of millions of dollars each  
19 year, I believe, are wasted. And while certain  
20 newspaper publishers may enjoy it, I'm certain the  
21 taxpayers resent it.

22           After spending all that money, you  
23 have reached a relatively limited number of people.  
24 Our local newspaper in this county proudly touts on  
25 their masthead each day that they have 160,100 daily

1 readers. That's not subscribers, but readers.  
2 Their circulation is approximately 50,000 per day,  
3 and by some mythical formula they are able to  
4 extrapolate 160,000 people. And yet it's the same  
5 50,000 subscribers each and every day.

6 For example, I would like to compare  
7 that with the County of Delaware's website. Without  
8 a big driver of traffic like legal or public notices  
9 perhaps would be, we currently average between 66  
10 and 75,000 hits per day. We pride ourselves in this  
11 county on being ahead of the curve in technology and  
12 have had our site up and running for a number of  
13 years. We offer descriptions of things like county  
14 departments, the services that they provide,  
15 election results, directions to our facilities, tax  
16 assessment information, elected official directories  
17 and e-mails, summer concert schedules, even  
18 electronic payment of county real estate taxes.

19 Through that, we have averaged over 2  
20 million hits per month through year 2001. The  
21 Delaware County library system operates its own  
22 website and it separately gets over 4,000 visitors  
23 per day. The information posted on these websites  
24 stays on the websites until it is removed by the  
25 staff operating that facility. So people can view

1 this notice all day, every day, until it is removed.  
2 Not unfortunately where it is printed once, perhaps  
3 twice, and it's gone. If you miss that day's  
4 newspaper, you never see it again.

5 I'm not sure that sounds terribly  
6 accessible or totally visible. I would say to you  
7 please try to imagine the traffic driven to a  
8 location where people can find these notices anytime  
9 they wish to see it, from wherever they wish to see  
10 it from.

11 According to 2001 U.S. Census Bureau's  
12 population survey across the country, 2 million new  
13 Internet users per month are added. Currently more  
14 than 54 percent of the population are using the  
15 Internet. Use increases across all income levels,  
16 all educational levels, all races, all genders.

17 According to A Nation On-Line how  
18 Americans are expending their use of the Internet  
19 published by the U.S. Department of Commerce in  
20 February 2002, the Commonwealth of Pennsylvania  
21 reports 53.5 percent of households use computers.  
22 Greater Philadelphia Internet penetration is higher  
23 yet at 56 percent. It's among the most wired places  
24 in America according to PECO Energy Communique fall  
25 2001.

1                   Here in Delaware County, a survey  
2                   conducted by the Delaware County library system in  
3                   October/November of 2000 revealed that 74 percent of  
4                   library users have access to Internet in their homes  
5                   and 61 percent of non-library users have access to  
6                   the Internet in their homes. The numbers, if  
7                   measured today, almost two years later, are surely  
8                   higher. Please consider also that all 26 libraries  
9                   in Delaware County have high-speed Internet access  
10                  available to the public every day at no charge. I  
11                  believe the Internet is no longer the tool of the  
12                  future, but yet the tool of today.

13                   Delaware County has over 550,000  
14                  residents. Yet even using our local newspaper  
15                  number of 160,000 daily readers, they reach 29  
16                  percent of the population while the Internet reaches  
17                  no less than 61 percent of our population using the  
18                  libraries' systems low numbers which is over 335,000  
19                  people. That's more than double what our local  
20                  newspaper reaches every day.

21                   The difference is staggering, yet  
22                  under current requirements taxpayers are forced to  
23                  pay to publish these notices, they're forced to buy  
24                  the newspaper. And if they miss the day the  
25                  newspaper prints it, they'll never see it.



1           I believe a change is overdue. And I  
2 believe the solution is allowing the publishing of  
3 legal ads and notices of all variations on  
4 government or government-sponsored websites, where  
5 the public can access the information at their  
6 convenience 24 hours a day, 7 days a week, without  
7 requiring anyone to purchase a newspaper.

8           Specific guidelines on the content of  
9 the notice, publishing dates, length of time  
10 available among other things certainly can be  
11 developed to protect the intention of the current  
12 laws. The public has a right to know what's  
13 happening in their local governments, the dates of  
14 meetings, sale information, name changes,  
15 professional licensure notices and many others. Yet  
16 today, many people can't find that information  
17 because it may be buried on page 33 in small print  
18 in a newspaper that they may not be able to buy.

19           I suggest we give availability and  
20 access to the important information to the general  
21 public and we give it to them now. Every day delay  
22 costs valuable resources that could be spent  
23 providing other services to our residents, provide  
24 better educational opportunities to our children,  
25 and perhaps most of all keeps some of the money in

1 the pockets of our residents.

2 Mr. Chairman and members of the  
3 committee, I thank you very much for the opportunity  
4 to be here before you this morning.

5 CHAIRMAN GANNON: Thank you,  
6 Mr. McFadden.

7 MR. McFADDEN: You're welcome.

8 CHAIRMAN GANNON: We have been joined  
9 by Representative Lita Cohen, another member of the  
10 Judiciary Committee. Do you have any questions?

11 REPRESENTATIVE COHEN: I do. Thank  
12 you, Mr. Chairman. Just one question.

13 MR. McFADDEN: Yes, ma'am.

14 REPRESENTATIVE COHEN: The way the  
15 system works now it is easy to, if you will,  
16 monitor, police, whatever, because we can see it in  
17 front of us.

18 MR. McFADDEN: Sure.

19 REPRESENTATIVE COHEN: How can we,  
20 meaning the public, be guaranteed that indeed the  
21 municipality is complying with the law and, in fact,  
22 doing the advertising if the law changed and if the  
23 law were to be changed and we would permit net  
24 advertising as opposed to publication?

25 MR. McFADDEN: I understand.

1 Certainly not being a technology expert nor an  
2 expert on the Internet by any means, I would suggest  
3 to you --

4 REPRESENTATIVE COHEN: Nor am I so we  
5 are on a level playing field.

6 MR. McFADDEN: Perfect. I would  
7 suggest that there are opportunities that secure  
8 websites can be placed, and whether it's government  
9 operated or perhaps government monitored and  
10 controlled websites just as newspapers do today,  
11 they can publish the notice on a certain date and  
12 subject to whatever requirements the Legislature may  
13 provide, should they choose to allow this type of  
14 advertising, may require that it be posted on a site  
15 for a week, or a month, or a year perhaps. I would  
16 believe that the controllers of that website surely  
17 could offer you the same proof of publication just  
18 on an electronic means as the newspapers would be  
19 able to do today.

20 I would also like to add,  
21 Representative Cohen, that I believe it's not the  
22 we should not be creating the wild west where it's  
23 an open system and anybody can post a notice on any  
24 site. I don't believe that's prudent at all. But a  
25 controlled environment where notices are posted by

1 certain few people and that system can, in fact, be  
2 monitored by the appropriate authorities who would  
3 allow that to be one that's responsible and  
4 responsive to the Legislature and its requirements.

5 REPRESENTATIVE COHEN: Thank you.

6 MR. McFADDEN: Thank you.

7 CHAIRMAN GANNON: We have been joined  
8 by Representative Kate Harper from Montgomery  
9 County.

10 REPRESENTATIVE HARPER: Traffic was  
11 terrible.

12 CHAIRMAN GANNON: Mr. McFadden, with  
13 respect to the advertising that is required by the  
14 county to be placed in newspapers, is that done by  
15 competitive bid? In other words, when that  
16 advertisement is placed, how do you determine the  
17 cost of that advertisement?

18 MR. McFADDEN: Mr. Chairman, subject  
19 to the requirements that we are under, we have to  
20 file our advertising in a newspaper of general  
21 circulation. Now, in our county under -- for  
22 certain types of advertising, there is only one  
23 newspaper that meets that definition. For other  
24 types of advertising, there are other newspapers,  
25 additional newspapers, I should say that do meet

1     that criteria.

2                     The Delaware County Daily Times is one  
3     that meets the criteria on all counts of that  
4     definition of general circulation. But under the  
5     definition that the current requirements require,  
6     certain types of newspapers like the -- and they are  
7     affiliates, the County Press, the Springfield Press,  
8     the Garnet Valley Press, the Ridley Press, etc.,  
9     which there may be seven or eight different types,  
10    at this point do not meet that definition. And as a  
11    result of that, we are not able to bid the  
12    advertising rates because there is no competition  
13    for the majority of our advertising needs.

14                    CHAIRMAN GANNON: If I hear you then  
15    if, for example, the definition were broadened to  
16    include newspapers that have wider circulation or  
17    have different circulations that would meet the  
18    needs that there would be the ability to  
19    competitively bid?

20                    MR. McFADDEN: Absolutely. At the  
21    very least, I believe that offers the opportunity  
22    for the taxpayers to feel that they are getting a  
23    responsible opportunity. Newsprint is newsprint.  
24    Where it goes, I suppose, is the definition or  
25    perhaps the difference that is there.

1           We have certain segments in our county  
2 that have exceptionally low readership of the widest  
3 circulated newspaper in our county. The further  
4 north and, I guess, west that you go, the less the  
5 people feel the need to -- or see that newspaper.  
6 As a result of that, I'm not sure we are reaching  
7 all the people we need to reach with that  
8 advertising, one of the reasons that I believe  
9 something more wide reaching like the Internet would  
10 be the opportunity. But without that, Mr. Chairman,  
11 I think that offering the opportunity for different  
12 venues of publishing and certainly different areas  
13 of circulation could help.

14           CHAIRMAN GANNON: We have in the  
15 county -- I know Delaware County and I think from  
16 the information that we received from testimony in  
17 other parts of the state, there are a number of  
18 newspapers that are distributed weekly and they are  
19 distributed free. They are paid principally through  
20 their advertising revenues. They don't charge a  
21 cost per paper. But their circulation from what I  
22 have heard is extremely wide.

23           Do you think that that would be an  
24 acceptable venue as far as public notices with  
25 respect to the type the county is required to

1 publish?

2 MR. McFADDEN: Mr. Chairman, I would  
3 think it certainly would not be an inappropriate  
4 means to provide that information. There are  
5 certain newspapers that do get delivered to you at  
6 no charge each week. I know there is concern that  
7 you get what you pay for in people's minds. And  
8 many times that is, in fact, correct.

9 But these newspapers are wide  
10 reaching, currently known for different types of  
11 advertising, more shopping, more local news, more  
12 fair-type information than perhaps public notices or  
13 government information. But I don't see there is a  
14 reason that couldn't be added to their information  
15 that they provide.

16 I do believe that they reach many  
17 people that perhaps do not read our newspapers of  
18 general circulation as it's currently defined. I  
19 don't see any reason why that could not be a great  
20 addition to the pool of resources available to the  
21 county and its advertising requirements.

22 CHAIRMAN GANNON: So would it be fair  
23 to say from what I'm hearing in your testimony that  
24 the county doesn't necessarily want to be relieved  
25 of the responsibility of the public notices, but

1 they would like more latitude in picking the venue  
2 that would be more appropriate?

3 MR. McFADDEN: We'd love a lot more  
4 latitude in picking the venue, Mr. Chairman, that is  
5 for sure. And I don't think we are ever asking to  
6 be relieved of the burden of providing public  
7 notices at all.

8 CHAIRMAN GANNON: Okay.

9 MR. McFADDEN: We are looking for  
10 different ways to get it to the people more  
11 efficiently and certainly more economically than  
12 what we have today. That may be Internet. That may  
13 be a shoppers guide. That may be multiple  
14 newspapers of circulation within our county.

15 CHAIRMAN GANNON: Thank you. Any  
16 questions?

17 MR. SCHWOYER: No, thank you.

18 CHAIRMAN GANNON: We thank you very  
19 much, Mr. McFadden.

20 MR. McFADDEN: Thank you very much,  
21 Mr. Chairman.

22 CHAIRMAN GANNON: We appreciate you  
23 taking the time to appear before the committee and  
24 provide testimony this morning.

25 MR. McFADDEN: Thank you.



1                   CHAIRMAN GANNON: Our next witness is  
2 Adrian Meyer, Esquire, Chair of the Bucks County Law  
3 Reporter Committee.

4                   MR. MEYER: Good morning. I'm Adrian  
5 Meyer. I've been a member of the Bucks County Bar  
6 Association since 1975. I chair the Bucks County  
7 Law Reporter Committee. I've been a member of that  
8 committee for in excess of seven years. I've been a  
9 member since '75. I've chaired that committee for  
10 four years.

11                   I'm pleased and honored to provide  
12 testimony on behalf of the Bucks County Bar  
13 Association to this distinguished committee of the  
14 House of Representatives. Each one of you is to be  
15 commended for your efforts in reviewing the  
16 requirements of the publication of legal notices in  
17 Pennsylvania, which has not been done for some time,  
18 in an attempt to reduce the cost of local government  
19 and others.

20                   Our publication, Bucks County Law  
21 Reporter, published its first issue on May 17th of  
22 1951. The County of Bucks has approximately 600,000  
23 residents, and there are 1100 practicing attorneys  
24 of which there are about 651 in the bar association.  
25 We are trying to get more, but that's how it goes.

1 Bucks County Bar Association prints  
2 about 840 copies each week which are distributed by  
3 way of subscription to members of the Bucks County  
4 Bar Association, real estate agents, banks, law  
5 libraries, members of the judiciary, all courthouse  
6 personnel and others.

7 As I'm sure you are aware, the Law  
8 Reporter prints the notices that are required by law  
9 to provide notice to the public. These principally  
10 are change of name, charter amendment, charter  
11 application, corporate dissolution, limited  
12 liability, non-profit corporation, professional  
13 corporation, estate notice, fictitious name, filing  
14 notices of foreign corporation, action to quiet  
15 title, sheriff's sales, and foreign corporation,  
16 etc. There are standard things that we do that are  
17 done in our society that you have to give notice to  
18 the public.

19 The pending sheriff sales are also  
20 what we publish, and they produce a greater portion  
21 of the income that we do in our advertising. Any  
22 one of these advertising areas go up and down, and  
23 there is no rhyme or reason as to when they come in.

24 A little bit different focus from HR  
25 110 and what the Law Reporter do is that we are not

1 and do not advertise municipal ordinances, municipal  
2 or county auditors' or controllers' reports, school  
3 district auditors' or controllers' reports,  
4 summaries or statements thereof, mercantile  
5 appraiser's notice, advertising for bids for  
6 contracts or public work, materials or supplies, or  
7 lists of delinquent taxpayers, etc., those kinds of  
8 things.

9           Basically, all of our income comes  
10 from corporations or estates or in that area, the  
11 private sector and not the public sector.

12           If someone were to change their name,  
13 both first and last, or if someone operated a  
14 business under a different name or if a will is  
15 probated and an estate is created, we believe it's  
16 better to communicate that information to the  
17 public, the judiciary, and officers of the court as  
18 currently set forth by the statute as opposed to  
19 terminating or reducing that notice. We believe  
20 that the public should have the notice, and we  
21 believe we're the vehicle to provide that type of  
22 information to the attorneys, courthouse personnel,  
23 judges, those kinds of things.

24           As we all know, our systems, court,  
25 legal, and business, do not always operate like a

1 finely tuned machine with information that's  
2 disseminated and published at the present time. I  
3 would respectfully submit that the lessening or the  
4 reducing of advertisement and communication would  
5 create more problems and, in the long run, be more  
6 costly than periodically disseminating legal  
7 advertisements.

8 I would respectfully suggest that all  
9 of us are better off equipped to make our individual  
10 decisions with more information and/or an  
11 opportunity to have more information than with less.

12 Some of the examples that I believe  
13 represent why we should produce this advertising and  
14 continue in the vein that we have rather than  
15 reducing or changing -- although I'll get into a  
16 little bit later on that the Internet is a thing  
17 that may be there, we may have to deal with it.  
18 What we want to do is provide more information, not  
19 less.

20 I would submit the cost of advertising  
21 name change is far less costly than litigating a  
22 case where it's argued that the plaintiff did not  
23 know of the name change by way of publication. The  
24 cost of advertising the issuance of letters  
25 testamentary is far less costly than litigating

1 case where it's argued that a creditor or a  
2 beneficiary did not receive notice of the testator's  
3 death. And the cost of advertising the filing of an  
4 action to quiet title is far less costly than  
5 litigating a case regarding determination as to who  
6 were the actual owners of that property.

7 I'm sure you are well aware the Bucks  
8 County law Reporter is not funded by tax dollars.  
9 We print the advertisements, proof of publication,  
10 at very reasonable rates which I indicated before  
11 are paid by individuals and corporations, not that  
12 they are fair game but it's not a taxing payment.  
13 There are a few minor notices paid for by  
14 municipalities, but very little money from taxing  
15 authorities.

16 We believe that we can continue to  
17 serve the public best and satisfy the requirements  
18 of a democracy by continuation of the publication of  
19 legal notices as we have in the past. The Bucks  
20 County Bar Association as like most organizations,  
21 individuals, etc., does have a website, and we have  
22 been using that as a communication tool. As more  
23 and more people sign on, we anticipate using more  
24 and more of that as we go forward.

25 Thank you for your time listening to

1 my comments. I welcome any questions that you may  
2 have regarding my testimony.

3 CHAIRMAN GANNON: Thank you very much,  
4 Mr. Meyer, for your testimony.

5 Representative Cohen.

6 REPRESENTATIVE COHEN: Thank you, Mr.  
7 Chairman.

8 Sir, you mentioned in passing the  
9 Internet and you were here when Mr. McFadden  
10 testified. I know that there is a difference  
11 because you are dealing with the private sector as  
12 opposed to his addressing the cost to the taxpayers.  
13 Do you at all -- and I know you have a vested  
14 interest, obviously, because you're getting some  
15 income.

16 First of all, let me ask you, the  
17 Bucks County Law Reporter, you said it is not funded  
18 by tax dollars, but is it profitable?

19 MR. MEYER: I'm not sure how you  
20 define profit. Do we make money and do we pay our  
21 bills? Yes. Do we have excess money at the end of  
22 the year? No. We pay for the land and we pay for  
23 those things.

24 REPRESENTATIVE COHEN: How would it  
25 affect both your cost and your profitability were

1 you to cease publication and go on the Internet?

2 MR. MEYER: I guess it would be  
3 determinative of what you would charge for placing  
4 that information on the Internet. If you don't  
5 charge anything, then you probably would lose a  
6 substantial portion of your viability and you may  
7 not exist, certainly not in the form and fashion  
8 that we currently exist. If you continue to charge  
9 for advertising on the Internet for proof of  
10 publication for a corporation or whatever, then it  
11 wouldn't change.

12 REPRESENTATIVE COHEN: Dollars aside,  
13 what about the efficacy of what you do concerning  
14 the Internet? If you switch from publication,  
15 physical publication, to the Internet, how effective  
16 do you think your cause would be?

17 MR. MEYER: Well, from what I  
18 understand, we have 651 members in our bar  
19 association, like, 400 of them may be on the  
20 Internet. So if you went today to solely Internet,  
21 you would not be reaching the people that you want  
22 to reach. The public could come into what they see  
23 on the Internet, but I don't know how you would  
24 advise the courthouse personnel, or whatever, to get  
25 to your website. Maybe over time you would

1 eventually get there.

2 As I see it, I see it as a dual track  
3 at the moment. I think we should do it both. We  
4 should continue to do what we are doing, venture  
5 forth into the Internet and continue along. And if  
6 we ever get rid of the printed word, then we can  
7 continue to do that. I don't see that as an  
8 individual, but that's a possibility. That's why we  
9 have a website and that's why we're putting some of  
10 our information on the website.

11 REPRESENTATIVE COHEN: Okay. Just one  
12 more question. You said that you distribute by way  
13 of subscription obviously the bar association, real  
14 estate agents, banks, law libraries, members of the  
15 judiciary, courthouse personnel, and others. Does  
16 this leach down concerning, for example, name  
17 changes or something, to the general public or other  
18 than professionals, if you will, real estate agents,  
19 banks, law libraries? Does the general public have  
20 access to the information in the Bucks County Law  
21 Reporter?

22 MR. MEYER: They do have access to the  
23 Law Reporter. It is put into libraries, etc.  
24 Whether they make themselves available or use that  
25 as an information tool, I really have not done any



1 surveys and I don't know the answer to that question  
2 as to how much the public uses it. It's primarily  
3 for the bar association, the judges, and those types  
4 of persons.

5 REPRESENTATIVE COHEN: I see. Thank  
6 you. That's all I have, Mr. Chairman.

7 CHAIRMAN GANNON: We have been joined  
8 by Representative Manderino.

9 REPRESENTATIVE MANDERINO: Good  
10 morning.

11 REPRESENTATIVE HARPER: Thank you for  
12 coming this morning.

13 MR. MEYER: Sure.

14 REPRESENTATIVE HARPER: As it turns  
15 out, all four members of the Judiciary Committee  
16 that are here happen to be lawyers. As a lawyer, I  
17 understand why we publish legal notices and why it's  
18 better to advertise in the state than run the risk  
19 of having a creditor show up out of the woodwork.

20 The one question I get from regular  
21 people who are not lawyers is why do we have to  
22 advertise these things and isn't it just an expense,  
23 nobody reads that stuff anyway. Can you speak to  
24 the reason why we would publish an estate notice or  
25 a corporation dissolution notice, or something like

1     that?  I think that's important testimony that we  
2     need to hear.

3                   MR. MEYER:  I think that is a very  
4     good question.  I hear it as well as to why you are  
5     putting this out for the attorneys, and I think it's  
6     been before the committee previously, that question.  
7     There are a number of ways of answering it, but I  
8     believe our society -- as a portion of my testimony  
9     and the focal point is that I believe our society  
10    works best when you have more information rather  
11    than less information.

12                   REPRESENTATIVE HARPER:  Right.

13                   MR. MEYER:  So if you are able to  
14    publish a state notice, change of name, etc., and  
15    get it to the people that it affects, mostly  
16    practicing attorneys, as you all know you have a  
17    client and they may be interested in A, B, C, D, or  
18    E, and in order to assist those people, I think they  
19    are better served by having the information to the  
20    attorneys as to know what is in the legal field.

21                   True, you don't have every human being  
22    as your client.  But if all the practicing attorneys  
23    have all of that information, I believe you will be  
24    able to better serve and I think our society will be  
25    better off having knowledge about estates,

1 corporations, those kinds of things, from day in and  
2 day out as opposed to not having that information.

3 REPRESENTATIVE HARPER: Thank you.

4 MR. MEYER: You're welcome.

5 CHAIRMAN GANNON: Representative  
6 Manderino?

7 REPRESENTATIVE MANDERINO: No, thank  
8 you, Mr. Chairman.

9 CHAIRMAN GANNON: Mr. Schwoyer?

10 MR. SCHWOYER: This is our third  
11 hearing, I believe, on HR 110. At our prior  
12 hearings we heard talk about sort of from the  
13 municipal side, the public notice side, and I think  
14 it pertains to information that lawyers get and use.  
15 One of the things that they talked about was when a  
16 municipality adopts a new zoning ordinance.  
17 Sometimes these things are 300 or 400 pages long.  
18 The law now, I believe, permits a reasonable  
19 summary. Lawyers say, what's a reasonable summary.  
20 I would rather print the whole thing than have  
21 somebody come back later and try and throw out a  
22 particular section or raise the issue that my  
23 summary wasn't reasonable.

24 MR. MEYER: Yes.

25 MR. SCHWOYER: One of the things that

1 people had suggested is how about letting everybody  
2 know that they are going to consider an ordinance or  
3 require more publications but say this is what it  
4 is. It's a new zoning ordinance. We're throwing  
5 out the old one and making a new one. You can get  
6 copies at this website. You can get copies at the  
7 township building, at this phone number request a  
8 copy to be sent to you.

9 Do you see anything is lost by moving  
10 to something along those lines where the public is  
11 informed via publication in law journals and  
12 newspapers of general circulation? They're told  
13 what government is going to consider, but they're  
14 going to be told where and how they can get access  
15 to the details.

16 MR. MEYER: Thank you for that  
17 question. As I indicated, I represent the Bucks  
18 County Bar Association and we don't print or  
19 advertise or publish those kinds of notices. I do,  
20 however, represent the municipality and authority,  
21 and those kinds of issues do come up from time to  
22 time.

23 From a legal standpoint, obviously I  
24 think we all agree if you put every word in there  
25 and every comma and every period and every phrase,

1 you are better off than if you summarize it because  
2 then that can lead to problems of its own.

3           Whether it's better to -- cost  
4 effective, I think that's the term that you are  
5 struggling with and you will have to make that  
6 determination. Are you cost effective by publishing  
7 a summary or say, go to the borough hall to read  
8 this bill if you're interested to make that  
9 determination?

10           Does that then by definition defeat  
11 the purpose of notice? Because not everybody that  
12 reads that notice is going to go to borough hall and  
13 then they won't have that information and then they  
14 say, well, I didn't receive the notice in any event.

15           I don't know what the answer is to  
16 that question. It is a way of reducing your cost  
17 rather than having 20 pages of an auditors' report  
18 or what have you. But is the public entitled to  
19 know that 20 pages and is that a cost of doing  
20 business? I wouldn't venture a guess on that. I  
21 think that's in your field and I don't know what  
22 would be best. Obviously, from a lawyer's point of  
23 view, more detail is better as opposed to something  
24 less.

25           MR. SCHWOYER: Thank you.

1                   CHAIRMAN GANNON: You brought up an  
2 interesting point. I know it wasn't on that  
3 specific topic of your comments because you are here  
4 representing the bar, the legal journal. But in  
5 light of the fact that you represent some boroughs  
6 and authorities, with respect to their requirements  
7 it seems that there were like two or three things.

8                   No. 1 was, what are the legal  
9 requirements of the notice. You seem to be saying  
10 on some of these issues, the legal requirement was  
11 sufficiently vague that your error was on the side  
12 of just publish everything because we didn't want to  
13 be confronted with the argument that the notice did  
14 not meet whatever the legal requirement was.

15                   For example, a reasonable summary.  
16 Well, then we get into an argument as to what is  
17 reasonable, and if somebody is contesting it later  
18 on then the issue becomes whether or not the notice  
19 was reasonable. So we can avoid that argument by  
20 just printing the whole thing. The issue was not  
21 the content, but whether or not the content was  
22 meeting whatever the legal requirement was or if  
23 somebody challenges whether the legal requirement  
24 was met.

25                   The other thing that I kind of picked

1 up was notice to an interested party. I'm not a  
2 contractor, so I'm not really interested in whether  
3 or not we are going to build a new public building  
4 because that's not the kind of work I do. So  
5 telling me about it, you know, it's nice, but it's a  
6 waste of money perhaps.

7 MR. MEYER: Right.

8 CHAIRMAN GANNON: Now, if I'm a  
9 contractor and I'm interested in bidding on those  
10 projects, then I'm very interested in getting those  
11 kinds of notices. I picked up here that do we  
12 really have to notice everybody in the entire  
13 universe at a great deal of expense or can we focus  
14 on those folks who are interested parties, whether  
15 they are contractors or guardians of the public  
16 purse.

17 So that's what I was picking up from  
18 your comments with your other hat. I thought that  
19 was interesting. Because one of the mandates of  
20 this resolution that we are looking at is in terms  
21 of cost efficiency.

22 We reference the fact that we had two  
23 prior hearings on this issue. And at the most  
24 recent hearing, it was brought out that there was a  
25 newspaper, a very, very, small circulation in a

1 particular county. I think it was about 13,000 or  
2 12,000 in this entire county.

3 And if, for example, a notice was put  
4 in that newspaper, it met the legal requirement.  
5 Yet very few people actually saw it. So this would  
6 have been an opportunity for somebody perhaps to get  
7 a loophole in the law to say, well, I really don't  
8 want this guy to know about this. He lives up here,  
9 so I'll put the ad down here. So later on when the  
10 issue was contested, I have my proof of publication  
11 that I put it there. That is one of the issues that  
12 we're trying to deal with.

13 I just wanted to make those points. I  
14 was picking that up from your comments that you were  
15 making with your other hat on. I do appreciate you  
16 appearing before the committee and presenting your  
17 testimony. Thank you.

18 MR. MEYER: Thank you very much. I  
19 appreciate it. Good luck.

20 CHAIRMAN GANNON: Thank you.

21 Our next witnesses are Kevin Holleran,  
22 Esquire, of the Chester County Bar Association;  
23 Norman Haase, Esquire, President of the Delaware  
24 County Bar Association; and Mr. Keith McLennan,  
25 Esquire, President of the Montgomery County Bar



1 Association.

2 Welcome, gentlemen. You may proceed  
3 when you are ready.

4 MR. HOLLERAN: Representative Cohen  
5 asked a good question. How does the public benefit?  
6 I am a former president of the Chester County Bar  
7 Association, a former assistant editor of the Law  
8 Reporter and a partner in the firm of Gawthrop,  
9 Greenwood & Halsted in West Chester. My practice is  
10 primarily the planning and administration of trusts  
11 and estates.

12 And I can give you a good example  
13 there with the estate. The estate advertisements  
14 are useful not just to the creditors who can buy our  
15 law journal and, because it is the only central  
16 repository of legal notices, be certain that they  
17 know of every estate that has been raised as we say  
18 in Chester County. It's beneficial to creditors.

19 The question that I now have is a  
20 question I have had in the past three years that I  
21 never used to have from clients. Kevin, they will  
22 say to me, why am I paying for the advertisement of  
23 the estate? What good does that do me?

24 And the answer is, the good it does  
25 you as executor and heirs is it starts the statute

1 of limitations, the advertisement. And that statute  
2 of the limitations truncates the administration of  
3 the estate. And a truncated administration is a  
4 cheaper administration. It's saving beneficiaries  
5 and estates money because there is certainty. There  
6 is certainty. The reason there is certainty is the  
7 Law Reporter is the central repository.

8 Everyone knows as long as they read  
9 that they know what is going on. The creditors  
10 know. The circulation may not be big, but it's a  
11 certain thing. Proof of publication is something of  
12 value upon which you can rely. And it's not,  
13 Representative Gannon, as you said because there is  
14 a central repository an estate can't publish in the  
15 little podunk paper that no one is going to read.  
16 That paper is the one of record and that gives  
17 value.

18 CHAIRMAN GANNON: Thank you.

19 MR. HAASE: I thought the chairman's  
20 question about the game of circulation was  
21 appropriate for these hearings, because on behalf of  
22 the Delaware County Bar Association and its legal  
23 journal, we are distributed to all sections of the  
24 entire county. We have 1250 members, only 705 by  
25 last count have an e-mail address. So there are

1 many, I suppose, probably more in my age group and  
2 beyond that don't know where the on/off switch is  
3 for the computer. I found the on/off switch, but  
4 beyond that I need help several times a day in  
5 navigating my way through.

6 Basically, in preparing to give  
7 testimony on behalf of our bar association, I was  
8 surprised and delighted to learn that our legal  
9 journal is distributed not just to our members of  
10 1250 lawyers but into the business community, the  
11 financial community, police departments, banks,  
12 realtors, credit unions, municipal governments, not  
13 all, but those who have asked, title companies,  
14 colleges, universities, newspapers, law libraries,  
15 and libraries. And we are now intent upon  
16 distributing for free to all public libraries by the  
17 end of this year. We think that would be a valuable  
18 public service.

19 We think, basically, we understand  
20 what this governmental entity and the entire  
21 Pennsylvania Legislature is charged to do. You need  
22 to balance the interest here; the interest of the  
23 public's right to know, the interest of being  
24 representatives and wanting to hear from an informed  
25 public, and the interest of the taxpayers in not

1 having an unnecessary burden for publishing things  
2 in a duplicative too extensively.

3 It's worth mentioning here that we  
4 can't forget that due process is rooted in Articles  
5 V and XIV of our Constitution. And that talks about  
6 no person shall be deprived of life, liberty, or  
7 property without due process of law. And no state,  
8 no government shall be deprived of due process. So  
9 I just want to throw the high road in so as we don't  
10 overlook the important Constitutional basis of what  
11 we are doing here.

12 What is due process? Due process is  
13 full, fair, adequate notice. So I hope that we  
14 don't get too technical and cut things out  
15 willy-nilly in the concept of what is fairness.  
16 And while we don't want to get involved in any  
17 battles between newspapers, the weeklies, the  
18 dailies, and the Internet and that sort of business,  
19 they all have advantages and disadvantages.

20 I respectfully submit to this  
21 committee that legal journals are the one constant  
22 that can be counted upon in this babble of  
23 communication that we are faced with and try to sort  
24 through to keep our lives organized.

25 Let me just conclude with what I

1 suggest is the advantage to publishing notices in  
2 legal journals. The information is presented in a  
3 very focused fashion. You don't have to wade  
4 through a lot of other things to get to what you  
5 want to see. You can quickly find the full text of  
6 whoever chooses to advertise whatever they are  
7 advertising.

8 Our readership, 1250 lawyers, are  
9 reading usually not only for themselves but in a  
10 representative capacity. You've got lawyers who  
11 represent municipalities, lawyers who represent  
12 estates, lawyers who represent credit unions. So  
13 you are reading for yourself. And due to your  
14 college training and your law school training and  
15 your experience in the arena, you can read and  
16 understand exactly what it is that is being  
17 published. And that's very helpful, rather than the  
18 reader without that training trying to understand  
19 what is being published with regard to certain  
20 notices.

21 Legal journals are non-political. You  
22 don't have to worry about bias. It's pure facts.  
23 That's all. They're set up for short lead times.  
24 And, finally, as a non-profit publication, the  
25 savings in advertising are passed along to those who

1 choose to advertise, the government entities and  
2 others. Legal journals are reliable. We are not a  
3 system of hardware and software with occasional  
4 error messages that drive you crazy.

5           Respectfully, by long established laws  
6 and tradition, citizens and their representatives  
7 expect to find any important legal notice fully set  
8 forth within local legal journals. So if you have a  
9 choice sitting as a legislator or representative of  
10 the people of where it's economical to publish and  
11 where out of fairness things should be published,  
12 where people know and expect to find it, I would  
13 suggest the legal journals ought to be at least the  
14 first choice.

15           Thank you.

16           CHAIRMAN GANNON: Thank you, Mr.  
17 Haase.

18           MR. McLENNAN: Good morning. My name  
19 is Keith McLennan, and I have the privilege of  
20 serving as the president of the 2000 member strong  
21 Montgomery Bar Association. Thank you for inviting  
22 me to testify this morning. We are the third  
23 largest county bar association in the state, and  
24 with that we feel that there is a certain amount of  
25 responsibility.

1           One of the benefits of speaking last,  
2 of course, is that everything that you had planned  
3 to say has already been said. Nevertheless, I feel  
4 compelled to emphasize a few points that have  
5 already been made. I wish to commend Chairman  
6 Gannon and this committee for studying this  
7 important issue. All too often we tend to react  
8 negatively to scrutiny and change. It is, indeed,  
9 appropriate to revisit our method of doing business  
10 in order to devine whether our methods are in step  
11 with the current circumstances of the day.

12           I submit to you that although that is  
13 a noble goal, the publication of legal notices in  
14 Pennsylvania in Law Reporters or legal journals is  
15 more critical today than ever before.

16           Abraham Lincoln said in his great  
17 debate with Stephen Douglas on August 21st, 1858, in  
18 Ottawa, Illinois, that public sentiment referring to  
19 public opinion is everything. With public  
20 sentiment, nothing can fail; without it, nothing can  
21 succeed. Legal notices and legal journals provide  
22 the public the information and the opportunity to  
23 express that sentiment.

24           The life blood of our democracy and,  
25 in turn, our judicial system is information. We

1 have been bombarded by information since the  
2 computer has become more user friendly. Some of us  
3 feel that's a problem rather than a benefit.  
4 Information needs to be communicated for democracy  
5 to flourish. Without communication of that  
6 information, knowledge suffers. When knowledge  
7 suffers, the ability to solve problems is  
8 diminished. An ill-informed public causes rumor,  
9 innuendo, suspicion, speculation. In turn, our  
10 civilized way of dispute resolution and self  
11 government deteriorates.

12           When I first heard of HR 110, my  
13 knee-jerk reaction was that it was an effort to  
14 reduce the amount of information our democracy needs  
15 to be effective. As I read through all the  
16 information I could gather on the resolution, I  
17 quickly realized that it was nothing more than a  
18 fact-finding effort on the part of the House to  
19 determine if the current method of delivering vital  
20 legal information to the public was working. I am  
21 glad to report that the current system of providing  
22 vital legal and judicial information to the legal  
23 and judicial community and, importantly, the public  
24 is working and working well.

25           The purpose of legal notices, this



1 booklet, is vital to not only practicing lawyers but  
2 also members of the community, public, business  
3 community. This is what really drives a lot of  
4 things. I'll talk a little bit about those kinds of  
5 things. I've experienced them, as I'm sure these  
6 gentlemen have in this room, as it relates to legal  
7 issues that arise.

8           When we get this every week, and it's  
9 a weekly, and it has all the information that we are  
10 looking for in the legal community, judicial  
11 community, it's a central repository that is really  
12 unavailable anywhere else. When you go to a  
13 newspaper you look for these things, the public  
14 generally does, and they look for those little  
15 display ads to try to find out what's happening in  
16 their communities. We may think that doesn't  
17 happen, but it does.

18           How many of you have spoken to a  
19 retired individual in your county who said, well,  
20 gee, I say that Joe Smith down the street had a tax  
21 lien placed against him. Maybe Joe Smith doesn't  
22 want that information out there, but it's  
23 information that is vital because maybe Joe Smith is  
24 someone who isn't able to respond to legal notices  
25 because of disability, because of some other

1     aliment. That information, the community sees it,  
2     and then the community, of course, can address it.  
3     That's what lawyers do when they look at this.  
4     That's what the public does when they look at this.  
5     So to that extent, it's an important device.

6                     This is an easily accessed and  
7     inexpensive central repository. This is distributed  
8     free to county libraries. Anybody can access it.  
9     I'm not so sure everybody can access the Internet.  
10    Statistics will tell us that I think about 47  
11    percent of the public is wired for Internet access.  
12    That's good. It may be growing at 2 million a day.  
13    I suspect that statistic is accurate. But we are  
14    still not there yet.

15                    One of the questions that was asked  
16    earlier was whether we can combine things. I think  
17    we can combine things. I think we want to look at  
18    more rather than less. The Internet is not the  
19    solution. It's just not there yet. It may be in  
20    ten years, it may be in fifteen years, but we are  
21    not there yet.

22                    Critical information about the  
23    judicial process, principles of law are readily  
24    available in the county Law Reporter. Nowhere else  
25    can you find the most critical information about

1 whether an estate has been raised for a decedent who  
2 owes you money. That's what we lawyers do. That's  
3 what creditors do. They look for that information.  
4 The formation of a new business in your community,  
5 we need to know that. It's almost like a birth  
6 announcement.

7           When a corporation is formed, you know  
8 who is out there and who you're dealing with. If  
9 you don't know who they are, you can have difficulty  
10 in dealing with those folks. Who is behind that  
11 business with multiple partnerships called Enron?  
12 How do we know about those things unless we  
13 advertise that kind of information. We do that with  
14 corporations.

15           Your elderly mother's property is  
16 being sold at mortgage or tax sale due to her  
17 inability to comprehend the notice that was left at  
18 her door. That's an actual case that I had. I  
19 picked it up in the Law Reporter. I alerted the  
20 client, the client then responded because she was  
21 taken care of by getting that notice.

22           The attempted dissolution of a  
23 corporation that owes your municipality taxes, where  
24 else but in this publication do you find that. So  
25 it is of critical importance for people to look at

1 this for this reason and they do it. It happens.

2 Who you should contact about an  
3 estate, there is a whole section in here about  
4 estate notices and who the contact person is. So  
5 you if you have a claim against an estate or if  
6 you're a beneficiary of an estate, that information  
7 is there for you to take. It's a sense of  
8 community. It keeps that sense of community in the  
9 community as opposed to some Internet. How many  
10 times have you gone to an Internet website and tried  
11 to drill down for information, page after page after  
12 page and you're not getting anywhere? And then you  
13 finally just hit that button that Norman has found,  
14 off, and try to get out of it because it's just mind  
15 boggling.

16 The amount necessary to buy real  
17 estate at a sheriff's sale and the process of  
18 bidding therefore. You wouldn't believe when you go  
19 to a sheriff's sale at the courthouse at Norristown  
20 the public that's in there with this book. They are  
21 looking through it. They are looking at the  
22 properties that are listed here. They're trying to  
23 see if there's a property that they're interested  
24 in. It's there. Jean has a laptop over here. We  
25 don't have it in our courtroom yet in order for

1 someone to bring in a laptop and look up those legal  
2 notices. They just don't have it available to them  
3 there on site. This is available on site.

4           When judgments or liens are filed  
5 against you, a friend, a relative, a client, or an  
6 associate, that's the kind of information that is  
7 vital to the practicing attorneys as well as the  
8 public. If you're dealing with someone and you see  
9 that they have come up in the Law Reporter as having  
10 a lien or tax lien against them, you know you better  
11 watch out. If you don't, you're looking for  
12 trouble. That's one of the things that this  
13 provides.

14           Someone who wishes to change their  
15 name. We want to know who people are and if we  
16 don't know who they are, we're going to have people  
17 who are going to be like in the Enron scenario. So  
18 the publication provides that in a legal journal.

19           Why the Court of Common Pleas upheld  
20 the constitutionality of Megan's Law. Actual case  
21 in Montgomery County, Megan's Law was passed by the  
22 Legislature and it was signed by the Governor. It  
23 was challenged in court. The court in Montgomery  
24 County looked at the issue and there were differing  
25 opinions on it, but it's published. We have an

1 insert of every case that's published from the Law  
2 Reporter. This is great information for the public  
3 to read because they can see how these cases  
4 transpire, how the information is provided, how  
5 legal reasoning applies. It provides more notice as  
6 opposed to less notice.

7 We are not in the business of  
8 publishing municipal meeting notices or public bids.  
9 We don't do that. We wouldn't do it well. We  
10 handle the vital legal information that's important  
11 to the practicing lawyer, the public at large, the  
12 business community. Legal notices provide the  
13 beneficiaries of an estate closure by providing the  
14 medium necessary to establish a time bar for claims  
15 against the estate.

16 Legal notices foster competitive  
17 bidding at sheriff's sales. We talked about that.  
18 That's what they had. It benefits the creditor  
19 because the creditor gets more money from the sale.  
20 It benefits the debtor because the debtor, of  
21 course, gets the benefit of having their property  
22 sold at the higher rate so they have no additional  
23 expenses associated with it; and the community  
24 because it fosters this kind of commerce, this kind  
25 of stream of commerce.

1           Legal notices provide knowledge  
2 necessary to predict future outcomes. In short,  
3 legal notices provide everyone, everyone, the right  
4 to participate in the world of business and the  
5 process of representative government.

6           The cost of legal notices. The  
7 efficiency of the county Law Reporter is  
8 unparalleled. The notices that we publish that  
9 provide this and other vital information are paid  
10 for by the users of the judicial process, the  
11 litigants. It's not government dollars that are  
12 expended to bring this critical information to the  
13 public, to the litigants. That doesn't necessarily  
14 justify it, but it shows that the shift really is  
15 if you use the system, you ought to pay for it.

16           I can remember in the Regan  
17 Administration that was really a critical issue,  
18 user fees. If you're going to use it, pay for it.  
19 We shifted more to that and that's what this does.  
20 It provides that information to the legal and  
21 business community, our widely diverse 2350  
22 subscribers -- this is delivered weekly to all of  
23 our members in our association free of charge as  
24 part of their dues. And our friends who subscribe  
25 at the University of Iowa -- I don't know why they

1 subscribe at the University of Iowa, but they want  
2 it so they get it.

3           We disseminate our legal journal free  
4 to the public libraries. It's a vital tool for many  
5 townships and municipalities to identify legal  
6 issues that arise in their communities. It's  
7 reliability is unblemished. Unlike the Internet or  
8 a Microsoft operating system, you'll never  
9 experience the blue or black screen of death with a  
10 Law Reporter. You will never have to deal with an  
11 autoexec.bat or config.sys issue with a computer.  
12 You just don't have those issues. It's nice to be  
13 able to look at the peripheral vision of a book and  
14 look at it and say looking for one thing you see  
15 another thing.

16           You don't see that on the Internet.  
17 You don't see that on the computer screen. When I  
18 do legal research through different on-line sources,  
19 I lose the benefit of that kind of peripheral  
20 vision. This provides it to you. It's good old  
21 fashioned paper, and many of us still use it.

22           Finally, as we learned in grade  
23 school, democracy is not the most efficient system  
24 of governance, nor is it cheap. As that famous  
25 American lawyer John Adams once said, facts are



1 stubborn things. Likewise, due process is a  
2 stubborn thing. Due process requires that we  
3 provide the public with more notice, not less. I  
4 submit that this committee ought to be studying how  
5 to get more notices in the county legal journals.  
6 After all, when we need information fast, we look to  
7 our local information sources first. That's what we  
8 always do. All politics is local, all notices are  
9 local.

10 As Samuel Johnson once said, knowledge  
11 is of two kinds. We know a subject ourselves, or we  
12 know where we can find the information upon it.  
13 That's what lawyers do best. How many times have  
14 you lawyers been to a cocktail party and somebody  
15 asked you a question and you say, I don't know the  
16 answer, but I can find out where it is. That's what  
17 this provides you. Law Reporters are that source  
18 for information that fuels our democracy.

19 Thanks for the opportunity to provide  
20 this information to you on this core due process  
21 issue. One of the additional benefits, of course,  
22 of speaking last is that all the questions have been  
23 asked but I, of course, encourage and welcome any of  
24 your questions. Thank you.

25 CHAIRMAN GANNON: Thank you very much.

1 Representative Cohen?

2 REPRESENTATIVE COHEN: No, thank you,  
3 Mr. Chairman.

4 CHAIRMAN GANNON: Representative  
5 Manderino?

6 REPRESENTATIVE MANDERINO: Yes. I  
7 have a comment and a question. I couldn't help but  
8 smile when you said all politics is local. I  
9 apologize for being late. The tree across the  
10 street from my house on my block fell down in the  
11 middle of the night, so all politics is local and  
12 that's what I was taking care of this morning.

13 I've made two of the three of these  
14 hearings, and perhaps this was very clearly  
15 expounded on at the first hearing but I still have a  
16 gap in my knowledge that maybe you folks can fill.  
17 One of the prior testifiers had in their testimony  
18 the section in Title 45 that requires legal notices.  
19 But I also know that any time we pass a law that  
20 requires some sort of legal notice, it's kind of  
21 scattered all over the place.

22 What I don't have a sense of, and just  
23 pardon my ignorance but maybe you can enlighten me,  
24 where does -- does everything that has to be  
25 published to the public also have to be published in

1 legal journals; or are there some exceptions and are  
2 there things that the current law is saying still  
3 have to be published in legal journals that are more  
4 apt to be not the kinds of things that practicing  
5 attorneys and financiers and all those are looking  
6 at public meeting notices, etc.?

7 MR. HOLLERAN: Generally speaking,  
8 public meeting notices, ordinance notices, those  
9 kinds of things do not have to be published in the  
10 legal reporter, the central repositories. The  
11 things that have to be published there are estate  
12 notices, corporation notices, dissolution notices,  
13 fictitious names, those kinds of things with the eye  
14 towards the idea that someone who wants to keep  
15 track of that can subscribe to our publications in  
16 the various counties and know that they have not  
17 missed it.

18 REPRESENTATIVE MANDERINO: So the more  
19 appropriate follow-up question, are there things  
20 that currently are required to be published in legal  
21 notices that aren't apropos to your audience; or,  
22 conversely, are there things that currently are not  
23 required to be published in a legal publication that  
24 are appropriate for your target audience?

25 MR. McLENNAN: I think the answer

1 would be in my experience I think we have it just  
2 right in terms of those notices that should go to  
3 the legal community and the judicial community.  
4 Could there be more notices in here? Sure. I think  
5 that would be a benefit because it is a central  
6 repository for the county. It is the only one in  
7 the county.

8 Does it have the circulation that a  
9 newspaper of general circulation has? No. Is it  
10 available so that people can see it as widely a  
11 newspaper of general circulation? Sure. Could it  
12 be improved? You bet.

13 Our plan is just as Mr. Meyer talked  
14 about, we have a website. I think all bar  
15 associations have those now. That information could  
16 be placed on the website as well. The question, of  
17 course, is, what goes out there? You're right,  
18 Representative Manderino, there are so many  
19 different regulation statutes that say, should be  
20 legal notice and shouldn't be. And they are not in  
21 one place.

22 They could be. I think that may be  
23 one of the things that's rattling around in your  
24 head, is how can we centrally locate this  
25 information which would be beneficial to the

1 lawyers, it would be beneficial, of course, to the  
2 public, municipalities. Everybody would benefit  
3 from something like that it seems to me.

4 But as far as those specific examples,  
5 I don't have any. Maybe Norman does.

6 MR. HAASE: If I was a legislator and  
7 I realized this would be a suspect answer because  
8 I'm sitting here on behalf of legal journals, I  
9 don't put any money in my pocket. We don't put much  
10 money in our pockets from these legal journals.  
11 They are more or less a wash.

12 Instead of websites that some people  
13 know how to access and instead of newspapers that  
14 may or may not qualify as widely circulated, general  
15 circulation, that you don't know in what pocket of  
16 the county they are really read, I would require  
17 that all notices be published in legal journals. We  
18 don't do all notices now, but we are the one  
19 vehicle, I think, that's appropriately set up to do  
20 that.

21 MR. McLENNAN: The other comment I  
22 would like to make is that if you're a doctor, where  
23 do you look. You look in your medical journal for  
24 the latest in what's going on in your community, in  
25 your medical community. When you're a lawyer, you

1 look in this book, too, for that very reason, just  
2 to be up on those kinds of things. If you're not,  
3 then there's a big hole or a big gap in what you're  
4 doing. And that's where this really provides vital  
5 information and is such a vital tool.

6 REPRESENTATIVE MANDERINO: Thank you.

7 MR. McLENNAN: Certainly.

8 CHAIRMAN GANNON: Representative  
9 Harper?

10 REPRESENTATIVE HARPER: I think  
11 Representative Manderino's question of Keith  
12 McLennan's testimony both points out that certain  
13 ads should be in newspapers of general circulation.  
14 They may also have some utility in legal journals.  
15 But a meeting notice is directed to the general  
16 public. That ought to be in a place where the  
17 public is likely going to read it. The ordinance  
18 notice similarly is directed to the general public.  
19 I can see some utility in also having them in the  
20 lawyers' publications since lawyers are so often  
21 called upon to advocate or comment on these things.  
22 But, clearly, if we publish township or borough  
23 meeting notices in legal journals, we are going to  
24 miss some of the people that we want to get.

25 I think it's important for us as

1 legislators to distinguish between the ads; the  
2 types of ads that are most useful when directed  
3 towards the legal community, whether they are real  
4 estate or title community which also reads your  
5 publications, and those ads which are directed  
6 towards the public. I think we have to keep that in  
7 mind if we do anything in the current law.

8 I have a question. I happen to be a  
9 member of the Philadelphia Bar and the Montgomery  
10 Bar. And I'm one of those people that clutches that  
11 little book at the sheriff's sale. I carry it with  
12 me. If you went strictly on-line, I'd have to print  
13 the damn thing out because I would want to have it  
14 with me at the sale or I would want to be able to  
15 read it at night in front of my television. I skim  
16 it looking for my clients' names or somebody who  
17 owes one of my clients money.

18 So I guess I have a question for you,  
19 because I am, you know, aware of the fact that both  
20 the Philly Bar and the Montgomery Bar have new  
21 services on-line. I get the Montgomery Bar e-mail  
22 Blast and I also get the Philly Bar News weekly.  
23 I'm wondering whether you've had any requests from  
24 attorneys to put things like sheriff's sales and  
25 other legal notices on the web because you don't

1 currently do that, right?

2 MR. McLENNAN: Yeah. Our intention is  
3 to get more of this kind of information in these  
4 e-mail blasts, but we don't want to burden people  
5 with -- you know, it's like when you get an e-mail  
6 message that has a huge amount of information on it,  
7 delete, delete, delete, delete.

8 REPRESENTATIVE HARPER: Right.

9 MR. McLENNAN: So we haven't gotten  
10 there. We certainly intend to get some of this  
11 information out there by a link. If people want to  
12 go to it, they can. We haven't really had a  
13 clamoring for it either. People are dinosaurs in  
14 the sense that they like the printed book. I mean  
15 that affectionately because I'm a dinosaur. I like  
16 the printed book.

17 REPRESENTATIVE HARPER: So you haven't  
18 had any requests. How about the rest of you? Are  
19 you getting an outcry from the bar saying, please  
20 put this jazz on-line?

21 MR. HOLLERAN: No.

22 MR. McLENNAN: We get legal opinions.  
23 They want legal opinions on-line so they can search  
24 them.

25 REPRESENTATIVE HARPER: Okay.



1 MR. McLENNAN: And we have them  
2 on-line.

3 REPRESENTATIVE HARPER: By the word or  
4 something?

5 MR. McLENNAN: Correct.

6 REPRESENTATIVE HARPER: Thank you.

7 MR. McLENNAN: You're welcome,  
8 Representative Harper.

9 REPRESENTATIVE HARPER: Thank you, Mr.  
10 Chairman.

11 CHAIRMAN GANNON: Questions?

12 MR. SCHWOYER: No.

13 CHAIRMAN GANNON: Testimony has been  
14 very good. One of the comments that I hear a lot in  
15 the course of these hearings and was bantered back  
16 and forth a little bit here is newspapers of general  
17 circulation as opposed to the legal journal as a  
18 practicing lawyer, I rely very heavily on the  
19 Delaware County Legal Journal for information that's  
20 important to me and my clients. I read it both  
21 personally and in the representative capacity,  
22 because I'm looking for stuff in there that would be  
23 interesting to my clients.

24 Under the law we have this -- we call  
25 it the semantic differential. When you say a,

1 newspaper of general circulation, you have this  
2 vision that this is something that everybody reads.  
3 But when you look at the definition of a newspaper  
4 of general circulation, it doesn't talk about  
5 circulation and it doesn't talk about readership.  
6 It talks about three things.

7                   It has to be paid for. In other  
8 words, a person has to go in and pay for the  
9 newspaper. It has to have editorial content. And  
10 it has to meet certain standards that are set forth  
11 in the United States Postal Regulations. That is a  
12 newspaper of general circulation under Pennsylvania  
13 law. And it can be read by three people. We found  
14 testimony in a hearing that we had a week or two ago  
15 that was a very small newspaper in western  
16 Pennsylvania with a very small circulation that met  
17 those three standards and by law was a newspaper of  
18 general circulation. It was read by very, very few  
19 people.

20                   I think the journals in particular are  
21 read by interested parties. I know I rely heavily  
22 upon them. Representative Harper talked about how  
23 she is focused on certain notices in legal journals.  
24 So I think in terms of getting out the information  
25 to the people that should have it and, I believe,

1 from the testimony that we have heard throughout  
2 these hearings that the legal journals are probably  
3 the most effective way for those types of legal  
4 notices as opposed to public notices.

5 I know I wouldn't necessarily think to  
6 go to the local newspaper to find out which  
7 corporations are dissolving and who is changing  
8 their name. Although, I do have a copy of an  
9 article in one of our local newspapers here, and I  
10 see there is a name change notice in here which I  
11 don't know if that is required by law or if they  
12 just did it.

13 MR. McLENNAN: That one, I think it is  
14 required in both places, legal journal and a  
15 newspaper of general circulation.

16 CHAIRMAN GANNON: I would never think  
17 to look there. And somebody even pointed out that  
18 the legal journal, of course, is very focused. I  
19 know I will find legal notices in here. These  
20 public notices are next to dogs, cats, and pets,  
21 articles for sale, garden/lawn supplies, household  
22 goods, and garage sales.

23 MR. McLENNAN: As long as you don't  
24 change the name of your pet and put it in the  
25 advertisement.

1                   CHAIRMAN GANNON: Yes. But anyway, I  
2 do appreciate your testimony. It has been very,  
3 very helpful.

4                   MR. McLENNAN: Thank you.

5                   CHAIRMAN GANNON: Mr. Haase, I really  
6 appreciate some of the comments you made. I thought  
7 your testimony on this issue was very, very focused  
8 and hit a lot of important points.

9                   And your testimony also about  
10 differentiating what the requirements are and what  
11 notices show up in the legal journals, the  
12 importance of that was very effective. I do  
13 appreciate you attending the hearing and providing  
14 us with that.

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

17                   MR. HAASE: Thank you.

18                   MR. HOLLERAN: Thank you very much.

19                   CHAIRMAN GANNON: Our next witness is  
20 Mr. Jim Haigh, Assistant Publisher, Penny Power,  
21 LTD, Legislative Director, Mid-Atlantic Community  
22 Papers Association; Mr. John Hemperly with Engle  
23 Publishing; Ms. Margaret Ehle, Franklin Shopper; Jim  
24 Snyder, Kapp Advertising Service; and Alyse Mitten,  
25 Administrator, Mid-Atlantic Community Papers

1 Association.

2 MR. HAIGH: I thank you for the  
3 opportunity to appear as a group for a third time  
4 before your committee. It has been our honor and  
5 privilege to present honest, straightforward  
6 testimony at these hearings. We understand the  
7 complex task that comes with House Resolution 110.  
8 And it is our sincere intent to bring information  
9 that is both accurate and pertinent, and ultimately  
10 useful to your efforts.

11 We have presented credible and  
12 compelling testimony that asks that free community  
13 papers, delivered to every home in a given community  
14 by audited carrier or by the United States Postal  
15 Service, be granted a legal right to publish legal  
16 public notice.

17 We remain certain that officially  
18 publishing in our publication will: Increase the  
19 size and demographic scope of audience reached,  
20 increase the participation of citizens in  
21 government, give more autonomy to local government,  
22 reduce advertising costs through legitimate  
23 competition.

24 To this end, on the record, at prior  
25 testimony we have demonstrated the highest measured

1 circulation in our communities. We have  
2 demonstrated the highest dynamic relationship  
3 between our readers and our publications. And we  
4 have shown examples of the use of free papers by  
5 government to fulfill the intent of the law above  
6 and beyond their legal mandate.

7           In the language that we proposed, only  
8 free papers delivered to every home would be  
9 considered for the giving of official notice. We  
10 never proposed the use of free rack publications.  
11 We have asked only to be an option for the  
12 publication of such notice. Further, we suggested  
13 the following safeguards that would ensure the  
14 delivery of this vital public information: Private  
15 carrier delivery would be audited, and United States  
16 Postal Service delivery would be verifiable by  
17 completed forms U.S. Postal forms, and receipts.

18           During the course of these hearings,  
19 we have begun to wonder if additional safeguards  
20 might be necessary to protect the process of  
21 disseminating notice. As we gathered information  
22 for each of these hearings, most specifically  
23 audited circulation reports, we were hampered by the  
24 lack of availability of these audit reports. This  
25 is why the publications referenced in our

1 circulation comparisons have been daily papers.

2 Audit reports for smaller weekly paid  
3 publications are rare. This is because these papers  
4 choose not to open their records to an independent  
5 auditor. The situation created is a void of  
6 measurable, verifiable information about circulation  
7 claims. The scope of this void is addressed in the  
8 CVC president's response to prior testimony, and is  
9 detailed publication by publication, Exhibit C.

10 We have attached supporting  
11 documentation to discuss the following four  
12 questions we pose: What is an audit? Why are  
13 audits important? Why is our association audited?  
14 And why should the law require audits?

15 Our hope is to answer these questions,  
16 and any that may arise, to the satisfaction of your  
17 committee. Thank you.

18 CHAIRMAN GANNON: Thank you.

19 MR. HEMPERLY: Good morning, Mr.  
20 Chairman and members of the committee and staff  
21 members. Thank you for the opportunity to address  
22 the Judiciary Committee's hearing on House  
23 Resolution 110.

24 My name is John Hemperly. I am a  
25 sales manager with Engle Publishing located in Mount

1 Joy, Lancaster County, Pennsylvania. Engle  
2 Publishing reaches 457,000 households in central  
3 Pennsylvania each week with free community  
4 newspapers. And 84 percent of our publications are  
5 delivered to our readers' homes by the U.S. Post  
6 Office, 12 percent by home delivery using adult  
7 carriers and 2 percent of our papers are distributed  
8 by monitored controlled bulk delivery system.

9 Our weekly papers are known as  
10 Total-Market-Coverage publications with the goal of  
11 distribution to each household in a defined  
12 geographic area. This becomes important to  
13 merchants and those wishing to disseminate  
14 information to reach the populace with a printed  
15 message, a message that can be read, reread,  
16 referred back to, and retained for whatever purpose.

17 Our circulation is divided into 22  
18 contiguous zones. Engle Publishing papers contain  
19 on the average 30 to 35 percent editorial content.  
20 This editorial comment is comprised largely of local  
21 news pertinent to each individual unique geographic  
22 area. This becomes a real asset to our readers and  
23 advertisers alike. The readers benefit from a paper  
24 that has local school and community news. Our  
25 advertising clients are able to target their ad



1 message to only the citizens most likely to respond.  
2 This is a major difference between our publications  
3 and the daily metro papers that reach a broader  
4 area.

5           During the period July 1, 2001 through  
6 December 31, 2001, a third-party independent firm,  
7 Circulation Verification Council, better known as  
8 CVC, from St. Louis, Missouri, audited our  
9 publications, press runs, postal receipts and  
10 general distribution program. The Mid-Atlantic  
11 Community Papers Association funded this audit.  
12 This is a unique partnership. Our company neither  
13 paid for the audit, and the auditing team had no  
14 direct responsibility to Engle Publishing.

15           As a part of this audit, a readership  
16 study was also conducted. Residents were questioned  
17 about receivership, readership, shelf life, and  
18 other demographic information. Overall, CVC  
19 discovered a 98.9 receivership of Engle Publishing  
20 papers, with 74 percent of those households  
21 reporting reading or looking through their paper.

22           This number of residents exceeds the  
23 number of Pennsylvanians in our circulation area  
24 currently being exposed to legal notices published  
25 in paid papers, legal notices about the local

1 governing bodies, school boards, zoning notices,  
2 bids, budgets, and the like.

3 I have attached to my testimony an  
4 in-house report that we prepared that matches our  
5 circulation numbers to the circulation numbers of  
6 paid publications in our market areas. This will  
7 demonstrate the number of households that are missed  
8 each week when a notice would be published in one of  
9 those publications.

10 CHAIRMAN GANNON: Thank you.

11 MR. HAIGH: I'm basically going to go  
12 through what is an audit, why an audit is important,  
13 why is our association audited, talk about the law.  
14 And then we just want to open it up to questions,  
15 any questions you may have.

16 CHAIRMAN GANNON: Okay.

17 MR. HAIGH: This is our third time  
18 before the committee and we want to keep it relevant  
19 and pertinent.

20 CHAIRMAN GANNON: Sure.

21 MR. HAIGH: What is an audit? It's a  
22 process of detailed documentation week after and  
23 carrier route lists, mail lists, as well as other  
24 supporting documentation.

25 There is an on-site portion to an

1     audit where an actual auditor comes out and visits  
2     your facility. And that auditor is granted  
3     permission to access any necessary printing and  
4     distribution records for the audit period. These  
5     include but are not limited to cancelled checks to  
6     the printer, cancelled checks to the post office,  
7     route carrier names and addresses and also payroll  
8     documentation. And those requirements would be --  
9     you can see that in Exhibit C of the exhibits  
10    relating to publication audits.

11             This information is then compiled and  
12    verified and an audit report is produced. This is  
13    what an audit report would look like. And I'm not  
14    sure that that has been given out. That's an actual  
15    audit report. That is the summation of all the  
16    documentation that you see with the index of  
17    exhibits, they turn into a document like that.

18             Why are audits important? They  
19    validate accurate claims of circulation. They  
20    invalidate specious claims of circulation. They  
21    give the additional assurance that an expert,  
22    independent, third party has reviewed the records.  
23    They provide a legitimate quantitative basis of  
24    comparing public publications.

25             Why is our association audited? We

1 wanted to ensure the integrity of our association.  
2 Audits are very important to regional and national  
3 advertisers when considering their advertising  
4 options. And many members were already audited, and  
5 we wanted to establish a unified standard with one  
6 given audit company for those interested in our  
7 publication.

8                   For those looking from the outside,  
9 they would see one global audit form, because  
10 certain audits like the ABC audits look  
11 extraordinarily similar to our audits. Our audits  
12 are actually based on ABC audits. Circulation  
13 verification council base the questionnaire based on  
14 the formula of ABC and then interviews with major  
15 advertisers and marketing firms asking what they  
16 were looking for. And went a little bit further  
17 with that. We chose CVC because of their  
18 outstanding reputation and based on the glowing  
19 references from our regional association peers.  
20 You'll see that as listed member references in  
21 Exhibit J.

22                   Why should the law require audits?  
23 First and foremost to ensure the integrity of the  
24 process of giving notice. Currently, the  
25 Commonwealth does more to ensure that a 4.76 ounce

1 apple weighs the same at a Giant Eagle in Pittsburgh  
2 as it does at a grocery store in Allentown. By law,  
3 grocery store scales are certified. So over 70  
4 percent of the paid publications in the State of  
5 Pennsylvania are not audited.

6 And also the second reason why you  
7 might want to consider is to provide those  
8 responsible for contracting the publication of  
9 notice with objective comparative data about the  
10 competing contractor. Right now no such data exists  
11 in the majority of markets when they are looking at  
12 smaller weekly publications.

13 If I could draw the attention of the  
14 committee to Exhibit E, it's a house ad. It's the  
15 exhibit that came with the regular testimony.  
16 Basically, it's a house ad from a publication that  
17 is in our market. They mail to less than 1,000  
18 homes. And what they claim is they reach nearly  
19 6,000 homes and 21,000 readers.

20 We submit that this is like claiming  
21 that a vehicle gets 99 miles per gallon without  
22 adding the disclaimer that it must be driven  
23 downhill in neutral for at least 75 of those miles.

24 Fortunately, for the consumers with  
25 the right to chose, they are protected by the

1 standards of highway and city mileage estimates.  
2 Right now government officials don't have that.  
3 They have media kits. They have claims. Many of  
4 them, hopefully, are valid, but there are specious  
5 claims that come out in front of them and they have  
6 no basis of comparing.

7 We sit here as an industry that's 100  
8 percent audited that makes every attempt to deliver  
9 to every household in the communities we serve and  
10 can give proof of what we do -- uh, we don't have a  
11 legal right to share information with the public.  
12 We are asking for you to consider that.

13 Thank you.

14 CHAIRMAN GANNON: Anybody else?  
15 Representative Cohen?

16 REPRESENTATIVE COHEN: No, thank you,  
17 Mr. Chairman.

18 CHAIRMAN GANNON: Representative  
19 Manderino?

20 REPRESENTATIVE MANDERINO: No, thank  
21 you.

22 CHAIRMAN GANNON: Representative  
23 Harper?

24 REPRESENTATIVE HARPER: If I  
25 understand your testimony, it is that you believe

1 legal ads should be able to be put -- am I saying  
2 this too broadly -- into publications that are  
3 distributed free, provided they are audited.

4 MR. HAIGH: Provided they are audited  
5 and provided that they are delivered by either  
6 carrier or U.S. mail to every household in the  
7 community. We are not proposing what you see in  
8 racks held up at a Wawa or at a grocery store. We  
9 are proposing those who legitimately deliver, either  
10 by their own carriers which are then audited or by  
11 the U.S. Postal Service, to every member of given  
12 zip codes in given communities.

13 REPRESENTATIVE HARPER: Are you  
14 proposing that only those free publications need to  
15 be audited, or are you talking free and paid for  
16 subscriptions would need to be audited to qualify as  
17 a repository for legal ads?

18 MR. HAIGH: We are throwing that back  
19 to you. If you look through the documentation that  
20 we have presented and see how many -- we were  
21 shocked to find this out, too -- are not audited.  
22 We assumed that at least a majority would be. It's  
23 certainly the majority, over 70 percent aren't.

24 REPRESENTATIVE HARPER: Aren't?

25 MR. HAIGH: Are not audited as far as

1     paid publications. Our industry is. Every paper  
2     that we are proposing on behalf of the Mid-Atlantic  
3     community papers to be eligible for dissemination is  
4     audited and would be audited. It's something that  
5     the Legislature might want to consider for all  
6     publications so that local government as contractors  
7     would have a legitimate basis. The same way that if  
8     you go to a gas station, you would assume that there  
9     would be a set of quantitative measures to ensure  
10    that 64 ounces equals 64 ounces without just claims.

11                   That's how we can get into a situation  
12    where a paid paper can say that we have 1,000 -- we  
13    mailed to -- they might deliver to less than 1,000  
14    homes but then claim that, well, we have 6,000 homes  
15    because that's their net press run. And then they  
16    multiply by some factor of 2.5 or 3.0, and all of a  
17    sudden you're up to over 21,000 readers for  
18    something that mails to less than 1,000 homes. So  
19    that's something that you might want to consider.

20                   MS. EHLE: We also have House  
21    Resolution 2330 which asks that you refer to the  
22    changes in the language to allow the free papers,  
23    the legal ads placed in free papers. And it does  
24    have in there that they are distributed by audited  
25    carriers.



1           MR. HAIGH: We proposed that for our  
2 industry and after -- I guess what I'm saying is  
3 that after all of what we have done in our  
4 preparation of testimony, we are saying that it  
5 concerns us and it might concern the state that  
6 there are no real given set standards for paid  
7 papers.

8           So if I was the township supervisor of  
9 Milford, I would call up a couple different papers.  
10 What is the cheapest? What are you doing? And they  
11 would say, oh, hey, we're not audited but here is  
12 what we have. Our net press runs 5500, round that  
13 up to 6,000. And we have, I can assure you, over  
14 21,000 readers.

15           That's happening now. And it's  
16 happening across the state. And there are simple  
17 safeguards that can be put in place. We have  
18 already proposed those safeguards for our  
19 publications in House Bill 2330 in the language we  
20 support for that. We are saying that the state may  
21 want to consider that across the board.

22           REPRESENTATIVE HARPER: Just let me  
23 finish. Just so I understand, right now 2330 is  
24 necessary from your perspective because you actually  
25 can't carry legal advertising?

1 MR. HAIGH: We can't carry it now.

2 REPRESENTATIVE HARPER: Right. You  
3 need it to get into the market.

4 MS. EHLE: Correct.

5 REPRESENTATIVE HARPER: So 2330 would  
6 allow free papers such as yours to be in that market  
7 place. And 2330 suggests as a safeguard that free  
8 papers with that audited circulation?

9 MR. HAIGH: Yes. And that was per our  
10 suggestion to 2330.

11 MS. EHLE: And that would open it up  
12 to competitive bidding for the local governments,  
13 which they don't now have the opportunity to look at  
14 what is the most effective print product in their  
15 market. As we have had prior testimony, you have to  
16 go with the legal definition of a paper of general  
17 circulation.

18 REPRESENTATIVE HARPER: Thank you.

19 MS. EHLE: You're welcome.

20 MR. HAIGH: Sure.

21 MR. HEMPERLY: Yes.

22 REPRESENTATIVE HARPER: Thank you, Mr.  
23 Chairman.

24 CHAIRMAN GANNON: Representative  
25 Manderino?

1                   REPRESENTATIVE MANDERINO: Mr.  
2 Hemperly, when you say our industry the -- oh, I'm  
3 sorry. Maybe I have the wrong person. Your name  
4 is?

5                   MR. HAIGH: I'm Jim Haigh.

6                   REPRESENTATIVE MANDERINO: Oh, Jim,  
7 I'm sorry. I remember you from the last time  
8 testifying. When you say our industry, do you mean  
9 the industry of free publications? Do you mean the  
10 industry of free audited publications? Do you mean  
11 the industry of all audited publications whether  
12 they're free or paid? When you kept saying our  
13 industry.

14                  MR. HAIGH: When I said our industry,  
15 I was referring to all free audited publications.

16                  REPRESENTATIVE MANDERINO: Free  
17 audited publications?

18                  MR. HAIGH: Yes.

19                  REPRESENTATIVE MANDERINO: How often  
20 are publications audited? Is there an industry  
21 standard? Is there a price range for what an audit  
22 would cost?

23                  MR. HAIGH: The audit process,  
24 basically, happens every week as you document what  
25 your net press run was, what your circulation was,

1 what you mailed, what you brought out by carriers.  
2 So the audit happens every week.

3 REPRESENTATIVE MANDERINO: Financial  
4 auditors come in and audit your books?

5 MS. EHLE: It's either an annual or  
6 bi-annual process.

7 REPRESENTATIVE MANDERINO: And what's  
8 the cost of that?

9 MS. EHLE: It's based on your  
10 circulation.

11 MR. SNYDER: It depends on your  
12 circulation and the numbers.

13 CHAIRMAN GANNON: Excuse me. Could  
14 you please identify yourself for our court reporter.

15 MR. SNYDER: Jim Snyder. I'm sorry.

16 CHAIRMAN GANNON: Thank you.

17 REPRESENTATIVE MANDERINO: Have we  
18 ever been given figures of what audits would cost  
19 and, if not, is that something that someone on your  
20 panel can provide, this circulation a typical audit  
21 is this much, this circulation a typical audit is  
22 this much?

23 MR. SNYDER: Certainly. That  
24 information could be provided to you.

25 REPRESENTATIVE MANDERINO: The reason

1 I'm asking that is when you were first suggesting in  
2 this hearing and in prior hearings that the current  
3 standards by which we say legally this is who can  
4 hold a legal advertisement may have been legitimate  
5 50 or 100 years ago but aren't legitimate today.  
6 And really you're suggesting to us different  
7 standards. And your suggestion, if I'm  
8 understanding it, is that government would serve its  
9 people better if you not list how -- listed the type  
10 of publication you want, but listed certain  
11 standards that would meet that public goal and  
12 anybody who can meet those standards would be  
13 eligible.

14 So if we change the system instead of  
15 saying a paid publication with a general circulation  
16 to -- I don't even know what we would change it to  
17 but something that could be verified by audit, and  
18 then every paid publication and every free  
19 publication that wants the business of legal notices  
20 would have to meet that standard. They would all  
21 have to go out and get audited. Some of them that  
22 meet the standard now don't get audited.

23 I'm trying to figure out what the  
24 costs are associated with a new standard if that was  
25 the route that we went with. And to the extent that

1     you have that information and can provide it, that  
2     would be helpful for my deliberations.

3                   MS. EHLE: I'm Margaret Ehle with the  
4     Franklin Shopper. We were audited. We've been  
5     audited for the past 12 years or so. When we were  
6     not in with the association audit, it was costing  
7     us, you know, probably between \$4,000 and \$5,000 a  
8     year. So I think it's safe to say that it's several  
9     thousands of dollars. I don't know what it would be  
10    for the ABC audit with the paid daily newspapers.  
11    It would be a substantial cost.

12                   REPRESENTATIVE COHEN: Based on your  
13    -- you said it was based on your circulation?

14                   MS. EHLE: Yes.

15                   REPRESENTATIVE COHEN: What is your  
16    circulation then?

17                   MS. EHLE: The circulation that was  
18    audited then was 41,000. And remember, I'm a weekly  
19    paper. So it's a substantial cost which is why many  
20    publications don't do it.

21                   MR. HAIGH: If cost would become an  
22    issue at this point, there might be something that  
23    the forms of the state require for doing business  
24    with that are sworn deposition. We're looking for a  
25    fair playing field and a fair basis for anybody

1     doing business with the government in respect with  
2     this, that the government agent would have a sense  
3     of, this is really what -- this is really the  
4     communication that I'm buying. I'm buying X amount  
5     of circulation. I'm buying a message to go to X  
6     number of the community.

7             There are no safeguards in place right  
8     now to ensure that it's anywhere near close. We  
9     suggested audits, but there might be somewhere  
10    between audits and at least verifiable quantifiable  
11    information that could be given.

12            REPRESENTATIVE MANDERINO: Perhaps the  
13    idea -- and I'm not saying that government does this  
14    -- behind the original requirement of a paid  
15    circulation was that you can look at the number of  
16    paid subscriptions to get an idea of how broad the  
17    distribution is and whether it meets the definition.

18            Now, maybe the route that we need to  
19    go is to -- I don't know, I'm thinking out loud --  
20    is to have something that sets standards at what  
21    those numbers are. And those who do not have a paid  
22    circulation have to come up with an alternative with  
23    a legitimate way to prove that circulation.

24            MS. EHLE: And that's why we have the  
25    audits.

1           MR. HAIGH: I see exactly what you're  
2 saying. I mean, talking with township supervisors  
3 and borough managers, they have a hard enough time  
4 just getting what the legal advertising rate is from  
5 some of these publications. It's more of a process  
6 of, hey, just fax your information over to us and  
7 we'll just charge you what we are going to charge  
8 you.

9           And to actually ask them to, hey, can  
10 we have a list or just give us a number of your  
11 subscribers and have them release that information,  
12 I can't see it happening now, but that might well be  
13 an option. You might end up in a situation  
14 especially with the smaller the paper with a  
15 majority of their claim circulation that is rack,  
16 and then you have the accounting process of all  
17 those papers which are there the next time the  
18 bundle carrier drops off papers again.

19           You get into a situation where they're  
20 going to try to claim or any paper might want to try  
21 to claim net press run. I don't want to make it  
22 into a paid paper, free paper here that this has  
23 happened across the country. This is why we brought  
24 standards back.

25           REPRESENTATIVE MANDERINO: Mr.



1 Chairman, if I may.

2 CHAIRMAN GANNON: Yes.

3 REPRESENTATIVE MANDERINO: Are there  
4 not -- and I don't exactly know how but the more you  
5 talk about paid versus free, I mean I can think of  
6 three or four weekly newspapers that I am familiar  
7 with that I guess technically would meet the letter  
8 of the law of a paid publication, because there are  
9 places like when you go in the Wawa that you can buy  
10 it for 35 cents or 50 cents or whatever. But the  
11 vast majority of their circulation is actually a  
12 free circulation where they deliver it free to homes  
13 in the community, and maybe they have carriers that  
14 try to collect and are successful or not, and they  
15 drop off bundles of it at local community centers  
16 that are picked up there free for the charge.

17 And I'm actually wondering if  
18 technically the vast majority of their circulation,  
19 is it really a free circulation, and the little bit  
20 of paid circulation that they get is enough to meet  
21 a legal standard or this purpose or maybe some other  
22 purpose.

23 MR. HAIGH: It's possible.

24 REPRESENTATIVE MANDERINO: But you  
25 couldn't get the circulation one way or the other,

1 you would have to combine the both to understand the  
2 true circulation of the publication.

3 MR. HAIGH: Yes.

4 CHAIRMAN GANNON: Just for  
5 clarification, to your knowledge, is there any  
6 provision in current law which requires some audited  
7 circulation numbers with respect to newspapers that  
8 would meet the qualifications to carry public  
9 notices?

10 MR. HAIGH: Any reference to it really  
11 is going to be a subscriber list that goes through  
12 second-class mail. And second-class mail is not  
13 periodical mail. That's kind of a back-end way of  
14 doing that, but it's certainly not broad and far  
15 reaching and doesn't account for all the majority of  
16 the circulation.

17 CHAIRMAN GANNON: Well, my  
18 recollection and I'm --

19 MR. HAIGH: The law doesn't mention a  
20 specific --

21 CHAIRMAN GANNON: It doesn't talk  
22 about circulation?

23 MR. HAIGH: No.

24 CHAIRMAN GANNON: I stated that  
25 earlier. That was my understanding that it was

1 irrelevant. Circulation is irrelevant with respect  
2 to current law. But you were asking that  
3 circulation be made relevant in current and that it  
4 doesn't matter whether or not it's paid or free  
5 delivery?

6 MR. HAIGH: Exactly. I think that we  
7 should go more towards a quantitative standard and  
8 take away the qualitative subjective standards.  
9 You've got a very exclusionary law and it's all  
10 about qualitative distinctions which are at this  
11 point in time arbitrary and irrelevant. We are at a  
12 point now with media where it is now that you should  
13 be looking at quantitative standards.

14 And I would like to say further that  
15 the second you even consider the Internet for the  
16 publication of legal notices, you are saying free.  
17 You are no longer saying must be paid. And,  
18 therefore, any notion, any reference to that in  
19 Title 45 as it relates to our publications is then  
20 irrelevant.

21 CHAIRMAN GANNON: Thank you.

22 MS. EHLE: But the question also that  
23 I believe was raised is how do you measure use of  
24 the Internet.

25 MR. HAIGH: And those are --

1 MS EHLE: It relates to quantifying.  
2 But the question was raised by the board of how  
3 would that information be given.

4 MR. HAIGH: And I think that new  
5 standards have to be developed with the Internet.  
6 And I think that the paid papers' primary objections  
7 to the Internet -- if I might be so bold to speak on  
8 their behalf -- is that you cannot -- the whole idea  
9 of archiving and the whole idea of giving proof of  
10 publication, that those standards have not yet been  
11 set.

12 But with our papers, we share the same  
13 tradition that goes back to Ben Franklin and we have  
14 our archives and you can always see that it had been  
15 placed in the paper. I think that that's what they  
16 would say about the Internet.

17 CHAIRMAN GANNON: Did Martin Luther  
18 King have to show -- not Martin Luther King, but did  
19 Martin Luther have to show proof of publication?

20 MR. HAIGH: No, he didn't.

21 CHAIRMAN GANNON: Any questions?

22 MR. SCHWOYER: No.

23 CHAIRMAN GANNON: Thank you very much  
24 for your testimony.

25 MR. HAIGH: Thank you very much.

1 MS. EHLE: It was a pleasure.

2 MR. HEMPERLY: Thank you.

3 MR. SNYDER: Thank you.

4 CHAIRMAN GANNON: That was very, very  
5 helpful.

6 MR. HAIGH: Good.

7 CHAIRMAN GANNON: Let's take a short  
8 break for our stenographer.

9 (Break.)

10 CHAIRMAN GANNON: Our next panel is  
11 from the Pennsylvania Newspaper Association. We  
12 have Jim Webb, Pennsylvania Newspaper Association,  
13 President of the Berks-Montgomery Newspaper; John  
14 Mason, Pennsylvania Newspaper Association Board  
15 Member and Publisher of the Chambersburg Public  
16 Opinion; Todd Brownrout, Senior Vice President,  
17 Sales and Marketing, Philadelphia Newspapers, Inc.

18 Welcome, gentlemen. You may proceed  
19 when you are ready.

20 MR. MASON: Thank you very much.

21 First of all, PNA is pleased for the opportunity to  
22 testify before the Judiciary Committee. My name is  
23 John Mason. I represent the readers of Public  
24 Opinion which is circulated in Franklin County. I  
25 also represent today 220 PNA newspapers, both daily

1 and weekly, many of whom are my fellow publishers  
2 and are in the room behind me today.

3 My role as a newspaper publisher  
4 allows me to speak with some authority about reader  
5 expectation. The role of a newspaper publisher is  
6 an interesting one. To be successful at what it is  
7 that we do, we have to have a good sense of reader  
8 expectation. We have to be able to balance the  
9 appropriate content for our readers. It's this  
10 content that drives the reach of my newspaper and  
11 all newspapers. And it's the reach that delivers  
12 the results and provides the value for my  
13 advertisers.

14 By nature of my business, I spend a  
15 lot of time studying reader behavior and I spend a  
16 lot of time studying content satisfaction. I feel  
17 that I can speak with some authority about what our  
18 readers want, what our readers need. Also from the  
19 business side of what it is that I deal with, I have  
20 some knowledge about problem solving methods and  
21 techniques; and I also have some idea about what it  
22 takes to manage the change, the magnitude of the  
23 change that this committee is undertaking in the  
24 study.

25 So it's with this expertise or this

1 background that I feel that -- I hope that my  
2 testimony here can help you all with the mission  
3 that you have set out to do. I have been following  
4 these hearings from a distance. I have read as many  
5 of the testimonies as I possibly could to prepare  
6 for today and I feel compelled to bring up three  
7 short points. I do not want to go through and  
8 reiterate all the points that PNA has made. In  
9 reviewing the testimony, there are three things that  
10 I would like to at least try to clear up as best I  
11 can or at least share with you what is on my mind as  
12 this study continues.

13           The first thing is the notion that --  
14 or it seems in my opinion, at least, that there's a  
15 notion that everything that's newsprint is a  
16 newspaper. Newspapers by their reach into the  
17 community and by the trusted relationship that they  
18 have with the community are unique and separate from  
19 shoppers, penny savers, legal journals, and the  
20 Internet.

21           The readers, the public, the people  
22 who we are trying to preserve their interest in this  
23 study, they turn to newspapers for information about  
24 local, state and federal governments. And the point  
25 that I want to leave you all with is this: I can't

1 see how changing the law is going to change that  
2 fact. One the things that I get concerned about is  
3 that in changing in law, we are really only going to  
4 confuse the reader. And what the reaction can be,  
5 no one can predict. But through my experience, I  
6 get concerned that there's going to be an impression  
7 that this confusion was the original intent and I  
8 know that's not what any of us are trying to  
9 achieve.

10 Just as I have to live with the fact  
11 that there are certain of my advertisers that prefer  
12 other media that are circulated in my market, I  
13 think that other media need to live with the fact  
14 that the public wants public notices in newspapers.  
15 My colleague here, Mr. Webb, is going to address  
16 some of the other differences between newspapers and  
17 the shoppers. That's one of the main points that I  
18 really wanted to leave you all with.

19 The second point that's been talked  
20 about here today I thought very well is the old  
21 adage if it ain't broke, don't fix it. I mean, I  
22 know that that doesn't always hold true for all  
23 situations. But in all the testimonies that I have  
24 read, I guess I'm still trying to wrestle with what  
25 exactly it is that's broken with our current system



1 and the way we go about handling public notices.

2 I know cost has been mentioned. PNA  
3 conducted a very non-scientific study and looked at  
4 the various municipalities and local government  
5 agencies; and we found that once you exclude  
6 sheriff's sale notices which are not really a cost  
7 to the government, less than 1 percent of the  
8 budgets are spent on public notices. I don't know  
9 that I'm really clear on the cost issue. I have  
10 read in testimony and I heard today shoppers making  
11 claims about circulation and their penetration as  
12 you compare that to other newspapers, and I know  
13 they talk about their figures being audited.

14 We wrestle with whether or not to  
15 debate that point here today. Once you start  
16 looking at the very stringent methods that  
17 newspapers go through in order to be audited, I'm  
18 not really clear that you're measuring apples to  
19 apples as people would suggest. Mr. Brownrout is  
20 going to talk about that to some degree. And I  
21 think I'm going to leave his testimony to be on  
22 record for that point.

23 I think I just want to caution us as  
24 we started looking at the audit process itself. I'm  
25 not sure that bringing that into this discussion

1 really helps illuminate anything. In fact, I think  
2 it clouds the issue. It's a very technical  
3 conversation that needs to be had. I know I'm not a  
4 research expert. I was interested enough to take a  
5 look at the questions that were asked in the CVC  
6 audit. And based on the questions that were asked  
7 and the results that were given, I question if that  
8 interpretation of that analysis is actually correct.

9           If the committee decides to move  
10 forward on that point, one of the things I think  
11 that needs to be looked at is the methodologies a  
12 lot more closer than what has been presented or the  
13 information that has been expounded as fact here in  
14 these hearings.

15           The last point that I want to make is  
16 that newspapers aren't dinosaurs. We aggressively  
17 pursue change when change is appropriate. When the  
18 public -- and albeit it a very small segment of our  
19 public clamored for information on the Internet,  
20 free of charge, there were newspapers that rushed to  
21 fill that need. Most communities today, it's the  
22 newspapers' website that the public turns to for the  
23 trusted source of information. Newspapers don't  
24 fear change. We welcome it. As long as there is a  
25 clear need for change with clearly defined

1 objectives, newspapers welcome an opportunity to  
2 review and, if need be, modify our policies and our  
3 practices. If change is deemed necessary, I urge  
4 this committee to balance the needs of all parties  
5 affected, not just those of a privileged few.

6 With that, I would like to turn it  
7 over to Mr. Webb.

8 MR. WEBB: Good morning, Chairman  
9 Gannon.

10 CHAIRMAN GANNON: Good morning.

11 MR. WEBB: Good morning, members of  
12 the committee. I would like to thank you for the  
13 opportunity to speak here today. My name is Jim  
14 Webb. I did testify last November and I thank you  
15 for the opportunity to do so again. I won't  
16 reiterate many of the things that I talked about in  
17 November, but I have a few brief points I would like  
18 to make concerning advertising public notices in  
19 publications other than paid general circulation  
20 newspapers.

21 As I stated in November, I currently  
22 own three paid weekly newspapers, three free weekly  
23 newspapers, and one shopper, penny saver,  
24 merchandiser, whatever you call them, free total  
25 market coverage piece. As an owner of one of those

1 plus the other two types that we seem to be talking  
2 about, the paid and the free newspapers, one of the  
3 things that I think we need to discuss is what those  
4 definitions are.

5 A newspaper, my free newspapers, and  
6 my paid newspapers, have basically the same types of  
7 information, advertising and 25 percent or more  
8 editorial content. My shopper has no editorial  
9 content at all. If you are looking for a used  
10 refrigerator, you are looking in my shopper. If you  
11 are looking for a local appliance dealer that is  
12 having a sale, you are looking in my shopper. If  
13 you are looking for local government information  
14 such as last night's borough meeting, you are  
15 looking in my newspapers. If you are looking for  
16 the news release that Representative Dennis Leh has  
17 sent to the Boyertown Times, you look at the  
18 Boyertown Times for that. It does not go in my  
19 shopper because it does not have news content. That  
20 is where people look for their political subdivision  
21 and news. And that's why I feel that that's where  
22 public notices ought to be. That's where people are  
23 looking for that type of information.

24 There are many consequences, some  
25 favorable to the public and some not so favorable,

1 of maybe changing the law, allowing other types of  
2 publications to print these public notices. For  
3 example, Pennsylvania's 2500 or so municipalities  
4 can choose where they can put their local notice,  
5 whether it be in the daily, paid weekly, free  
6 weekly, or shopper. And in some areas -- and, in  
7 fact, in a countywide, you may have up to 12  
8 publications of those types within that county.

9 So the question becomes when or where  
10 are you going to put that? And I can foresee in my  
11 particular area a school board member may come to me  
12 and say, I really do not like what you are printing  
13 about our school board meeting. And you know what,  
14 if you don't back our school budget this year, I'm  
15 going to put our legal notices somewhere else. So  
16 that is something that we wrestle with as publishers  
17 daily and weekly, every month, every year, it  
18 happens somewhere with something that we do. They  
19 either play the daily against the weekly or the  
20 weekly against the daily. That does happen. And  
21 that is going to allow it to happen more frequently,  
22 I think.

23 Also, if local government  
24 jurisdictions are permitted to put it anywhere they  
25 would like to in terms of the free shoppers, the

1 weeklies, and dailies, whether they be free weeklies  
2 or paid weeklies.

3           In my particular area, it may be that  
4 they would consider putting in my Boyertown Times,  
5 they would like to put the Sewer Authority notices  
6 but the borough council decides they'd like to have  
7 their notices in the daily newspaper. And then the  
8 Water Authority says, well, there's a free  
9 circulation shopper that covers most of our area,  
10 I'd like to go in that. And then one of the other  
11 agencies says, well, there's a shopper over here and  
12 they're going to give us a really good deal so let's  
13 go in that one.

14           So now you're going to have it going  
15 in four or five different places. You are going to  
16 make it much more difficult for the public to find  
17 where their public notices are. More is not  
18 necessarily better.

19           One of the things that we talked a  
20 little bit about was the cost and how much it is  
21 costing municipalities. I know when you were out in  
22 western Pennsylvania you had testimony about a  
23 survey that we conducted with municipalities. We  
24 found out that it was basically less than 1 percent  
25 and as little as less than one-tenth of 1 percent,

1 and we're talking from government agency all the way  
2 from the county level down to the local very small  
3 townships.

4                   Incidentally, when we did do this  
5 survey, one of the counties that we did have a  
6 little problem with getting some information with  
7 and it took us a little while was Delaware County.  
8 We finally did get the information that we needed to  
9 get. And, in fact, the chairman of Delaware County  
10 testified today that they spend \$1.3 million on  
11 legal notices. It's our understanding that \$1.2  
12 million of that is sheriff's sales which means that  
13 they are not actually spending that.

14                   I don't know how Delaware County does  
15 their sheriff's sales. But in Berks County, which I  
16 am very familiar with, if you file you have to give  
17 them \$2,000 up front. I'm assuming Delaware County  
18 does the same. The money is up front so it doesn't  
19 really cost the county anything for sheriff's sales.  
20 Then they are reimbursed back to the firm that has  
21 filed anything that is the difference between what  
22 it actually cost and the \$2,000 that they paid.

23                   Also, we did an analysis of what it  
24 would cost if Delaware County were to not advertise  
25 in the Delaware County Times and go in other

1 publications. To cover the entire county, they  
2 would have to go in at least four at a cost of  
3 approximately \$13 more a column an inch for legal  
4 advertising based on the rate cards of those other  
5 publications. Some are -- in fact, in Delaware  
6 County you cannot -- I don't think -- at least our  
7 studies show that there are no shoppers that cover  
8 the entire county.

9           There are no shoppers in some areas of  
10 Delaware County, so you would actually have to go to  
11 weekly newspapers if you don't go in the Delaware  
12 County Times. But the Delaware County Times is  
13 available anywhere in the county. So if you really  
14 are interested in that, you can pick it up where as  
15 if you go in only one shopper within that county,  
16 you may not have the circulation that only covers  
17 northern Delaware County.

18           In my particular case in Berks County,  
19 there are seven shoppers that cover Berks County.  
20 If the Reading paper -- if they were not to go into  
21 the Reading Eagle, they would pay probably close to  
22 \$30 more a column an inch for legal advertising  
23 based on the advertising rates of all the shoppers  
24 within Berks County, mine included.

25           But if you want to reach everyone in



1 the county or at least have the availability to  
2 reach everyone in the county, all you have to do is  
3 put it in the Reading Eagle and you will be able to  
4 pick it up whether you're in Kutztown, Hamburg,  
5 Boyertown, Morgantown. It's available everywhere.

6 The one last thing I would like to say  
7 is that since I am an owner of free weeklies and  
8 paid weeklies and a shopper, one thing I wanted to  
9 say was that if you allowed a shopper to run it,  
10 probably I would not offer it in my Boyertown  
11 shopper only because I think it would be a  
12 disservice to the community, because I think the  
13 community would be looking. They are looking at my  
14 newspaper for public notices. Therefore, I think  
15 that's where they really ought to be.

16 I thank you very much for your time.

17 CHAIRMAN GANNON: Thank you, Mr. Webb.

18 MR. BROWNROUT: Good morning. I'm  
19 Todd Brownrout. I'm the Senior Vice President of  
20 Sales and Marketing for Philadelphia Newspapers,  
21 Inc. We are the publisher of the Philadelphia  
22 Inquirer and the Philadelphia Daily News.

23 What you might not know about PNI is  
24 that we own a shopper publisher, Broad Street  
25 Community Newspapers which, in turn, publishes a

1 weekly shopper, Trend Midweek, with a circulation of  
2 825,000 in the Philadelphia area. We also own Broad  
3 Street Magazines, which publishes Homes & Living  
4 Magazine, and other real estate and lifestyle  
5 publications. So we publish both paid publications  
6 as well as free distribution targeted publications.

7 In addition to being responsible for  
8 the advertising of the Inquirer and Daily News, I'm  
9 also responsible for overseeing the operations of  
10 those shopper publications, so I have a sense of how  
11 the world works in both of those.

12 What I would like to talk to you about  
13 for a few minutes this morning are three points.  
14 Point No. 1 is what I call an open distribution  
15 system versus a closed distribution system. An open  
16 system is one where the readers get to determine who  
17 gets the publication versus a closed distribution  
18 system in which the advertisers determine who gets  
19 the publication. That's No. 1.

20 No. 2 is the question of  
21 fragmentation. We talked about it this morning.  
22 There are a lot of issues about confusion out there  
23 and there are decision we make independent of  
24 whether or not audits are included or excluded that  
25 could certainly confuse citizens.

1           And, finally, three, I do have a  
2 couple of quick comments to make about the audits.

3           The question of whether or not -- and  
4 the function of legal notices in the paper, I think  
5 we have covered already, so I won't spend a lot of  
6 time on that. But let me talk about for you the  
7 difference between the paid publications and the  
8 shopper publications.

9           The first reason that these legal ads  
10 really ought to be in paid publications is contrary  
11 to popular belief, shoppers are not as available and  
12 certainly available to everyone as paid circulation  
13 papers are. And you hear these statistics thrown  
14 around, like 84 percent of people in a given area  
15 get the shoppers and the numbers of paid newspapers  
16 are far lower. But that doesn't really tell the  
17 story.

18           For instance, suppose I'm a  
19 businessperson who wants to supply to the local  
20 school district or to a municipality, most free  
21 distribution papers are not distributed to  
22 businesses. I can speak for our own shoppers. We  
23 send our shoppers only to the individual households.  
24 We do not pay to send them to businesses and they  
25 are not available to businesses.

1           Given the community patterns in the  
2 Philadelphia region throughout Pennsylvania, this is  
3 a serious issue. Statistically speaking, the vast  
4 majority of business owners and their staff are  
5 unlikely to live in the same zip code in which they  
6 work. So even if you have a legal notice that  
7 occurs in a particular town in that zip code in a  
8 shopper going to every single household in that  
9 particular zip code, you have not reached all of the  
10 people who are doing business in that community or  
11 all of the people who have an interest in the legal  
12 proceedings in that community.

13           Second, some shoppers are not  
14 delivered at all unless advertisers have provided  
15 advertising inserts or ads for the delivery. And  
16 certain zip codes may never receive a shopper  
17 because there isn't sufficient advertising for that  
18 delivery. Some zip codes never receive them because  
19 they are not fortunate enough to meet the  
20 demographic or geographic requirements of the  
21 advertisers in that area.

22           And for those publications that use  
23 the post office to deliver their publications, such  
24 as we do with our shoppers, let me assure you that  
25 is an incredibly expensive way to distribute your

1 publication. And you are always looking to minimize  
2 cost. That's why you end up saying I'm not going to  
3 businesses and you trim out areas that may not  
4 appeal to the needs of your clients.

5 And then finally in areas where  
6 shoppers are distributed, regularly distribution is  
7 not a sure bet. If the postal carrier misses it, if  
8 the print order is a little bit short and one  
9 particular zip code ends up not getting the shoppers  
10 on that particular week, people don't know where to  
11 call because they haven't subscribed for it, they  
12 haven't paid for it, they haven't asked for it. So  
13 there is no chance that they are going to go chase  
14 it down and they are not available.

15 Now, let me contrast the circulation  
16 of the shopper relative to the circulation of a paid  
17 daily record, a paper of records which is the  
18 Inquirer and the Daily News. Newspapers are  
19 accessible to the general public through both  
20 residential and business delivery. And it is  
21 available in news boxes, retail outlets, schools,  
22 libraries, and other public forums where they are  
23 available well beyond the date of publication.

24 A couple of statistics for the  
25 Inquirer. Each day we go to 7,160 retail locations,

1 more than 3,138 honor boxes, which are those racks  
2 where you put a couple quarters in, we are at 337  
3 newsstands for a total of over 10,000 locations  
4 where you can go buy that paper any day of the week.  
5 If you are interested in seeing the legal notices in  
6 the paper, you will find the Inquirer. We also  
7 have home delivery distribution of over 270,000  
8 subscribers. Thousands of businesses and schools  
9 and universities and libraries all subscribe to the  
10 Inquirer.

11 I have similar statistics for the  
12 Sunday Inquirer and for the Daily News but they are  
13 along those same lines, tens of thousands of  
14 locations each and every day. So it is not us  
15 making the decision that you are worth getting our  
16 newspaper. It is you making the decision that you  
17 want to go buy the newspaper and you are interested  
18 in the news or legal notices that are in there.

19 To the point before, over half of the  
20 adults in the top 50 markets in the U.S. read a  
21 daily newspaper. And nearly two-thirds read a  
22 newspaper on Sunday. Contrary to all of these myths  
23 that are put out there, newspaper readership is  
24 quite strong and healthy. And when you start to  
25 aggregate the number of paid publications you have

1 in a market like Philadelphia -- as a matter of  
2 fact, the Philadelphia region consistently comes out  
3 as one of the top four or five newspaper reading  
4 markets in the entire country.

5           Lastly, let me talk about the issue of  
6 audits. Again, we've made the point about the fact  
7 that you can't call and complain if you don't get a  
8 shopper. But there is an issue even within the  
9 audits of what the right standard is. And there are  
10 lots of standards for the audits. And let me assure  
11 you as muddy as you want that issue to get, I assure  
12 you that's how muddy it ends up.

13           The audit bureau, for instance, that  
14 we use, the audit bureau circulation has been around  
15 since 1914. It is a non-profit organization with a  
16 board that has advertiser representatives and  
17 newspaper representatives on it. And it is not  
18 subject to the pressure of members. We have a book  
19 of byrules, standards and guidelines that we have to  
20 live up to that is comprehensive and literally the  
21 gold standard of newspaper auditing.

22           There are organizations out there such  
23 as CVC that is for-profit organizations that may or  
24 may not have advertisers on their boards and,  
25 therefore, may not be as independent of the print

1 members as organizations like ABC are. But even  
2 then the question of audits versus non-audits is a  
3 difficult issue because, for instance, in the  
4 situation of Mr. Webb, he has to provide sworn  
5 statements to the postal service, that if he were  
6 found to be in violation of could result in jail  
7 time and that's a relatively strong incentive to  
8 stay out of jail.

9           Finally, on the issue of fragmentation  
10 and confusion in the Philadelphia area, there are  
11 over 150 free newspapers which is more than double  
12 the number of paid publications. And so if you  
13 include free publications as well, you are pushing  
14 the number well into the 200s. So if we really end  
15 up with an issue of dilution in the marketplace, a  
16 municipality could choose to advertise in a shopper,  
17 a weekly, this free publication, that free  
18 publication, one that hits the citizens of the town  
19 but not the businesses in the town, one that uses a  
20 closed distribution system relative to an open  
21 distribution system. It ultimately might meet the  
22 test of the law but not the needs of the citizens.

23           So my conclusion is that shoppers,  
24 while they serve an important job for segments of  
25 our community, but are not up to the task of serving



1 this critical function in our community. Shoppers  
2 maintain a closed distribution system designed to  
3 serve the needs of local advertisers, not its  
4 citizens and businesses.

5           Newspapers are reliable, widely  
6 available and respected with an open distribution  
7 system. We don't choose our readers, they choose  
8 us. Newspapers are understood to be independent of  
9 the government, a place where citizens can turn to  
10 be better informed. With a newspaper, the citizen  
11 or business owner, not the newspaper, makes the  
12 decision about whether or not they will be a reader,  
13 which we consider ultimately a very American way of  
14 doing business.

15           CHAIRMAN GANNON: Thank you, sir.  
16 Representative Manderino.

17           MR. BROWNROUT: Thank you.

18           CHAIRMAN GANNON: Representative  
19 Manderino.

20           REPRESENTATIVE MANDERINO: Thank you.  
21 Mr. Webb, you can help me with something that I'm  
22 struggling with, I think. You have seven newspapers  
23 that you mentioned.

24           MR. WEBB: Right.

25           REPRESENTATIVE MANDERINO: Three paid

1 editorials, three free editorials, one shopper.  
2 Let's put the shopper aside.

3 MR. WEBB: Okay.

4 REPRESENTATIVE MANDERINO: Of the paid  
5 editorial and the non-paid editorial, I think you  
6 said they are basically indistinguishable in terms  
7 of the function they play.

8 MR. WEBB: Correct.

9 REPRESENTATIVE MANDERINO: It's just  
10 the free one, I'm sure all your revenue is coming  
11 from advertising and the other one you have a  
12 mixture.

13 MR. WEBB: Correct.

14 REPRESENTATIVE MANDERINO: You can  
15 take legal notices in the three that are paid for?

16 MR. WEBB: Correct.

17 REPRESENTATIVE MANDERINO: You can't  
18 take legal notices in the other three?

19 MR. WEBB: That's correct.

20 REPRESENTATIVE MANDERINO: Why should  
21 that be? Aren't you hitting the same purpose,  
22 serving the same function, reaching the same kind of  
23 readership?

24 MR. WEBB: Yes, they do. But the  
25 problem, I think, with allowing it in free is that

1 we are talking 40, 50 years ago when the frees  
2 really started to come up. You had a lot of --  
3 today, one of the reasons I think that they are  
4 audited is because they had a lot of problems in the  
5 '50s, '60s, and the '70s with not being audited and  
6 having some problems with advertisers, because they  
7 were doing some things that they could get away with  
8 in terms of circulation.

9           So now they are audited. The  
10 advertiser is happy about that, that their  
11 circulation is going where they say it is. And it  
12 is very difficult to say that my free publications,  
13 even though I can sit here and say -- in fact, the  
14 ad that he was showing you, by the way, was one of  
15 my free weeklies in Quakertown.

16           When we bought that paper, it was 3200  
17 paid circulation. The advertisers were not  
18 satisfied with that. They wanted more. We are now  
19 at 8500 circulation. We print 8700. We put out  
20 8550 or something like that and we get 100 back on  
21 our newsstands. We have about 980 right now on the  
22 mail.

23           But it does not qualify under the law  
24 because it is not a paid -- and the reason it's not  
25 paid is -- paid under the law is 50 percent plus

1 one. That's what the postal service requires for  
2 you to be a paid publication.

3 REPRESENTATIVE MANDERINO: Explain  
4 that to me because you're getting to my next  
5 question.

6 MR. WEBB: Okay. If you are to be a  
7 paid publication under postal rules which used to be  
8 second-class, now they call it periodical class,  
9 okay, to qualify under that you have to have 50  
10 percent plus one paid, which means you can have up  
11 to -- the rest of it could be free and you are still  
12 a paid publication.

13 REPRESENTATIVE MANDERINO: Why are you  
14 giving me a postal requirement definition?

15 MR. WEBB: Because that's the  
16 definition for advertising legal notices.

17 REPRESENTATIVE MANDERINO: In  
18 Pennsylvania?

19 MR. WEBB: Yes. You must qualify  
20 under second-class rules.

21 REPRESENTATIVE MANDERINO: Even if you  
22 don't mail any of those paid subscriptions?

23 MR. WEBB: Correct.

24 REPRESENTATIVE MANDERINO: So, for  
25 example -- this isn't meant in a disparaging way,

1 it's what I know because I know everybody in my  
2 community reads my legal weekly newspaper. Now,  
3 they would be considered a paid local newspaper and,  
4 indeed, you can walk into a store like a Wawa or a  
5 convenience store and buy it.

6 MR. WEBB: Yes.

7 REPRESENTATIVE MANDERINO: But you can  
8 also walk into a community center and pick it up for  
9 free. They deliver it to homes in the community.  
10 I'm sure that they say they deliver it to every home  
11 in the community, but the reality of it is, is they  
12 deliver it wherever they can get carriers. And they  
13 don't make any money on the ones they deliver and  
14 the carriers collect. And that how the carriers  
15 make the money, for the courtesy of delivering it to  
16 you. And if you live in a community like a  
17 neighborhood like mine or on a street like mine  
18 where nobody is ever home and that carrier can never  
19 find people home to collect, all of a sudden you  
20 don't get that newspaper any more. So then you  
21 either have to go to the store and buy it or you  
22 have to find it at the community center, etc.

23 Now, you're telling me that a  
24 publication like that still has to prove that 50  
25 percent plus one is paid for?

1 MR. WEBB: Yes.

2 REPRESENTATIVE MANDERINO: How do they  
3 do that if they are not mailing it and if they are  
4 not being audited? How are they proving the 50 plus  
5 one?

6 MR. WEBB: They are audited by the  
7 post office. You can be audited by the post office.

8 REPRESENTATIVE MANDERINO: So the post  
9 office audits you even if you are not mailing a  
10 single newspaper?

11 MR. WEBB: Correct. If you claim  
12 second-class, yes. And you have to claim  
13 second-class to be able to get public notices.

14 REPRESENTATIVE MANDERINO: That's a  
15 whole area I don't understand, Mr. Chairman. That's  
16 some background information for me to learn.

17 Thank you.

18 MR. WEBB: You're most welcome.

19 CHAIRMAN GANNON: Representative  
20 Harper.

21 REPRESENTATIVE HARPER: I have a  
22 question that I'll address to the group. Anybody  
23 can answer it. I understand the distinction between  
24 an advertising circular and a newspaper, or at least  
25 I thought I did until I got here this morning. Our

1 job in the Legislature is actually to write  
2 definitions for things. In fact, that's what we are  
3 asked to do in House Bill 2330.

4 So you're all speaking, I looked at  
5 that to see whether it discussed the percent of  
6 editorial content that one needs and it really  
7 doesn't. It does say that a community paper mass  
8 dissemination has to have a title, passing events,  
9 local or general happenings, printing regularly or  
10 irregularly editorial comments, announcements,  
11 miscellaneous reading matter, commercial  
12 advertising, classified advertising, legal  
13 advertising, and other notices. It has to be about  
14 four pages long or more, it has to come out  
15 regularly, it has to be either distributed by mail  
16 or to an entire local zip code.

17 I guess what I'm asking you is, if we  
18 were going to write a description of the type of  
19 newspaper, paid, unpaid, whatever, that was  
20 appropriate for public advertising to distinguish it  
21 from advertising circulars which I think probably  
22 get pitched in the trash pretty often, what are you  
23 telling me is the difference? Right now the  
24 difference in Pennsylvania law is whether it's paid  
25 or not. And I'm not sure that that's the only

1 distinction we ought to be making. You guys all  
2 have experience with different kinds of newspapers.  
3 What makes it a newspaper? Is it that it's paid?  
4 Is that it? And you can all answer separately.

5 Do you want to start?

6 MR. BROWNROUT: I'll try. I'll take a  
7 stab at it. I think paid is a really point of  
8 differentiation because once -- to me it goes to the  
9 question of does it serve the needs of a reader  
10 versus the needs of the advertiser?

11 It sounds like a simple concept. And  
12 every town has the little shopper that everybody  
13 reads so it's sort of easy, I think, to fall into  
14 the trap of saying, well, everybody reads that. But  
15 the reality is when you open up the hood and start  
16 looking under the hood, that's not the case,  
17 especially when you're considering everybody in the  
18 context of the needs of the local government. When  
19 you put a paid newspaper out, you are basically  
20 saying to the readers if you don't think this is  
21 worth your time, if you don't think this is worth  
22 your money, I'm not giving it to you.

23 So by definition you are working a lot  
24 harder to meet their needs versus when the needs of  
25 the advertiser are solely being the ones that are



1 being met. And then once you get into the needs of  
2 the advertiser and that's your only definition, the  
3 challenge of defining free publication is going to  
4 get a lot more complicated.

5 I put it on the rack. Well, how often  
6 are the racks restocked? Even if I have 2500 racks  
7 out there but I only go through and I put five on a  
8 rack and they're all gone by the end of the first  
9 day, have I really put them out there in sufficient  
10 quantities versus, again, the paid publication where  
11 the reader is the one making the differentiation.  
12 Your mailbox is filled with hundreds of  
13 publications.

14 Walk into any grocery store, any drug  
15 store, and you're going to see free publications  
16 littering the landscaping. They are advertiser  
17 driven, and, mind you, we like them. There are  
18 certain things they are good for and certain things  
19 they are not.

20 I happen to think paid keeps you out  
21 of the position of starting to define what a  
22 newspaper looks like, because once you start getting  
23 into that debate, that's going to be really very  
24 difficult to do.

25 REPRESENTATIVE HARPER: Should would

1 say a percent of editorial content? We are going to  
2 have to define what a newspaper -- at least what a  
3 medium is that would be acceptable for legal  
4 advertising of a certain type. And there may be one  
5 publication like a Law Reporter that is acceptable  
6 for certain legal advertising and another that is  
7 acceptable for public meeting notices.

8 Anybody else?

9 MR. WEBB: I would personally love to  
10 see my frees qualify. However, I do agree with Todd  
11 that a paid newspaper -- you know, you're inviting  
12 it into your home. You want it. Even my frees  
13 sometimes I'm sure are picked up by people that have  
14 an intention of reading it and then don't. That  
15 would not surprise me. But I just think that that  
16 paid offers -- it's a certification that that's what  
17 the person wants, that they are looking for that.  
18 And there are certain things that are in that and  
19 you are willing to pay for it. And one of those  
20 things, I think, should be public notices.

21 MR. MASON: The only thing that I  
22 would add to that is that -- and I agree with my  
23 colleagues here -- paid gives you some sense about  
24 reader demand. And I think that's the part that  
25 really needs to be addressed. But that's the

1 difficult part about trying to legislate across the  
2 whole state what every individual community wants.

3 To me, that's a challenge. I don't  
4 know how you do it. I really don't know. The way a  
5 newspaper and a shopper and a legal journal function  
6 in one community can be totally different in another  
7 community. These are market driven entities. And  
8 trying to dictate that and legislate that at a state  
9 level I think is very difficult as I'm sure you're  
10 finding out.

11 REPRESENTATIVE HARPER: We do harder  
12 things than this.

13 REPRESENTATIVE MANDERINO: We don't  
14 necessarily do them right, but we do them.

15 REPRESENTATIVE HARPER: Let's not talk  
16 about property tax reform.

17 Thank you, Mr. Chairman.

18 CHAIRMAN GANNON: Representative  
19 Browne.

20 REPRESENTATIVE BROWNE: Thank you, Mr.  
21 Chairman.

22 Thank you, all, for your participation  
23 today. I was just curious. There was a  
24 conversation regarding the Internet that came up.  
25 And in terms of your services over the Internet, how

1 much duplication is there right now regarding those  
2 who buy the newspaper and also use the Internet  
3 services?

4 MR. MASON: We have not done any of  
5 that in the market for the simple fact that the  
6 market studies are expensive. We really don't find  
7 that there is a need. Any by need, I mean I don't  
8 hear an overwhelming response from my readers that  
9 say, hey, we wish you were on the Internet.

10 Most of the folks -- we have launched  
11 an Internet site and we did not wait. We are smart  
12 enough to see that this is the way that the world is  
13 turning and, you know, we can't not play in that  
14 ball game. So we monitor now on our Internet site  
15 the types of people that look at our news and  
16 information overwhelmingly. And a large majority of  
17 those are folks that have some kind of a connection  
18 with the community but don't live there anymore,  
19 people who have moved away, people who may be on  
20 vacation. That seems to be the heaviest part of the  
21 use.

22 You need to factor that in when you  
23 talk about giving public and legal notices within  
24 your community and the types of people that actually  
25 access that medium.

1                   MR. BROWNROUT: I have got some  
2 statistics for our site. Our site is Philly.com.  
3 And when you look at the number of people who use  
4 Philly.com for local information, we generally come  
5 out after you exclude, you know, Yahoo and MSN and  
6 AOL and some of the big national sort of  
7 aggregators, we usually come out as the biggest  
8 local website. And our research consistently shows  
9 we reach an additional 8 to 10 percent of the  
10 market. We are the biggest, an additional 8 to 10  
11 percent of the market beyond the printed newspaper.

12                   One of the issues on the Internet  
13 piece is, you know, to compare the penetration of  
14 the Internet to the readership of the newspaper,  
15 like comparing the number of people who have eyes  
16 and that can read to the number of people that --  
17 you are comparing apples and oranges. So 65 percent  
18 of the people may have a computer but you have to  
19 start measuring how adept people are at finding the  
20 information and how good a particular local  
21 government website is at posting that information.

22                   Trust me, we can post information on  
23 our website and I can assure you we can put it up  
24 there in a way you'll never find it. It's possible.  
25 So meeting the test even of putting it on the

1 website and certifying that it was on website for  
2 any given period of time does not equal putting it  
3 in print and putting it out there and having people  
4 read it and saying that 64 percent of people who  
5 have Internet access, and even if only 50 percent of  
6 people read the newspaper, somehow that means  
7 Internet access is more available is absolutely  
8 comparing apples and oranges.

9 REPRESENTATIVE BROWNE: If you take  
10 your business into a crystal ball into the future,  
11 say ten years, the computer industry and the access  
12 to information, isn't it feasible that that  
13 duplication in ten years will allow for that apples  
14 and oranges comparison?

15 MR. BROWNROUT: I think the  
16 duplication will increase and the amount of  
17 information on the Internet will increase, but one  
18 of the strengths of the newspaper is that it's all  
19 there. Somebody this morning was talking about an  
20 issue we call serendipity, which is basically you  
21 don't pick up the newspaper because you know what  
22 you are going to find. You pick up the newspaper to  
23 find out what there is to find out versus the  
24 Internet where you go after a specific piece of  
25 information. And if it's not what you are looking

1 for, you don't find out anything other than what you  
2 were looking for.

3 One of the things that keeps newspaper  
4 readership strong, I believe, and why -- go back to  
5 the stories from five years ago and ten years ago.  
6 We were already supposed to be out of business now.  
7 It was done and over for us by 2002. The newspaper  
8 circulations is remaining strong. And part of it is  
9 because we give you that entire smorgasbord of  
10 everything that happened yesterday and it's a good  
11 place to go to figure that out. You can't go to one  
12 place on the Internet and figure that out.

13 REPRESENTATIVE BROWNE: Does the  
14 Inquirer own any papers in any other states?

15 MR. BROWNROUT: Yes. We own roughly  
16 30.

17 REPRESENTATIVE BROWNE: And the  
18 standard that we are pursuing here is --

19 MR. BROWNROUT: I have not checked the  
20 legal standards of other states.

21 REPRESENTATIVE BROWNE: I was curious  
22 of whether it changed or not.

23 MR. BROWNROUT: I have not heard about  
24 that issue from others. Usually when this stuff  
25 bubbles up in the industry, we start to hear about

1 it through industry forms. I can't say I've heard  
2 anything about something like this to answer.

3 REPRESENTATIVE BROWNE: Thank you.

4 MR. BROWNROUT: You're welcome.

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

7 CHAIRMAN GANNON: Thank you,  
8 Representative Browne.

9 You talked about a couple different  
10 kinds of papers. You talked about paid circulation  
11 and then the free weekly and then within that  
12 category is the shopper. As I understand the  
13 shopper -- and I use that term by definition -- it  
14 doesn't have any editorial comment.

15 I think for purposes of our  
16 discussion, that's off the table. I think the only  
17 items that we come down to for purposes of  
18 qualifications is to whether or not it's a paid  
19 circulation and whether or not they qualify for  
20 second-class mailing privileges of that periodical  
21 class if that was included. But the one that seems  
22 to -- and I'm not clear on this. I'm very clear in  
23 terms of how the free weeklies audit their  
24 circulation. They do their press runs and their  
25 rack rate. And then from the information that they



1 have given to them is they do a fairly comprehensive  
2 telephone survey of their circulation areas to how  
3 many people acknowledge that they get this paper and  
4 how many read it.

5 How is the circulation audit done  
6 under ABC?

7 MR. BROWNROUT: I think there's --

8 CHAIRMAN GANNON: Is the same  
9 methodology used?

10 MR. BROWNROUT: Probably in some  
11 cases. I think the one thing that has been a big  
12 concern about some of the things I've been hearing  
13 is that there seems to be some loose definition  
14 being used of a survey relative to an audit. An  
15 audit is a mechanical thing that you print X number  
16 of newspapers, you distribute them, there is a trail  
17 of paper, there are payments that have been  
18 received, there are receipts that are shown, there  
19 is a file that is built versus a survey where you  
20 call and ask somebody if they read it.

21 A survey is not an audit. A survey is  
22 a marketing tool used to verify readership. We do  
23 surveys. Every year we go into the market and ask  
24 people how they read the paper, what they like, what  
25 they don't like, all of those sorts of things. We

1 don't call that an audit though. An audit is an  
2 accounting, the papers you printed, where you have  
3 distributed them, including what racks you put on  
4 them, how many returns you have gotten, and so on.

5           The survey is a very different tool.  
6 We do not use -- when you hear about our ABC audit,  
7 you'll never hear us referring to surveys because  
8 that's a marketing tool that we use basically to  
9 sell advertising, to sell our products, not to  
10 verify to advertisers that that's how we distributed  
11 their advertisements.

12           CHAIRMAN GANNON: It just seems to me  
13 that there are certain assumptions being made in the  
14 context of what I'm hearing. We have these audits  
15 and we have surveys and we have market conduct  
16 studies and telephone. In my view, or as I  
17 understand it, our obligation in terms of public  
18 notices, public is very important. It's not whether  
19 or not it's printed in a particular paper or whether  
20 or not it shows up on the Internet or whether or not  
21 we just tack it to the door of the courthouse.

22           The issue is the broadest possible  
23 dissemination of the information to the public,  
24 bearing in mind that the advertiser here is the  
25 taxpayer. It's not -- I think the same -- but I

1 think the same rules should apply to this advertiser  
2 who happens to be the taxpayer and the folks that  
3 are making decisions on their behalf that the  
4 broadest dissemination at the lowest possible cost.

5 And it seems to me that we skirt that  
6 a little bit in some of the dialogue and some of the  
7 testimony, because we hear that the free newspapers  
8 that are published weekly they are telling us that  
9 their dissemination, if you will, is far broader and  
10 far deeper than the daily paid circulation newspaper  
11 so that we are not really doing our job of getting  
12 the broadest dissemination at the lowest possible  
13 price by not permitting them or permitting the  
14 advertiser, the public, the taxpayer, to meet his or  
15 her legal requirements by putting an advertisement  
16 or public notice, if you will, in those types of  
17 papers.

18 Do you have a problem with us lifting  
19 that prohibition and saying, yes, you can put it in  
20 the paid paper? Maybe the Philadelphia Inquirer  
21 gets a better dissemination and a more broader  
22 audience than the Broad Street or whatever community  
23 newspaper in Philadelphia.

24 But in the context of a suburban or  
25 rural community, the borough of Brookhaven, for

1 example, may not necessarily want to -- or want to  
2 pay to have every community in Delaware County get a  
3 notice that is irrelevant to them. They may be  
4 doing some project in that community. And they  
5 would certainly want to and have an obligation to  
6 make sure the folks that live in that town get that  
7 as well as the local papers that target specific  
8 zones as opposed to papers that get very large or  
9 they tell us they have very large county  
10 circulation.

11 But do you have a problem with us  
12 saying, yeah, maybe there should be a broader  
13 dissemination? And the way we do that is by  
14 permitting these free papers. I think it's  
15 important to have editorial comment because, quite  
16 frankly, I think a lot of people read the paper  
17 because they want to know what is going on in their  
18 community and that's one way to do it. It's not,  
19 quote, news. It's not what's going on in Iraq, Iran  
20 or what's happening in southeast Asia but it's  
21 what's happening next door, you know, in the local  
22 community, the school board, what they've done, the  
23 zoning board, whatever. We see that frequently in  
24 the local papers.

25 Do you have a problem with that type

1 of public policy?

2 MR. BROWNROUT: I don't have a problem  
3 with it, Mr. Chairman.

4 CHAIRMAN GANNON: Well, do you have an  
5 objection?

6 MR. BROWNROUT: Yeah, I have an  
7 objection to that. My question is how do you define  
8 it? And I can't speak to every town and borough,  
9 obviously, in the state. And so I think that the  
10 challenge is going to be coming up with a standard  
11 for that that meets the challenge of you've got one  
12 town in one area. There's something that everybody  
13 reads and is the accepted local community standard  
14 versus somebody who basically puts out a publication  
15 that in some technical sense meets the test of law  
16 but isn't really a place that readers or the  
17 citizens of that town would go to find it.

18 And, again, to me the issue becomes  
19 one of universe. We are all bombarded by lots of  
20 you have TV, radio, Internet, free publications,  
21 paid publication. I mean, everybody is vying for  
22 the same. I mean, there are still only 24 hours in  
23 a day. And when you expand the universe to every  
24 potential paid publication that puts in enough  
25 editorial to meet this test, I'm not sure whether

1 you've done citizens more of a favor or less of a  
2 favor; because what you've assumed is now instead of  
3 only looking in the paid and only looking on the  
4 Internet, you have now added yet another group of  
5 paper which I can't argue in some cases may not be  
6 the right thing to do. But I don't think you can  
7 make a universal statement that overall you have  
8 done better for the citizens of Pennsylvania by  
9 giving them 400 or 500 or 1,000 more choices, when  
10 right now most people can't figure out how to get  
11 through everything that shows up on their desk or at  
12 their mailbox in a day.

13 So, yeah, I guess at the end I don't  
14 agree with that. And this is coming from somebody  
15 who publishes 825,000 papers that would probably  
16 meet that test and would end up having to send them  
17 right back to you if you changed the law that way.

18 CHAIRMAN GANNON: There was a reason  
19 for my question. Somebody had said the cost of  
20 advertising free papers countywide was substantially  
21 more than advertising the paid county paper. Yet  
22 there was testimony at, I believe, our first hearing  
23 that by specifically picking a zone -- and I used  
24 that Brookhaven example -- that you substantially  
25 reduce the cost of advertising because you don't

1 have to do the whole county. You wouldn't have to  
2 do every free paper in the county or the county paid  
3 circulation. You could only do, if you wished, that  
4 paper that is served at that community. I guess  
5 that's why they use the word community paper.

6 MR. BROWNROUT: Again, then you've  
7 really turned it into a closed community. Basically  
8 what you are saying is that only the people in that  
9 community who literally have a household in that  
10 defined zip code, whatever the advertisers are in  
11 that area at the time, they are the only ones that  
12 may have an interest in doing business in that town  
13 and nobody else has a right to understand what's  
14 going on.

15 The nature of these publications --  
16 and I'm telling you this from somebody who has to  
17 watch those costs carefully themselves -- the nature  
18 of these publications is you give them to exactly  
19 the number of people you need to give them to  
20 satisfy your advertisers and not one person more.  
21 We don't put them on racks. We don't put them out  
22 there free. It's here's the zip code. That's what  
23 you get. No businesses. All the households and  
24 that's it. And I don't think that meets the  
25 definition of being open, providing open access to

1 government.

2 CHAIRMAN GANNON: I think in terms of  
3 zoning, I'm not certain that very many people in  
4 Concord Township care about zoning changes in  
5 Brookhaven.

6 MR. BROWNROUT: Agreed.

7 CHAIRMAN GANNON: Why should we be  
8 paying to tell them, by the way, we are going to  
9 rezone a neighborhood.

10 MR. BROWNROUT: Right.

11 CHAIRMAN GANNON: Just to get your  
12 view in terms of right now we have a legal mandate  
13 with respect to these advertising requirements. In  
14 order to be eligible, you have to meet that certain  
15 legal requirement to meet the legal mandate to meet  
16 the legal obligation.

17 MR. BROWNROUT: Right.

18 CHAIRMAN GANNON: Would you see an  
19 objection to opening this up to a more competitive  
20 bid process where a community or a township or a  
21 county could meet its obligation but can say, okay,  
22 we want the lowest qualified bidder? We want to get  
23 the best price instead of simply having to pick up  
24 the phone or whatever and say, yeah, we've got to  
25 put this 25 page whatever it is in the paper and we



1 have to pay whatever the rate is, because if we  
2 don't do that we don't meet the legal obligation.  
3 Can we say, yeah, we've got this thing and we think  
4

5 MR. WEBB: In many cases that's true  
6 now, at least in my community. They can advertise  
7 in the Pottstown Record, they can advertise in the  
8 Reading Times because they both circulate in my  
9 area, or they can advertise in my paper. Whoever  
10 gives them the best price tends to be where they go.  
11 Luckily as a small weekly, that covers Boyertown. I  
12 get their legal notices because I am less expensive  
13 than the Pottstown paper or the Reading paper.

14 So there is a competitiveness to it.  
15 And luckily, I happen to be low man on the totem  
16 pole when it comes to rates, so for me it's good.

17 CHAIRMAN GANNON: Thank you.

18 Any other questions? Yes, Mr.  
19 Schwoyer.

20 MR. SCHWOYER: You just mentioned that  
21 there were three papers, potential papers, that  
22 advertise in your community. I grew up in  
23 northeastern Berks County. In Berks County, we  
24 looked to Reading for a lot of things. But most  
25 people in my area subscribed to the Allentown

1 Morning Call. Everybody reads the Patriot and  
2 everybody received the merchandiser because that's  
3 where you look for cheap furniture.

4 If I want to know what's happening in  
5 a township in Berks County, I guess I have to read  
6 the Patriot because that would qualify. I would  
7 have to read the Morning Call and I would have to  
8 read the Reading Eagle, and then there's an evening  
9 one, too.

10 MR. WEBB: Not any more.

11 MR. SCHWOYER: To know what's  
12 happening in all the townships, I would have to read  
13 all of those dailies every day because they don't  
14 publish just legal notices and the Patriot every  
15 week. That doesn't seem like a very effective way  
16 to make sure that the citizens of any community know  
17 what the government is doing. That's a lot of work  
18 to try and keep up with what your government is  
19 doing.

20 MR. WEBB: They can advertise in the  
21 Patriot and, in fact, they do. It does offer them  
22 other avenues if for some reason -- and there are  
23 reasons. There are some reasons that they would go  
24 in the daily newspaper. And that is because, let's  
25 say, I come out on Wednesday -- they call me on

1 Tuesday, I come out Wednesday. I can't get into my  
2 paper because I have already gone to print. But  
3 they need to give a five-day notice for this  
4 particular meeting, so they end up putting it in the  
5 Reading paper rather than my paper because of the  
6 time limit that the legal notice requires.

7 MR. SCHWOYER: Right. So there are  
8 options?

9 MR. WEBB: Correct.

10 MR. SCHWOYER: But that situation will  
11 present itself --

12 MR. WEBB: There is no option at that  
13 point.

14 MR. SCHWOYER: Those people who would  
15 look to one of those papers to make sure they got  
16 the information are missing important information  
17 about their government. I'm familiar with  
18 Chambersburg. And you have your paper, the  
19 Chambersburg Public Opinion, so if you live in  
20 Shippensburg you care about Chambersburg stuff and  
21 you care about Carlisle and Cumberland County and  
22 Franklin County.

23 The way people are forced to purchase  
24 -- because it can't be free -- a whole bunch of  
25 different newspapers and look at them every single

1 day to make sure that they know what is going on  
2 with the government. There just seems to be -- we  
3 talk about trying to make sure that people know  
4 what's going on, this is the only way to do it but  
5 it may not necessarily be the best way to make sure  
6 that they know what's happening.

7 REPRESENTATIVE HARPER: Fragmentation  
8 arguments.

9 MR. BROWNROUT: Absolutely. There are  
10 two challenges. One is the volume of publications  
11 out there which if you expand the universe makes it  
12 even more difficult. And in reality, you will find  
13 as you look across the state is it's not homogenous  
14 medium market either. What goes in one town can be  
15 flipped completely on its head in another town. So  
16 to apply this standard from one town to all the  
17 others is another challenge. That's right to the  
18 fragmentation issue.

19 MR. SCHWOYER: So based upon each of  
20 your experiences, by and large the government uses  
21 what they believe to be the best market or the best  
22 medium to reach the particular people they need to  
23 reach with that particular message. I believe you  
24 or someone had an example regarding bidding. I  
25 can't imagine that a government would want to

1 solicit bids for supplies and use the most  
2 restrictive, smallest circulation possible. My  
3 guess is they did that because they want to save  
4 money on a contract, they try to use the widest  
5 circulation.

6 MR. WEBB: That's correct.

7 MR. SCHWOYER: For instance, we are  
8 adopting a zoning ordinance next week --

9 MR. WEBB: Correct. I get very little  
10 bid notices because my circulation is local. And  
11 they are looking for contractors outside the area.  
12 So they are putting those in the Pottstown paper or  
13 the Reading paper. So they are saying, yes, we want  
14 a wider audience, but we are willing to pay a little  
15 more.

16 MR. SCHWOYER: So government is today  
17 using their discretion to make decisions as to how  
18 to reach the best people with the best information?

19 MR. WEBB: Correct.

20 MR. MASON: But I will say this, that  
21 there is an incidence of this that happened in my  
22 market. We had a weekly that started up about three  
23 or four years ago. They were started by the Chamber  
24 of Commerce of all people so there was some  
25 political clout with that newspaper. And they

1 strong-armed the municipalities and a lot of the  
2 legal notices that I was running all of a sudden now  
3 were running in the weekly for the two years that  
4 they were in existence before they folded.

5 And that had nothing to do with the  
6 disseminating information to the public. That  
7 purely was driven by cost. And I think that's part  
8 of the issue that we get concerned about. I don't  
9 assume that necessarily because you take the  
10 restriction of cost away without any perimeters  
11 about reach, without any perimeters about  
12 verification of delivery, that we can assume that  
13 all governments will operate responsibly.

14 MR. SCHWOYER: Thank you.

15 CHAIRMAN GANNON: Somebody said they  
16 did, like, an informal survey. I did a little  
17 informal survey on the public notices that appear in  
18 one of our local papers, and I couldn't find anybody  
19 that realized that these are paid for. The general  
20 belief was that these public notices because it says  
21 public notices at the top, even though it was in the  
22 classified section, they thought they were put in  
23 there for free by the newspapers.

24 REPRESENTATIVE HARPER: There's an  
25 amendment.

1 MR. BROWNROUT: Do you have another  
2 eight or ten hours?

3 CHAIRMAN GANNON: This particular  
4 newspaper, which this was the Delaware County Daily  
5 Times, said, where is your tax money going? Read  
6 the public notices. I thought maybe it would be  
7 helpful to put a little line at the bottom that  
8 these advertisements cost the taxpayers so much  
9 money and to date the taxpayers have paid so much  
10 money to this paper just in the terms of full  
11 disclosure.

12 Thank you very much, gentlemen. We  
13 appreciate you being here. Very helpful testimony,  
14 very enlightening.

15 MR. WEBB: Thank you.

16 MR. MASON: Thank you very much. It  
17 was a pleasure.

18 MR. BROWNROUT: Thank you.

19 CHAIRMAN GANNON: Our next witness is  
20 Hank Grezlak who is the Associate Publisher with  
21 American Lawyer, Media, Pennsylvania. Welcome. You  
22 may proceed, sir.

23 MR. GREZLAK: Thank you. Good  
24 morning, Chairman Gannon and members of the  
25 committee. My name is Hank Grezlak. I'm the

1 Associate Publisher for American Lawyer of Media,  
2 Pennsylvania, publishers of the Legal Intelligencer,  
3 which is the oldest daily legal journal in the  
4 United States, as well as Pennsylvania Law Weekly,  
5 which is our statewide weekly publication.

6           Legal Intelligencer serves  
7 approximately 17,000 attorneys in the Philadelphia  
8 region. And in that publication, we publish a wide  
9 range of public notices, everything from sheriff's  
10 sales to corporation notices to notice of city  
11 council meetings.

12           The Legal was born in 1843 as a way of  
13 communicating to the public what was happening in  
14 the courts and legal system. Instead of posting the  
15 notices on the courthouse wall, they were published  
16 and distributed to lawyers and the judiciary in a  
17 newspaper format. This role of communicator was  
18 being adopted by legal newspapers and bar  
19 associations all over the country 200 years ago.

20           This is a legacy we take very  
21 seriously. In addition to being a business, we view  
22 the dissemination of public notice as a vital part  
23 of our role in keeping the public informed. In our  
24 case it's the legal community, judges and lawyers  
25 who are involved in these matters.



1           In the case of the general circulation  
2 papers, it's the general public. We understand the  
3 historic and current role of the independent press  
4 in ensuring the public's access to information,  
5 particularly public information that has an impact  
6 on the daily lives of citizens. This is why we are  
7 here today to strongly urge you not to do away with  
8 or limit the current notice requirements.

9           I know that costs are a concern, and  
10 that some people are suggesting that the answer is  
11 limiting the requirements, or that the notices  
12 should just be posed on the web, or that putting  
13 them in free publications is the answer. I will  
14 explain why we, as well as other publishers around  
15 the state, think these ideas could have a negative  
16 impact on all the parties involved.

17           It really comes down to the public's  
18 right to know. Historically, the role of newspapers  
19 has been to inform the public and hold the  
20 government and its officials accountable. Printing  
21 public notices is good government. The public, most  
22 of whom would have no knowledge of certain actions  
23 were it not for newspapers, is kept abreast of  
24 matters directly affecting them.

25           Reducing the number of times these

1 notices are published reduces the odds that the  
2 people most affected by government and legal actions  
3 will have any knowledge of them. We're an open  
4 society that prides itself on that fact. Now is not  
5 the time to limit that openness.

6 Some of those who want to limit public  
7 notice advertising point to the Internet as the  
8 solution. And while we're in favor of putting these  
9 notices on the web, we would never advocate that as  
10 the only vehicle for making the notices available to  
11 the public. In fact, we put our public notices  
12 on-line wherever we can, on our own website, as well  
13 as the Pennsylvania Newspaper Association's site,  
14 mypublicnotices.com, and soon they'll be available  
15 on our on-line partner's website, Jenkins Law  
16 Library, palawlibrary.com.

17 First, I'll explain the public policy  
18 concerns we have with that approach. Next, I'll  
19 explain why the Internet is not the cost-saving  
20 answer that some municipalities envision.

21 Putting notices on the Internet  
22 instead of in newspapers puts the onus on the public  
23 to look for them, whereas when they are printed in a  
24 newspaper, people will see them in the process of  
25 reading through the paper. They know where to look.

1 They are accustomed to seeing public notices in the  
2 same place consistency. And they don't have to  
3 search for them. Further, just imagine all of the  
4 agencies at so many levels of government who are  
5 required to place legal advertising and then think  
6 about all of the places you would have to look for  
7 them. This would be a fundamental change to the way  
8 the government conducts its affairs. The burden has  
9 never been on the public to find out what the  
10 government is doing.

11 The reality is that while more and  
12 more homes have personal computers and Internet  
13 access, many still do not. I would also argue that  
14 many of those most affected by many of the actions  
15 covered in legal notices don't have computers or  
16 Internet access because the cost is too high. Or  
17 they simply may not have the know-how or time. I  
18 doubt that the person who is facing the prospect of  
19 foreclosure on their home would be busy surfing on  
20 the Internet.

21 You also have to realize the Internet  
22 is not as reliable as newspapers. Servers can go  
23 down, information can be lost. Newspapers are far  
24 more reliable. Once it's in print, it's there for  
25 everyone to see, and libraries not only get the

1 papers, thus providing people the opportunity to get  
2 information without having to pay for it, but they  
3 archive the papers, something that may not be  
4 available electronically.

5 I can't tell you how many times we've  
6 had someone come to our office, asking to look at a  
7 past issue of the paper for a particular notice.  
8 And since we can easily keep back issues of the  
9 papers, we have no problem pulling old issues for  
10 people.

11 The stability of newspapers as a  
12 medium for public notice is unquestioned.  
13 Newspapers continue to provide accurate public  
14 notice information to all citizens in formats that  
15 are easily retrieved, searched and archived.

16 However, with the Internet, things get  
17 lost all the time. Electronic information is great.  
18 It's fast and easy to use. It's also easy to lose.  
19 Just think how many times have you seen something on  
20 a favorite website of yours, only to look the next  
21 day and be unable to find it. And that can happen  
22 regardless of whether they electronically archive  
23 the information or not.

24 Further, once the notice is posted in  
25 cyberspace, how will interested parties prove they

1 were properly notified of an impending action? How  
2 long must a notice be published on a website?  
3 Fourteen days or fourteen minutes? Is there a web  
4 equivalent of an affidavit of publication? Imagine  
5 battles between community groups and planning  
6 commissions if the notice is lost in cyberspace, not  
7 a totally uncommon phenomenon.

8           The other problem with having  
9 municipalities put these notices on their websites  
10 and bypass newspapers is that it makes governments  
11 less accountable to the people. Leaving public  
12 notices solely up to government is something even  
13 our founding fathers shied away from. In 1789, the  
14 First Congress ordered every bill, order, resolution  
15 and vote published in at least three of the public  
16 newspapers printed within the United States.  
17 Statutes mandate that these notices be published;  
18 anyone can put a date on the web, but that doesn't  
19 mean the information appeared when it was supposed  
20 to.

21           With a newspaper, you know by looking  
22 at the dateline what day it appeared. Printing  
23 these notices in newspapers guarantees the  
24 municipalities fulfill their statutory obligations.

25           Then there's the cost issue. Some of

1 those who advocate that all public notice  
2 advertising go up on local municipal websites are  
3 pitching their argument as a way to save local  
4 governments money. This just isn't so. Believe me.  
5 We operate and work on websites. They are costly to  
6 put up, and they're costly to maintain.

7           And aside from the capital expense  
8 required to put this information on their sites, who  
9 is going to maintain that information? Websites  
10 require constant maintenance and updating in order  
11 to keep all the information current. Between the  
12 technology and the personnel, in the long run, local  
13 municipalities will not be saving themselves money.  
14 It will cost them more.

15           Our view regarding some of the other  
16 possible options, such as publication in free  
17 newspapers or limiting the publishing requirements,  
18 is that these, too, have serious flaws.

19           To be honest, I don't know anyone who  
20 actually reads those free papers you get in the mail  
21 or dropped on your doorstep. There is little  
22 editorial content at all in them. I think most  
23 people view them in the same light as the circulars  
24 they get from grocery stores. And most libraries,  
25 to my knowledge, do not keep them. So if no one is

1 reading them, and no one is saving them, I don't see  
2 how publishing notices there would fulfill the  
3 intent of the statutes, which is to inform the  
4 public.

5           We have some serious concerns about  
6 limiting the publishing requirements. I think there  
7 are two reasons, and very good ones, that many of  
8 the statutes require that the notices be published  
9 in both general circulation newspapers and legal  
10 journals such as ours. First, it maximizes exposure  
11 to the notice, so the government is doing its best  
12 to make its doings known to the public, and thus  
13 fulfilling the obligation of an open, democratically  
14 elected body.

15           Second, because those publications  
16 serve two different audiences, it acts like a checks  
17 and balance system. The notices go into the general  
18 circulation newspapers so the people most likely  
19 affected by the actions have an opportunity to be  
20 aware of them. The notices go into the legal  
21 journals so those most likely to be involved in the  
22 carrying out of those actions, or in representing  
23 members of the public in those actions, have an  
24 opportunity to be aware of them.

25           For instance, say there is a notice of

1 a hearing that could affect the residents of a  
2 disadvantaged neighborhood. By publishing in a  
3 general circulation newspaper, it increases the odds  
4 that the people in that neighborhood are made aware  
5 of it. By publishing the notice in a legal journal,  
6 it increases the odds that an attorney at one of the  
7 public interest firms or a lawyer who is concerned  
8 about the issue and will handle it on a pro bono  
9 basis, will see it and step in to assist and  
10 represent the residents of that neighborhood.

11 There are numerous other reasons for  
12 and advantages to advertising these notices in legal  
13 journals. We are a nation of laws, and it is  
14 lawyers who write, scrutinize, test, challenge and  
15 ultimately uphold or strike down these laws.  
16 Lawyers are the ones who most want to know what  
17 actions the government is taking so they can  
18 properly represent their clients. Publishing  
19 notices in legal journals is the most efficient way  
20 to reach this important audience. On top of that,  
21 legal journals usually have a longer shelf life with  
22 their readers than many other publications.

23 Why is that? Because often these  
24 publications are passed around to other members of a  
25 firm. The way legal journals are used greatly



1 increases that the attorneys who need to see the  
2 notices will, and it also guarantees that the  
3 government gets its money's worth for placing the  
4 ads there.

5 So what is the solution? I think the  
6 best and safest course is to work with publishers on  
7 the issue. I know that at American Lawyer Media, we  
8 are more than willing to work with the Legislature  
9 and other government officials to make sure that the  
10 public's right to know is not infringed upon, while  
11 at the same time ensuring that municipalities are  
12 not stuck with an onerous financial burden.

13 Once again, I'd like to thank the  
14 committee for giving me the opportunity to express  
15 my company's views regarding public notices. I'd be  
16 happy to answer any questions you may have.

17 CHAIRMAN GANNON: Thank you, Mr.  
18 Grezlak.

19 Representative Manderino?

20 REPRESENTATIVE MANDERINO: No, thank  
21 you.

22 CHAIRMAN GANNON: Representative  
23 Harper?

24 REPRESENTATIVE HARPER: No, thank you.

25 CHAIRMAN GANNON: Representative

1 Browne?

2 REPRESENTATIVE BROWNE: Yes.

3 CHAIRMAN GANNON: Go ahead.

4 REPRESENTATIVE BROWNE: Thank you, Mr.  
5 Chairman.

6 You spend a lot of time on the  
7 Internet. I'm just trying to understand what the  
8 reasoning behind the targeted journals is,  
9 especially those that go to the legal community.  
10 Why an Internet option isn't a reasonable option  
11 because of the fact that -- not talking about the  
12 same situation as with the Philadelphia Inquirer  
13 where you have 850,000 distributions. A lot of  
14 those families and senior citizens don't have  
15 computers.

16 My expectation is that the 17,000  
17 lawyers you distribute to would have access, if they  
18 are practicing they would have access to an Internet  
19 site or to your site.

20 MR. GREZLAK: Right.

21 REPRESENTATIVE BROWNE: Now, if it was  
22 possible through business practice or through  
23 statutory change to have legal notices published on  
24 just your Internet site rather than on the  
25 publication itself, would that provide any less

1 access by the legal community to the notice?

2 MR. GREZLAK: Actually, I think it  
3 would. I'll bring up a couple of points. When I  
4 was studying up on this issue, at one point I was  
5 talking with a township supervisor, an attorney from  
6 one of the wealthier suburbs in Pennsylvania in  
7 Montgomery County. We were talking about the whole  
8 idea of putting them up on the municipal website.

9 What he explained to me in his own  
10 private opinion was he thought it was a bad idea  
11 because he said they track the number of hits on the  
12 local municipal website. And he said the hits were  
13 minuscule. And he was sure that most people in that  
14 township weren't getting their information from  
15 there about the government's actions.

16 Now, that struck me. So if you have  
17 one of the wealthiest suburbs in the state and  
18 thereby probably one of the best educated, you would  
19 think those people would be the most likely lawyers  
20 to go to the Internet to look for information. And  
21 if they're not using it, I doubt that other people  
22 are as well.

23 In regard also to lawyers, the funny  
24 thing is while many lawyers are very technically  
25 savvy, we find in our own practice that -- I work

1 with authors. We publish books as well. And  
2 oftentimes the attorneys don't even know how to use  
3 Word.

4           The other reality is that most of the  
5 studies have shown that the vast majority of  
6 attorneys in Pennsylvania practice in small firms.  
7 They are not technically savvy. They are old  
8 fashioned, hardworking people who have to go out and  
9 do things. And speaking of them, because I work on  
10 things like the district and county reports, if you  
11 are familiar with those at all you know they are  
12 whetted to those books. They are whetted to law  
13 libraries, you know. Every time I mention, well,  
14 you know, you could go to our website and get that,  
15 trying to save myself some time -- no, they shy away  
16 from it.

17           And also I think usage is still --  
18 even among lawyers still mirrors what the public is  
19 doing. I think people use the web to shop, to  
20 browse for information. I don't think that people  
21 are going to -- I don't think attorneys are going to  
22 go to the site and, you know, okay, I'm going to go  
23 review all the public notices like that.

24           With the legal, they read it for a  
25 number of reasons so they are going to want to look

1 at the legal every day. There are all the court  
2 listings, there's court opinions. So it's a much  
3 more must read for them than say, okay, I'm going to  
4 go up on the website.

5 REPRESENTATIVE BROWNE: Isn't it  
6 reasonable to argue that the reason why they are not  
7 looking at the website is because they know that the  
8 notices are in the published journal? Now, if the  
9 Legal Intelligencer were to provide notice to all  
10 the 17,000 lawyers that are reading them that we  
11 will now provide all notices on the website,  
12 wouldn't most attorneys -- and looking into the  
13 crystal ball again -- say ten years down the road,  
14 all lawyers would be in a position to do all their  
15 research over the web, that they would be looking at  
16 the site for legal notices?

17 MR. GREZLAK: As I said, we do publish  
18 all our notices on the web currently. Whether or  
19 not people are actually going to use that, I don't  
20 know. My honest opinion about publishing in general  
21 is that no one medium is going to win out. I think  
22 what you will see over time is that more and more  
23 people are going -- it's going to become more  
24 segmented. I think over time, you will have some  
25 people who will be whetted web but other people will

1 still be whetted to newspapers. Some will do both.

2 So I can't really make a prediction at  
3 this point. They are up there. We have trackers on  
4 there and over time we can see.

5 REPRESENTATIVE BROWNE: Based on your  
6 current cost structure, if you have to do both types  
7 of information dissemination regarding posting on  
8 the website as opposed to lines on the newspaper,  
9 how much -- would there be a significant cost  
10 differential there?

11 MR. GREZLAK: In terms of  
12 municipalities?

13 REPRESENTATIVE BROWNE: Well, yes, in  
14 terms of those who would buy the notices.

15 MR. GREZLAK: It's hard to say. Right  
16 now they are paying basically the same rates that  
17 they were paying back before we had the Internet as  
18 far as I know. I don't have the figures in front of  
19 me, but as far as I know what we charge for  
20 sheriff's sales, what we charge for corporation  
21 notices has been -- other than incremental price  
22 increases, has been relatively the same from before  
23 we put it on the Internet and after we put it on the  
24 Internet. So I don't think it's going to really  
25 change the cost to the municipalities.

1           Even if you don't print it, you have  
2 to process all that information, you know, the price  
3 of paper, the ink, the newsprint. You still have  
4 all the time required to put that on. You have to  
5 be very, very thorough when you're working with that  
6 material, because obviously if you don't print  
7 something right someone gets sued.

8           For us, if we were just to put it on  
9 the Internet, it's not really going to save us any  
10 money either in the long run because we still have  
11 to process all the information.

12           REPRESENTATIVE BROWNE: The only  
13 reason I say this is it's something at least to  
14 consider, because the Internet and electronic media  
15 is just a more timely source of information.

16           MR. GREZLAK: Right. I think it's a  
17 good method. What I think people should do is move  
18 towards the direction where you print them both in  
19 newspapers and on the Internet. You are maximizing  
20 the exposure of the notice which I think is the most  
21 important thing. Like I said, we currently do that.  
22 So if someone doesn't want to wait until the  
23 morning, the odds are that some of these notices  
24 might be on our website by tonight.

25           REPRESENTATIVE BROWNE: Thank you. I

1 appreciate your help today.

2 MR. GREZLAK: Certainly.

3 CHAIRMAN GANNON: Any questions?

4 REPRESENTATIVE MANDERINO: No.

5 CHAIRMAN GANNON: The Intelligencer,  
6 is that considered the legal journal for the  
7 Philadelphia Bar?

8 MR. GREZLAK: Yes, it is. It's  
9 independent, but it's considered -- it's the court  
10 recognized newspaper.

11 CHAIRMAN GANNON: It's the legal  
12 publication of record?

13 MR. GREZLAK: Right.

14 CHAIRMAN GANNON: We have heard some  
15 testimony. There was some sharp distinctions  
16 between the types of advertising that were contained  
17 in the county bar association journals and the types  
18 that they saw in the papers of general circulation.

19 MR. GREZLAK: Right.

20 CHAIRMAN GANNON: Do you differentiate  
21 also; I mean, is your advertising broader than the  
22 County Bar Association or just about the same type  
23 of advertising?

24 MR. GREZLAK: You mean in general or  
25 specifically to public notices?



1                   CHAIRMAN GANNON: To the legal  
2 notices. I'm making a distinction between public  
3 notices and legal notices.

4                   MR. GREZLAK: Okay.

5                   CHAIRMAN GANNON: When I say public  
6 notices, I'm talking about zoning and contracts and  
7 school board meetings, stuff like that, legal  
8 notices, estates, corporation dissolutions, changes,  
9 stuff like that.

10                  MR. GREZLAK: I haven't really looked  
11 at a lot of the legal journals to see the  
12 distinction. I would say the bulk of the notices  
13 that we do require --

14                  CHAIRMAN GANNON: You're talking  
15 specifically about your publication?

16                  MR. GREZLAK: Right. In our  
17 publications, the bulk of the notices -- legal or  
18 public notices to be published -- are sheriff's  
19 sales. We don't have a lot of the -- we do run some  
20 open meeting ones, but it's not like some  
21 publications where you see a lot of zoning. It's  
22 more fictitious names.

23                  CHAIRMAN GANNON: More of a legal  
24 character as opposed to a public notice?

25                  MR. GREZLAK: Right.

1                   CHAIRMAN GANNON: I think everyone is  
2 aware, but just for the record those sheriff's sales  
3 are not paid out of the public funds, they are paid  
4 for out of non-public funds even though they are  
5 published?

6                   MR. GREZLAK: Yes.

7                   CHAIRMAN GANNON: Thank you very much  
8 for your testimony. Oh, just a follow-up question.  
9 What are your rates for your advertising?

10                  MR. GREZLAK: I don't have them in  
11 front of me right now. I do know for legal notices  
12 and public notices, they are substantially less  
13 expensive than our regular advertising.

14                  For sheriff's sales we charge by the  
15 line. And I believe it's even less than a third of  
16 the cost of what a classified rate would be.

17                  CHAIRMAN GANNON: So your legal  
18 notices and your public notices, whatever they would  
19 be, costs are actually less than your regular  
20 advertising rates?

21                  MR. GREZLAK: Substantially so.

22                  CHAIRMAN GANNON: Thank you.

23                  MR. GREZLAK: Thank you.

24                  CHAIRMAN GANNON: We do have submitted  
25 testimony from Rachel Hofstetter, Director of

1 Government Relations, County Commissioners'  
2 Association of Pennsylvania. And also we have  
3 written comments from State Treasurer Barbara Hafer  
4 which will be included in the record.


5 Having no further business being  
6 brought before the committee, this public hearing is  
7 closed.

8 (The hearing concluded at 12:27 p.m.)

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I hereby certify that the proceedings  
and evidence are contained fully and accurately in  
the notes taken by me on the within proceedings and  
that this is a correct transcript of the same.

  
\_\_\_\_\_  
Jean M. Davis, Reporter  
Notary Public

Notarial Seal  
Jean M. Davis, Notary Public  
Derry Twp., Dauphin County  
My Commission Expires Mar. 29, 2004  
Member, Pennsylvania Association of Notaries