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Before the

**HOUSE OF REPRESENTATIVES COMMITTEE ON THE JUDICIARY
SUBCOMMITTEE ON COURTS AND COMPETITION POLICY**

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I. INTRODUCTION

Good afternoon. I am Brian Tierney, the Chief Executive Officer of Philadelphia Newspapers, LLC, the publisher of *The Philadelphia Inquirer* and the *Philadelphia Daily News* as well as the owner of philly.com. We are the leading news and information organization in the Philadelphia region, which is the nation's fourth largest media market. I joined forces in 2006 with a diverse group of local investors—men and women, black and white, a union pension fund, and the chairman of a non-union homebuilder—to purchase these publications. We have made tremendous strides in the quality of our journalism and have vastly grown our total audience. We are the largest locally owned news organization in America.

Nonetheless, Philadelphia Newspapers—like virtually all of our nation's newspaper publishers—have recently faced a severe revenue decline. Consequently, we have had to make some very difficult choices in order to continue serving as the top-quality news source that Philadelphia area residents deserve and have come to expect.

Chairman Johnson, and members of the subcommittee, thank you for holding this hearing today, as the issues facing newspapers are very serious and need immediate attention. In order to fully develop innovative business models that will enable newspapers to succeed in the Internet age, to continue serving as our country's preeminent source of local news and investigative journalism, and to preserve hundreds of thousands of industry jobs, newspaper publishers will need greater flexibility from lawmakers and regulators. This flexibility will allow us to discuss and enact the business models needed so that we can continue to inform and enrich the lives of our communities for years to come.

II. DAILY NEWSPAPERS ARE AN IRREPLACEABLE SOURCE OF PUBLIC INFORMATION THAT ARE INDISPENSABLE TO A WELL-INFORMED CITIZENRY.

Even as the future viability of daily newspapers is called into question, they continue to serve as indispensable sources of local, national, and international information. As such, newspapers provide high-quality public service journalism that is critical to the functioning of a vibrant democracy.

The newsgathering resources and investigative reporting arsenals commanded by daily newspapers typically dwarf those of any other local media. In many markets, the local newspaper has more reporters on the street than all other local media combined. As a result, newspapers are often the most effective—and in some cases may be the only credible—watchdogs of business and local government. And, of course, sending reporters into war-torn regions, providing up-to-the-minute coverage of the happenings at the White House and in Congress, and pouring extensive time and resources into investigations that may or may not pan out are all very expensive propositions. Few, if any, other media are dedicated to these missions on the same scale and at the same level as daily newspapers.

In addition to the investigations and watchdog journalism that has an undeniably positive impact on our community, I've seen in Philadelphia how the information we provide brings our citizens together. Our stories are the link between the wealthy and the disadvantaged. For example, earlier this year one of our reporters covered the homeless census in Camden, NJ. It's the kind of event that would go unnoticed if not for newspaper reporters. In his account of the event, our reporter described a group of homeless men who had established a tent city with rules, regulations, and tent

inspections. He interviewed 53-year-old Neal Floyd, whom he described as “a former truck driver whose life fell apart after he had a kidney transplant and his wife died.” Ten days later, Floyd’s sister in Fort Bragg, N.C., searching online for her brother, came across the article. She headed for Camden and found Floyd in his tent city. “How’d y’all find me?” he asked, over and over. She told him she found him on philly.com.

Another example would be Toys for Tots. When we discovered last December that the charitable organization had only received half as many donations as it needed, we launched an emergency campaign. On our news pages, we wrote about the shortfall and our push to collect toys. In advertising, we donated more than \$100,000 in free space. As a company, we donated thousands of dollars in toys. The reaction from the community was tremendous. Some of the wealthiest citizens in Philadelphia called to pledge their financial support. At the same time, regular folks lined up at our building to drop off goods and toys. More than 40,000 toys were collected in just seven days. I’m happy to report that we helped save a lot of Christmases last year. That’s the power of journalism and our brand.

Even those who do not read newspapers on a regular basis benefit from the unique reporting and information they provide. This is because newspapers serve as the primary source of information for most other news outlets. TV and radio stations, in particular, depend on newspapers for much of the local news that they, broadcast to their audiences. Most local television stations begin their news meetings by leafing through the newspaper and doling out assignments based on what we have reported. It’s very rare that a local story that is not covered by the daily newspaper gets covered by the broadcast

media. That's the case because we have far more journalists than all the television stations in town combined. In addition, while online news sources and citizen journalists certainly add perspective to the news, very few provide any original reporting and even fewer ascribe to the same professional journalism standards. Rather, many sources comment on information that was initially gathered and conveyed by newspapers. In short, many new sources of news are free riding on the investments in journalism made by newspapers.

Of course, more important than the affect on other media is the impact that newspaper closings and downsizing are having on individual communities and consumers. At least one recent study has demonstrated that there is considerable cause for concern. The study, released by Princeton University in March 2009, examined communities that lost newspaper coverage due to the closing of *The Cincinnati Post* at the end of 2007.¹ As a result of the *Post*'s demise, the *Cincinnati Enquirer* was the only daily newspaper covering Cincinnati and its suburbs in southern Ohio and northern Kentucky. As the study documents, the loss of the paper was particularly significant in certain northern Kentucky communities, where the *Post* historically had the largest circulation and had provided more than 80 percent of the combined local news coverage in the two papers. While this case study was small in scope and its results are not statistically generalizable, it sheds light on trends that may emerge if more markets are deprived of daily newspaper coverage. Most notably, the study found that, in towns that previously had been covered by the *Post*, voter turnout dropped, fewer people ran for public office, and more

¹ Sam Schulhofer-Wohl and Miguel Garrido, Woodrow Wilson School of Public and International Affairs, *Do Newspapers Matter? Evidence from the Closure of The Cincinnati Post* (March 2009).

incumbents were re-elected. Thus, as the study's authors conclude, these results confirm that "newspapers—even underdogs such as the *Post*, which had a circulation of just 27,000 when it closed—can have a substantial and measurable impact on public life."²

III. DAILY NEWSPAPERS ARE FACING UNPRECEDENTED FINANCIAL PRESSURES THAT ARE HAVING AN UNDENIABLE IMPACT ON THEIR CORE MISSIONS.

By nearly all accounts, the newspaper publishing industry is in crisis. As the Project for Excellence in Journalism recently summarized, "[t]he newspaper industry exited a harrowing 2008 and entered 2009 in something perilously close to free fall."³ The problem is not that people aren't turning to our news operations for information. In fact, more people read a newspaper the Monday after the Super Bowl than watched the big game on Sunday.

The problem is that advertising revenues, which account for approximately 80 percent of newspaper earnings, have dropped 23 percent over the past two years, and recent news reports predict an additional 30 percent drop this quarter alone. Classified ads have been hit the hardest. In one year, between 2007 and 2008, classified spending with newspapers dropped more than \$4 billion. Most of that money is never coming back, even when the economy returns. Online advertising—which often has been hailed as the industry's most promising future growth engine—declined in 2008 and accounted for less than 10 percent of revenue.

² *Id.* See also Richard Pérez-Peña, *In Boston, Paper's Peril Hits a Nerve*, *The New York Times* (Apr. 13, 2009).

³ Project for Excellence in Journalism, 2009 State of the News Media, Newspapers, available at http://www.stateofthenewsmedia.org/2009/narrative_newspapers_intro.php?cat=0&media=4.

The results of these seismic shifts in advertising have been devastating. According to a Web site created for the sole purpose of tracking newspaper job losses, 8,097 newspaper employees have lost their job in the first three and a half months of 2009 alone.⁴ It was front-page news when Sprint laid off 8,000 employees earlier this year, but fewer have taken notice of these continuously growing cuts at newspapers across the country. These numbers are reflective of far more than the recent economic downturn. Rather, they reflect a more fundamental, long-term trend—driven by the Internet—that has undermined the viability of the business model that has supported the investments made by newspapers in journalism.

The recent experiences at Philadelphia Newspapers illustrate the difficulties that newspaper publishers across the country are confronting. In February of this year, our company announced that it was voluntarily restructuring under Chapter 11 of the U.S. Bankruptcy Code. The factors that led us to make this difficult choice are similar to those facing publishers across the country: the recession and dramatic revenue declines— particularly in classifieds. I would like to emphasize that, throughout these trying times, our commitment to the communities we serve has remained steadfast. We have worked closely with our unions to identify savings while preserving jobs. We continue to be a major employer in the Philadelphia area with 4,600 employees. Because of our outstanding journalism, our unwavering dedication to community service, and our strong local presence, our publications continue to be the news source of choice in the Philadelphia region. More than two million people either pick up one of our newspapers or view our news and information online every day.

⁴ See Paper Cuts, available at <http://graphicdesignr.net/papercuts/>.

Of course, Philadelphia Newspapers is hardly alone in the hardships it has faced and, in fact, we have been more fortunate than a number of other newspaper publishers. To give you a sense of the overall state of the industry, here is a list of some of the more salient events that have occurred over the past few months:

- After posting repeated losses and failing in its efforts to find a buyer, E.W. Scripps in February shut down the *Rocky Mountain News*, which had been in existence since 1859, leaving *The Denver Post* as the city's sole major daily.
- Because the newspaper was losing money, year after year, the Hearst Corporation replaced the print edition of the *Seattle Post-Intelligencer* in March, with a scaled down online-only operation. As a result of this major overhaul, the publisher has retained just 20 of its 150-plus journalists. Hearst also has indicated that a similar fate may befall *The San Francisco Chronicle*, that city's major daily and the nation's 12th largest, if it cannot substantially cut costs or find a buyer in the near future.
- Newspapers in four Michigan markets have recently announced that they will cease publishing on a daily basis, with issues being printed only three days a week in Flint, Saginaw, and Bay City. Also, the owner of the 174 year-old Ann Arbor News plans to cease publication of the paper in July, and will establish AnnArbor.com as a web operation, while continuing distribution of a twice-weekly print product. Elsewhere in Michigan, both of the Detroit dailies recently cut home delivery to three days per week, making a more compact print version available for single copy purchase on the other days and an e-edition available daily.
- Virtually every major daily in the country has been forced to cut newsroom jobs and/or impose pay reductions in order to stem severe losses. During one week alone in March, *The New York Times*, *The Boston Globe*, the *Boston Herald*, the *Houston Chronicle*, the *Atlanta-Journal Constitution*, the *Milwaukee Journal Sentinel*, and *The Buffalo News* all announced substantial layoffs and pay cuts. After analyzing the breadth of recent employment losses, the Pew Project for Excellence in Journalism predicted last month that nearly 25 percent of the newsroom jobs that existed in 2001 will be gone by the end of 2009.
- A growing number of publishers are closing domestic and foreign news bureaus. Cox newspapers shut down its Washington, DC news bureau (which was founded in 1974) along with five international bureaus last December. In March, Media General similarly closed the doors of its Washington, DC News Service Bureau, which for 30 years had provided news and feature stories to all of Media General's newspapers, television stations, and Web sites.

- Philadelphia Newspapers is not the only publisher that has sought bankruptcy protection in recent months. Last December, the Tribune Company—which owns the major newspaper in cities ranging from Los Angeles and Chicago to Allentown, Pennsylvania—became the first major newspaper publisher in decades to declare bankruptcy. Sun-Times Media, publisher of the *Chicago Sun-Times* and 58 other newspapers, followed suit in late March, making Chicago the first city in the nation to have two major dailies that are insolvent. Other newspaper publishers currently in bankruptcy include: (1) *The Minneapolis Star Tribune*, which reportedly earned only half of the revenue in 2008 that it had earned in 2007 and (2) the Journal Register Company, the publisher of 20 dailies, including *The New Haven Register* and *The Trentonian*.

The above list provides but a few examples of the extreme measures that publishers in markets of all sizes have had to take in order to stay afloat. As is becoming increasingly apparent, the current climate has had an undeniable impact on the ability of many dailies to maintain their traditional levels of in-depth reporting and community service. In some cases, it has threatened their very existence. The reality is that virtually all daily newspaper publishers are being forced to make significant cutbacks. The current economic troubles certainly exacerbate the problems, but most observers believe that more pain is yet to come as the long-term secular shift continues to undermine the ability of newspapers to support investment in journalism. While we may have once hoped that we could merely shift our operations online and continue operating as usual, the comparably much smaller revenue generated from Internet advertising has shown that we must continue to look for another answer. We can't wait to see if advertising revenue comes back after the recession is over, as much of it won't, given the difficulty of monetizing Internet readers. We need the freedom now to experiment with new business models.

IV. GREATER ANTI-TRUST FLEXIBILITY WILL BE ESSENTIAL AS NEWSPAPERS EXPLORE NEW BUSINESS MODELS.

Because of the incomparable role that daily newspapers play in informing citizens, we at Philadelphia Newspapers strongly believe that our industry has the potential to evolve into a form that sustains quality, public service journalism like at no other time in the past. In order to do so, however, newspaper publishers will need the flexibility to explore new approaches and innovative business models without the delay, burdens, and uncertainty created by the competition laws in this context.

When it comes to daily newspapers, the enforcement of the antitrust laws has not yet caught up to current market realities. Past enforcement actions have been premised on the now outdated view that daily newspapers compete exclusively with one another and that they dominate local advertising markets. Where newspapers previously captured 30-plus percent of U.S. advertising spending 50 years ago, we now capture less than half of that.⁵

As has become painfully apparent, daily newspapers are competing intensely for local audiences and advertisers with an ever-expanding array of competitors, particularly those that continue to emerge on the Internet. On behalf of Philadelphia Newspapers, I wholeheartedly agree with the statement of Speaker Pelosi in her recent letter to Attorney General Eric Holder that, in assessing the competition newspapers face, the Department of Justice must take into appropriate account “not only the number of daily and weekly newspapers . . . , but also the other sources of news and advertising outlets available in the

⁵ Robert J. Coen advertising figures, available at <http://purplemotes.net/2008/09/14/us-advertising-expenditure-data/>

electronic and digital age, so that the conclusions reached reflect current market realities.”⁶

While the Newspaper Preservation Act provides some relief from the antitrust laws by permitting daily newspapers to combine certain facilities-based operations, it applies only to precisely defined “failing” newspapers and is very narrow in scope. Indeed, this limited statute already has proven inadequate to prevent the demise of dailies in Seattle, Denver, and other communities. In today’s precarious environment, antitrust enforcers must be vigilant to ensure that they are not frustrating the prospects for a reinvigorated newspaper industry by unnecessarily precluding publishers and other journalists from experimenting with innovative content distribution and cost savings arrangements. Since, for many newspapers, time is of the essence, Congress should act quickly on legislation that would: (1) provide for expedited Department of Justice review of newspaper transactions that can reduce costs and achieve other efficiencies and (2) provide limited antitrust relief for newspapers and journalists to discuss and experiment with new and more sustainable business models and strategies that will enable them to maintain the high quality journalism that is so important to our democracy.

From my own experience as a former ad agency executive and owner, I’ve never seen an industry where people are so afraid to share ideas. Antitrust concerns inhibit even the most rudimentary discussions, which could potentially lead to the next big idea that would help save the journalism that is so critical to all of our communities.

⁶ Letter from Nancy Pelosi, Speaker of the House, to The Honorable Eric J. Holder, Attorney General of the United States (dated March 16, 2009).

V. **CONCLUSION**

Thank you for the opportunity to appear at this hearing today. The newspaper publishing industry remains our nation's foremost provider of in-depth and locally oriented news and information. It is my hope that the discussions we have here today will lead to meaningful action to keep this all-important industry vibrant and successful. As Thomas Jefferson said, "...were it left to me to decide whether we should have a government without newspapers, or newspapers without a government, I should not hesitate a moment to prefer the latter."