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Insult to injury: The disappearance of public notices in US newspapers

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In 2008, 153 proposals, amendments and pieces of legislature were proposed in 40 states recommending that changes be made to public notice laws. Public notices have been printed since the founding days of the United States, yet more than 200 years later there is significant pressure to move public notices online. States such as Arizona, which spends more than \$1.4 million a year on newspaper advertising, and Pennsylvania, which may be spending as much as \$25 million on newspaper advertising, are looking for any area in which expenses can be reduced. This brief highlights some of the key issues associated with public notices and the current debate.

These are tough times for newspapers in the United States. Circulation is plummeting, print circulation is continuing its slow march towards the bottom, and companies are struggling to grow their online revenue streams. Fortunately, newspapers still have public notices right? Perhaps not for long. Public notices have long been a reliable revenue stream for the newspaper industry in the United States, but in the past few years government cost cutting and the general realization that public notices can be distributed online for a fraction of the cost are increasing threats to this seemingly secure revenue stream.

The concept of public notices has been around since the 17th century, and public notices have been published in newspapers since the early days of the United States. Newspapers, after all, keep citizens informed of the daily news, as well as changes to local, state and federal rules and regulations. In return for printing these notices, newspapers have collected a fee from individuals, business and agencies. In all, the National Newspaper Association estimates that as of 2000 public notices account for an average of 5 to 10 percent of newspaper revenue. Much like the changing nature of classified advertising, this institution is under attack. Public notices are generally mandated by governmental agencies (local,

state and federal), and as such change has been more gradual. In the 2008 – 2009 legislative year, however, state legislators submitted 153 proposals in 40 states for changes to public notice legislation.

Changes haven't been limited to the state level. Local school boards and city councils across the country have undertaken steps to move the publication of public notices from print newspapers to centralized online clearinghouses. At the federal level, the Obama administration announced in May that they would move federal notices for the Asset Forfeiture program to the Internet. This move will save the federal government \$6.7 million over five years.

While newspaper revenues dropped nearly 18 percent in 2008, public notices have been considered one of the few stable categories. According to the NAA, while classified revenue dropped 29 percent the category that includes public notices fell only 4.3 percent. Public notices matter, and the shift to online notices is eroding one of the few stable revenue categories that exist for the traditional newspaper industry.¹

This brief presents an overview of public notices and shifts in policy. While it's hard to quantify the national impact of these policy changes, we present a case study of the state impact in two markets: Arizona and Pennsylvania.

What are public notices?

Public notices are announcements that give citizens information about government-related activities that affect various aspects of everyday life. Public notices cover a broad range of categories, including, but not limited to: notices of public budgets, notice of public hearings, notices of government contracts open for bidding, notices of unclaimed property and court notices of issues such as

¹ Delesio, Emery P. (2009) *Move to online public notices looms over papers*. USA Today, May 22. http://www.usatoday.com/tech/news/2009-05-22-online-notices_N.htm.

probating of wills or notification to unknown creditors. The Public Newspaper Resource Group, a newspaper resource agency, classified public notices into three general categories: citizen participation, business and commerce and court notices.

Citizen participation notices fall under federal and state requirements of due process of law. This doctrine stipulates that governments must notify citizens when action is taken that affects those citizens in any way. Business and commerce notices announce government contracts and purchases. This includes public notice laws that require governments to announce calls for contract bids in order to ensure that all contractors are provided an equal opportunity to bid.

These notices have historically been published in local and regional newspapers. In fact, the Acts of the First Session of Congress stipulated that “all bills, orders, resolutions and congressional votes be published in at least three publicly available newspapers.”² Public notices, however, date back even further. Theoretically the first public notices were postings in medieval town squares, but more substantially public notices appeared beginning in 1665 with the publication of a court newspaper called *The Oxford Gazette*. This early newspaper ran notices from the King’s court, as well as notices about changes in city policies. The founding fathers of the United States clearly saw merit in this system and it has continued largely intact to present day.

Do public notices matter?

Public notices are one of the few regular and official communication channels that exist between levels of government and citizens. Public notice laws additionally regulate the way in which government communications with citizens.

In order to qualify to run public notices, most states requires that a news outlet meet certain minimum qualifications. These include: paid circulation, a set level

With this background in mind, these changes are examined in the context of two localities: Arizona and Pennsylvania. Both states are facing a budget crises, and both states in turn are examining public notices laws as one potential area of cost cutting.

Arizona

Public notices have continued to be a consistent revenue stream for regional newspapers for many years. For example, The Arizona Capitol Times, in Phoenix, has published public notices for 55 years and runs notices that reach all of the states' 15 counties. But state by state there is increasing pressure to change the way that public notices are published, and this is spurring significant debate.

In Arizona, state newspaper associations are fighting furiously to reinforce the perception that public notices in print are critical to an informed public. At the same time, newspaper interests are combating a strong push by the state legislative body to move public notices from the newspaper to online databases. In 2008, state legislators introduced five separate bills that would have moved some portion of public notices from print to online. While none of these acts have yet to pass, there is clearly continued pressure behind this movement. The Arizona House Government Committee voted 5-4 in February 2009, to reject a proposal that would have moved public notices from the newspaper onto a central Web site.³ While the bill failed to passed, there are indications that new proposals will be submitted in the coming legislative season.

Newspaper interests in the state argue that newspapers are critical to communicating with the public, particularly in a state where a significant portion of the population is retired or retiring. In a 2001 survey conducted by the Arizona

³ Dalesio (2009).

Newspapers Association (ANA), 82 percent of survey respondents reported reading public notices or legal notices in newspapers.⁴ Digging deeper, however, only 27 percent reported reading these notices regularly. On the other hand, only 13 percent reported reading notices online, but this survey predated mass adoption of the Internet.

A public interest component comprises part of the issue. Of those responding, 58 percent agreed that the publication of public notices makes public officials act more ethically in their handling of public money. The ANA argues, “When a public notice is in your newspaper, research tells us that you scan it as you turn the pages. It isn’t passed over or ignored.”⁵ In a public notice advertising campaign run by the ANA, the association uses the tagline “Public Notices, Arizonans Want to Know”:

⁴ Arizona Newspapers Association. (2001) “Public Notices... Why have them? Who reads them? The public wants to know.

⁵ Arizona Newspapers Association (2009). <http://www.ananews.com/pubnot/index.html>

Quick... Use the Yellow Pages to find a government listing. ...Gotcha!

If you live in a big city, take a look at the Yellow Page listings for state, local and county government – then school districts too.

That's a lot of pages.

Very smartly, when governments know they are about to do something that might affect you, they buy



a Public Notice in a local newspaper. Newspaper readers glance over these notices to see what's up.

Newspapers made it easier to do that by also printing the notices on line at www.publicnoticeads.com/az. Our notices are combined with notices from all the other newspapers in Arizona in one on-line database that is free, quick, and word searchable to help you be specific about what you want to know.

Legislators are Smart!

They know local publication gives you the opportunity to read notices from all sorts of public and private entities.

Newspapers improved that legislative intelligence almost a decade ago with www.publicnoticeads.com/az.

No matter where you read your local public notices in your newspaper you also can read all Arizona public notices important to you.

**Public Notices
Arizonans want to know**
Read them here and on line in one place
www.publicnoticeads.com/az



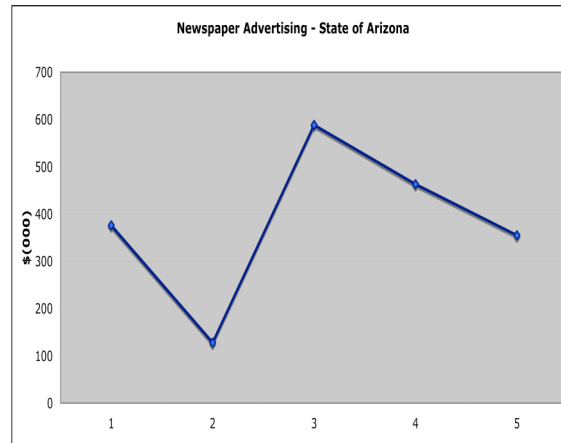
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But such campaigns and statements avoid the reality of growing Internet penetrations rates and digital literacy. Part of the ANA's campaign, as the representative body of state newspapers, is the maintenance of a central public notice Web site for the state, but publication on this site requires the purchase of an in-paper advertisement. For local state interests, therefore, the issue is the expense spent on in-paper public notices, as well as the reach per dollar spent for online ads.

At the state level, it's challenging to track the exact amount spent on public notices or newspaper advertising. TNS Media Intelligence, an advertising tracking service, estimates the amount of dollars spent by an organization on newspaper advertising. The numbers reported through this service are a rough estimate, and are dependent on the company's ability to get accurate information. The following chart shows a summary of the State of Arizona's

spending on newspaper advertising:



As the chart shows, the state has consistently spent in the range of \$400,000 a year, although that number is probably low due to the challenges of tracking this data.

The story plays out similarly at the local level. School boards and municipalities are required to run public notices for school board budgets, public projects, competitive contracts and a slew of other various state activities. In 2008, 90 municipalities in Arizona spent about \$900,000 on public notice ads. According to State Rep. Anna Tovar, one town – the Phoenix suburb of Tolson – budgets \$40,000 a year for public notices. That is equivalent to the town’s entire budget for after-school programs. In another example, Yuma City Clerk Briggita Kuiper reported that her city spends \$25,000 a year on public notices in newspapers.⁶ In one specific instance, Kuiper reported that publication of a single notice announcing a new ordinance cost the city \$4,982.26 to publish.⁷

The Arizona Newspaper Association warns that if the state approves the move to

⁶ Dalesio (2009).

⁷ Fischer, Howard (2009). *House committee nixes legal-notice move: Proposal would end requirement for publishing*. Arizona Business Gazette. Feb 19.

online ads, citizens will pay the price in access. The ANA estimates that citizens will have to sort through almost 500 government Web sites in order to find notices for a single municipality, since every agency will end up creating its own site. The ANA has, alternatively, proposed hosting public notices for the state on its own public notice system. But such claims are also protectionist in nature; it's unclear what effect online public notices will have but clearly within the newspaper industry there are concerns that this transition will be reminiscent of the move to online classified advertising. For the government entities, there are significant cost savings to be had in moving public notices to online sites; in this small case study, the State of Arizona and associated regional municipalities spent approximately \$1.3 million in public notice advertising in 2008. Although newspaper groups have successfully headed off several initiatives to move public notices to the Web, Arizona school boards won the right to publish their annual budgets on their own sites – a significant money-saver for the schools. With many states suffering significant budget shortfalls, this appears to be an area where notable efficiencies can be gained. Yet at the same time, legislative bodies must continue to serve the public interest, and it's currently unclear where the middle ground is.

Pennsylvania

From the West Coast to the East Coast, the issue of public notice publication remains an emerging controversy. Much like Arizona, the Pennsylvania State Legislature debated five House and Senate resolutions that in some capacity would have allowed printed public notices to shift online. The motivating factors behind almost all of these bills were a reduction of cost paired with a shift to online information distribution.

Revised legislation, recently proposed in the state House, would keep public notices in local newspapers but would require that newspapers cut the rates the

municipalities pay by 25 percent.⁸ According to state Rep. Glenn Grell (R-Cumberland): “If the municipality is paying \$300 for a two-inch ad, and the local car dealership is paying \$10 for the same thing, that is wasting taxpayer dollars.”⁹

Newspapers within the state clearly realize notable revenue from the publication of these notices. As noted in the opening of this brief, public notice revenue has continued to be a steady revenue stream for newspaper publishers. For instance, for Trib Total Media, which runs the Pittsburgh Tribune-Review, public notices in the form of government-funded legal notices account for about 7 percent of advertising revenue.¹⁰ While this clearly is not the paper's most significant revenue stream, it is a significant amount of money to lose at a time when the industry as a whole is suffering. On the other hand, the Pennsylvania Newspaper Association estimates that print advertising amounts to less than one-half of one percent of a state agency's expenditures no matter what its size.¹¹

According to TNS Media Intelligence, state spending on newspaper advertising in Pennsylvania is notably more significant than in Arizona. In 2008 state agencies spent approximately \$4 million on newspaper advertising, although that amount is down considerably from the \$14.8 million that was spent in 2004. Regardless, newspaper advertising is a significant expenditure, as illustrated.

⁸ Musselman, Deb (2009). *Opinion: Update on public notice, open records bills.*

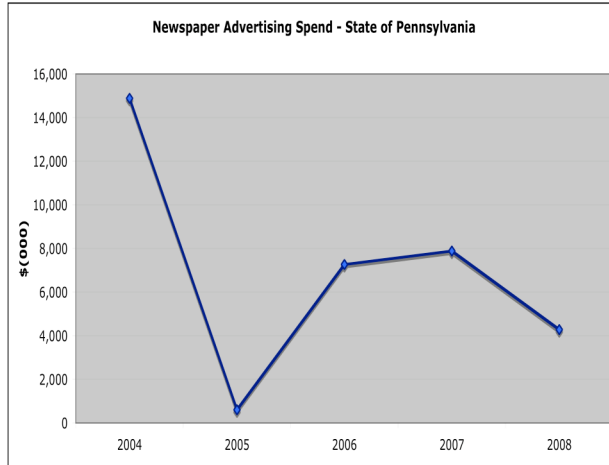
Pennsylvania Freedom of Information Coalition.

http://www.openrecordspa.org/news_files/377a4867f5ecd34269cfa2862bda5bb0-261.html

⁹ Halasz, Erin (2009). *Public notices could find new homes in print, online.* Capitolwire. May 14.

¹⁰ Delesio (2009).

¹¹ Martin, Ralph (2009). Testimony to the Pennsylvania State Legislature. May 14.



Spending on the local level is similarly notable. In Bucks County, Pennsylvania, the county spent \$681,855 on legal ads in 2008. The majority of this came from the sheriff's department, which spent nearly \$600,000 on notices in newspapers and the county's law journal. Mortgage companies, banks and other involved parties, reimburse the county for many of those expenses, however this is a major amount of revenue driven to newspapers. For comparison, this accounts, in total for merely one-tenth of one percent of the county's total budget. Monroe County spends roughly \$750,000 a year on ads in newspapers, reaching 18,000 people.

In another example, the Upper Moreland School District estimates that it will save \$20,000 a year if it's able to post bid-related ads on its Web site, rather than publishing them in the local paper (Portnoy, 2009). In Blair County, the county commissioner estimates that \$300,000 could be saved by publishing public notices online rather than in print.¹² This is a small portion of the county's \$66.7 million budget, but still a notable expense. Much like the ANA, however, the Pennsylvania Newspaper Association argues that the issue is as much one of maintaining and informed public as it is cost.

¹² Stephens, Kay (2009). *Blair County may change legal ads*. The Altoona Mirror. April 7.

Extrapolating further out, there are 67 counties in Pennsylvania; Blair is the 39th largest – roughly the midpoint. It follows, therefore, that counties in Pennsylvania are spending perhaps as much as \$20 million on public notices. This brief analysis, therefore, estimates that the including state, county and local spending, roughly \$25 million is spent on public notice advertising in the state.

What Next?

Public notices are clearly a critical issue in the future of newspapers. As a tool for public communication they have been in publication in newspapers since the first days of the republic. This brief in no way advocates for the demise of public notices, yet in an era of cost cutting and online information distribution newspapers are increasingly facing a reality of online-only public notices. As the two case studies included here demonstrate, public notices are a considerable expense. Arizona and Pennsylvania are opposites in locale and demographics, and their spending in public notices vary considerably, yet it is still a critical expense. As a new legislative season begins, there will again be increased pressure to allow for the publication of public notices online only and it's ever more difficult for newspapers to argue for print based publication.